

## KARNATAKA ACT NO.03 OF 2013

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### THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2012 (Received the assent of the Governor on the tenth day of January, 2013)

An Act further to amend the Karnataka Cooperative Societies Act, 1959.

Whereas it is expedient further to amend the Karnataka Cooperative Societies Act, 1959 (Karnataka Act, No 11 of 1959) for the purposes hereinafter appearing.

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

**1. Short title and commencement.**-This Act may be called the Karnataka Cooperative Societies (Amendment) Act, 2012.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

**2. Amendment of the long title and preamble.**- In the Karnataka Cooperative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the Principal Act), in the long title and in the preamble at the two places, for the words, "to consolidate and amend the laws relating to cooperative societies", the words, "to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies" shall be substituted.

**3. Amendment of section-2.**- In section 2 of the Principal Act,-

(i) existing clauses (a-1) and (a-1-1) shall be renumbered as (a-1-1) and (a-1-2) respectively.

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

“(a-1) **‘Area of operation’** means jurisdictional area from which the membership is drawn or as specified in the bye-laws of the society”.

(iii) for clause (a-2-1), the following shall be substituted, namely:-

“(a-2-1) **“Backward Classes”** means such class or classes of citizens as may be classified as Backward Classes and notified by the Government from time to time.”

(iv) for clause (b), the following shall be substituted, namely:-

“(b) **‘Board’** means the board of directors or the governing body of a cooperative society, by whatever name called, to which the direction and control of the management of the affairs of the society is entrusted to.”

(v) after clause (b-4), the following shall be inserted, namely:-

“(b-5), **‘Cooperative Election Commission’** means the ‘cooperative election commission constituted under section 39AA;

- (vi) in clause (d-1), the words “ or year” shall be omitted;
- (vii) after clause (e-2), the following shall be inserted, namely:-  
“(e-2-1) **‘Director’** means a member of the board duly elected or nominated or co-opted in accordance with this Act, the rule and the bye-laws made under this Act”;
- (viii) after clause (e-5), the following shall be inserted, namely:-  
“(e-6), **‘General Body’** means,-  
(i) in relation to a primary cooperative society, all the members of that cooperative society;  
(ii) in relation to a secondary cooperative society, all the delegates of the member cooperative societies and the individual members; and  
(iii) in relation to a federal cooperative society, all the delegates of the member cooperative societies.  
(e-7), **‘General Meeting’** means a meeting of the general body called and conducted in accordance with the provisions of this Act, the rules and the bye-laws made under this Act.”
- (ix) in clause (g), after the word “vice- chairperson”, the words, “elected secretary or treasurer” shall be inserted.
- (x) after clause (i-1), the following shall be inserted, namely:-  
“(i-2) **‘Representative’** means a person elected by a group of individual members of a primary cooperative society or a secondary cooperative society to represent them and to participate on their behalf in the representative general body meeting of the society in accordance with Act, the rules and the bye-laws made under this Act;  
(i-3) **‘Representative General Body’** means all the representatives of a primary cooperative society or a secondary cooperative society;  
(i-4) **‘Representative General Meeting’** means a meeting of the representatives called and conducted in accordance with provisions of this Act or the rules and the bye-laws of the primary cooperative society or the secondary cooperative society”.
- (xi) after clause (J-5), the following clause shall be inserted, namely:-  
“(J-6)- **‘State Level Cooperative Society’** means a cooperative society whose area of operation extends to the whole of the State.”

**4. Substitution for the word 'Committee'.**- In the Principal Act, for the word 'committee' wherever it occurs, the word 'board' shall be substituted.

**5. Insertion of new section 11A.**- After section 11 of the Principal Act, the following shall be inserted, namely:-

**"11A- Bye-laws.**- (1) Every cooperative society shall make its bye-laws in accordance with the provisions of this Act, and the rules made there under.

(2) Except on such specific matters which the Act, or the rules have provided for and which the bye-laws may further regulate on but not contravene, the functioning of every cooperative society shall be regulated by its bye-laws".

**6. Amendment of section 12.**- In section 12 of the Principal Act,-

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

"(1) A cooperative society may amend its bye-laws in conformity with the provisions of this Act, and the rules made there under from time to time.

Provided that every cooperative society shall make amendments to its bye-laws in conformity with the amendments made to this Act or the rules from time to time within ninety days from the date of coming into force of the said amendments."

(ii) sub-sections (5) and (6) shall be omitted.

**7. Omission of section 14A.**- section 14A of the Principal Act shall be omitted.

**8. Amendment of section 16.**- In section 16 of the Principal Act,-

(i) in sub-section (1) in clause (a), after the words "such cooperative society", the words, "and is residing in the area of the operation of the society" shall be inserted;

(ii) in sub section (4), for the words "three months", the words "two months", shall be substituted;

(iii) sub-sections (5), (6) and (7) shall be omitted.

**9. Amendment of section 17.**- In section 17 of the Principal Act, in sub-section (1), after clause (d), the following shall be inserted, namely:-

"(e) is not eligible for membership under section 16;

(f) is a paid employee of the society or of its financing bank; or

(g) as such member, has failed to transact, such minimum business; or utilize such minimum services or facilities in a year as may be specified in the byelaws for a continuous period of three years".

**10. Amendment of section 18A.**- In section 18A of the Principal Act, in clause (a), for sub-clause (iii), the following shall be substituted, namely:-

"(iii) disqualification and cessation"

**11. Insertion of new section 19A.-** After section 19 of the Principal Act, the following shall be inserted, namely:-

**“19A- Access to information.-** Every member of a cooperative society shall have access to the books, information and accounts of the cooperative society kept in regular transaction of its business with such member”.

