

KARNATAKA ACT NO. 06 OF 2010
THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2010

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 12
4. Amendment of section 16
5. Amendment of section 20
6. Amendment of section 21
7. Amendment of section 28A
8. Amendment of section 28B
9. Amendment of section 29
10. Amendment of section 29A
11. Amendment of section 29C
12. Amendment of Section 29F
13. Amendment of section 29G
14. Amendment of section 30
15. Amendment of section 31
16. Amendment of section 39A
17. Omission of section 54
18. Substitution of section 56
19. Amendment of section 58
20. Amendment of section 59
21. Amendment of section 60
22. Amendment of section 63
23. Amendment of section 64
24. Amendment of section 65
25. Amendment of section 69
26. Amendment of section 70
27. Amendment of section 70A
28. Amendment of section 71
29. Amendment of section 76
30. Insertion of Chapter XI-A
31. Amendment of section 100
32. Amendment of section 105
33. Amendment of section 106
34. Amendment of section 111

- 35. Insertion of Section 128A
- 36. Power to remove difficulty
- 37. Repeal and Savings

STATEMENT OF OBJECTS AND REASONS

Amending Act 6 of 2010.- The Government of Karnataka had appointed a 3 men committee namely:-

- 1) Sri B.S. Viswanathan, Ex-President & Present director of Karnataka State Cooperative Apex & Rural Development Bank Ltd., Bengaluru
- 2) Sri M.C. Nanayya, Former Minister for Law & Parliamentary Affairs
- 3) Sri Shivanand Patil, President, D.C.C. Bank Ltd., Bijapur with Registrar of Cooperative Societies as Secretary to the committee

on 27.05.2005 to suggest amendments to Karnataka Cooperative Societies Act 1959 to remove restrictive provisions in the Act and to enable the cooperative societies to function in a transparent, accountable, vibrant and democratic manner. The said committee travelled extensively throughout the State and interacted with cooperative societies and cooperators. The committee visited some of the States. The committee submitted its report to Government in February 2006.

The Government of India (GOI) also appointed a task force on 05.08.2004 under the Chairmanship of Prof. A.Vaidyanathan to suggest measures for revival of short-term cooperative credit structure in the country. The said task force travelled extensively throughout the country and interacted with cooperative societies and cooperators and made a critical study of the short-term cooperative credit structure in the Country and submitted its report to GOI on 04.02.2005. Thereafter the GOI held discussions with the representatives of the State Governments and formulated a revival package for revitalisation of short-term credit cooperative structure on the basis of the recommendations of Prof.A.Vaidyanathan and taking into account the views of the State Governments and communicated the revival package to the States in January 2006.

The Government of Karnataka has accepted the revival package and signed tripartite Memorandum of Understanding(MoU) with GoI & NABARD on 25.03.2008. The said MoU envisages certain amendments to be brought to the Karnataka Cooperative Societies Act 1959 giving more powers to the cooperative societies and at the same time vesting certain powers with RBI / NABARD. It is a pre-condition under the MoU that the Karnataka Cooperative Societies Act 1959 be amended accordingly before release of the financial assistance by GoI through NABARD under the package.

In the light of the recommendations of Sri B.S. Viswanathan Committee Report and the MoU signed with GoI on 25.03.2008 and administrative requirements, it is considered necessary to amend the Karnataka Cooperative Societies Act 1959 as follows.

- 1) **Section 2.-** It is proposed to insert the definitions of 'Agriculture and Rural Development Bank', 'Backward Class', 'Co-operative Credit Structure', 'Central Co-operative Bank', 'Chartered Accountant', 'Multipurpose Cooperative Society', 'National Bank', 'Primary Agricultural Credit Society', 'State Agriculture and Rural Development Bank' and 'State Cooperative Bank'. It is proposed to substitute the words 'Government or State' for the word Government in the definition of 'Assisted Society'.

- 2) **Section 12.-** It is proposed to amend Section 12 by inserting the words 'or to give effect to the provisions of the Act or Rules made thereunder' after the words 'interest of such society' to have a clear understanding.
- 3) **Section 16.-** It is proposed to amend Section 16 with the insertion of a Depositor or a self-help group so as to enable them to become members of a cooperative society in the light of the revival package
- 4) **Section 20.-** It is proposed to amend Section 20 clarifying the word 'affairs' to mean 'the general meeting and the election of the members of the committee' and to give a notice of forty five days to the defaulters instead of thirty days.
- 5) **Section 21.-** It is proposed to amend Section 21 by clarifying the word 'affairs' to mean 'the general meeting and the election of the members of the committee' and inserting the words 'or a self-help group' after the words 'a firm' so as to enable the self-help group to send its delegate. It is also proposed that the newly elected members of the committee shall have an opportunity to send a delegate or nominee to any other cooperative society.
- 6) **Section 28A.-** It is proposed to amend Section 28A to provide necessary clarifications as to when an administrator could be appointed.
- 7) **Section 28B.-** It is proposed to amend Section 28B stipulating that the period of the administrator shall not exceed three months in respect of a society in cooperative credit structure.
- 8) **Section 29.-** It is proposed to amend Section 29 by enunciating the duties of Government nominees.
- 9) **Section 29A.-** It is proposed to amend Section 29A by omitting the word 'elected' so as to have a clear understanding regarding the term of office of the members of the committee.
- 10) **Section 29C.-** It is proposed to amend Section 29C that the disqualification mentioned in clause (e) shall not be applicable to the chief executive.
- 11) **Section 29F.-** It is proposed to amend Section 29F to stipulate that the chief executive shall not have the right to vote at a meeting convened for the purpose of electing office-bearers.
- 12) **Section 29G.-** It is proposed to amend Section 29G to enable the co-operative credit structure to appoint their own chief executives in the light of the revival package and stipulating that the chief executive shall be a member of the committee.
- 13) **Section 30.-** It is proposed to amend Section 30 in the light of the revival package.
- 14) **Section 31.-** It is proposed to amend Section 31 by omitting the words 'or for any other reason' so as to limit the power to appoint the special officer to a situation of want of quorum only and to stipulate that the period of special officer shall not exceed three months in respect of a society in cooperative credit structure.
- 15) **Section 39A.-** It is proposed to amend Section 39A by stipulating multi-level holding of elections to different cooperative societies and that the State Government should not postpone the elections of a society in co-operative credit structure for a period exceeding three months.

