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**STATEMENT OF OBJECTS AND REASONS**

**Act 17 of 2000.-** The Karnataka Souhardha Sahakari Bill, 1997 among other things provide for;-

- (1) the recognition, encouragement and voluntary formation of co-operatives based on self help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles specified therein;
- (2) removing all kind of restrictions that have come to clog the free functioning of the co-operatives and the controls and interference by the Government except registration and cancellation;
- (3) promotion of subsidiary organisation, partnership between co-operatives and also collaboration between co-operatives and other institutions.
- (4) registration of co-operatives, union co-operatives and Federal Co-operative in furtherance of the objectives specified above.

- (5) conversion of co-operative societies registered under the Karnataka Co-operative Societies Act, 1959 as a co-operative under the proposed legislation.

Hence the Bill.

(Obtained from L.A. Bill No. 25 of 1997)

## II

**Amending Act 21 of 2004:-** The Karnataka Souharda Sahakari Bill, 1997 received the assent of the President of India on 28-03-2000 with certain observations to modify and include specific suggestions of Reserve Bank of India with regard to Banking Business.

Therefore in pursuance of the observations of Government of India, and suggestions of the Reserve Bank of India, it is proposed to amend the Karnataka Souharda Sahakari Act, 1997 namely:-

- (1) to incorporate the definition of the terms "Co-operative Bank", "Deposit Insurance Corporation", "National Bank" and "Reserve Bank" as suggested by Government of India.
- (2) to exclude the Housing Co-operative Societies from the purview of the Act to avoid misappropriation, misutilisation and mismanagement in Housing Co-operative Societies.
- (3) to require the Co-operative Societies carrying on banking business to obtain prior approval licence from Reserve Bank of India.
- (4) to provide that a Co-operative Bank has to carry on its business in conformity with the banking and credit policy laid down by the Reserve Bank of India and National Bank.
- (5) to safeguard such interests of depositors as are not detrimental to the public interest or contrary to banking policy.
- (6) to make liable a past member, for his commissions and omissions as such member, if he ceases to be a member of such Co-operative.
- (7) to fix the time to conduct elections to the first board of the Co-operative after registration by amending section 26.
- (8) To provide a copy of enquiry report or information required by Reserve Bank to Reserve Bank of India relating to Co-operative

Bank to enable the Reserve Bank to supervise the functioning of such Co-operative Bank.

- (9) To protect the interest of non-member depositor before winding up a Co-operative Bank.
- (10) To vest the power of supersession and liquidation of Co-operatives and of ordering inquiry into the affairs of any co-operative with the Registrar.
- (11) To enable the Registrar or an officer appointed by him to function ex-officio director on the board of the Federal Co-operative by amending section 54.

Opportunity is also taken to make certain consequential amendments.

Hence the Bill.

(Obtained from LC Bill No. 1 of 2004)

### III

**Amending Act 16 of 2005:-** The Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) received the assent of the President of India on 28.03.2000 with certain observations to modify and include specific suggestions of Reserve Bank of India with regard to Banking Business. The Karnataka Souharda Sahakari Act, 1997 was amended as per Karnataka Act No.21 of 2004 covering the specific suggestion of the Reserve Bank of India. Now, the Reserve Bank of India has given some more suggestions to amend the Act.

Therefore, it is proposed to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000), namely:-

1. to amend clause (e) of section 2 to state that a co-operative registered under the said Act shall be deemed to be a co-operative society for the purpose of Banking Regulation Act, 1949 and related laws.
2. to amend clause (ee) of section 2 to provide that the primary object of a Co-operative Bank shall be the Business of Banking.
3. to delete clause (ix) of sub-section (2) of section 10, in view of provision of section 26(1) which provides that the elections should be

held in the prescribed manner and section 28 which provides for election of office bearers and section 29 which provides for filling up of casual vacancies.

4. to amend section 25 to provide for the Federal Co-operative to decide the disqualification of the director of a co-operative and the Registrar to decide the appeal against the order of the Federal Co-operative.
5. to amend section 53 by deleting clause (e) of sub-section (7) in view of the amendment proposed to section 25.
6. to amend sub-section (1) of section 67A to provide that the Registrar shall pass an order of supersession of a Board or Liquidation of a Co-operative Bank when so required by the Reserve Bank of India in writing.

Hence the Bill.

[LC Bill No. 6 of 2005]

**KARNATAKA ACT NO. 17 OF 2000**

*(First Published in the Karnataka Gazette on the tenth day of May, 2000)*

**THE KARNATAKA SOUHARDA SAHAKARI ACT, 1997**

*(Received the assent of the President on the twenty eighth day of March, 2000)*

*(As amended by Act 21 of 2004 and 16 of 2005)*

An Act to provide for recognition, encouragement and voluntary formation of Co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and matters connected therewith;

WHEREAS it is expedient to provide for recognition encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive self-reliant and economic enterprises guided by co-operative principles and for matters connected therewith;

BE it enacted by the Karnataka State Legislature in the Forty-eighth Year of Republic of India as follows:-

**CHAPTER I****PRELIMINARY**

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Souharda Sahakari Act, 1997.

(2) It shall come into force on such '[date]' as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

1. Act came into force on 1.1.2001.

**2. Definitions.-** In this Act unless the context otherwise requires,-

(a) "Board" means the board of directors of a Co-operative constituted under section 24 and includes the Board of Directors of the Federal Co-operative constituted under section 53;

(b) "Bye-laws" means the bye-laws of Co-operatives registered or deemed to be registered under sections 5 and 11 including the bye-laws of the Federal Co-operative registered under section 53;

(c) "Chief Executive" means any employee appointed by the board of a Co-operative or Federal Co-operative by whatever designation called who

discharges the functions of a Chief Executive under the bye-laws of such Co-operative or Federal Co-operative;

(d) "Chief Promoter" means a person elected at the meeting of the promoters and authorised by the Registrar to collect initial share capital before registration and who shall take all such necessary steps for the registration of a Co-operative or union Co-operative;

(e) "Co-operative" means a Co-operative including a Co-operative bank doing the business of banking registered or deemed to be registered under section 5 and which has the words `Souharda Sahakari' in its name <sup>1</sup>[and for the purposes of the Banking Regulation Act, 1949 (Central Act 10 of 1949), the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961) and the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 67 of 1981)", it shall be deemed to be a Co-operative Society.]<sup>1</sup>

1. Inserted by Act 16 of 2005 w.e.f. 1.6.2005.

<sup>1</sup>[(ee) "Co-operative Bank" means a Co-operative engaged in or having as <sup>1</sup>[its primary object]<sup>1</sup>, the business of banking;"

1. Substituted by Act 16 of 2005 w.e.f. 1.6.2005.

**Explanation.-** For the purpose of this clause "banking" shall have the meaning assigned to it in section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949).]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(f) "Co-operative Principles" means the Co-operative principles specified in Chapter X;

(g) "Co-operative Society" means a Co-operative society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959);

(h) "Co-operative with limited liability" means a Co-operative in which liability of its members for the debts of the Co-operative in the event of its being wound up is limited to the share amount contributed by such members;

(i) "Co-operative with unlimited liability" means a Co-operative whose members are in the event of its being wound up jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the Co-operative;

(j) "Co-operative Year or Year" means the year commencing from first day of April;

(k) "Deficit" means the net excess of expenditure over income;

<sup>1</sup>["(kk) "Deposit Insurance Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961)"]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(l) <sup>1</sup>["Director" means an elected or co-opted member of the board;]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(m) "Federal Co-operative" means a Federal Co-operative constituted under section 53;

(n) "Financing Agency" means a Co-operative or commercial bank and includes any other body or corporation or financial institution which gives financial assistance to a Co-operative;

(o) "General Body" in relation to the Co-operative means the general body of all the members of the Co-operative under <sup>1</sup>[section 23 and section 53]<sup>1</sup> includes a representative general body of the members;

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(p) "General Meeting" means a meeting of the general body of the members of the Co-operative or Federal Co-operative;

(q) "Government" means the State Government;

<sup>1</sup>["(qq) "Insured Bank" means a Co-operative Bank having the same meaning as assigned to it in clause (i) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);"]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(r) "Member" means a person who has contributed towards the share capital of a Co-operative before its registration and includes a person admitted to membership after such registration in accordance with the Act, rules and the bye-laws <sup>1</sup>[and includes a nominal and an associate member]<sup>1</sup>;

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>["(rr) "National Bank"- means the National Bank for Agriculture and Rural Development constituted under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);"]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(s) "Officer Bearer" means the President or Chairperson, Vice President or Vice Chairperson, Administrator, Liquidator and includes a member of the board or any other person not being an employee empowered to exercise the powers of an office bearer in accordance with the bye-laws;

(t) "Primary Co-operative" means a Co-operative whose membership is not open to another Co-operative;

(u) "Registrar" means an Officer of the Government appointed under section 3 to perform the functions of the Registrar of Co-operatives and includes Additional Registrars of Co-operatives, Joint Registrars of Co-operatives, Deputy Registrars of Co-operatives and Assistant Registrars of Co-operatives appointed to assist the Registrar while exercising all or any of the powers of the Registrar under this Act and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred;

<sup>1</sup>["(v) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934)].<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(x)]<sup>1</sup> "Surplus" means the net excess of income over expenditure;

1. Renumbered by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>["(w) 'Secondary Co-operative' means a Co-operative whose membership is also open to another Co-operative"]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(y)]<sup>1</sup> "Union Co-operative" means a Co-operative of five or more Co-operatives registered under section 5.

1. Renumbered by Act 21 of 2004 w.e.f. 31.3.2004.

## CHAPTER II

### REGISTRATION

**3. Registrar, Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars.-** (1) The Government may appoint an officer of the Government to be the Registrar of Co-operatives for the State.

(2) The Government may also appoint as many officers of the Government as Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars of Co-operatives as it thinks fit for assisting the Registrar.

(3) The Government may, by general or special order, confer all or any of the powers of the Registrar under this Act on the Additional Registrar, Joint Registrar, Deputy Registrar or Assistant Registrar of Co-operatives.

**4. Co-operatives which may be registered.-**

<sup>1</sup>["(1) No co-operative shall be registered under this Act, unless,-

- (a) its main objects are to serve the interests of the members in the area of operation.
- (b) its bye-laws provides for economic and social betterment of its members through self help and mutual aid in accordance with the co-operative principles."]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(2)]<sup>1</sup> Subject to the provisions of this Act where,-

- (a) not less than ten individuals belonging to different families intend to form a Co-operative; or
- (b) a Co-operative society intends to convert itself into a Co-operative under this Act by passing a resolution in this behalf; or
- (c) five or more Co-operatives registered under this Act intend to form into a union Co-operative by passing a resolution in this behalf;

they may be registered as Co-operative under this Act.

1. Re-numbered by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>["Provided that no Co-operative shall be registered if it is likely to be economically unsound or the registration of which may have an adverse impact on the development of the Co-operative movement.

Provided further that no Co-operative shall be registered under this Act as a Housing Co-operative and no Housing Co-operative Society shall be converted into a Housing Co-operative."]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**5. Application for registration of Co-operative.-** (1) An application for registration of a Co-operative shall be made to the Registrar in such form and in such manner as may be prescribed.