**12. Amendment of section 20.-** In section 20 of the Principal Act,-

- (i) in sub-section (1),
  - (a) for the words “no member”, the words “no member, no representative or no delegate” shall be substituted;
  - (b) and the proviso thereunder shall be omitted.
- (ii) in sub-section (2), after clause (a-iii) and the proviso thereunder, the following shall be inserted, namely:-
  - “(a-iv) a member, a representative or a delegate who has failed to attend three general meetings out of the last five general meetings;
  - (a-v) a member or a representative who has failed to utilize such minimum services or facilities in a co-operative year as may be specified in the byelaws for three consecutive cooperative years.”
- (iii) in sub-section (2), in clause (b), in sub-clause (iv),-
  - (a) for the words “seventy five percent”, the words “fifty percent”, shall be substituted;
  - (b) in item (a), for the words “seventy five percent”, the words “fifty percent”, shall be substituted;

**13. Amendment of section 21.-** In section 21 of the Principal Act, in sub-section (1),

- (a) after the words “every member”, the words and comma, “every representative,” shall be inserted;
- (b) and the following explanation shall be inserted at the end, namely:-
 

**“Explanation:** For the purposes of section 20 and this section and wherever else it occurs, the word ‘delegate’ means a member of a cooperative society to represent that society in other cooperative societies.”

**14. Amendment of section 26.-** In section 26 of the Principal Act,-

- (i) in sub-section (2), for the words “the Registrar may amend the bye-laws of the cooperative society”, the words “the general body of a cooperative society may amend its byelaws” shall be substituted;
- (ii) for sub-sections (3) and (4), the following shall be substituted; namely:-
 

“(3)- The amendments of the bye-laws made under sub-section (2) shall be sent to the Registrar for approval under section 12.”

**15. Amendment of section 27.-** In section 27 of the Principal Act, in sub-section (1),-

- (i) for the words “thirtieth day of September”, the words “twenty fifth day of September”, shall be substituted;
- (ii) in clause (n), the word “and” at the end shall be omitted;
- (iii) after clause (n), the following shall be inserted, namely:-
  - “(n-1)-review of the use of the services of the society by the members and directors of the society;
  - (n-2)- consideration of the loans and advances made to the directors and their relatives, the defaults, if any, and the action taken for recovery thereof;
  - (n-3)- consideration of the inquiry and inspection reports, if any, and the compliance report of the board on the action taken regarding the rectification of defects and remedying of the irregularities pointed out in the said reports;
  - (n-4)- appointment of auditors;
  - (n-5)- voluntary amalgamation, division, merger, transfer of assets and liabilities;
  - (n-6)- decision on bad debts considered as irrecoverable;
  - (n-7)- review of the remuneration, TA, DA & other allowances paid to the directors including the office-bearers in connection with their duties in that capacity or their attendance at related meetings;
  - (n-8) review of the actual utilization of the reserve and other funds;
  - (n-9) liquidation of the cooperative society; and”
- (iii) the proviso at the end shall be omitted;
- (iv) in sub-section (2), clause (b) shall be omitted;
- (v) after sub-section (3), the following shall be inserted, namely:-

“(4) The quorum for a general meeting shall be as specified in the bye-laws, but shall not be less than twenty percent of the members eligible to vote at the meeting;

Provided that the quorum for a representative general meeting shall not be less than sixty percent of the representatives eligible to vote at the meeting;”

**16. Insertion of section 27A and 27B.-** After section 27 of the Principal Act, the following shall be inserted, namely:-

**“27A Participation of members in the management.-** Every member of a cooperative society shall participate in the management of the society,-

- (a) by attending three out of the last five annual general meetings;

- (b) by utilizing every year such minimum services or facilities offered by the society as may be specified in the byelaws.

Provided that if a member fails to utilize the minimum services or fails to attend the minimum meetings, he shall lose his right to vote, for a period of three years.

**27B. Returns to be filed with the Registrar.-** The board of every cooperative society shall file the following returns, within six months of the close of every cooperative year with the Registrar,-

- (a) annual report of activities of the society;
- (b) audited statements of accounts;
- (c) plan for disposal of surplus as approved by the general body;
- (d) list of amendments to the bye laws as approved by the general body of the cooperative society.
- (e) declaration regarding the date of holding of the general body meeting and conduct of elections when due;
- (f) misappropriation or embezzlement of funds, if any, and action taken against the persons responsible for the same including the civil, criminal and disciplinary actions; and
- (g) any other information required by the Registrar in pursuance of any of the provisions of the Act,”.

**17. Amendment of section 28.-** In section 28 of the Principal Act, in sub section (1), the words, “fifty members or”, and the words and comma, “whichever is less,” shall be omitted.

**18. Amendment of section 28A.-** In section 28A of the Principal Act,- in sub-section (2),-

- (a) the words “Government nominees and” shall be omitted;
- (b) for clause (i), the following shall be substituted, namely:-
  - “(i) in case of a primary society and a secondary society whose area of operation extends to,-
    - (a) a part of taluk, eleven members;
    - (b) whole of taluk, thirteen members;
    - (c) beyond a taluk but not beyond a district, fifteen members;

Provided also that in case of Urban Cooperative Banks having area of operation not beyond a district the maximum number shall not exceed seventeen members.

- (d) beyond a district, nineteen members;”
- (c) in clause (ii), for the word “excluding”, the word “including” shall be substituted;
- (d) clause (iii) shall be omitted;

(ii) in sub-section (3),-

- (a) for the words 'every primary society', the words 'every cooperative society' shall be substituted;
- (b) in clause (ii), for the words "one seat", the words "two seats" shall be substituted;
- (c) after clause (ii), for the proviso, the following shall be substituted, namely:-  
 "(iii) one seats to be filled by election, in favour of the persons belonging to backward classes.

Provided that such reservation shall be made on the board of every cooperative society consisting of individuals as members and having members from such class or category of persons".