- 16) **Section 54.-** It is proposed to omit the Section 54 in keeping with the MoU.
- 17) **Section 56.-** It is proposed to amend Section 56 to state the mode of mobilisation of funds of a co-operative society and to provide that TA, DA & Other allowances payable to the members of the committee be specified in the bye-laws subject to the maximum rate specified by the Registrar.
- 18) **Section 58.-** It is proposed to amend Section 58 to lay down that a Co-operative Bank may invest its funds in Scheduled bank or financial institution regulated by the Reserve Bank as per the directives of the Reserve Bank of India.
- 19) **Section 59.-** It is proposed to amend Section 59 to provide for the limit of deposits and loans that a cooperative society can raise to be specified in the bye-laws.
- 20) **Section 60.-** It is proposed to amend Section 60 to enable a cooperative society to make loans to another cooperative society without the sanction of the Registrar.
- 21) **Section 63.-** It is proposed to amend Section 63 making it obligatory on the part of every society to get its accounts audited every year and elaborate the scope of audit.
- 22) **Section 64.-** It is proposed to amend Section 64 to enable a copy of the inquiry report to the cooperative society and the society shall report the action taken thereon within three months to the Registrar.
- 23) **Section 65.-** It is proposed to amend Section 65 to enable a copy of the inspection report to the cooperative society and the society shall report the action taken thereon within three months to the Registrar.
- 24) **Section 69.-** It is proposed to amend Section 69 stipulating that the application shall be decided within a period of twelve months which may be extended upto eighteen months.
- 25) **Section 70.-** It is proposed to amend Section 70 substituting the words 'or any other office bearer' for the words 'secretary, treasurer' as the latter are paid employees.
- 26) **Section 70A.-** It is proposed to amend Section 70A stipulating that a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of cause of action.
- 27) **Section 71.-** It is proposed to amend Section 71 stipulating that the dispute shall be decided within a period of twelve months which may be extended upto eighteen months.
- 28) **Section 76.-** It is proposed to amend Section 76 by omitting clauses (b) & (c) as they have been inserted in Section 2.
- 29) **Section 98A to 98Y.-** It is proposed to incorporate a separate chapter making special provisions applicable to societies in cooperative credit structure as envisaged in the MoU signed with GOI & NABARD in the revival package for revitalisation of cooperative credit structure.
- 30) **Section 100.-** It is proposed to dispense with the approval of the Registrar in the light of the revival package.

- 31) **Section 105.**- It is proposed to amend section 105 stipulating that 25% of the amount due shall be deposited before filing an appeal.
- 32) **Section 106.**- It is proposed to amend section 106 by providing appeals against the orders passed under section 28A(5), 99, 105A and 111 and lay down the appellate authorities specifically. It is also proposed to stipulate that 25% of the amount due shall be deposited before filing an appeal and that the appeal shall be decided within a period of twelve months which may be extended upto eighteen months.
- 33) **Section 111.**- It is proposed to amend section 111 to provide for the sanction of the Registrar for launching a criminal case in respect of all matters concerning a co-operative credit structure society in keeping with MoU. It is also proposed to provide that no sanction of the Registrar or the Director of Cooperative Audit is necessary for filing criminal complaints against the concerned for misappropriation.
- 34) **Section 128A.**- It is proposed to retain Section 128A for a period of six months in order to comply with directions of the Hon'ble High Court in certain cases and give postings to employees who are on weighting and to settle such other service conditions of the employees of primary cooperative agricultural and rural development banks.

As the matter was urgent and both the Houses of the Karnataka Legislature were not in Session, the Karnataka Cooperative Societies (Amendment) Ordinance, 2009 (Karnataka Ordinance No. 8 of 2009) was promulgated on 30.10.2009.

This Bill seeks to replace the said Ordinance.

[L.C.Bill No. 1 of 2010, File No.DPAL 50 Shasana 2009]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO. 06 OF 2010

(First Published in the Karnataka Gazette Extra-ordinary on the Thirtieth day of March, 2010)

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2010

(Received the assent of the Governor on the Twenty ninth day of March, 2010)

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty first year of the republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Co-operative Societies (Amendment) Act, 2010.

(2) Sections 2, 3, 4, 6, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 28, 29, 30 excluding section 98D sought to be inserted therein 33, 34 and 35 shall be deemed to have come into force with effect from the third day of November, 2009. Sections 1, 5, 7, 10, 11, 20, 22, 23, 24, 25, 26, 27, 31, 32 and 37 shall come into force at once. Section 98D sought to be inserted by section 30 shall come into force on such date as the State Government may by notification in the Official Gazette, appoint."

2. Amendment of section 2.- In the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the Principal Act), in section 2,-

(i) in clause (a-1), for the word, 'Government', the words, 'Government or State' shall be substituted.