(2) Every such application shall be accompanied by,-

- (a) the original and five copies of the bye-laws of the proposed Co-operative as adopted by the promoters of such Co-operative or by the representatives of Co-operatives who wish to form into a union Co-operative or by the general body of a Co-operative society which intends to convert itself into a Co-operative under this Act;

(b) a list of names of individuals or Co-operatives which intend to form a Co-operative and in the case of a Co-operative society, a list of names of members of such society together with the names of members of the committee containing their addresses, occupation and financial commitments;

(c) a true copy of the minutes of the meeting at which the bye-laws were adopted, duly signed by atleast a majority of individuals or promoters present or representatives present at such meeting where the bye-laws were adopted, or in the case of a Co-operative society, a true copy of the resolution and the minutes of the general meeting;

(d) a copy of the challan for having paid the registration fee of one percent of the total authorised share capital by whatever name called, subject to a minimum of five hundred rupees and a maximum of five thousand rupees; and

(e) in case of a Co-operative society, documents to show that the Co-operative society has not received any share capital and any loans or guarantee by Government or loans and guarantee by any Co-operative society.

(3) The Registrar shall, if he is satisfied that,-

(a) the application is in conformity with the provisions of this Act and rules;

<sup>1</sup>["(aa) the proposed Co-operative complies with the requirements of sound business and has reasonable chances of success,"]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(b) the proposed bye-laws are in conformity with section 10; and

(c) the name of the proposed Co-operative is not the same as that of a Co-operative already registered under this Act or is not the same as that used by a Co-operative society already registered under section 7 of the Karnataka Co-operative Societies Act, 1959,

register the Co-operative and also its bye-laws and send by registered post a certificate of registration and the original registered bye-laws signed and sealed by him to the Chief Promoter mentioned in the application or to the Co-operative society within a period of ninety days from the date of receipt of application. A copy of such certificate of registration along with the copy of the bye-laws shall also be sent to the Federal Co-operative.

<sup>1</sup>["Provided that in the case of either a proposed or an existing Co-operative Bank, the registration in terms of this section shall take place only with the prior approval of the Reserve Bank".]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(4) If the conditions laid-down in sub-section (3) are not fulfilled, the Registrar shall communicate by registered post the order of refusal together with the reasons therefor, to the Chief Promoter or to the Co-operative society, as the case may be, within ninety days from the date of receipt of application.

(5) An appeal against the order under sub-section (4) may be made, -

(a) if the order was made by the Registrar, to the Government; or

(b) if the order was made by any other officer to that officer's immediate superior officer.

(6) If the Registrar fails either to register or to refuse registration within the period specified in sub-section (3) or (4), the Co-operative shall be deemed to have been registered under this Act after the expiry of the said period.

**6. Certificate of registration.-** (1) Where a Co-operative is registered or deemed to be registered, the certificate of registration duly signed and sealed by the Registrar shall be conclusive evidence that the Co-operative mentioned therein, is a Co-operative registered or deemed to be registered under this Act.

(2) Notwithstanding anything contained in the Karnataka Co-operative Societies Act, 1959, when a certificate of registration is issued to a Co-operative after conversion of a Co-operative society into a Co-operative, the registration of such Co-operative society under the Karnataka Co-operative Societies Act, 1959, shall be cancelled by the Registrar with effect from the date of issue of certificate of registration under this Act.

**7. Co-operative to be a body corporate.-** A Co-operative registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and common seal. The Co-operative shall be entitled to acquire, hold and dispose of property, to enter into contracts, to sue and be sued and to do all other things necessary for the purpose for which it is constituted.

**8. Registration with limited or unlimited liability.-** A Co-operative may be registered with limited or unlimited liability. Where the liability is

limited, the expression "limited" shall be suffixed to the name of the Co-operative.

**9. Display of names etc.-** Every Co-operative shall display its full name and the certificate of registration issued under this Act at its registered office or place at which it carries on business. The Registration number, name and address of its registered office shall be mentioned,-

- (a) in all notices, other official publications and correspondences;
- (b) in all its contracts, business letters, order for goods, invoices, statements of accounts, receipts and letters of credit;
- (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or signed on its behalf; and
- (d) in the corporate seal.

**10. Bye-laws.-** (1) Subject to the provisions of this Act or rules, every Co-operative shall function in accordance with its bye-laws which as far as possible shall adhere to the Co-operative principles.

(2) The bye-laws of every Co-operative shall provide for the following matters, namely:-

- (i) the name, address and area of operation of the Co-operative;
- (ii) the objects of the Co-operative;
- (iii) conditions of eligibility, disqualifications for, and procedure for admission, withdrawal, removal or cessation of membership including that of the directors and office bearers;

<sup>1</sup>["(iiia) the rights, privileges, duties and liabilities of membership including those of nominal and associate members"]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

- (iv) recruitment and conditions of service of staff of the Co-operative;
- (v) procedure to conduct the board meetings, rights of members including the right to vote and contest for elections;
- (vi) the consequences of default in payment of any sum due by a member to the Co-operative;
- (vii) the powers and functions of the general body and the manner of election of representative general body, if any, and matters which must be dealt with by the general body and by the representative general body, if any;

(viii) the manner and frequency of convening general meetings and quorum required;

<sup>1</sup>[(ix xxxx)]<sup>1</sup>

1. Omitted by Act 16 of 2005 w.e.f. 1.6.2005.

(x) the composition of the board and number of office bearers;

(xi) the extent and conditions for mobilisation of funds in the form of share capital, deposits, debentures, loans and other contributions from its members other than Government;

(xii) the powers, functions and duties of the President or Chairperson;

(xiii) the powers, functions and duties of Chief Executive;

(xiv) the terms and conditions on which the Co-operative may deal with non-members;

(xv) the manner of electing representatives to union Co-operatives and the Federal Co-operative;

(xvi) the nature and amount of authorised share capital of the Co-operative;

(xvii) the maximum shares which a member can hold;

(xviii) the maximum dividend payable to members on paid up share capital;

(xix) the purpose for which the funds may be applied;

(xx) contribution towards Federal Co-operative Fund and the constitution of various funds and their purposes;

(xxi) appropriation of amount out of the net profit specifically for the following:-

(a) twenty five percent towards reserve fund constituted by the Co-operative;

(b) three percent towards the Co-operative Education Fund, out of which one percent shall be towards the Co-operative Education Fund of the Federal Co-operative and the remaining to the Co-operative Education Fund of the Karnataka State Co-operative Federation Limited, Bangalore;

(c) <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 21 of 2004 w.e.f. 31.3.2004.

(d) twenty percent towards the operational reserve to meet unforeseen losses or contingencies;

(e) five percent towards the Common Good Fund whose purpose is approved by the general body;

(f) bonus not exceeding two months' pay to be paid to the employees;

(g) dividend to the members;

(xxii) fixation of quantum and procedure to make good the operational deficiency incurred by the Co-operative out of its reserve fund and operational reserve fund;

(xxiii) the manner of appointment of auditors or Chartered Accountants and their powers and functions;

(xxiv) the manner of disposal of funds when the Co-operative is under liquidation;

(xxv) the circumstances and manner of winding up of the Co-operative; and

(xxvi) any other matter which is required to be or may be provided in the bye-laws.

<sup>1</sup>[(3) Notwithstanding anything to the contrary contained in this Act, in the case of a co-operative bank, the bye-laws framed under sub-section (2) pertaining to acceptance of deposits, borrowing of funds, maintenance of reserve fund, appropriation of profit, grant of loan, fixation of interest rate on deposits and advances, and such other activities as mentioned in section 6 of the Banking Regulation Act, 1949 as applicable to co-operative societies shall be subject to the provisions of the said Act, the rules, regulations or directions made or issued thereunder from time to time by the Reserve Bank or the National Bank.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**11. Amendment of bye-laws.-** (1) A Co-operative may amend any of the provisions of its bye-laws by a resolution passed by the majority of members with right to vote or two thirds of the members present and voting, whichever is less, at a general meeting or at a representative general meeting:

Provided that no such resolution shall be passed unless not less than twenty clear days of written notice of the meeting has been given along with a copy of the proposed amendment to each member of the general body or representative general body, as the case may be, and such notice and the proposed amendment are also displayed on the notice board of the Co-

operative for a period of not less than twenty days immediately proceeding the date of the meeting.

(2) In case of amendment of its bye-laws by the Co-operative, an application for the registration of the amendment with particulars specified in subsection (3), shall be forwarded by registered post to the Registrar within a period of thirty days from the date of the resolution.

(3) Every application forwarded under subsection (2) to the Registrar, shall be signed by the President or Chairperson and shall be accompanied by three copies of the resolution adopting the amendment along with the following particulars, namely:-

(a) the date of the meeting at which the amendment was approved;

(b) the total number of members on the roll of the Co-operative who were eligible to vote on the date of such meeting, the number present at the meeting and the number of eligible members who voted for the resolution.

<sup>1</sup>[(c) in the case of a Co-operative Bank, a certificate signed by the President or Chairperson, stating that the proposed amendments are in conformity with sub-section (3) of section 10;]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(4) If the proposed amendment is in accordance with the provisions of this Act and rules, the Registrar shall register the proposed amendment within a period of ninety days from the date of receipt of the application.

(5) The Registrar shall communicate by registered post to the Co-operative within a period of fifteen days after registration a copy of the amendment so registered together with a certificate duly signed and sealed by him and such certificate shall be conclusive evidence that the amendment has been duly registered. A copy of such certificate and registered amendment shall be sent to the Federal Co-operative.

(6) If the proposed amendment is not in accordance with the provisions of this Act and Rules, the Registrar shall refuse to register the proposed amendment within a period of ninety days from the date of receipt of the application failing which the amendment shall be deemed to have been registered:

Provided that no order refusing the registration of such amendment shall be made except after giving the Co-operative an opportunity of being heard.

(7) The Registrar shall communicate by registered post to the Co-operative, the order of refusal under sub-section (6) together with the reasons therefor within a period of fifteen days from the date of refusal.

(8) An appeal against the order under sub-section (6) may be made within sixty days from the date of the order,-

(a) if the order was made by the Registrar, to the Government; or

(b) if the order was made by any other officer, to that officer's immediate superior officer.

(9) An amendment to the bye-laws shall come into effect from the date of registration or deemed date of registration.

**12. Change of Liability, transfer of Assets and Liabilities, Division and Amalgamation of Co-operatives.-** (1) A Co-operative may, by a resolution passed at its general body,-

(a) decide to amend its bye-laws to change the form or the extent of its liability;

(b) decide to transfer its assets and liabilities, in whole or in part, to any other Co-operative which by a like resolution agrees to accept such transfer;

(c) divide itself into two or more Co-operatives.

(2) Any two or more Co-operatives may, by passing a resolution at respective general meetings, decide to amalgamate themselves and form a new Co-operative. Every such resolution of a Co-operative shall be passed at its general meeting by a majority of total members with right to vote or two thirds of members present with right to vote, whichever is less, and such resolution shall also contain all particulars of the liability, transfer, division, amalgamation, as the case may be :

Provided that no such resolution shall be passed unless a notice is issued together with a copy of the proposed resolution to all its members, creditors, union Co-operative, Federal Co-operative to which it is affiliated, and the consent of the members, creditors, union Co-operative and Federal Co-operative has been obtained.

<sup>1</sup>["Provided further that in the case of a Co-operative Bank, no resolution under sub-section (1) or under this sub-section, shall be passed without the prior sanction in writing of the Reserve Bank".]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(3) Notwithstanding anything contained in any bye-law or contract to the contrary, any member, a union Co-operative, Federal Co-operative or creditor who does not consent to the resolution shall have the option to withdraw their shares, deposits, loans or services, as the case may be, within a period of one month from the date of receipt of the notice under subsection (2).