(iii) in sub-section (4),-

- (a) for the words "five cooperative years", the words "five years from the date of election" shall be substituted.
- (b) the explanation after the first proviso shall be omitted.
- (c) in the second and third provisos, for the words "five cooperative years", the words "five years from the date of election" shall be substituted.

(iv) after sub-section (4), the following shall be inserted, namely:-

"(4A)- The board of a cooperative society, may co-opt persons having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the cooperative society to be the members of the board.

Provided that the number of such co-opted members shall not exceed two in addition to the maximum number specified in sub-section (2).

Provided further that such co-opted members shall not have a right to vote in any election of the cooperative society in their capacity as such members or to be eligible for being elected as office-bearers of the board.

Provided also that the functional directors not exceeding three, if any, shall also be the members of the board in accordance with the byelaws and such members shall be excluded for the purpose of counting the total number of directors specified in sub-section (2).

Provided also that the professional directors and functional directors shall not form a part of the quorum for the conduct of the board meetings.

(4B)-(1) The State Government may nominate one person as its representative on the board of every assisted society other than the board of a primary agricultural credit cooperative society.

Provided that the person so nominated as a member of a cooperative society shall hold office as such member during the pleasure of the State Government.

(2) Where an officer of Government is nominated under clause (1), such officer may, if unable to be present himself at any meeting of the board, depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be a person nominated as a representative of the State Government for the purpose of such meeting.”

**19. Amendment of section 28B.-** In section 28B of the Principal Act, for sub-section (1), the following shall be substituted, namely-

“ (1) The election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of office of the members of the outgoing board”.

**20. Insertion of section 28C.-** After section 28B of the Principal Act, the following shall be inserted, namely:-

**“28C- Powers and functions of the board.-**(1) The board of a cooperative society may exercise all such powers and perform all such duties as may be necessary or expedient for the purpose of carrying out its functions under the Act,, the rules and the bye-laws.

(2) Without prejudice to the generality of the foregoing powers, such powers and duties shall include the following:-

- (a) to admit members;
- (b) to dispose of applications for allotment of shares;
- (c) to mobilize resources and invest funds;
- (d) to provide services or facilities including sanction of loans and advances to the members and determination of the security to be taken;
- (e) to elect the chairperson and such other office-bearers;
- (f) to acquire or dispose of moveable and immoveable property required for achieving the objectives of the society;
- (g) to determine the cadre strength of the establishment of the society, qualifications, pay scales and other allowances admissible to each employee and other conditions of service of the employees;
- (h) to appoint the chief executive and such other employees as are not required to be appointed by the chief executive of the society subject to the provisions of section 29G;
- (i) to lay down conduct and discipline rules, initiate disciplinary action against the delinquent employees and impose penalties proportionate to the gravity of the charges subject to the provisions of the bye-laws of the society;
- (j) to set up specific goals to be achieved towards the organizational objectives;
- (k) to approve the expenditure necessary for the business of the society subject to the provisions of annual budget;



- (l) to cause the audit of accounts of the society within the specified time limit and obtain the audit report within the said period;
- (m) to consider the audit report, take action for rectification of the defects and remedying the irregularities pointed out, if any, in the audit, cause compliance report and place the reports before the general body;
- (n) to consider the enquiry or inspection reports, if any, take action for rectification of the irregularities pointed out, if any, in the enquiry or inspection, cause compliance report and place the reports before the general body;
- (o) to place the annual report, annual financial statements, annual plan and budget for the approval of the general body;
- (p) to institute, defend or compromise legal proceedings;
- (q) to initiate civil, criminal and disciplinary action, as the case may be, against any person who may have incurred civil or criminal liability by way of misappropriation or causing loss to the society;
- (r) to convene annual general meeting in time and special general meetings whenever necessary and on requisition;
- (s) to frame regulations necessary for the proper and effective functioning of the society;
- (t) to take such other measures or to do such other acts as may be required under this Act, the rules or as may be specified in the byelaws or as may be delegated by the general body.

**21. Omission of section 29.-** section 29 of the Principal Act, shall be omitted.

**22. Amendment of section 29C.-** In section 29C of the Principal Act,-

- (i) In sub section (1),-
  - (a) In clause (c), the words “or any of his near relation” and the proviso at the end shall be omitted;
  - (b) In clause (f), in the explanation, the words “and clause (c)” shall be omitted.
  - (c) In clause (o), in sub clause (i), for the word ,“member”, the word, “director” shall be substituted.
  - (d) after clause (o), the following shall be inserted, namely:-
    - “(p) he has absented himself for three consecutive meetings of the board of such society , without leave of absence.”
- (ii) after sub-section (2), the following shall be inserted, namely:-
  - “(3) If the board of a cooperative society fails,-
    - (a) to assist the cooperative Election Commission for conducting elections as per section 39A and section 29F; or

- (b) to call the annual general meeting under section 27 or special general meeting when required under section 28; or
- (c) to present the audited accounts and annual report in the annual general meeting,

every member of such defaulting board shall be disqualified for being elected or appointed or continued as a member of the board of the society for a period of five years from the date of the order of disqualification”.

(iii) after sub-section (9), the following shall be inserted, namely:-

“(10) No director of a cooperative society shall be eligible for being elected or appointed or continued as a delegate of another society, if he suffers from any disqualification mentioned in sub-section (1). The provisions of sub-section (8) shall, mutatis-mutandis, apply.

(11) No member of a cooperative society shall be eligible for being elected or appointed or continued as a representative, if he suffers from any disqualification mentioned in sub-section (1) other than clauses (m) and (n) thereof. The provisions of sub-section (8) shall, mutatis-mutandis, apply”.