(ii) after clause (a-1), the following shall be inserted; namely,-

"(a-1-1) '**Agriculture and Rural Development Bank**' means a Co-operative Agriculture and Rural Development Bank registered or deemed to be registered under this Act and admitted as a member of the State Agriculture and Rural Development Bank and includes such class or classes of co-operative societies as may be notified by the Registrar and admitted as members of the State Agriculture and Rural Development Bank."

(iii) after clause (a-2), the following shall be inserted, namely,-

"(a-2-1) '**Backward Class**' means the Backward Classes as notified under clause (a) of section 2 of the Karnataka State Commission for Backward Classes Act, 1995(Karnataka Act No.28 of 1995);"

(iv) after clause (b-1), the following shall be inserted, namely:-

"(b-2) '**Co-operative Credit Structure**' means and includes Primary Agricultural Credit Co-operative Societies by whatever name called, Central Co-operative Banks, State Co-operative Bank, Agricultural and Rural Development Banks and State Agricultural and Rural Development Bank.

(b-3) '**Central Co-operative Bank**' means a federal society engaged in the business of banking.

(b-4) '**Chartered Accountant**' means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949)."

(v) after clause (f), the following shall be inserted, namely:-

"(f-1) '**Multipurpose Cooperative Society**' means a primary society the object of which is to provide various services including services related to credit, business, industry and consumer durables to its members.

"(f-2) '**National Bank**' means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and rural Development Act, 1981 (Central Act No. 61 of 1981)."

(vi) after clause (h-1), the following shall be inserted, namely:-

"(h-2) '**Primary Agricultural Credit Co-operative Society**' means a cooperative society as defined under clause (cciv) of **Section 5** of Banking Regulation Act, 1949 (Central Act 10 of 1949) and includes a multipurpose cooperative society."

(vii) after clause (j-3), the following shall be inserted, namely

"(j-4) '**State Agriculture and Rural Development Bank**' means the Karnataka State Co-operative Agriculture and Rural Development Bank, Limited."

(j-5) '**State Cooperative Bank**' means an apex society doing the business of banking."

3. Amendment of section 12.- In section 12 of the Principal Act, in sub-section(5), for the words 'interest of such society', the words 'interest of such society or to give effect to the provisions of the Act or rules made thereunder' shall be substituted.

4. Amendment of section 16.- In section 16 of the Principal Act, in sub-section (1),-

(i) for clause (a), the following shall be substituted, namely:-

"(a) an individual who needs the services of such co-operative society and is competent to enter into contract under the Contract Act, 1872(Central Act IX of 1872)"

(ii) after clause (a) as so substituted, the following shall be inserted, namely:-

"(a-1) a depositor"

5. Amendment of section 20.- In section 20 of the Principal Act,-

(i) in sub-section (1) for the word "affairs", the words "general meeting or in the election of the members of the committee" shall be substituted; and

(ii) in sub-section (2),-

(a) for the words "a meeting", the words "a general meeting or an election of the members of the committee" shall be substituted.

(b) in the explanation, for the words 'such meeting', the words 'the general meeting or the date of election of the members of the committee' shall be substituted.

(c) in the explanation, for the words, 'not less than fifteen days', the words, 'not less than thirty days' shall be substituted.

6. Amendment of section 21.- In section 21 of the Principal Act,-

(i) in sub-section (1), the words "at a general meeting or an election of the members of the committee of a cooperative society" shall be inserted at the end; and

(ii) in sub-section(2), in clause (a), the following proviso shall be inserted at the end namely.-

"Provided that where a new committee has been elected to a cooperative society, such newly elected committee shall send a delegate or nominee to any other cooperative society where it is a member".

(iii) in sub-section(2), in clause (b)

(a) after the words "a firm", wherever they occur, the words "or a self-help group" shall be inserted; and

(b) for the word 'affairs', the words "general meeting or the election of the members of the committee" shall be substituted.

7. Amendment of section 28A.- In section 28A of the Principal Act in sub-section(5), for the words, 'term of office of the committee', the words 'term of office of the committee or if the elections are not held within the time limits specified in Section 39A,' shall be substituted.

8. Amendment of section 28B.- In section 28B of the Principal Act, in sub-section(3), the following proviso shall be inserted; namely:-

"Provided that the Administrator so appointed shall not continue for a period beyond three months in respect of a society in cooperative credit structure."

9. Amendment of section 29.- In section 29 of the Principal Act, after sub-section(4), the following shall be inserted; namely

"(5) The nominated member under sub-section (1) shall perform the following duties, namely:-

- (a) to attend meetings of the committee;
- (b) to ensure implementation of Government policies;
- (c) to register his vote of dissent in all matters in which, according to the best judgement, the resolutions sought to be carried in the committee meetings are not in the interests of the society or of the co-operative movement or are likely to be pre-judicial to the interests of the society or of the co-operative movement;
- (d) to register his vote of dissent when the meeting of the committee seeks to pass a resolution contravening any express order of the State Government or of the Registrar or any provisions of the Act or the rules or the bye-laws of the society; and
- (e) to keep the Registrar and the Government apprised of such resolution under clause (c) or clause (d) if adopted by majority of votes; ”

10. Amendment of section 29A.- In section 29A of the Principal Act, in sub-section(1), for the words 'the term of office of the elected members of the committee', the words 'the term of office of the members of the committee' shall be substituted.

11. Amendment of section 29C.- In section 29C of the Principal Act, in sub-section (1), in clause (e), after the word 'employee', the words “other than the chief executive” shall be inserted.