(4) The union Co-operative, Federal Co-operative or any member or creditor who does not exercise his option within the period specified under subsection (3), shall be deemed to have consented to the resolution.

(5) No resolution of a Co-operative to change liability or for transfer of assets and liabilities, division and amalgamation shall be passed unless,-

(a) in case of change of liability or transfer of assets and liabilities,-

(i) the members, union Co-operative, Federal Co-operative and creditors have consented or are deemed to have consented to the resolution under subsection (3) or sub-section (4), as the case may be; or

(ii) all claims of the members, union Co-operatives, Federal Co-operative and creditors who have exercised the option referred to under subsection (3) within the period specified therein, have been met in full or otherwise satisfied; and

(b) amendment of the bye-laws of Co-operative concerned is registered; and

(c) in the case of division or amalgamation, certificate of registration of the Co-operative or Co-operatives is issued.

(6) Where a resolution passed by a Co-operative in this section involves a transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee.

**13. Consequences of transfer of assets and liabilities, division and amalgamation.-** (1) Where the whole of the assets and liabilities of a Co-operative are transferred to another Co-operative, the registration of the first mentioned Co-operative shall stand cancelled and that Co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more Co-operatives are amalgamated into a new Co-operative, the registration of each of the amalgamating Co-operatives shall stand cancelled on the registration of the new Co-operative and each such

Co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a Co-operative divides into two or more Co-operatives the registration of that Co-operative shall stand cancelled on the registration of the new Co-operatives and that Co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body.

**14. Partnership of Co-operatives.-** (1) Any two or more Co-operatives may, by resolutions passed by three-fourth majority of the members present and after voting at a general meeting of each of such Co-operatives, may enter into partnership to carry out any one or more specific business. A written notice of the date of the general meeting shall be given to each member before ten clear days of such meeting;

<sup>1</sup>["Provided that a co-operative Bank, shall not enter into such a partnership without obtaining prior permission of the Reserve Bank in writing."]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) Nothing in the Indian Partnership Act, 1932 (Central Act 9 of 1932) shall apply to such partnership.

**15. Promotion of subsidiary organisations.-** (1) Any Co-operative may, by a resolution passed at its general meeting by a majority of members present with a right to vote, promote one or more subsidiary organisations for the furtherance of its objectives and such organisations may be registered under any law for the time being in force.

<sup>1</sup>["Provided that a Co-operative Bank shall not promote a subsidiary, nor shall a Co-operative promote a subsidiary whose by-laws permit the carrying on of banking business, without the prior permission of the Reserve Bank in writing."]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) The annual reports and accounts of any such subsidiary organisation shall be placed before the general meeting of the Co-operative every year.

**16. Collaboration by Co-operatives.-** Any Co-operative or Co-operatives may enter into collaboration with any other organisation or organisations approved by the Government to carry out any one or more specified business provided in the bye-laws of such Co-operative or Co-operatives. Where such collaboration requires creation of a new organisation under any other law for the time being in force, such

organisation may be registered as an institution under such law for fulfillment of the objectives with which it was created and such collaboration shall be reviewed every year by the general body of the Co-operative.

<sup>1</sup>["Provided that in the case of a Co-operative Bank, such collaboration shall be entered into with the prior approval of the Reserve Bank in writing."] <sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

### CHAPTER III

#### FUNDS

**17. Mobilisation of Funds.-** A Co-operative may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions,-

- (i) from its members; or
- (ii) from any other person, institutions and organisations;

to such extent and subject to such conditions as may be specified in the bye-laws of the Co-operative:

Provided that a Co-operative shall not be eligible to receive any loan, subsidy, grant or financial aid in any form from the Government or any guarantee by the Government.

<sup>1</sup>["Provided further that nothing contained in the first proviso shall apply to a Co-operative Bank."] <sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**18. Investment of Funds.-** Such of its funds as are not immediately required for use by a Co-operative, may be invested or deposited outside its business, namely:-

- (a) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882); or
- (b) with any Co-operative bank or scheduled bank.

<sup>1</sup>["Provided that in the case of a Co-operative Bank, such investment shall be made in accordance with the instructions and directives issued by the Reserve Bank from time to time."] <sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**19. Restrictions on contribution by a Co-operative.-** No Co-operative shall make a contribution in whatever form ether in cash or in kind, either directly or indirectly to an organisation that has an object in furtherance of the interest of a political party or of any religious faith.

**CHAPTER IV****MANAGEMENT OF CO-OPERATIVE****20. Persons who may be admitted or continued as members.-** (1)

Subject to the provisions of this Act, no person shall be admitted as a member of a Co-operative,-

(a) unless he needs the services of the Co-operative and accepts the responsibility of membership and is competent to contract under the Contract Act, 1872 (Central Act IX of 1872);

(b) if he conducts any business, such business being in conflict or competition with the business of the Co-operative as specified in the bye-laws; and

(c) unless he fulfills such other conditions as may be specified in the bye-laws of the Co-operative:

Provided that after the registration of a Co-operative, the members shall be admitted only by the elected board.

(2) No person shall be eligible to continue as a member if such person,-

(a) has not used the services of the Co-operative for two consecutive years to the minimum level specified in the bye-laws; or

(b) has not attended three consecutive general meetings of the Co-operative and such absence has not received the consent of the general body; or

(c) is in default regarding any payment to be made to the Co-operative exceeding an amount and for a period specified in the bye-laws.

(3) If a question arises as to the eligibility or otherwise of a person to become a member or to continue as a member, the board shall decide the question after giving such person an opportunity of being heard. The decision of the board shall be final.

**21. Removal of membership.-** (1) The board may, by a resolution passed by a majority of not less than two thirds of the members present and voting, remove the membership of a person in the Co-operative for acts or omissions which are detrimental to the interest of the Co-operative:

Provided that a member shall not be removed unless a reasonable opportunity of making representation in this regard has been provided to him.

(2) Where a member has been removed by the board, an appeal shall lie to the general body and the decision of the general body shall be final.

(3) A person whose membership has been removed shall, subject to the provisions of this Act, rules and bye-laws, be ineligible for re-admission as a member of that Co-operative for a period of one year from the date of such removal.

<sup>1</sup>[(4) Notwithstanding such removal, a past member shall be liable to be proceeded against, under this Act or the rules or the bye-laws for his acts of commission or omission as such member."]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>**[21A. Nominal and associate members.-** (1) Notwithstanding anything contained in section 20, a Co-operative may admit,

- (a) any individual,
- (b) any firm, company, Co-operative Society, Co-operative or any body or Corporation constituted by or under any law for the time being in force;

as a nominal or associate member for any specific purpose for any specific period as may be mentioned in the bye-laws.

(2) A nominal member shall not be entitled to any share in any form whatsoever in the assets or profits of the Co-operative and shall not be entitled to become an office-bearer of the Co-operative.

(3) An associate member may hold shares but shall not be entitled to become an office-bearer of the Co-operative.

(4) A nominal or associate member shall not have the right to participate in the management and to vote at any meeting of the Co-operative including the election to the board of the Co-operative.

(5) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member as may be specified in the bye-laws of the Co-operative.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**22. Restriction on services to non-members.-** The services of a Co-operative shall ordinarily be available only to members unless otherwise provided in the bye-laws.

**23. General Body.-** (1) Subject to the provisions of this Act, rules and the bye-laws, the final authority of a Co-operative shall vest in its general body.

(2) Where a Co-operative so desires, its bye-laws may provide for a representative general body drawn from the members, to be constituted in such manner and with such functions as specified in the bye-laws. Any reference in this Act to the general body shall apply to the representative general body also.

(3) Subject to the other provisions of this Act, rules and the bye-laws, the following matters shall be dealt with by the general body namely:-

- (a) consideration of the annual report presented by the board;
- (b) appointment and removal of auditors, Chartered Accountants and internal auditors;
- (c) consideration of the auditor's report and audited statement of accounts;
- (d) consideration of audit compliance report;
- (e) disposal of net profit;
- (f) review of operational deficit, if any;
- (g) approval of the long term perspective plan and the annual operational plan;
- (h) approval of the annual budget;
- (i) creation of specific reserves and other funds as specified in the bye-laws;
- (j) review of actual utilisation of reserve and other funds;
- (k) election of directors of the board;
- (l) removal of directors of the board and filling up of casual vacancies;
- (m) report on action taken on inquiry report under section 37, if any;
- (n) report on membership of the Co-operative in other Co-operatives;
- (o) review of annual report and accounts of any organisation created under sections 14, 15 or 16, if any;
- (p) consideration of an appeal of a person whose application for membership has been rejected or whose membership has been removed by the board, if any;

- (q) consideration of the list of employees recruited who are relatives of directors or of the Chief Executive;
- (r) amendment of bye-laws;
- (s) formation of code of conduct for the directors and office bearers;
- (t) brief note of admission and removal of members during the previous year;
- (u) winding up of the Co-operative; and
- (v) such other functions as are specified in the bye-laws.

**24. Board.-** (1) Every Co-operative shall have a board consisting of such number of directors as may be specified in the bye-laws. In case of primary Co-operatives, such number shall not be less than nine and more than fifteen excluding the Chief Executive.

(2) The term of office of the directors shall be five years from the date of assuming office and the election shall be held for the entire board.

**Explanation.-** Where the election to the board has been held in the middle of the year, the remaining part of the year shall be deemed to be a full year.

**25. Disqualification for being elected or continued as director.-** (1) A person shall be disqualified for being elected or continued as a director, if such person,-

- (a) has at any time lost the right to vote as a member or to continue as such; or
- (b) has incurred any other disqualifications as specified in the bye-laws; or
- (c) absents himself from three consecutive board meetings without leave of absence; or
- <sup>1</sup>[(d) is convicted for an offence involving moral turpitude under any law for the time being in force, or for an offence under this Act; or]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(e) has been a defaulter in the repayment of any instalment of a loan taken by him or has been a surety for a borrower who has defaulted in repaying his loan continuously for three instalments.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(f)]<sup>1</sup> incurs any disqualification as specified in sub-section (2).

1. Clause (e) has been renumbered as clause (f) by Act 21 of 2004 w.e.f. 31.3.2004.

(2) All the directors shall incur disqualification for being elected as directors in a Co-operative for a period of five years from the date of incurring such disqualification and shall also be disqualified to continue as directors of that Co-operative or any other Co-operative, if during the term of office as directors of a Co-operative they,-

(a) have not conducted elections within the time specified in the bye-laws and before the expiry of the term stipulated in section 24; or

(b) have not conducted the annual general meeting within six months of closure of the year, or requisitioned meeting of the general body within the time stipulated in section 30; or

(c) have not placed the audited accounts for the preceeding year along with the report of the auditor before the annual general meeting.

(3) A director or an employee who is guilty of misappropriation, breach of trust or any other omission or commission resulting in loss to the Co-operative, shall be personally liable to make good that loss without prejudice to such criminal action to which he is liable under any other law for the time being in force.

<sup>1</sup>[(4) Any question as to whether a member of the board is or has become subject to any disqualification specified in this section shall be decided by the Federal Co-operative after giving the person concerned a reasonable opportunity of being heard.