**23. Amendment of section 29E.-** In section 29E of the Principal Act, the following proviso shall be inserted at the end, namely:-

“Provided that the cooperative election commission shall conduct the election to fill up any vacancy in the office of the director of the board if the remaining term of office of the board is more than half of its original term.

Provided further that the board may fill up a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of office of the board is less than half of its original term”.

**24. Amendment of section 29 F.-** In section 29F of the Principal Act,-

(i) for sub-sections (4) the following shall be substituted, namely:-

“(4) The term of office of the office-bearers of a cooperative society shall be five years from the date of election and shall be co-terminus with the term of the board.

(5) The Cooperative Election Commission shall conduct elections to the board and also to the office of President or Chair person, Vice President or Vice-Chairperson and such other office-bearers as are required to be elected as per the bye-laws of the cooperative society within fifteen days from the date of constitution or deemed constitution of the board after a general election.

(6) The cooperative election commission shall conduct elections within sixty days from the date it being notified about the occurrence of any casual vacancy in the office of a director or any office bearer of a co-operative society to fill up such casual vacancy”.

(ii) sub sections (5), (6), (7) and (8) shall be omitted.

**25. Amendment of section 29-G.-** In section 29G of the Principal Act, after sub-section (4B) , the following shall be inserted, namely:-

“(4C) The Chief Executive of a Cooperative Society shall not have a right to vote in the election of the office bearers of the board”.

**26. Substitution of section 30.-** For section 30 of the Principal Act, the following shall be substituted, namely:-

**“30-Supersession or suspension of the board.-** (1) Notwithstanding anything contained in any law of the time being in force, no board of a cooperative society shall be superseded or kept under suspension for a period exceeding six months.

Provided that in case of a cooperative society carrying on the business of banking, the provision of this clause, shall have effect as if for the words “six months”, the words “one year” had been substituted.

- (2) If in the opinion of the Registrar, the board of a cooperative society-
- (i) 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
  - (ii) commits any act, which is prejudicial to the interest of the society or its members; or
  - (iii) where there is a stalemate in the constitution or functioning of the board; or
  - (iv) has serious financial irregularities or frauds which have been detected; or
  - (v) fails to provide books and records, necessary information and assistance to the election commission as per the calendar set out by the election commission to conduct elections to the board within the stipulated time and as a result or otherwise, the election commission has failed to conduct elections to the board within the stipulated time;

Registrar, may, after giving the board an opportunity to state objections, if any, by order in writing, supersede or suspend the said board and appoint an administrator to manage the affairs of the society for such period not exceeding six months.

Provided that the board of any cooperative society shall not be superseded or kept under suspension where there is no Government share holding or loan or financial assistance or any guarantee by the Government.

Provided further that the supersession or suspension of the board of a cooperative bank shall be done only after consultation with

the Reserve Bank of India / National Bank as the case may be and the provisions of Banking Regulation Act,, 1949 shall also apply.

(3) The administrator so appointed shall, subject to the control of the Registrar and such instructions as he may give from time to time, exercise all or any of the functions of the board or of any office- bearer of the co-operative society and take such action as he may consider necessary in the interest of the society.

(4) In case of supersession of a board, the administrator shall, before the expiry of his term of office, arrange for the conduct of elections and the constitution of a new board in accordance with this Act,, the rules and the bye-laws of the co-operative society and hand over management to the elected board.

(5) In case of suspension of a board, the Registrar shall reinstate the said board and the administrator shall, on the expiry of his term of office, handover the management to the said board and the period of suspension shall be reckoned while computing the original term of office of the board.

(6) Notwithstanding anything contained in this Act,, the Registrar shall, in the case of a cooperative bank, if so required in writing by the Reserve Bank of India, in public interest or for preventing the affairs of the cooperative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the cooperative bank, by order in writing, remove the board of that cooperative bank and appoint an administrator to manage the affairs of the cooperative bank for such period not exceeding one year as may be specified by the Reserve Bank of India.

(7) Any officer or employee of the Government or a Cooperative organization may be appointed as administrator of a cooperative society-

- (i) if he is appointed on full time basis, his pay and other allowances shall be borne by the cooperative society. The service rules applicable to him in the department or organization shall continue to govern his service as administrator of the society;
- (ii) if he is appointed as administrator in addition to his regular post, he shall be paid remuneration at the rate of ten percent of his basic pay out of the funds of the cooperative society. The service rules applicable to him in the department or organization shall continue to govern his service as administrator of the society;

**27. Amendment of section 34.-** In section 34 of the Principal Act, in sub-section (1), the following provisos shall be inserted, namely:-

“Provided that the employee shall obtain prior concurrence in writing of the employer agreeing to deduct from his salary or wages such an amount as specified in such agreement.

Provided further that the liability of the employer shall be limited to the extent of deduction of an amount which if included makes the total of all the deductions from the salary not to exceed fifty percent of the salary of the employee.

Provided also that the board of the cooperative society shall determine the amount of loan and the number of instalments to be granted to the employee in such a manner that the total of all deductions including the deduction on account of the loan instalment alongwith interest thereon shall not exceed fifty percent of the salary of the employee”.

**28. Substitution of section 39A.-** For section 39A of the Principal Act, the following shall be substituted, namely:-

**“39A- Conduct of elections.-** (1) Every general election of the members of the board and election of the office-bearers of a cooperative society including any casual vacancy to the extent applicable shall be held subject to the superintendence, direction and control of the Cooperative Election Commission.

(2) The general elections of the members of the boards of the cooperative societies shall be held in four stages as under,-

- (a) the elections in respect of primary cooperative societies shall be held in the first stage;
- (b) in the second stage, the electoral process for holding elections to the secondary societies shall commence fifteen days after the completion of the elections of the primary societies;
- (c) in the third stage, the electoral process for holding election to the federal societies shall commence thirty days after the completion of the elections of the secondary societies; and
- (d) in the fourth stage, the electoral process for holding election to the apex societies shall commence thirty days after the completion of the elections of the federal societies.