12. Amendment of Section 29F:- In section 29F of the Principal Act, in sub-section (4), the following shall be inserted, at the end, namely,-

"The chief executive shall not have a right to vote at such a meeting."

13. Amendment of section 29G.-In section 29G of the Principal Act,-

(1) in sub-section (1),-

- (i) the words, figures and letter "subject to the provisions of section 128 A" shall be omitted.
- (ii) in the proviso, in item (i), for the words "assisted society", the words "assisted society other than a society in co-operative credit structure" shall be substituted.
- (iii) after the first proviso, the following shall be inserted, namely:-

"Provided further that a society in co-operative credit structure shall have the option of getting the chief executive appointed by requesting the Government or the Registrar, as the case may be."

(2) in sub-section (3), the proviso shall be omitted;

(3) in sub-section (4-A), the words “or to vote” at the end shall be omitted;

(4) after sub section (4-A), the following shall be inserted, namely.-

“(4-B): Notwithstanding anything contained in this Act or the Rules or the byelaws of a cooperative society, the Chief Executive shall be a member of the committee of the cooperative society”

14. Amendment of section 30.- In section 30 of the Principal Act, for sub-section (1), the following shall be substituted, namely.-

"(1) If, in the opinion of the Registrar, the committee,-

- (a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws; or
- (b) commits any act which is prejudicial to the interests of the society or its members; or
- (c) incurs losses for three consecutive years; or
- (d) has serious financial irregularities or frauds which have been detected; or
- (e) fails to get its accounts audited for three consecutive years; or
- (f) against which there are judicial directives to this effect; or
- (g) is otherwise not functioning properly; or
- (h) is not functioning in accordance with the provisions of this Act, the rules or bye-laws or any order or direction issued by the State Government or the Registrar including the direction issued under **Section 30-B**,

the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the said committee and appoint an administrator to manage the affairs of the society for such period, not exceeding six months, as may be specified by the Registrar. The Registrar may, and for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time, and in any case such extension shall not exceed one year in the aggregate:

Provided that the supersession of the committee of a Co-operative Bank shall be done only after consultation with the Reserve Bank of India."

15. Amendment of section 31.- In section 31 of the Principal Act, in sub - section (1),

- (a) the words 'or for any other reason' shall be omitted.
- (b) the following shall be inserted at the end, namely:-

"Provided that the Special Officer so appointed shall not continue for a period beyond three months in respect of a society in cooperative credit structure."

16. Amendment of section 39A.- In section 39A of the Principal Act,

- (i) for sub-section(2), the following shall be substituted; namely:-

"(2) Every general election of the members of the committee shall be held

- (a) in respect of primary societies within twenty days before the date of expiry of the term of office of the Committee
- (b) in respect of secondary societies within tendays before the date of expiry of the term of office of the Committee.
- (c) in respect of federal societies, within fifteen days after the date of expiry of the term of office of the Committee
- (d) in respect of apex societies, within thirty days after the date of expiry of the term of office of the Committee

(2A).-The date of such general election shall be fixed by the Committee or in the absence of the committee by the Administrator or Special Officer."

(ii) in sub-section (4), the following proviso shall be inserted, namely:-

"Provided that the State Government shall not postpone the elections of a society in a co-operative credit structure for a period beyond three months."

17. Omission of section 54.- section 54 of the Principal Act shall be omitted.

18. Substitution of section 56.- For section 56 of the Principal Act, the following shall be substituted, namely:-

"56 Mobilisation of Funds.- (1) A co-operative society may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from,-

- (i) its members; or
- (ii) its depositors; or
- (iii) 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 society.

(2) No part of the funds, other than the net profits of a co-operative society, shall be paid by way of bonus or dividend or otherwise distributed among its members:

Provided that a member may be paid such remuneration, allowances or honoraria at such rate as may be specified in the bye-laws for any services rendered by him to such co-operative society.

Provided further that no member other than a member of a society in co-operative credit structure shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the committees or for performing any other functions as a member at a rate higher than the maximum rate specified by the Registrar for the purpose and different rates may be specified for different classes of co-operative societies or for different purposes."

19. Amendment of section 58.- In section 58 of the Principal Act, for clause(e) and the proviso, the following shall be substituted, namely:-

"(e) with any scheduled bank or financial institution regulated by the Reserve Bank of its choice and approved by the Registrar".

Provided that no such approval shall be necessary in respect of a society in cooperative credit structure and a cooperative bank.

Provided further 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."

20. Amendment of section 59.- In section 59 of the Principal Act, in sub-section (1), the words "as may be prescribed or" shall be omitted.

21. Amendment of section 60.- In section 60 of the Principal Act, in sub-section(1), in the proviso thereunder, the words and the coma "with the general or special sanction of the Registrar," shall be omitted.

22. Amendment of section 63.- In section 63 of the Principal Act,-

(i) for sub-section (1), the following shall be substituted, namely;-

"(1) Every co-operative society shall get its accounts audited atleast once in each year by the Director of Co-operative Audit or by a person authorised by him by general or special order in writing in this behalf."