(5) Any person aggrieved member may prefer an appeal against the order made under sub-section (4) to the Registrar within thirty days from the date of order.]<sup>1</sup>

1. Inserted by Act 16 of 2005 w.e.f. 1.6.2005.

**26. Election of Board.-** (1) The board of a Co-operative shall conduct elections to elect the succeeding board before the expiry of the term of office of the outgoing board in the manner <sup>1</sup>[prescribed]<sup>1</sup>.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[Provided that the first general meeting after registration of a Co-operative other than a Co-operative registered on conversion of a Co-operative Society into a Co-operative, shall be held within one month from the date of its registration to elect the board and the chief promoter shall arrange to hold such meeting.

"Provided further that the first general meeting after registration of a Co-operative registered on conversion of a Co-operative Society into a Co-operative, shall be held within sixty days from the date of its registration to elect the board and the chief Executive shall arrange to hold such a meeting.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) Where the board does not take necessary action to conduct elections to the board before the expiry of the term of directors, <sup>1</sup>[the Registrar]<sup>1</sup> Co-operative shall appoint an Administrator immediately for a period not exceeding three months to conduct such elections.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(3) The elections of the directors shall be held at the general meeting by secret ballot.

(4) The newly elected directors shall assume office immediately at the expiry of the term of office of the outgoing directors.

**27. Powers and functions of the board.-** Subject to the provisions of this Act, rules and bye-laws, the board shall have powers,-

- (a) to admit and remove members;
- (b) to elect and remove the office bearers;
- (c) to appoint and remove the Chief Executive;
- (d) to fix staff strength;
- (e) to frame policies concerning the organisation and services to members;
- (f) to frame regulations regarding,-
  - (i) custody and investment of funds;
  - (ii) maintenance of accounts;
  - (iii) mobilisation, utilisation and investment of various funds;
  - (iv) appropriate management information systems including filing of statutory returns;
  - (v) such other matters as may be necessary for the effective performance of the Co-operative;
- (g) to place the annual report, annual financial statements, annual plan and budget for the approval of the general body;
- (h) to consider audit and compliance reports and place them before the general body;

- (i) to review membership in other Co-operatives;
- (j) to perform such other functions as may be delegated by the general body or as specified in the bye-laws.

**28. Election of office bearers.-** (1) The Chief Executive shall within fifteen days from the date of election of the board and immediately before the expiry of the term of office of the President or Chairperson, Vice-President or Vice-Chairperson convene a meeting in the prescribed manner of all the elected members of the board for the purpose of electing President or Chairperson, Vice-president or Vice-Chairperson and such other office bearers as are required to be elected under the bye-laws of the Co-operative. One of the elected members who is not a candidate for the election of President or Chairperson, Vice-President or Vice-Chairperson, shall be chosen to preside over such meetings:

Provided that at the election of the office bearers held immediately after registration of a Co-operative, one of the elected directors who is not a candidate for the election of the office bearers, shall be chosen to preside over the meeting of the first Board:

Provided further that at the election of office bearers if all the elected directors are the candidates, the Chief Executive shall preside over such meeting of the Board.

(2) The President or Chairperson or in his absence, the Vice President or Vice-Chairperson shall,-

- (a) preside over meetings of the Board and the general body;
- (b) have only a casting vote in the event of equality of votes on any matters being decided upon by the Board except election to the office bearers:

Provided that in the event of equality of votes in the election of office bearers, the election shall be by drawing lot; and

(c) exercise such other powers as are specified in the bye-laws or as may be delegated by the Board.

(3) The term of office of the President or Chairperson, Vice-President, or Vice-Chairperson shall be two and half years from the date of election.

**Explanation.-** If the election to the office of the President or Chairperson, Vice-President or Vice-Chairperson is held in the middle of the term the remaining part of the term shall deemed to be a full term.

**29. Filling up of casual vacancies.-** Where there is a casual vacancy in the office of director on account of death, resignation, disqualification or for any other reasons, the Board may fill up the casual vacancy for the remaining term by option from the eligible members:

Provided that no such option shall be made if the remaining period of such vacancy is less than six months.

**30. Meetings.-** (1) The Board shall convene at least six board meetings in an year and one general meeting before thirtieth of September each year.

(2) The Board shall convene a special general meeting within thirty days of receipt of a requisition from not less than one-tenth of members of the Co-operative or as provided in the bye-laws. Such requisition shall contain the reasons for convening the meeting. In the event of failure by the Board, the Federal Co-operative shall convene such general meeting within forty-five days of receipt of requisition signed by not less than one-tenth of members of the Co-operative.

(3) If the Co-operative and the Federal Co-operative, fail to convene the special general meeting within the time specified under sub-section (2), the Registrar shall convene the special general meeting within ninety days after the receipt of requisition signed by not less than one-tenth of the members of the Co-operative.

**31. Employees.-** (1) Subject to the approval of the general body, the Board shall determine the cadre strength of the establishment and the scales of pay of the employees of the Co-operative:

Provided that the Co-operative may borrow the services of the employees of other Co-operatives, Co-operative societies, Federal Co-operative, State or Central Government or their Organisations, Public Sector Undertakings and such other professional experts on such terms and conditions as may be approved by the general body.

(2) The Chief Executive shall be the Chief Administrative Officer of the Co-operative and shall, subject to the general control and superintendence of the Board,-

- (a) be in-charge of the overall control and supervision of the day-to-day affairs of the Co-operative;
- (b) sign documents, enter into agreements and contracts and institute and defend suits and other legal proceedings on behalf of the Co-operative;

- (c) have powers to endorse, sign, negotiate cheques and other negotiable instruments and operate the bank accounts of the Co-operative;
- (d) be responsible to assist the board in matters relating to recruitment, performance and discipline of the employees;
- (e) arrange to maintain proper records and accounts of the Co-operative;
- (f) present the draft annual report and financial statements for the approval of the board within sixty days of closure of the year;
- (g) assist to convene the board meetings, general meetings and the special general meeting in accordance with the bye-laws;
- (h) assist the board in the formulation of policies and programmes;
- (i) furnish to the board information necessary for monitoring the performance of the Co-operative; and
- (j) perform any other functions as specified in the bye-laws or as decided by a resolution of the board meetings or general meetings.

## **CHAPTER V**

### **ACCOUNTS, AUDIT AND INQUIRY**

**32. Maintenance of records, Accounts, etc.-** (1) Every Co-operative shall maintain at its registered office the following, namely:-

- (a) a copy of the Karnataka Souharda Sahakari Act, 1997 with upto date amendments;
- (b) registration certificate and registered bye-laws and the amendments registered from time to time in original;
- (c) a copy of the bye-laws of the Federal Co-operative and each of its subsidiaries, if any;
- (d) a register of members with details regarding voting rights for the current year updated within thirty days of closure of the year and the memberwise use of various services;
- (e) accounts of all sums of money received and expended by the Co-operative and its branch, if any, and purposes;
- (f) accounts of all purchases and sales of goods by the Co-operative;
- (g) accounts of the assets and liabilities of the Co-operative;
- (h) the minutes book

- (i) copies of the board resolution; and
- (j) annual report and audit report and where a Co-operative has branch office, accounts and records related to such branch.

(2) Copies of the resolutions of the board and general meetings, voters list, bye-laws, statement of annual accounts and such accounts relating to a member, shall be made available to any member during the business hours after payment of necessary fees as may be decided by the board.

(3) The books of accounts of every Co-operative together with supporting records and vouchers shall be preserved for such period as may be decided by the board.

<sup>1</sup>**[32-A Profits and losses of Co-operative.-** A Co-operative shall out of its net profits in any year, transfer an amount being not less than ten percent of the profits to a fund called deficit cover fund, which shall be utilised for wiping or off-setting the losses, if any, caused in the working of the co-operative:

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

Provided that nothing in this section shall prevent a Co-operative from charging the losses on the members of the Co-operative in accordance with the majority decision taken at the Special or Annual General Meeting.]<sup>1</sup>

**33. Audit.-** (1) Every Co-operative shall get its accounts audited by an auditor or a Chartered Accountant appointed by the general body at its meeting.

(2) The auditor's or Chartered Accountant's report, in addition to the report on the accounts of the Co-operative, shall also contain a report on the attendance at meetings by directors, loans and advances sanctioned to the directors, the business transacted by the directors with the Co-operative, expenditure on board meetings, remuneration paid to directors, expenses reimbursed to directors, expenditure on education and training for members, staff, directors and others.

(3) The Board shall prepare and present annual financial statements for audit within sixty days of closure of the year. The audit shall be completed within such period as may be specified in the bye-laws.

(4) The remuneration payable to the auditor or Chartered Accountant shall be determined by the Board.

(5) Every notice of annual general meeting shall be sent to the auditor or Chartered Accountant and he shall attend such meeting.

(6) Every office bearer, director, whether present or past or every employee of the Co-operative shall furnish such information and explanation and give access to records, documents, books of accounts and vouchers of the Co-operative as are in the opinion of the auditor or Chartered Accountant, necessary to enable him to make the examination and report.

(7) Where a Co-operative fails to get its annual accounts audited within the time stipulated in the bye-laws, it shall be the responsibility of the Federal Co-operative to get the accounts of the Co-operative audited. The cost of conducting such audit shall be recovered from the Co-operative.

**34. Furnishing Information.-** Before 31st October of every year, a Co-operative shall furnish the following information to the Registrar <sup>1</sup>[and in the case of Co-operative Bank also to the Reserve Bank]<sup>1</sup> namely:-

<sup>1</sup> Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

- (a) annual report of activities of the previous year and programme for the ensuing year;
- (b) audited statement of accounts;
- (c) plan for disposal of surplus as approved by the general body;
- (d) list of directors and their terms of office;
- (e) list of amendments to the bye-laws of the Co-operative; and
- (f) declaration regarding the date of conducting the general body meeting and elections, if any.

<sup>1</sup>**[35. Inquiry.-** (1) The Registrar may conduct an inquiry or cause an inquiry to be conducted expeditiously into any specific matter touching the constitution, management, working or financial condition of a Co-operative.

<sup>1</sup> Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of.-

- (a) the Federal Co-operative to which the Co-operative is affiliated; or
- (b) not less than one third of the members of the Board of the Co-operative or
- (c) not less than one tenth of the total number of members of the Co-operative.

(3) The application under sub-section (2) shall be accompanied by such fee as may be prescribed.

(4) The Registrar may himself conduct the inquiry or appoint an inquiry officer to conduct the inquiry. The cost of inquiry shall be met by the creditor or the Federal Co-operative or the Co-operative, as the case may be, as may be decided by the Registrar.

(5) An inquiry under sub-section (2) shall be completed within a period of twelve months which may however be extended by the Registrar for a further period of six months for reasons to be recorded in writing.

(6) When an inquiry is made under this section, the Registrar shall, within a period of one month from the date of receipt of inquiry report, send a copy of the inquiry report to-

- (a) the applicants;
- (b) the Co-operative concerned;
- (c) the creditors concerned;
- (d) the Federal Co-operative and
- (e) the Reserve Bank in case the inquiry conducted under this section relates to a Co-operative Bank.]<sup>1</sup>

**36. Power to summon and examine persons and documents.-** (1) <sup>1</sup>[The Registrar or the Enquiry Officer]<sup>1</sup> as the case may be, shall issue to the concerned Co-operative, a notice in writing of not less than fifteen days regarding the date of commencement of the inquiry:

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

Provided that, for reasons to be recorded in writing, a shorter notice may be issued.