Provided that the cooperative election commission may start the preparatory work for the preparation of the electoral rolls for and the conduct of the elections during the last six months prior to the expiry of the term of office of the board of a cooperative society.

(3)Notwithstanding anything contained in this Act,, the rules or the bye-laws of any cooperative society, the elections to the boards and consequent election of the office-bearers which are due during March and April 2013 shall be held;

- (i) before the thirtieth day of September 2013 in respect of the primary cooperative societies;
- (ii) before the thirty first day of October 2013, in respect of the secondary cooperative societies;
- (iii) before the thirtieth day of November 2013 in respect of the federal societies;
- (iv) before the thirty first day of December 2013 in respect of the apex cooperative societies;

Provided that the incumbent boards of all such cooperative societies shall continue to be in their respective offices till the conduct of the elections as above.

**39AA Cooperative Election Commission.**-(1)The State Government shall, by notification in the Official Gazette, constitute a Cooperative Election Commission consisting of a cooperative election commissioner and a secretary.

(2)The cooperative election commission shall be vested with the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the cooperative societies in the State.

(3)The Governor shall appoint a person who is or has been an officer of the rank of Principal Secretary or Secretary to the State Government to be cooperative election commissioner on the recommendation of the Chief Minister and such cooperative election commissioner shall hold office for a term of five years.

(4)The State Government shall appoint a person who is or has been an officer of the rank of Additional Registrar of Cooperative societies to be the Secretary of the Cooperative Election Commission.

(5)The conditions of service including the salary and allowances of the cooperative election commissioner and the secretary shall be such as may be prescribed.

(6)Subject to the provisions of sub-section(8), the Co-operative Election Commissioner shall be removed from his office only by an order of the Governor on the ground of proved misbehavior or incapacity after an enquiry ordered by the Governor and conducted by a Judge of the High Court, who has on inquiry, reported that the Election Commissioner ought to be removed on such ground.

(7) The Governor may suspend from office, and if deemed necessary prohibit also from attending the office during inquiry, the election commissioner in respect of whom an enquiry has been ordered under sub-section (6) until the Governor has passed orders on receipt of the report of the High Court Judge.

(8) Notwithstanding anything contained in sub-section(6), the Governor may by order remove from office the cooperative election commissioner if the cooperative election commissioner,-

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor involves moral turpitude; or
- (c) has engaged during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the election commissioner.

(9) If the Cooperative election commissioner any way, concerned or interested in any contract or agreement made by or on behalf of the Government of Karnataka or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section(6) be deemed to be guilty of misbehavior.

(10)The cooperative election commission shall in consultation with the State Government determine the number of officers and other employees required for the discharge of the functions conferred on it under sub-section(2) and require the State Government to provide the services of such officers and employees.

(11)The State Government shall, when so requested by the cooperative election commission, make available to the cooperative election commission such staff as may be necessary for the discharge of the functions conferred on the cooperative election commission under sub-section(2).

(12) The salary, allowances, terms and conditions of services of the officers and the employees of the cooperative election commission shall be such as may be prescribed.

(13) Subject to the provisions of this Act, procedure and guidelines for the conduct of election shall be such as may be prescribed.

(14)The cost of preparation of electoral rolls for, and the conduct of the elections shall be met in such manner as may be prescribed.

(15)The board of every cooperative society shall,-

- (a) inform the cooperative election commission about the expiry of its term of office at least six months before the date of expiry of such term;
- (b) furnish such books, records and information as the commission may require as per the calendar prescribed by the Cooperative Election Commission; and

- (c) provide all necessary help, assistance and cooperation for the smooth preparation of electoral rolls for and the conduct of elections.”

**29. Omission of section 53A.-** section 53A of the Principal Act, shall be omitted.

**30. Amendment of section 56.-** In section 56 of the Principal Act, in sub-section (2), for the second proviso, the following shall be substituted, namely:-

“Provided further that no director shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the board or committees or sub-committees or for performing any other functions as a director at a rate higher than the maximum rate specified in the byelaws for the purpose, having regard to the financial position and profitability of the society”.

**31. Insertion of new section 57A.-** After section 57 of the Principal Act,, the following shall be inserted, namely:-

**“57A- Cooperative Education and Training.-**(1) The cooperative education fund shall be utilized for the purpose of promotion of the cooperative movement in the State and for providing education to the members, directors and cooperators of the cooperative societies and the general public and training to the employees of the cooperative societies.

(2) Every co-operative society shall pay its contribution to the Karnataka State Cooperative Federation within thirty days from the date of its annual general meeting.

(3) All contributions made by the cooperative societies towards co-operative education fund, grants received from the Government of India or the State Government and donations, if any, made by any person shall be credited to the cooperative education fund.

(4) The cooperative education fund shall be maintained and administered by the Karnataka State Cooperative Federation Limited for such programmes and in such manner as may be prescribed.

(5) No expenditure out of the cooperative education fund shall be incurred without the approval of an advisory committee constituted for the purpose as prescribed”.

**32. Amendment of section 58.-** In section 58 of the Principal Act,-

(i) in clause (e),-

(a) the words “or financial institution” shall be omitted.

(b) for the word “Registrar”, the words, “general body of that society till the date of the next annual general body meeting”, shall be substituted.



(ii) the first proviso shall be omitted.

**33. Amendment of section 59.-** In section 59 of the Principal Act, for sub-section (2), the following shall be substituted, namely:-

“(2) Notwithstanding anything contained in sub-section (1), the general body of a cooperative society shall have power to permit the society to borrow from a credit agency subject to such conditions as may be stipulated in the resolution of the general body.

Provided that such resolution is valid till the date of the next annual general meeting”.