- (ii) in sub-section (2), for the words and figure, "sub-section(1)", the words and figures, "sub-section(1) or section 98U or section 98V" shall be substituted.
- (iii) in sub-section (3), the words "or the authorised person," shall be omitted.
- (iv) in sub-section (4), the words "or the person authorised", shall be omitted.
- (v) in sub-section (6), for the words "or any officer", the words "or any person" shall be substituted.
- (vi) after sub-section (11), the following shall be inserted, namely,-

“(12) Without prejudice to provisions of sub-section (3), the auditor shall inquire,-

- (a) whether loans and advances made by the cooperative society on the basis of security have been properly secured and whether terms on which they have been made are not prejudicial to the interests of the cooperative society or its members;
- (b) whether transactions of the cooperative society which are represented merely by book entries are not prejudicial to the interests of the cooperative society;
- (c) whether personal expenses have been charged to revenue account;
- (d) where it is stated in the books and papers of the cooperative society that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance-sheet is correct, regular and not misleading; and
- (e) whether any special issue or subject matter referred to for enquiry by the Reserve bank or the National Bank has been duly enquired into and report thereof is submitted to the Reserve Bank or the National Bank as the case may be.

(13) The auditor shall make a report to the members of the co-operative society on the accounts examined by him and on every balance sheet and profit and loss account and on every other document required to be part of or annexed to the balance sheet or profit and loss account, which are placed before the cooperative society in general meeting during his tenure of office, and the report shall state whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by this Act in the manner so required and give a true and fair view,-

- (a) in the case of the balance sheet, of the state of the cooperative society's affairs as at the end of the year; and
- (b) in the case of the profit and loss account, of the profit or loss for the year.

(14) The auditor's report shall also state-

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
- (b) whether in his opinion, proper books of accounts have been kept by the cooperative society so far as appears from his examination of those books, and proper returns adequate for the purpose of his audit have been received from branches or offices of the cooperative society not visited by him;

- (c) whether the report on the accounts of any branch office audited by a person other than the cooperative society's auditor has been forwarded to him and how he has dealt with the same in preparing the auditor's report; and
- (d) whether the cooperative society's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns.

(15) Where any of the matters referred to in clauses (a) and (b) of sub-section(13) or in clauses (a), (b), (c) and (d) of sub-section (14) is answered in the negative or with a qualifying observation, the auditor's report shall state the reason for the answer."

23. Amendment of section 64.- In section 64 of the Principal Act,

- (i) in sub-section (4), for the word "communicate", the words "send a copy of the inquiry report and communicate" shall be substituted.
- (ii) after sub-section(4), the following shall be inserted, namely.-

"(5) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within three months from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein."

24. Amendment of section 65: In section 65 of the Principal Act,

- (i) in sub-section (2), for the word "communicate", the words "send a copy of the inspection report and communicate" shall be substituted.
- (ii) after sub-section(2), the following shall be inserted, namely.-

"(3) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within three months from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein."

25. Amendment of section 69: In section 69 of the Principal Act, after sub-section(3), the following shall be inserted, namely.-

"(4) The application under sub-section(1) shall be decided within a period of twelve months excluding the period of stay granted by the Court if any. However, the Registrar may for reasons to be recorded in writing extend the said period not exceeding eighteen months."

26. Amendment of section 70.- In section 70 of the Principal Act, in sub-section(2), in clause (c), for the words "Secretary, Treasurer", the words "or any other office-bearer" shall be substituted.

27. Amendment of section 70A.- In section 70A of the Principal Act,

- (i) in sub-section(1), in the proviso, for the words "Managing Director, Honorary Secretary or Other Officer of the committee", the words "or other Office-bearer" shall be substituted.

(ii) after sub-section(2), the following proviso shall be inserted at the end, namely:-

"Provided that a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of the order relating to such dispute."

28. Amendment of section 71.- In section 71 of the Principal Act, after sub-section (4), the following shall be inserted, namely.-

"(5) The dispute under sub-section(1) shall be decided within a period of twelve months excluding the period of stay granted by the Court if any. However, the Registrar may for reasons to be recorded in writing extend the said period not exceeding eighteen months."

29. Amendment of section 76.- In section 76 of the Principal Act, clauses(b) and clause(c) shall be omitted.

30. Insertion of Chapter XI-A.- After chapter XI of the Principal Act, the following chapter shall be inserted, namely:-

"Chapter XI-A

SPECIAL PROVISIONS APPLICABLE TO SOCIETIES IN CO-OPERATIVE CREDIT STRUCTURE

98A. Application of this Chapter.- This chapter shall apply only to co-operative societies in co-operative credit structure.

98B. Overriding effect of Chapter XIA.- Notwithstanding anything contrary or inconsistent contained in any other chapter of this Act or rules framed there under or bye-laws of any co-operative society or orders issued there under, the provisions of this chapter shall have overriding effect in respect of societies in co-operative credit structure.

98C. Approval of bye-laws.- (1) The bye-laws or any amendment to the bye-laws of a co-operative credit structure society shall be registered by the Registrar within thirty days from the date of receipt of the application.

(2) If the Registrar is satisfied that the proposed bye-laws or the amendments to the bye-laws are contrary to the provisions of the Act and the rules made thereunder, he shall reject the same after recording reasons thereon within thirty days from the date of receipt of the application.

98D. Ensuring membership to Depositors.- (1) Every person or group holding a minimum deposit of rupees five thousand for a continuous period of one year in a primary agricultural credit co-operative society shall become a member of the society by subscribing the minimum share capital specified in the bye-laws and shall have full membership with voting rights:

Provided that a person having deposit of less than rupees five thousand for a period of less than one year shall remain a nominal member.

(2) A borrower group shall become a member of a primary agricultural credit cooperative society under sub-section (1) of section 16 by subscribing the prescribed share capital specified in the bye-laws and shall have full voting rights.

(3) Every depositor group or borrower group admitted as a member under sub-section (1) of section 16 shall be entitled to vote through one delegate nominated by the group.