(2) <sup>1</sup>[The Registrar or the Enquiry Officer]<sup>1</sup> conducting inquiry may provide a reasonable period of not less than seven days to comply with sub-section (3).

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(3) For the purpose of inquiry under this Act, the Registrar or the inquiry officer conducting such inquiry:-

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

- (a) may require in writing the President or Chairperson or the Chief Executive or other authority concerned to produce such receipts, vouchers, statements, returns, correspondence, notice or any other documents as he may consider necessary for the purpose of inquiry.

- (b) shall, at all time, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the Co-operative and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office at the headquarters or at the head office of the Co-operative or any branch thereof;
- (c) may summon any person who, he has reason to believe has knowledge of any of the affairs of the Co-operative relating to the charges in the inquiry to appear before him at any public office at the headquarters or at the head office of the Co-operative or any branch thereof and may examine such person on oath; and
- (d) may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the Co-operative, require the office bearers of the Co-operative to call a general meeting at such time and place at the head quarters of the Co-operative or any branch thereof and to determine such matters as may be directed by him, and where the office bearers of the Co-operative refuse or fail to call such a meeting he shall have power to call it himself;

**Explanation:-** Any meeting called under clause (d) shall have the powers of the general meeting called under the bye-laws of the Co-operative and its proceedings shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.]<sup>1</sup>

**37. Action on inquiry Report.-** <sup>1</sup>[The Registrar]<sup>1</sup>, after such inquiry, if satisfied that any or all of the office bearers or directors or Chief Executive is or are responsible for any payment contrary to the Act, rules or the bye-laws and has or have caused loss or deficiency in the assets of the Co-operative by breach of trust or negligence or has or have misappropriated or fraudulently retained any money or property belonging to such Co-operative, without prejudice to any civil or criminal proceedings to which they may be liable, may direct the board to convene the general meeting within such reasonable time as or the Registrar, specify to discuss the findings of the inquiry report and for initiating necessary action against the concerned.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

**CHAPTER VI****SUPERSESSION**

**38. Supersession.-** (1) If, in the opinion of the Federal Co-operative, the Board of a Co-operative,-

- (i) persistently makes default or is negligent in performance of the duties imposed on it under this Act or rules or the bye-laws; or
- (ii) has committed any act which is prejudicial to the interests of the Co-operative or its members; or
- (iii) is not functioning properly on account of the number of members of the board falling short of the required number to form quorum due to disqualification, resignation, death or removal of directors; or
- (iv) is not functioning in accordance with the provisions of this Act or rules or the bye-laws or any order made or direction issued by the Federal Co-operative; or
- (v) fails to conduct annual general meeting within six months from the closure of the year; or
  
- (vi) is otherwise not functioning properly.

may supercede the Board and appoint an administrator to manage the affairs of the Co-operative for such period not exceeding six months, as may be specified by the Federal Co-operative:

Provided that the Federal Co-operative shall not supercede the Board unless the board has been given an opportunity of being heard in the matter.

(2) On the issue of the order under sub-section (1),-

- (a) the Directors of the board shall be deemed to have vacated their office; and
- (b) the Administrator shall be deemed to have assumed charge of the affairs of the Co-operative.

(3) The Administrator shall, subject to the control of the Federal Co-operative, exercise and perform all the powers and functions of the Board or any office bearers of the Co-operative and take all such actions as may be required under this Act, rules and the bye-laws in the interest of the Co-operative.

(4) The Federal Co-operative shall, before taking action under sub-section (1), consult the financing agency of the Co-operative to which it is indebted. It shall, in respect of a Co-operative Bank, also consult the <sup>1</sup>[Reserve Bank or National Bank]<sup>1</sup> as the case may be.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(5) The Administrator shall, before the expiry of his term, arrange for constitution of the new Board for the Co-operative in accordance with its bye-laws.

(6) Notwithstanding anything contained in this Act, rules and bye-laws, the Federal Co-operative shall, in case of a Co-operative Bank, if so required in writing by the <sup>1</sup>[The Reserve Bank or National Bank]<sup>1</sup> in public interest or for preventing the affairs of the Co-operative Bank being conducted in the manner detrimental to the interest of the depositors or for securing proper management of the Co-operative Bank, by order in writing, supersede the board of that Co-operative Bank and appoint an Administrator to manage the affairs of the Co-operative Bank for such period as may specified by the Federal Co-operative in concurrence with <sup>1</sup>[The Reserve Bank or National Bank]<sup>1</sup>.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

## CHAPTER VII

### SETTLEMENT OF DISPUTE

#### **39. Disputes which may be referred to the Registrar for decision.-**

(1) Notwithstanding anything contained in any law for the time being in force, if any dispute, touching the constitution, management or the business of a Co-operative or the Federal Co-operative arises,-

- (a) among members, past members and persons claiming through members, past members and deceased members; or
- (b) between a member, past member or person claiming through a member, past member or deceased member and the Co-operative or the Federal Co-operative, its board or any office bearer, agent or employee of the Co-operative or the Federal Co-operative; or
- (c) between the Co-operative or the Federal Co-operative or its board and any past board, any office bearer, agent or employee, or any past office bearer, past agent or past employee, or the nominee, heirs or legal representatives of any deceased office bearer,

deceased agent, or deceased employee of the Co-operative or the Federal Co-operative; or

- (d) between the Co-operative or the Federal Co-operative and any other Co-operative or a credit agency,

such dispute shall be referred to the Registrar for decision <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) For the purposes of subsection (1), the following shall be deemed to be disputes touching the constitution, management or the business of a Co-operative or Federal Co-operative, namely:-

(a) a claim by the Co-operative or the Federal Co-operative for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the Co-operative or the Federal Co-operative has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand be admitted or not;

(c) any dispute arising in connection with the election of a President or Chairperson, Vice-President or Vice Chairperson or director of the Co-operative or the Federal Co-operative.

(d) any dispute between a Co-operative or Federal Co-operative and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a Co-operative or Federal Co-operative, notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(e) a claim by a Co-operative or Federal Co-operative for any deficiency caused in the assets of the Co-operative or Federal Co-operative by a member, past member, deceased member or deceased office bearer, past agent or deceased agent or by any servant, past servant or deceased servant or by its board, past or present whether such loss be admitted or not.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a Co-operative or the Federal Co-operative, the decision of the

Registrar thereon shall be final and shall not be called in question in any court.

**40. Period of limitation.-** (1) No dispute under section 39 shall be entertained unless it is referred to the Registrar within six years from the date of the cause of action:

Provided that a dispute relating to the election of a Director, President or Chairperson, Vice-President or Vice-Chairperson, or other Office Bearers of the Board shall be referred to the Registrar within thirty days from the date of declaration of the result of the election.

(2) Notwithstanding anything contained in sub-section (1), the Registrar may entertain a dispute referred after the period specified in sub-section (1) if he is satisfied that the person making the reference had sufficient cause for not making the reference within that period.

**41. Disposal of disputes.-** (1) The Registrar may, on receipt of the reference of a dispute under section 39,-

- (a) decide the dispute himself; or
- (b) transfer it for disposal to any person who has been vested by the Government with powers in that behalf; or
- (c) refer it for disposal to an Arbitrator appointed by the Registrar.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

(4) When a dispute is referred to an arbitrator under clause (c) of subsection (1), the award shall, subject to such rules as may be prescribed, include the fee payable to the arbitrator and the fees and expenses payable to the Registrar. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar and shall, subject to appeal be binding on the parties to the dispute.

(5) Notwithstanding anything contained in section 39, when any dispute under clause (a) or (b) of subsection (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by

the Co-operative concerned or the Federal Co-operative that in the interest of the Co-operative or the Federal Co-operative it is necessary for an effective decision of the dispute to implead persons who cannot be made parties to the dispute in proceedings before him, he may permit the Co-operative or the Federal Co-operative to institute a regular suit in a Civil Court having jurisdiction and the Civil Court shall be competent to entertain such suit.

**42. Bar of jurisdiction of courts.-** (1) Save as provided in this Act, no civil or labour or revenue court or industrial tribunal shall have any jurisdiction in respect of,-

- (a) the registration of a Co-operative or Federal Co-operative or bye-laws or amendment of bye-laws;
- (b) the removal of a Board or a director thereof;
- (c) any dispute required under section 39 to be referred to the Registrar;
- (d) any matter concerning the winding up and the dissolution of a Co-operative.

(2) While a Co-operative is being wound up, no suit or other legal proceedings relating to the business of such Co-operative shall be proceeded with or instituted against the Liquidator as such or against the Co-operative or any member thereof, except by leave of the Registrar or the Federal Co-operative and subject to such terms as he or it may impose.

(3) Save as provided in this Act, no order or decision or award made under this Act, shall be questioned in any court on any ground whatsoever.

**43. Execution of orders, etc.-** (1) Every decision or award made under section 41, every order made by the liquidator under section 50, and every order made by the Karnataka Co-operative Appellate Tribunal under section 46 and every order made under subsection (8) of section 11, shall subject to any other provisions of this Act, be binding on the person or Co-operative or the Federal Co-operative against whom the order, decision or award has been obtained or passed and shall, if not carried out,-

(a) on a certificate signed by the Registrar or any person authorised by him in this behalf be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such court; or

(b) be executed according to the law and under the rules for the time being in force for the recovery as arrears of land revenue:

Provided that an application for the recovery of any sum under this clause shall be made to the Deputy Commissioner, accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf within twelve years from the date fixed in the order, decision or award and if no such date is fixed, from the date of the order, decision or award, as the case may be.

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf (hereinafter in this section referred to as authorised person) by the attachment and sale or sale without attachment of any property of the person or a Co-operative or the Federal Co-operative against whom the order, decision or award has been obtained or passed.

(2) (a) Notwithstanding anything contained in this Act, every question relating to the execution, discharge or satisfaction of an order, decision or award referred to in sub-section (1) or relating to the confirmation or setting aside of a sale held in an execution of such order, decision or award in pursuance of clause (c) of subsection (1) or relating to any claim or objection to an attachment of any property made under section 44 or in execution in pursuance of the said clause (c) shall be determined, by an order of the Registrar or the authorised person before whom such question arises.

(b)(i) Where any claim is preferred against or any objection is made to the attachment of any property made under section 44 or in execution in pursuance of clause (c) of sub-section (1) of this section on the ground that the said property is not liable to such attachment, the Registrar or the authorised person shall proceed to investigate the claim or objection:

Provided that where the Registrar or the authorised person considers that the claim or objection was designedly or unnecessarily delayed, he shall make an order refusing such investigation.

(ii) Where upon the said investigation, the Registrar or the authorised person is satisfied that for the reason stated in the claim or objection such property was not, at the date of the attachment, in the possession of the person or Co-operative or the Federal Co-operative against whom the order, decision or award has been obtained or passed (hereinafter in this section referred to as the judgment debtor) or of some person in trust for the judgement-debtor or in the occupancy of a tenant or other person paying rent to the judgement-debtor or that being in the

possession of the judgement-debtor at the said date, it was so in his possession, not in his own account or as his own property, but on account of or in trust for some other persons, or partly on his own account and partly on account of some other person, the Registrar or the authorised person shall make an order, releasing the property wholly or to such extent as he thinks fit, from attachment.

(iii) Where the Registrar or the authorised person is satisfied that the property was on the said date, in the possession of the judgement-debtor as his own property and not on account of any other person or was in the occupancy of a tenant or other person paying rent to him, the Registrar or the authorised person shall disallow the claim.