**34. Substitution of section 63.-** For section 63, the following shall be substituted, namely:-

**“63 Audit.-** (1) Every Cooperative society shall get its accounts audited at least once in a year before the first of September following the close of the cooperative year by an auditor or an auditing firm appointed by the general body of the cooperative society from a panel of auditors or auditing firms approved by the Director of cooperative audit;

Provided that the Director of co-operative audit shall be the authority competent to prepare and maintain a list of auditors and auditing firms who satisfy the prescribed qualification and experience for undertaking the audit of accounts of co-operative societies in the state.

Provided further that the Director of cooperative audit shall communicate a panel of auditors and auditing firms, not exceeding ten, to every cooperative society within thirty days from the close of the co-operative year.

(2) The general body of every cooperative society shall at its general meeting appoint an auditor or an auditing firm to audit the accounts of the society for the cooperative year in which the general meeting is held.

(3) The manner of preparation of the list of auditors and auditing firms by the Director of co-operative audit and the procedure for giving the panel to each co-operative society shall be such as may be prescribed.

(4) The audit under sub-section (1) of this section or under section 98U or section 98V shall include an examination of overdue debts, if any, the physical verification and valuation of the assets and liabilities, verification of the cash balance and securities, certification of the profits or losses, compliance with the transparency law and other laws applicable to the cooperative societies including the instructions and directives of NABARD or Reserve Bank of India and an examination of the working and the other prescribed particulars of the society.

(5) The auditor or auditing firm shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to the society or in the custody of any member of the

board or the office-bearer or the chief executive or any other employee of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties to produce the same at the registered office of the society or any branch thereof or at any public office at the headquarters of the society.

(6) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Auditor or Auditing firms approved by the Director of Cooperative Audit may require.

(7) The board of every cooperative society shall ensure that the annual financial statements like the receipts and payments or income and expenditure, profit and loss and the balance sheet along with such schedules and other statements as may be prescribed as at the end of a cooperative year are prepared and presented for audit before the auditor or auditing firm within thirty days of the closure of that cooperative year.

(8) The Auditor or Auditing firm shall conduct and complete the audit of accounts as provided for in this Act, or the rules and send copies of the audit report and communicate the results of audit to the cooperative society, the Registrar, the Director of co-operative audit and to the financing bank or credit agency, and if the society is affiliated to any other cooperative society, to such cooperative society, as early as possible but within the first day of September every year.

(9) The auditor or auditing firm shall have right to receive all notices and every communication relating to the general meeting of a cooperative society and, at the cost of the cooperative society, shall be entitled to attend such meeting and to be heard at the general body meeting, in respect of all or any part of the business with which he is concerned as auditor or auditing firm.

(10) If the result of the audit held under sub-section(1) discloses any defects in the working of the society, the board shall take steps to rectify the defects and remedy the irregularities pointed out in the audit report and place the audit report along with the action taken report before the general meeting to be held before the twenty-fifth day of the September every year and explain therein the said defects or the irregularities. The board shall continue to take steps for rectification of all the defects and remedying of all the irregularities in the audit report and appraise the general meetings every year till all the defects are rectified and the irregularities are remedied. The board shall send report of action taken to the Registrar and Director of Co-operative Audit within thirty days from the date of the general meeting.

(11) The Director of Co-operative Audit shall submit the audit reports of an Apex cooperative society to the State Government annually for being laid before the legislature in the manner prescribed.

(12) If it appears to the general body of a co-operative society that there is a prima-facie case of fraud or misappropriation or embezzlement of funds not detected or properly examined by the auditor during the regular audit or misclassification of accounts, the general body may resolve to provide for a re-audit of any account of the society with a view to truly reflect the financial position of the society and the provisions of the Act, and the rules applicable to the audit shall apply to such re-audit;

(13) If it appears to the State Government on an application by a cooperative society or otherwise that it is necessary or expedient to re-audit the accounts of a society, the State Government may, by an order provide for such re-audit and the provisions of the Act, and the rules applicable to the audit shall also apply to such re-audit.

Provided that such re-audit shall be ordered only when there is a prima-facie case of fraud or mis-appropriation or embezzlement of funds not detected or properly examined by the auditor or auditing firms during regular audit or misclassification of accounts or for any other valid reasons with a view to truly reflect the financial position of the society.

(14) Without prejudice to the provisions of sub- sections (5) and (6), the auditor shall inquire;

- (a) Whether loans and advances made by the co-operative 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 co-operative society or its members;
- (b) Whether transactions of the co-operative society which are represented merely by book entries are not prejudicial to the interests of the co-operative society;
- (c) Whether personal expenses have been charged to revenue account;
- (d) Where it is stated in the books and papers of the co-operative 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 National Bank has been duly enquired into and report thereof is submitted to the Reserve Bank or National Bank as the case may be.

(15) The auditor shall make a report to the cooperative 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. 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.

(16) The auditor's report shall also,-

- (a) state 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) state whether in his opinion, proper books of accounts have been kept by the co-operative 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 co-operative society not visited by him;
- (c) state whether the report on the accounts of any branch office audited by a person other than the co-operative society's auditor has been forwarded to him and how he has dealt with the same in preparing the auditor's report;
- (d) state whether the co-operative society's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;

(17) The audit report shall have,-

- (a) all particulars of the defects or the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor/auditing firm shall investigate and report the modus operandi, the entrustment, amount involved, and fix the responsibility for such misappropriation or embezzlement of funds or fraud, on the members of the board or the employees of the society or any other person as the case may be with all necessary evidence.
- (b) accounting irregularities and their implications on the financial statements to be indicated in detail in the report with the corresponding effects on the profit and loss.
- (c) the functioning of the general body, board and sub-committees of the Co-operative Society to be checked and any irregularities or violations observed reported duly fixing the responsibilities for such irregularities or violations.
- (d) all schedules and other statements as may be prescribed.