98E. Freedom in all financial and internal administrative matters.- A Co-operative society under Co-operative Credit Structure shall have freedom to decide its financial and internal administrative matters, which include:-

- (i) the interest rates on deposits and loans

Provided that in the case of the State Co-operative Bank & a Central Co-operative bank, the interest rates shall be in conformity with the guidelines issued by the Reserve Bank;

- (ii) the borrowing, investment, depositing its surplus funds, loaning policies (including individual loans) and other business policies;
- (iii) the personnel policies including issues relating to recruitment, promotion, staffing, training, posting and compensation to staff as per business requirements of the society;
- (iv) the internal checks and control systems, appointment of auditors, compensation for the audit and other internal administrative issues; and
- (v) the borrowing from any financial institution regulated by the Reserve Bank of India, keeping in mind the interest of the society and its members."

98F. Limit on State Government's subscription.- The State Government's subscription in the share capital of any Society under the Co-operative Credit Structure shall not exceed twenty-five percent of the total paid up share capital of such society.

Provided that the State Government may further reduce its contribution or such society shall have option to further repay the subscription of the State Government and if the society intends to repay the subscription of the State Government, it shall not be prevented from doing so by the State Government.

98G. Restriction on number of Government Nominees.- (1) Where the Government has subscribed to share capital, there shall be only one nominee of the State Government in the Committee of the State Cooperative Bank or a Central Cooperative Bank or the State Agriculture and Rural Development Bank or a Agriculture and Rural Development Bank.

(2) There shall be no nominee of the State Government in the Committee of a primary agricultural credit cooperative society irrespective of whether the State Government has subscribed to the share capital of such society or not.

98H. Freedom for affiliation or disaffiliation with a federal society.- (1) A Co-operative Credit Structure society registered under Karnataka Co-operative Societies Act, 1959 shall be eligible to become a member of a Federal cooperative or a Secondary co-operative registered under the provisions of Karnataka Souharda Sahakari Act, 1997.

(2) A co-operative registered under Karnataka Souharda Sahakari Act, 1997 may become the member of a Federal society or a Secondary society registered under the Karnataka Cooperative Societies Act 1959.

(3) A co-operative society under the Co-operative Credit Structure shall be at liberty to affiliate or disaffiliate with any Federal society or a Secondary society of its choice keeping in view the financial position of the Federal society or the Secondary society.

Provided that a resolution approving such affiliation or disaffiliation with a Federal society or a Secondary society shall be passed in the annual general meeting held for the purpose with three fourths majority of the total members.

Provided further that before dis-affiliation, the society shall discharge its financial liability, if any, to the society from whom it is dis-affiliating.

98I. Restriction regarding area of operation.- A co-operative society under Co-operative Credit Structure shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for the conduct of its business operations.

98J. Freedom of investment and deposit.- A co-operative Society under the Co-operative Credit Structure may, subject to the guidelines of the Reserve Bank, if any, invest or deposit its funds in any Bank or financial institution regulated by the Reserve Bank and not necessarily in the federal society to which it is affiliated.

98K. Freedom of borrowings.- A co-operative society under Co-operative Credit Structure may obtain loans from any Bank or financial institution regulated by the Reserve Bank and refinance from National Bank or any other financial institution directly or through any Reserve Bank regulated financial institutions and not necessarily from the federal society to which it is affiliated.

98L. Guidelines for payment of dividend.- A primary agricultural credit cooperative society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

98M. Contribution to any fund.- The Registrar shall have no powers to direct any co-operative society in Co-operative Credit Structure to contribute to any funds other than those required for improving its net worth or own funds.

98N. Disqualification of members of the committee of Co-operative Credit Structure.-

(1) No person shall be nominated or co-opted or allowed to continue as a member of the committee of a society in co-operative credit structure, if he.-

(i) is a person who represents a society other than a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank on the Committee of a Central Co-operative Bank or the State Co-operative Bank or the State Agriculture and Rural Development Bank, if such society which he represents has committed a default towards the payments of such Bank on intimation of such defaults by the Chief Executive of the bank concerned;

(ii) is a person who is a defaulter to discharge the liabilities to a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank or represents a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank on the committee of a Central Co-operative Bank or the State Cooperative Bank or the State Agriculture and Rural Development Bank, if such society which he represents has committed a default towards the payments of such Bank on intimation of such defaults by the Chief Executive of the bank concerned;

(iii) is a person,-

(a) who represents a society whose committee is superseded, or

(b) who is not a member of such society, or

(c) who is in default to the society or any other co-operative society in respect of any loan taken by him or has any dues of the society on the date of filing of nomination, or

(d) who has directly or indirectly, any interest in any subsisting contract made with the society or in any property sold or purchased by the society or in any other transaction of the society, except in any investment made in, or any loan taken from the society, or

- (e) against whom any proceeding for surcharge under section 69 relating to any cooperative society is pending, or
- (f) against whom a criminal proceeding relating to any transaction of a any co-operative society is pending in which cognizance has been taken.

98O. Applicability of Section 20 and Section 29C to the election of a new committee.-

The provisions of section 20 and section 29C shall be applicable for election of a new committee of a society in co-operative credit structure.

98P. Supersession of the Co-operative Credit Structure.- (1) The supersession of the committee of the State Co-operative Bank or a central co-operative bank shall be done by the Registrar only after prior consultation with the Reserve Bank.