(iv) Where a claim or an objection is preferred, the party against whom an order is made, may within a period of one year from the date of such order, institute a suit in a civil court to establish the right which he claims to the property in dispute; but subject to the result of such suit, if any, the order of the Registrar or the authorised person shall be conclusive.

**44. Attachment of property before award or order.-** (1) If the Registrar is satisfied on an application, report, enquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act,-

- (a) is about to dispose of the whole or any part of his property; or
- (b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or Liquidator, as the case may be,

he may, unless adequate security is furnished, direct the attachment of the said property and such attachment shall have the same effect as if made by a competent civil court.

(2) Where the Registrar directs attachment of the property under sub-section (1), he shall issue a notice calling upon the person whose property is so attached, to furnish security he thinks adequate within a specified period and if the person fails to provide the security so demanded, the Registrar may confirm the order and after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section may direct the disposal of the property so attached towards the claim if awarded.

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons, not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

**45. Procedure for settlement of disputes and power of the Registrar or any other person to whom a dispute is referred for decision.-** (1) The Registrar or any other person to whom a dispute is referred for decision under section 39, or hearing a dispute under section 41 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

(2) Except with the permission of the Registrar or any other person deciding a dispute, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3)(a) If the Registrar or any other person to whom a dispute is referred is satisfied that a person, whether he be a member of the Co-operative or the Federal Co-operative or not, has acquired any interest in the property of a person who is a party to a dispute he may order that the person who has acquired the interest in the property may join as a party to the dispute and any decision that may be passed on the reference by the Registrar or his nominee or any other person shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Registrar or any other person to whom a dispute is referred for decision under section 41 may, at any stage of the hearing of the dispute, if satisfied that the mistake was bona fide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar or any other person to whom a dispute is referred for decision under section 41, may, at any stage of the proceedings, either upon or without the application of any party, and on such terms as may

appear to the Registrar, or any other person deciding a dispute, as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, or any other person deciding a dispute under section 41, as the case may be, may be necessary in order to enable the Registrar or such person effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs but if he omits to claim for all such reliefs, he shall not make a claim for any relief so omitted, except with the leave of the Registrar or any other person to whom a dispute is referred for decision under section 41.

(4) Every order, decision or award made or given by the Registrar, or any officer or other person or a liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

**46. Appeal.-** An appeal against the decision or award made under section 41, shall lie before the Karnataka Co-operative Appellate Tribunal constituted under section 2B of the Karnataka Co-operative Societies Act, 1959.

## CHAPTER VIII

### WINDING UP OF CO-OPERATIVES

**47. Winding up of a Co-operative.** (1) On an application made by not less than one-fifth of the members of a Co-operative to wind up the affairs of the said Co-operative, the board shall convene a general meeting by issuing a notice to each member. Such notice alongwith a notice to attend the general meeting shall also be issued to <sup>1</sup>[the Registrar]<sup>1</sup> union Co-operative, creditors, auditor and to the subsidiary organisation of the Co-operative, who shall also have a right to make a representation at the general body.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) The general body shall approve the resolution to wind up the Co-operative and to appoint a liquidator after the same is passed by two-thirds of the members present in the general meeting and voting. Such resolution shall contain the details of the assets and liabilities of the Co-operative, the claims of any creditors, the number of members and the nature and extent

of interest of each member in the Co-operative. A copy of resolution after approval by the general body shall be sent by registered post to Registrar, <sup>1</sup>[the Registrar]<sup>1</sup> and Union Co-operative within fifteen days from the date of such approval.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[Provided that in the case of a Co-operative Bank, no action in terms of sub-sections (1) and (2) shall be taken unless a copy of the application referred to in sub-section (1) is sent to the Reserve Bank or National Bank, as the case may be, and its consent obtained and]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**Explanation.-** In this section "interest" means interest of a member in a Co-operative and includes shares, member loans, deposits and obligations of any kind that,-

- (i) arise by virtue of the bye-laws of the Co-operative; and
- (ii) are owed by the Co-operative to the member.

(3) <sup>1</sup>[The Registrar]<sup>1</sup> may require from a Co-operative, liquidator or any other person who is required to furnish information, an annual or other returns showing,-

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

- (a) the progress of winding up;
- (b) the distribution of any undistributed surplus or reserves; and
- (c) any other information that <sup>1</sup>[he may require.]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(4) The Registrar after consideration of the information under sub-section (3) may approve the resolution to wind up the Co-operative and communicate the same to the said Co-operative and the Federal Co-operative. Such resolution shall take effect from the date of approval by the Registrar.]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

**<sup>1</sup>[48 Winding up by the Registrar.-** (1) If the Registrar after an audit has been made under section 33 or an inquiry has been held under section 35 or on receipt of an application made by not less than three fourths of the members of a Co-operative, is of the opinion that the Co-operative ought to be wound up, he may issue an order directing it to be wound up.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) Where the Registrar has reasonable cause to believe that a Co-operative.-

- (a) has not commenced business within two years after registration; or
- (b) has not carried on business for two consecutive years; or
- (c) is no longer operating in accordance with the co-operative principles and the provisions of this Act, rules and the bye-laws of the Co-operative,

he may suo motu, require the Chief Executive of the Co-operative to intimate whether such Co-operative is carrying on business or is submitting annual returns.

(3) If no reply is received from the Chief Executive within one month, the Registrar shall within fourteen days after the expiry of the said period record that no reply has been received by him and shall publish a notice in the newspaper having wide circulation in the local area to wind up the Co-operative.

(4) If the Registrar receives a reply from the Co-operative that it is not carrying on business or is not in operation or does not wish to continue as a Co-operative or can not submit an annual return, he shall publish in the newspaper and send to the Co-operative a notice specifying the date on the expiry of which the Co-operative shall, unless cause is shown to the contrary, be wound up.

(5) If the Registrar after considering the reply, if any, is satisfied.-

- (i) that the Co-operative has no assets and liabilities, he shall issue a certificate that the Co-operative has been wound up and cancel the registration of such Co-operative forthwith; or
- (ii) that the Co-operative has assets and liabilities, he shall on receipt of a report from the Chief Executive of such Co-operative that a liquidator has not been appointed by the general body after a resolution to wind up has been passed,

appoint a liquidator and communicate the same to the Co-operative and the Federal Co-operative.

(6) The Registrar may cancel an order for the winding up of a Co-operative, at any time, in any case, where in his opinion, the Co-operative should continue to exist.

(7) Notwithstanding anything contained in this section, no Co-operative bank shall be wound up or an order for winding up shall be cancelled except with the previous sanction in writing of the "Reserve Bank or National Bank.]<sup>1</sup>

**49. Duties of Liquidator.-** (1) The liquidator immediately after he assumes the charge of office of liquidator, shall intimate the same to the Registrar and Federal Co-operative, to each claimant, share holder and to each creditor of the Co-operative. A notice of his appointment shall also be published in the Gazette once in a week for two consecutive weeks and in the newspaper published or distributed in the place where the registered office of the Co-operative is situated. He shall also take reasonable steps to give notice of the liquidation of such Co-operative in the area where the Co-operative carried on its business.

(2) The notice issued under subsection (1) shall specify,-

- (i) the amount indebted to the Co-operative and the time and place for payment of amount due to the Co-operative by the debtor to the liquidator; and
- (ii) the time and place of delivery of the property of the Co-operative to the liquidator; and
- (iii) the present or future position of the claims against the Co-operative whether liquidated or otherwise,

and shall require all the persons concerned to comply with such notice not later than two months after the first publication of the notice.

(3) The liquidator shall,-

- (a) take into custody and control the property of the Co-operative;
- (b) prepare a statement of assets and liabilities of the Co-operative under liquidation and send a copy of such statement to the Federal Co-operative and to the Registrar <sup>1</sup>[and in the case of a Co-operative Bank, also to Reserve Bank]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(c) open and maintain a trust account for the money of the Co-operative;

(d) keep accounts of the money of the Co-operative received and paid out by him;

(e) maintain separate lists of the members, creditors and other persons having claims against the Co-operative;

<sup>1</sup>[(f) where at any time, he determines that the co-operative or the co-operative bank is unable to pay or adequately provide for the discharge of its obligations, apply in the case of a Co-operative Bank to Reserve Bank, and in other cases to the Registrar for directions;]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(g) deliver to <sup>1</sup>[the Registrar]<sup>1</sup> at least once in every six months, period or more often as the <sup>1</sup>[the Registrar]<sup>1</sup> may require, financial statements of the Co-operative in any form that the liquidator considers proper or that the <sup>1</sup>[the Registrar]<sup>1</sup> may require <sup>2</sup>[and in the case Cooperative Bank, deliver such financial statement also to the Reserve Bank.]<sup>2</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

2. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**50. Powers of Liquidator.-** (1) The liquidator may,-

(a) retain lawyers, accountants, engineers, appraisers and other professional advisors;

(b) defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the Co-operative;

(c) carry on the business of the Co-operative as required for an orderly liquidation;

(d) sell by public auction any property of the Co-operative;

(e) do all acts and execute any documents in the name and on behalf of the Co-operative;

(f) borrow money on the security of the property of the Co-operative;

(g) settle or compromise any claims by or against the Co-operative;  
and

(h) take all such steps that are necessary for the liquidation of the Co-operative.

(2) Where a liquidator has reason to believe that any person has in his possession or under his control or has concealed, withheld or misappropriated any property of the Co-operative, he shall inform <sup>1</sup>[the Registrar]<sup>1</sup> to take further action against such person.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(3) No liquidator or his relatives shall purchase directly or indirectly any part of the stock-in-trade, debts or assets of the Co-operative under liquidation.

**51. Final Accounts.-** (1) A liquidator shall pay the costs of liquidation out of the property of the Co-operative and shall pay or make adequate provision for payment of all claims against the Co-operative.

(2) After paying or making adequate provision for all claims against the Co-operative, the liquidator shall apply to <sup>1</sup>[the Registrar]<sup>1</sup> for approval of his final accounts and for permission to distribute in cash or in kind the amounts due to the members out of the remaining property of the Co-operative in accordance with the bye-laws.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(3) Where the <sup>1</sup>[the Registrar]<sup>1</sup> approves the final accounts rendered by a liquidator in pursuance of sub-section (2), <sup>1</sup>[he]<sup>1</sup> shall,-

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(a) issue directions regarding the custody or disposal of the documents and records of the Co-operative; and

(b) discharge the liquidator.

<sup>1</sup>[(4) Where the Registrar discharges the liquidator under sub-section (3), he shall issue a certificate of winding up of the Co-operative and cancel the registration of such Co-operative.]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(5) The Co-operative ceases to exist as a corporate body from the date on which the certificate of registration is cancelled.

**52. Disposal of assets of a Co-operative under liquidation.-** After preparation of a statement of assets and liabilities by the liquidator under clause (b) of subsection (3) of section 49 with a view to realise optimum value for the assets of the Co-operative under liquidation, the liquidator may also invite the Federal Co-operative or other Co-operatives or Co-operative societies to purchase the assets of such Co-operative.

## CHAPTER IX

### THE FEDERAL CO-OPERATIVE

**53. Constitution, functions and management of Federal Co-operative.-** (1) There shall be a Federal Co-operative in the State. All Co-operatives registered under this Act shall be the members of such Federal Co-operative.

(2) After the registration of fifty Co-operatives under this Act, the Registrar shall frame the bye-laws of the proposed Federal Co-operative and take steps to register the Federal Co-operative and its bye-laws:

Provided that till the assumption of office by the first Board, the Registrar shall exercise the powers and perform the functions of the Federal Co-operative under this Act.