(18) Where any of the matters referred to in clauses (a) and (b) of sub-section (14) or in clauses (a) and (b) of sub section (15) or clause (a) to (d) of sub-section (16) is answered in the negative or with a qualifying observation, the auditor's report shall state the reason for the answer.

(19) The remuneration of the auditor or auditing firm of a cooperative society shall be borne by the society and shall be at such rates as may be fixed by general body of the society.

(20) The Director of Cooperative Audit shall maintain a list of cooperative societies districtwise, the list of working societies, the list of societies whose accounts are audited, the list of societies whose accounts are not audited within the prescribed time and the reasons therefor. He shall co-ordinate with the cooperative societies and the auditors or auditing firms and ensure the completion of audit of accounts of all the cooperative societies in time every year.

**Explanation:** For the purpose of this section,- (i) 'Auditor' means an auditor or an officer of the Department of Cooperative Audit who has passed, in addition to the graduation or post graduation degree, Higher Diploma in Cooperative Management / Diploma in Cooperative Audit / General Diploma in Cooperative management and who has completed the period of probation successfully and who has a working knowledge of the kannada language; or a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 who shall have a fair knowledge of the functioning of the cooperative societies and shall have an experience of at least three years in auditing of which the auditor would like to be included in the panel and chartered accountants shall have working knowledge of the Kannada language.

(ii) 'Auditing firm' means a firm of more than one Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 who or which shall have a fair knowledge of the functioning of the cooperative societies and shall have an experience of at least three years in auditing of which the auditing firm would like to be included in the panel and chartered accountants shall have working knowledge of the Kannada language.

**35. Amendment of section 64.-** In section 64 of the Principal Act,-

(i) after sub-section (2A), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, shall have power to extend the period for holding the enquiry beyond eighteen months if it is satisfied that, there are genuine grounds for the extension.”

(ii) in sub-section (3), for clause (b), the following shall be substituted; namely:-

“(b) the inquiry officer may also summon any officer of a financing bank or a credit agency as the case may be or any person having any kind of business relationship with the society or any person who is connected with the functioning of and who has knowledge about the affairs of the society to produce any records or documents, if any, related to the transactions with and working of the society and furnish such information and the explanations, at the registered office or branch of the society or at any public office at the headquarters of the society, as the inquiry officer may require for the purpose of the inquiry.”

(iii) after sub-section (4), the following shall be inserted, namely:-

“(4A) On receipt of the inquiry report and the result of the inquiry from the Registrar, it shall be the responsibility of the board to initiate immediate necessary action for rectification of deficits, if any, therein and place the report before the annual general meeting or a special general meeting convened for the purpose at the earliest.

Provided that the general body of the cooperative society shall not be competent to pass a resolution negating the findings of the inquiry”.

(iv) in sub-section (5), for the words “three months”, the words “forty five days” shall be substituted”.

**36. Amendment of section 65.-** In section 65 Principal Act,-

(i) after sub-section (2), the following shall be inserted, namely:-

“(2A) On receipt of the inspection report and the result of the inspection from the Registrar, it shall be the responsibility of the board to initiate necessary action for rectification of defects, if any, therein and place the report before the annual general meeting or a special general meeting convened for the purpose at the earliest.

Provided that the general body of the cooperative society shall not be competent to pass a resolution negating the findings of the inspection”.

(ii) in sub-section (3),

“(a) for the word “inquiry” wherever it occurs, the word “inspection” shall be substituted.

(b) for the words “three months”, the words “forty five days” shall be substituted.

**37. Amendment of section 68.-** In section 68,-

(i) in sub-section (1),

(a) for the words ‘remedy the defects’, the words “rectify the defects and remedy the irregularities” shall be substituted.

(b) the words “the audit under section 63 or” shall be omitted.

(ii) in sub-section(3), for the words “who shall take action for incorporation of ”, the words “who shall inform the society auditor or auditing firm auditing the accounts of the society for incorporation” shall be substituted.

**38. Amendment of section 69.-** In section 69 of the Principal Act, after sub-section (4), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, may extend the period beyond eighteen months if it is satisfied that, there are genuine/valid grounds for such extension”.

**39. Amendment of section 70.-** In section 70 of the Principal Act,-

(i) in sub-section (1) after the words “cooperative society”, the words “other than a dispute pertaining to the election of the board and election of the office-bearers” shall be inserted;

(ii) in sub-section (2) clause (c) shall be omitted;

(iii) after sub-section (3) the following shall be inserted, namely:-

“(4) All disputes related to the election of the members of the board and the election of President, Vice-President, Chairman, Vice-Chairman or any other office-bearer shall be filed in the jurisdictional Civil Court.

(5) All disputes pending with the Registrar as on the date of the constitution of cooperative election commission shall be disposed of by the Registrar as if this amendment had not been made”.

**40. Amendment of section 71.-** In section 71 of the Principal Act, after sub-section (5), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, may extend the period beyond eighteen months if it is satisfied that, there are genuine/valid grounds for such extension”.

**41. Amendment of section 72.-** In section 72 of the Principal Act,-

(i) in sub-section (1),

(a) for the words “an inquiry”, the words, “an audit has been conducted under section 63 or an inquiry” shall be substituted.

(b) for the words “he may issue an order”, the words “he may, after giving the society an opportunity of making its representation, issue an order” shall be substituted.

(ii) in sub-section (2), in clause (b), for the words, “or has ceased to work”, the words “within a period of six months of the date of its registration or has ceased to function for six months” shall be substituted.

(iii) after sub-section (4), the following shall be inserted, namely:-

“(5) Notwithstanding anything in this section, the Registrar shall make an order for the winding up of a cooperative society, if the general body of the society, by a resolution passed by two thirds majority of the members present and voting in a general meeting decides for the winding up of that society”.