(2) The supersession of the committee of a Primary Agricultural Credit Co-operative Society shall be done by the Registrar only on the following grounds, namely: -

- (a) if a society incurs losses for three consecutive years, or
- (b) if serious financial irregularities or frauds have been committed, or
- (c) if there are judicial directives to this effect, or
- (d) if there is lack of quorum for three consecutive meetings, or
- (e) if there is a failure in getting the audit of accounts conducted for three consecutive years as per the Act, or
- (f) if there is willful disobedience or failure to comply with any lawful direction / guidelines issued by the Registrar.

98Q. Elections.- (1) The election to the committee of a co-operative society under the Co-operative Credit Structure shall be conducted before the expiry of the term of the existing Committee and in case of supersession of the committee of such co-operative society, the election shall be conducted within two months from the date of supersession:

Provided that in circumstances beyond control, the State Government may allow holding of such elections within a period not exceeding six months from the date of supersession.

(2) A member of the committee of a Primary Agriculture Credit Cooperative Society which has been superseded under this Act shall not be eligible to be re-elected, re-appointed, re-nominated or re-co-opted as a member of the committee for a period of four consecutive years from the date of supersession.

98R. The Prudential norms.- The prudential norms including Capital to Risk Weighted Assets Ratio shall be prescribed by the Registrar for all the Primary Agricultural Credit Cooperative Societies in consultation with the National Bank.

98S. Removal of Directors and Chief Executive Officers.- (1) The members of the committee or chief executive officers of the State Co-operative Bank and Central Co-operative Banks shall fulfill the criteria stipulated by the Reserve Bank for the time being in force.

(2) A member of the committee of the State Cooperative Bank or a Central Co- operative Bank or a person holding the post of chief executive officer who does not fulfill the criteria stipulated by the Reserve Bank shall be treated as ineligible for such post and if such person is holding the post, he shall be removed by the Registrar or the appointing authority, as the case may be, within two months of being so advised by the Reserve Bank or the National Bank.

However, the existing elected members of the committee holding their post as such members on the date of the commencement of Karnataka Cooperative Societies (Amendment) Act 2009 shall continue to hold their offices till the expiry of their remaining term.

98T. Co-option of professionals in the committee.- (1) The managing committee of the State Cooperative Bank or Central Co-operative Banks shall have at least such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank from time to time and if such number of professionals do not get elected, the committee of that society shall, to the extent of the shortfall, co-opt professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank. The co-opted members shall have all the rights of members inclusive of voting right and the term of such members shall be co-extensive with the term of other elected members.

(2) if any person who, in the opinion of the Reserve Bank or the National Bank, has been co-opted as a member of the committee without having the requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the committee of such society shall ensure removal of that person within two months of being so advised by the Reserve Bank or the National Bank, after giving him an opportunity of being heard.

98U. Audit of accounts.- The State Co-operative Bank and a Central Co-operative Bank shall cause audit and certification of its accounts by a Chartered Accountant selected by it from the panel approved by the National Bank.

98V. Special audit of Co-operative Credit Structure.- The Director of Co-operative Audit shall arrange to conduct the special audit of the State Cooperative Bank or Central Co-operative Banks on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and also arrange to furnish a copy of the report of such special audit to the Reserve Bank and National Bank within the time stipulated. The provisions relating to audit of accounts made under this Act shall also apply to such special audit.

98W. Restriction for using the word 'Bank'. - No primary agricultural credit society or its federation or association shall, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), be registered with the word 'Bank', 'Banker', 'Banking' or any other derivative of the word 'Bank' in its registered name or shall use the same as a part of its name:

Provided that where any primary agricultural credit society or its federation or association, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), has been registered with the word 'Bank' or any of its derivatives as a part of its name or has been using the same as a part of its name before the commencement of the Karnataka Co-operative Societies (Amendment) Act 2009, it shall within three months from the date of such commencement, change its name so as to remove the word 'Bank' or its derivative, if any, from its name:

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall order the winding up of such society after giving a reasonable time and opportunity to the committee of such society for complying with the above provisions.

98X. Implementation of regulatory prescriptions of Reserve Bank.- (1) The Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank, including recommendation for supersession of the committee and winding up of the State Co-operative Bank and Central Co-operative Banks, within one month from the date of receipt of the advice from the Reserve Bank or within such time as may be permitted by the Reserve Bank.

(2) The Registrar shall, on being advised by the Reserve Bank for supersession or winding up, ensure that the administrator or the liquidator as the case may be, is appointed within one month from the date of receipt of the advice from the Reserve Bank or within such time as may be permitted by the Reserve Bank.

(3) If, in the opinion of the Reserve Bank or the National Bank, the chief executive officer of the State Co-operative Bank or a Central Co-operative bank does not fulfill eligibility criteria specified by the Reserve Bank, the Registrar shall direct compliance of the orders of the Reserve Bank or, as the case may be, the National Bank within two months of being so advised by the Reserve Bank or the National Bank.

(4) If in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the committee of the State Cooperative Bank or a Central Cooperative Bank without having the requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the Registrar shall, on being advised by the Reserve Bank or the National Bank, direct compliance of the orders of the Reserve Bank or, as the case may be, the National Bank within two months of being so advised by the Reserve Bank or the National Bank.

98Y. Exemption by the State Government.- No society in the Co-operative Credit Structure shall be exempted under section 121 of this Act in any manner from the application of the provisions of this chapter without prior consultation with the Reserve Bank or the National Bank."

31. Amendment of section 100.- In section 100 of the Principal Act, in sub-section (3), in the explanation,-

(1) in item (ii), the words "as may be prescribed by the Registrar" shall be omitted.