(3) Where the Federal Co-operative is registered under this Act, the Registrar shall issue a certificate of registration signed by him which shall be conclusive evidence that the Federal Co-operative is duly registered as such under this Act.

(4) The Federal Co-operative registered under this Act shall be a body corporate having perpetual succession and a common seal with power to hold property, enter into contracts, institute and defend the suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

(5) The Federal Co-operative shall immediately after its registration adopt its bye-laws framed by the Registrar. Any amendments of the bye-laws shall be in accordance with the procedure specified in section 11 and such amendment of bye-laws shall come into force on the date it is <sup>1</sup>[approved by the Registrar]<sup>1</sup>.

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(6) The provisions of section 10 relating to framing of bye-laws by a Co-operative shall, *mutatis mutandis*, apply to the Federal Co-operative.

(7) The Federal Co-operative shall perform the following functions, namely:-

- (a) promote and organise Co-operative and for this purpose frame model bye-laws and issue guidelines for framing various policies for Co-operatives in accordance with co-operative principles;
- (b) provide co-operative training, education and information and propagate co-operative principles;
- (c) undertake research and evaluation and assist in the preparation of perspective development plans for the member Co-operatives;
- (d) promote harmonious relations between member Co-operatives;

<sup>1</sup>[(e) xxx]<sup>1</sup>

1. Omitted by Act 16 of 2005 w.e.f. 1.6.2005.

- (f) provide management development services to member Co-operatives including participation in board meetings when required;
- (g) evolve code of conduct for member Co-operatives;
- (h) evolve viability norms for member Co-operatives;
- (i) provide legal assistance and advice to member Co-operatives;
- (j) provide any other services at the behest of member Co-operatives;
- (k) promote new forms of Co-operative enterprises;
- (l) constitute and maintain a Co-operative education fund;
- (m) undertake experimental projects towards the application of Co-operative ideology;
- (n) liaison on behalf of and amongst Co-operatives;
- (o) serve as data bank of Co-operatives;
- (p) represent the interest of member Co-operatives;
- (q) ensure conduct of audit, elections and general body meetings of its member Co-operatives within the time stipulated;
- (r) undertake business and services on behalf of the member Co-operatives;
- (s) convene the special general body meeting where a member Co-operative fails to convene such a meeting under sub section (2) of section 30;
- (t) prepare a panel of auditors and Chartered Accountants and send the same to the member Co-operatives for appointment;
- <sup>1</sup>[(u) have the power of inspection of the member Co-operatives:

Provided that in the case of a Co-operative Bank, no action under this clause shall be taken unless it has the approval of the Reserve Bank.]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(8) The provisions of section 23 relating to general body shall mutatis mutandis apply to the Federal Co-operative.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

<sup>1</sup>[(9)]<sup>1</sup> The President or Chairperson of a member Co-operative shall be the representative at the general body of the Federal Co-operative. If for any reason, the Chairperson or President is unable to represent, he may

nominate any director of the board to be the representative. The representative shall continue to represent the Co-operative in the Federal Co-operative as long as he remains in office in the member Co-operative.

1. Renumbered by Act 21 of 2004 w.e.f. 31.3.2004.

**54. Board of the Federal Co-operative.-** (1) The Board shall be responsible to manage the affairs of the Federal Co-operative.

(2) The Board, except the first Board of the Federal Co-operative, shall consist of one representative from every revenue district in the State. If there are no Co-operatives registered in any district under this Act or there are no eligible persons to be elected as directors, no representation shall be given to such district.

(3) The term of the Board of the Federal Co-operative shall be five years from the date of assuming office.

(4) The Chief Executive shall be the *ex-officio* director of the Board and shall not have right to vote in the election of office bearers.

**55. Disqualification for being elected or continued as director.-** (1) A person shall be disqualified for being elected or continued as director of the Federal Co-operative, if such person,-

- (i) has at any time lost the right to vote as a member or to continue as such; or
- (ii) has not been a voting member of the Federal Co-operative for a period of atleast two years, immediately preceeding the year of election; or
- (iii) incurs any other disqualification specified in the bye-laws of the Federal Co-operative; or
- (iv) absents himself from three consecutive board meetings or general meetings without leave of absence; or
- <sup>1</sup>[(v) is convicted for an offence involving moral turpitude under any law for the time being in force or for an offence committed under this Act.]<sup>1</sup>

1. Substituted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) In addition to such disqualifications as may be specified in the bye-laws, the directors shall incur disqualification for being elected as directors of the Federal Co-operative if during their term as directors of the Federal Co-operative or any other Co-operative, have not,-

- (i) conducted elections before the expiry of the term of the board;
- (ii) conducted the annual general meeting within six months of closure of the year, or a requisitioned meeting of the general body within the specified time; or
- (iii) placed the audited accounts for the preceeding year along with the reports of the auditors or Chartered Accountants, as the case may be, before the annual general meeting.

<sup>1</sup>[(3) If any question arises as to whether a member of the board was or has become subject to any of the disqualification mentioned in this section, the Registrar shall either suo motu or on a report made to him shall decide the question after giving the person concerned a reasonable opportunity of being heard.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

**56. Powers and Functions of the Board.-** The Board of the Federal Co-operative shall be the authority to exercise all the powers and perform all the functions conferred on the Federal Co-operative under this Act, rules and the bye-laws, and shall have powers,-

- (a) to elect the President or Chairperson, Vice-President or Vice-Chairperson and other office bearers;
- (b) to remove from office the President or Chairperson, or Vice-President or Vice Chairperson and other office bearers;
- (c) to appoint and remove the Chief Executive;
- (d) to fix staff strength;
- (e) to frame policies concerning the organisation and services to the member Co-operatives;
- (f) to frame regulations regarding,-
  - (i) custody and investment of funds;
  - (ii) maintenance of accounts;
  - (iii) mobilisation, utilisation and investment of various funds;
  - (iv) monitoring and management of information system including statutory returns to be filed; and
  - (v) such other subjects and matters necessary for the effective performance of the Federal Co-operative;
- (g) to place the annual report, annual financial statements, and annual plan and budget for the approval of the general body;

- (h) to consider audit and compliance report and place the reports before the general body; and
- (i) to undertake such other functions as may be delegated by the general body.

**57. Powers and functions of President or Chairperson Vice-President or Vice-Chairperson and other office bearers.-** (1) There shall be a President or Chairperson, Vice-President or Vice-Chairperson of the Federal Co-operative elected from amongst the elected members of the Board.

(2) The President or Chairperson shall preside over the meetings of the Board and general body of the Federal Co-operative. In the absence of the President or Chairperson, the Vice-President or Vice-Chairperson shall preside over the meetings of the board and general body of the Federal Co-operative. The President or Chairperson shall have only a casting vote in the event of equality of votes on any matter being decided upon by the board except election to the office bearers. The President or Chairperson shall exercise such powers as may be delegated by the board and specified in the policies framed or resolutions adopted by the board.

(3) The term of office of the President or Chairperson and Vice-President, or Vice-Chairperson shall be two and half years from the date of election.

**Explanation.-** If the election to the office of President or Chairperson, Vice-President or Vice-Chairperson is held in the middle of the term, the remaining part of the term shall deemed to be a full term.

**58. Elections.-** (1) The conduct of elections of the Board of Directors of the Federal Co-operative shall be the responsibility of the incumbent board of the Federal Co-operative. Elections shall be conducted before the expiry of the term of the office of the outgoing directors in the manner specified in the bye-laws. <sup>1</sup>[The Registrar shall appoint a returning officer for conducting such elections.]<sup>1</sup>

1. Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

(2) The newly elected directors shall assume office immediately after expiry of the term of the outgoing board.

(3) Where the number of nominations exceeds the number of directors to be elected, the election of directors shall be by secret ballot.

**59. Filling up of casual vacancies.-** (1) Where there is a casual vacancy on account of death, resignation, or disqualification on the board and where,-

(i) there is a quorum of directors, the board shall fillup the casual vacancy by co-option of a member for the remaining term:

Provided that such co-option shall not be made if the remaining period is less than six months; or

(ii) there is no quorum of directors, the Chief Executive shall immediately take steps to call a general meeting for election of directors to fill up the vacancy for the remaining term.

**60. Meetings.-** (1) The number of board meetings and general meetings shall be specified in the bye-laws of the Federal Co-operative:

Provided that not less than six board meetings and one general meeting shall be held in a year.

(2) The board shall convene a special general meeting within thirty days of receipt of a requisition to this effect from not less than one tenth of members of the Federal Co-operative or as provided in the bye-laws and any such requisition shall contain the reasons for conducting such meeting.

(3) In the event of failure by the Federal Co-operative to call such meeting, the Registrar shall convene such general meeting within sixty days of receipt of such a request made to him by not less than one tenth of the members of the Federal Co-operative.

(4) The Chief Executive of the Federal Co-operative shall record in the minute's book minutes of all proceedings of every general meeting and of every meeting of the board of the Federal Co-operative.

(5) Such minutes shall be communicated to all persons invited for the meeting within thirty days of the conclusion of the meeting.

(6) The minutes so recorded shall be signed by the person who chaired the said meeting

**61. Employees of the Federal Co-operative.-** (1) The Board of Federal Co-operative shall determine the cadre strength of the establishment and scales of pay of its employees:

Provided that the Federal Co-operative may borrow the services of the employees of other Co-operatives, Co-operative societies, State or Central Government or their Organisations, Public Sector Undertakings and such

other professional experts on such terms and conditions as may be approved by the general body:

Provided further that the first Chief Executive shall be appointed by the Registrar.

(2) The Chief Executive shall perform functions in accordance with the bye-laws and shall,-

- (a) have general superintendence and control over the day to day affairs of the Federal Co-operative.
- (b) be the person to sue and be sued on behalf of the Co-operative;
- (c) have powers on behalf of the Federal Co-operative to endorse, sign, negotiate cheques and other negotiable instruments and operate the bank accounts of the Federal Co-operative;
- (d) be responsible for appointment of employees and to ensure discipline, performance and welfare;
- (e) be the person to enter into agreements or contracts on behalf of the Federal Co-operative;
- (f) arrange to maintain proper records and accounts of the Federal Co-operative;
- (g) present the draft annual report and financial statements for the approval of the board within the time stipulated in the bye-laws;
- (h) convene the board meetings and general body meetings in consultation with the President or Chairperson, in accordance with the bye-laws and record the proceedings thereof;
- (i) assist the board in the formation of policies and plans;
- (j) be responsible to the board;
- (k) furnish to the board information necessary for monitoring the performance of the Federal Co-operative;
- (l) furnish registers and accounts at the time of audit by the auditor or by the Chartered Accountant; and
- (m) perform any other function authorised by a resolution of the board and general body.

**62. Funds of the Federal Co-operative.** (1) The Federal Co-operative shall constitute a fund called "Federal Co-operative Fund".

(2) The Federal Co-operative Fund shall consist of,-

- (i) interest free initial loan of a sum of rupees ten lakhs made by the Government which is repayable within a period of ten years by the Federal Co-operative to Government; and
- (ii) contributions made by each member Co-operative every year at such rates specified in the bye-laws of the Federal Co-operative.

(3) The Federal Co-operative shall also maintain a Co-operative Education Fund.