**42. Amendment of Section 98B.-** In section 98B of the Principal Act,, after the words, “over riding effect”, the words, “except the provisions of sections 12, 16, 17, 19A, 20, 27, 27A, 27B, 28, 28A, 29C, 29E, 29F, 29G, 30, 31, 39A, 39AA, 56, 57A, 63, 64, 65, 70, 72, 108 & 109” shall be inserted.

**43. Omission of section 98 P.-** section 98P of the Principal Act, shall be omitted.

**44. Omission of section 98T.-** section 98T of the Principal Act, shall be omitted.

**45. Amendment of section 105A.-** In section 105A of the Principal Act,,(i) in sub-section (1), for the word “Registrar”, the words “general body”, shall be substituted.

(ii) for sub-section (3), the following shall be substituted; namely:-

“(3)The general body of the cooperative society shall, after giving a reasonable opportunity to the person concerned to make his representation, if any, in writing and after considering the reasons for refusal of membership by the board, direct either that the person shall be admitted as a member by the cooperative society or that he need not be admitted by the cooperative society, and in the former case, the board shall give effect to the decision within ten days of the resolution of the general body”.

(iii) sub-section (4) and (5) shall be omitted.

**46. Amendment of section 106.-** In section 106 of the Principal Act,, after sub-section (5), the following proviso, shall be inserted, namely:-

“Provided that the State Government shall, on a report made by the Registrar, may extend the period beyond eighteen months if it is satisfied that, there are genuine/valid grounds for such extension.”

**47. Amendment of section 108.-** In section 108 of the Principal Act, for the words, “an appeal has been made to the State Government under



section 106”, the words “an appeal has been made to the State Government or other authorities under section 106” shall be substituted.

**48. Amendment of section 109.-** In section 109 of the Principal Act, after sub-section(16), the following shall be inserted, namely:-

“(17) The members of the board who fails and the chief executive who fail to submit the accounts and the information required by the auditor as per section 63 within the stipulated time shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to five thousand rupees or with both;

(18) Every member of the board who fails and the chief executive who fails to get its accounts for the previous year audited as per section 63 within the stipulated time and present the same before the annual general meeting shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to ten thousand rupees or with both;

(19) Every member of the board who and the chief executive who fail to file annual returns with the Registrar as per section 27B shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both;

(20)Every member of the board which fails and the chief executive who fails to provide necessary books, records and information within time and assist the cooperative election commission for the conduct of elections within the time stipulated under section 39AA shall be punishable with imprisonment for a term of six months or with fine of ten thousand rupees or with both;

(21)Any person who, before, during or after the election of the members of the board or office-bearers, adopts any corrupt practice under section 39C or commits any electoral offences under section 39K shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.”

**49. Amendment of section 113.-** In section 113 of the Principal Act, In sub-section (2) in the proviso, the words “with the previous permission of the Registrar” shall be omitted.

**50. Amendment of section 117.-** In section 117 of the Principal Act,, sub-section (2) shall be omitted.

**51. Amendment of section 118.-** In section 118 of the Principal Act, in sub-sections (1), for clauses (b) and (c), the following shall be substituted, namely:-

“(b) the removal of a member or the removal and disqualification of a director or the removal of a board;

(c) any surcharge application required under section 69 or any dispute required under section 70 to be referred to the Registrar or the recovery of moneys under section 100 or the execution of any award or order referred to the Registrar for execution under section 101;”

**52. Amendment of section 124.-** In section 124 of the principal Act, in the proviso, for the words “issued by certificate of posting”, the following words shall be substituted, namely :-

“published on the notice boards of the society at its registered office and its branches, and,-

- (a) sent by bulk posting at places wherever the facility is available; or
- (b) sent by E-mail and S.M.S.; or
- (c) sent by ordinary post and published in,-

- (i) one Kannada news paper having wider circulation at places where the co-operative societies whose area of operation is less than a district, are situated or
- (ii) one Kannada newspaper and one English newspaper having wider circulation at places where the co-operative societies, whose area of operation extends to a district and above and to the whole of the state, are situated;”.

**53. Amendment of section 129.-** In section 129 of the Principal Act, in sub-section (2),-

- (i) after clause (e), the following shall be inserted, namely:-  
“(e-1) right of a member to get information regarding his transaction of business with the society.
- (ii) for clause (g), the following shall be substituted; namely:-  
“(g) The conditions of service of cooperative election commissioner”;
- (iii) for the clause (l), the following shall be substituted; namely:-  
“(l) the procedure for conduct of general meetings including representative general meetings and board meetings and requisitioning of a general meeting and board meeting”;
- (iv) after clause(l), the following shall be inserted, namely:-  
“(l-1) the procedure for the consideration of no confidence against any director”.
- (v) in clause (m), the words “the members of the committee and” shall be omitted.

- (vi) in clause (o), for the word “qualification”, the words “qualification, experience and procedure” shall be substituted.
- (vii) after clause (t) the following shall be inserted, namely:-  
 “(t-1) procedure for the maintenance and administration of education fund by the Karnataka State Cooperative Federation;  
 (t-2)- the cost of preparation of the electoral rolls for, and the conduct of, the elections by the election commission”.
- (viii) in clause (y), for the word “Societies” and the remuneration payable to the auditor or auditing firm;” shall be substituted.
- (ix) for clause (ii), the following shall be substituted; namely:-  
 “(ii) Procedure for empanelment of the auditors and auditing firms to be sent to the cooperative societies”.

**54. Power to remove difficulties.**-(1) If any difficulty arises in giving effect to the amendments made by this Act, the State Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of the Principal Act, and the Constitution (ninety seventh amendment) Act,, 2011 as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act,-

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

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

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