(2) for item (iii), the following shall be substituted, namely:-

"(iii) "seasonal finance" shall mean the advancing of loans for the purposes enumerated in item (ii) above, such loans being repayable on or before the 31st March following or such other date as may be specified by the financing bank or the credit agency."

32. Amendment of section 105.- In section 105 of the Principal Act, shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

"(2) No appeal against an order, decision or award for payment of money shall be considered by the Appellate Authority under sub-section(1) unless it is accompanied by satisfactory proof for having deposited with the concerned society twenty five percent of the amount due in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount payable by the appellant and in case no amount is required to be paid by the Appellant, the amount so deposited shall be refunded to him by the Society."

33. Amendment of section 106.- In section 106 of the principal Act.-

(a) in sub-section(1),-

(i) for clauses (a) and (b), the following shall be substituted, namely,-

"(a) an order of the Registrar under section 7;

(b) an order of the Registrar under section 12;"

(ii) the existing clause (d-1) shall be renumbered as "(d-2)" and before such clause as so renumbered, the following shall be inserted, namely,-

“(d-1) an order of the Registrar made under section 28A(5)”

- (iii) in clause(e), the words, "removing the committee of a co-operative society" shall be omitted.
- (iv) in clause(e-1), the words, "appointing a special officer" shall be omitted.
- (v) clause (j), the words, "directing the winding up of a co-operative society" shall be omitted.
- (vi) after clause (k), the following shall be inserted, namely,-
“(k-1) an order made by the Registrar under section 99”
- (vii) after clause (m), the following shall be inserted, namely,-
“(n) an order made by the Registrar under section 105A;
(o) an order of the Registrar made under section 111”

(b) in sub-section (2), for clauses (a) and (b) and the first proviso thereunder, the following shall be substituted, namely

- "(a) If the act, decision or order was made by the Assistant Registrar, to the jurisdictional Deputy Registrar;
- (b) If the act, decision or order was made by the Deputy Registrar, to the jurisdictional Joint Registrar;
- (c) If the act, decision or order was made by the Joint Registrar, to the jurisdictional Additional Registrar or to the Registrar, as the case may be;
- (d) If the act, decision or order was made by the Additional Registrar, to the Registrar;
- (e) If the act, decision or order was made by the Registrar, to the State Government".

(c) after sub-section (4), the following shall be inserted , namely.-

"(5) The appeal shall be decided within a period of twelve months excluding the period of stay granted by a Court if any. However, the Registrar may for the reasons to be recorded in writing extend the period not exceeding eighteen months.

(6) No appeal against an order for execution of an order, decision or award for payment of money shall be entertained by the Appellate Authority under sub-section(1) unless it is accompanied by satisfactory proof for having deposited with the concerned society, twenty five percent of the amount in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount payable by the appellant and in case no amount is required to be paid by the Appellant, the amount so deposited shall be refunded to him by the Society.”

34. Amendment of section 111.- In section 111 of the Principal Act, for sub-section (2), the following shall be substituted, namely.-

- "(2) No prosecution shall be instituted under this Act without the previous sanction of,-
 - (a) the Director of Co-operative Audit in respect of matters arising out of audit other than matters relating to co-operative credit structure society;
 - (b) the Registrar in respect of all other matters including matters relating to audit in respect of cooperative credit structure society.

Provided that no sanction of the Registrar or the Director of Cooperative Audit shall be necessary for filing criminal complaints against the delinquents for alleged misappropriation or

embezzlement of funds of a cooperative society detected during the course of audit, inquiry or inspection or in the normal course of business of a cooperative society."

35. Insertion of Section 128A.- After Section 128 of the Principal Act, the following shall be inserted and the same shall be omitted with effect from the first of July 2010.

"128-A. Constitution of a common cadre.- (1) Notwithstanding anything contained in this Act, the rules or the bye-laws, where the Registrar, in the interest of the co-operative movement, considers that the creation of a common cadre of employees for any class of co-operative societies is necessary, he shall authorise one or more federal societies to which such class of co-operative societies is affiliated to exercise the power of appointment, transfer and disciplinary action in respect of such categories of employees of that class of co-operative societies as may be specified by him and make such regulations as may be necessary for carrying out the said purpose. Where such federal society is so authorised by the Registrar, the affiliated co-operative societies shall not have powers to deal with such categories of employees except to the extent the regulations may permit.

(2) The Registrar shall have power to require the affiliated co-operative societies to make contribution of such sum every year towards expenditure, as the federal society is likely to incur or has incurred for the purpose. If any co-operative society fails to pay the said sum to such authority as may be specified by the Registrar and within the time fixed by him, the Registrar may on the application of the authority, and after such enquiry as he may consider necessary, make an order requiring the co-operative society to pay the amount, and every such order shall be enforceable against the co-operative society as if it were an award under Section 71."

36. Power to remove difficulty.- (1) If any difficulty arises in giving effect to the provisions of the Principal Act as amended by this Act, the State Government may, by notification in the Official Gazette, make such provisions as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued under this section after the expiry of two years from the date of commencement of the relevant provision under the Karnataka Co-operative Societies (Amendment) Act, 2010.

(2) Every notification issued under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

37. Repeal and Savings.- (1) The Karnataka Co-operative Societies (Amendment) Ordinance, 2009 (Karnataka Ordinance No. 8 of 2009) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the Principal Act as amended by this Act.

By Order and in the name of the Governor of Karnataka

G.K. BOREGOWDA
Secretary to Government,
Department of Parliamentary Affairs and Legislation