(4) If any member Co-operative fails to make the contribution towards the Federal Co-operative Fund without prejudice to any action to which such member Co-operatives is liable under section 68, such Co-operative shall not have a right to vote and contest for any office in the general body meeting of the Federal Co-operative.

**63. Accounts.-** The Federal Co-operative shall maintain the following records and books of accounts, namely:-

- (a) the minutes book;
- (b) registration certificate and a copy of the registered bye-laws and of the amendments registered from time to time;
- (c) bye-laws of the Federal Co-operative and of each of its member Co-operatives with upto date amendments;
- (d) accounts of all sums of money received and expended by the Federal Co-operative and the respective purposes;
- (e) accounts of all purchases and sales of goods by the Federal Co-operative;
- (f) accounts of the assets and liabilities of the member Co-operatives and the Federal Co-operative;
- (g) a register showing total membership and the memberwise use of various services;
- (h) a list of members with voting rights for the current year updated within thirty days of closure of the year;
- (i) up-to-date copies of the Board resolutions; and
- (j) annual report and audit report.

**64. Audit.-** The accounts of the Federal Co-operative shall be audited every year by an auditor or a Chartered Accountant appointed by the Federal Co-operative.

**65. Inquiry.-** (1) On an application of a creditor to whom the Federal Co-operative is indebted or of not less than one third of the members of the Board of the Federal Co-operative or of not less than one-tenth of the total members of the member Co-operatives, the Registrar shall conduct an inquiry forthwith into any matter raised in such an application relating to the constitution, management, working and financial conditions of the Federal Co-operative. The cost of inquiry shall be met by the creditor or by the Federal Co-operative or by the member Co-operatives, as the case may be.

(2) The Registrar shall issue, in writing, a notice of not less than fifteen days to the Federal Co-operative regarding the date on which he proposes to commence the inquiry:

Provided that for reasons to be recorded in writing he may issue a shorter notice.

(3) The inquiry shall be completed as far as may be within a period of six months from the date of order of the inquiry. However, such period may be extended by six months under extraordinary circumstances.

(4) The Registrar shall, within a period of one month from the date of conclusion of the inquiry, send a copy of the inquiry report to the Federal Co-operative and to the applicant.

(5) For the purpose of inquiry under this Act, the Registrar,-

(a) may require in writing the President or Chairperson, Vice-President or Vice-Chairperson, or any Director, office bearer or officer or any other authority concerned to produce such receipts, vouchers, statements, returns, correspondences, notice or any other documents as he may consider necessary for the purpose of inquiry;

(b) shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the Federal Co-operative and may summon any person in possession or responsible for the custody of any other properties to produce the same at any public office or at the head quarters of the Federal Co-operative or any branch thereof;

may summon any person who, he has reason to believe has knowledge of any of the affairs of the Federal Co-operative, to appear before him at public office or at the headquarters of the Federal Co-operative or any branch thereof and may examine such person on oath.

**66. Action on Inquiry Report.-** Where the inquiry report reveals mismanagement on the part of any or all of the office bearers or directors or officers and employees of the Federal Co-operative, the Registrar may without prejudice to any civil or criminal proceedings to which they may be liable, direct the board to convene a general meeting within such reasonable time as he may specify, to discuss the findings of the inquiry report and for initiating necessary action against the concerned.

## CHAPTER X

### CO-OPERATIVE PRINCIPLES

**67. Co-operative principles.-** The Co-operatives registered under this Act shall as far as possible be guided by the following Co-operative principles, namely:-

(1) Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

(2) Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In Primary Co-operatives, members have equal voting rights (one member, one vote) and Co-operatives at other levels are organised in a democratic manner.

(3) Members contribute equitably to, and democratically control the capital of their Co-operative. At least part of that capital is usually the common property of the Co-operative. They usually receive limited compensation, if any, on the capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes, developing the Co-operative possibly by setting up reserves part of which at least would be indivisible, benefitting members in proportion to their transactions with the Co-operative, and supporting other activities approved by the membership.

(4) Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations including Government or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their Co-operative autonomy.

(5) Co-operatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their Co-operatives. They inform the general public particularly young people and leaders about the nature and benefits of co-operation.

(6) Co-operatives serve their members most effectively and strengthen the Co-operative movement by working together through local, regional, national and international structures.

(7) While focusing on member needs, Co-operatives work for the sustainable development of their communities through policies accepted by their members.

## **<sup>1</sup>[CHAPTER XA**

### **SPECIAL PROVISIONS FOR INSURED BANKS**

**67A. Certain orders to be passed by the Registrar if so required by the Reserve Bank.-** (1) Notwithstanding anything to the contrary contained in this Act, in the case of a co-operative bank which is an insured bank, <sup>2</sup>[the Registrar shall]<sup>2</sup>,-

1. Chapter XA Inserted by Act 21 of 2004 w.e.f. 31.3.2004.

2. Substituted by Act 16 of 2005 w.e.f. 1.6.2005.

(i) if so required by the Reserve Bank, in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, <sup>1</sup>[xxx]<sup>1</sup> make an order for winding up of a Co-operative Bank;

1. Omitted by Act 16 of 2005 w.e.f. 1.6.2005.

(ii) where an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 <sup>1</sup>[xxx]<sup>1</sup> make an order sanctioning a scheme of compromise or arrangement or amalgamation or reconstruction including division or re-organisation of the Co-operative Bank;

1. Omitted by Act 16 of 2005 w.e.f. 1.6.2005.

(iii) if so required by the Reserve Bank, in the public interest, or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of depositor or for securing the proper management of the bank <sup>1</sup>[make an order]<sup>1</sup> for supersession and removal of the Committee of the Management or other Managing Body, by whatever name called, of the co-operative bank and the appointment of an

Administrator therefor for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank and the Administrator so appointed, shall after the expiry of his term, continue in his office until the day preceding the date of the first taking over by the new board of such bank.

1. Substituted by Act 16 of 2005 w.e.f. 1.6.2005.

(2) In the case of co-operative bank which is an insured bank, the Federal Co-operative or the General body of a Co-operative bank shall not decide the winding up or sanctioning a scheme of compromise or arrangement or amalgamation or reconstruction of the bank or make an order for supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an Administrator therefor, unless previous sanction in writing from the Reserve Bank is obtained.

(3) No appeal, revision or review shall lie against an order made under sub-sections (1) and (2) on the requisition or previous sanction granted by the Reserve Bank and such order or sanction shall not be liable to be called in question in any manner.

**67B. Reimbursement to the Deposit Insurance Corporation by the liquidators.-** Where a co-operative bank being an insured bank is wound up or taken into liquidation and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of the Deposit Insurance Corporation Act, 1961.]<sup>1</sup>

## CHAPTER XI

### OFFENCES AND PENALTIES

**68. Offences and penalties.** (1) If an office bearer or director or a Chief Executive or any employee of a Co-operative or Federal Co-operative willfully fails to issue a notice, send a return or document or neglects or refuses to furnish any information or willfully furnishes a false or an insufficient information required under this Act or the bye-laws of a Co-operative, shall be punishable with a fine which may extend to five thousand rupees or imprisonment which may extend to one year or with both.

(2) If an office bearer, a Chief Executive, a director or any employee of a Co-operative or Federal Co-operative fails to do any act required to be done under this Act or allows to be done any act forbidden by this Act or the bye-laws or fails to fulfil the duties or indulges in fraudulent activities concerning the constitution, management and business or misuses funds and properties or indulges in the conduct of election to the board of directors "in corrupt" practices as defined under section 123 of the Representation of Peoples Act, 1951 (Central Act 43 of 1951) or fails to provide such information or produce such books or records or to give assistance or fails to appear in person before the person conducting an inquiry under sections 35 and 65 or audit under sections 33 and 64 or fails to contribute to the "Federal Co-operative Fund" of the Federal Co-operative, shall be punishable with fine which may extend to ten thousand rupees or with imprisonment which may extend to two years or with both.

## CHAPTER XII

### MISCELLANEOUS

**69. Cognizance of offence.-** No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

**70. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification and after publication in the Official Gazette, make such provisions as appear to it to be necessary or expedient to remove the difficulty.

**71. Power to make rules.-** (1) The Government may, by notification and after previous publication in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall as soon as may be after it is made be laid before each house of the State legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions in which it is so laid or the sessions immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**72. Savings.-** Notwithstanding anything contained in section 6 of this Act, where a Co-operative society registered under the Karnataka Co-operative Societies Act 1959 is converted to a Co-operative under this Act, and at the time of such conversion was a party to any proceedings under sections, 63, 64, 65, 69, 70, 99, 100, 101, 103, 104, 106, 108 or 109 of the Karnataka Co-operative Societies Act, 1959 such proceedings shall be continued and finally decided, as if the co-operative society was not converted into a co-operative under this Act and any decree or order or award so passed in such proceedings against any person or a co-operative registered under this Act, shall be executed against such person or such co-operative in accordance with section 101 of the Karnataka Co-operative Societies Act, 1959.

\* \* \* \*

(The above translation of the ಕರ್ನಾಟಕ ಸೌಹಾರ್ದ ಸಹಕಾರಿ ಅಧಿನಿಯಮ, 1997 (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ. 17) was published in the official Gazette (Extraordinary) Part IV-A dated.12.10.2000 as No.1329 under clause (3) of Article 348 of the Constitution of India.)

\* \* \* \*

#### NOTIFICATION

**Bangalore dated 26-12-2000 [MW 1 LM 2000]**

In exercised of powers conferred by sub-section (2) of section 1 of the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000), the Government of Karnataka hereby appoints the first day of January 2001 as the date from which all the provisions of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,

(LIZZIE PHILIPS),  
Officer on Special Duty,  
Co-operation Department.

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ಅಧಿಸ' ಱಚಿ ನೆ

ಸ' ಱಖೆ: ಸಿಁಂಡೆ ಬಲ್ಲೂ 116 ಸಿಁಲ್ ಁ 2002, ಬೆ ಱಗ ಳ' ಱುಂ , ದಿನಾಂಕ : 31ನೆ ಳ ಁ ವ' ಱಾರ್ಚ್ 2004  
ಕ ನಾಱಟಕ ರಾಜ್ಯಪತ್ರ ವಿ ಶ' ಳ ಷ ಪ ತ್ರಿಕೆ ಸ' ಱಖೆ 448, ದಿನಾಂಕ : 31.3.2004

ಕ ನಾಱಟಕ ಸೌಹಾರ್ದ ಸ' ಹ' ಕಾರಿ(ತಿದುಪಡಿ) ಅಧಿನಿ ಯವಂ , 2004 (2004ರ ಕ ನಾಱಟಕ ಅಧಿನಿ ಯವಂ ಸ' ಱಖೆ 21)ರ ಪ್ರಕರಣ(1)ರ ಉಪ ಪ್ರಕರಣ(2)ರ ಡಿದತ್ತವಾದ ಅಧಿಕಾರವನ್ನಚಿಲಾಯಿಸಿ ಕ ನಾಱಟಕ ಸ' ಕಾರವು ಸ' ದ ಅಧಿನಿ ಯವಂದ ಎಲ್ಲಾ ಉಪಬಂಧಗಳಂ 31ನೆ ಳ ಁ ವ' ಱಾರ್ಚ್, 2004ರಿದ ಜಾಱುಂಲ್ಲಿ ಬರಂತ್ತವೆ ಁಂದಂ ನಿ ಗ ದಿಪ ಡಿಸ' ಱತ್ತದೆ .

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