

KARNATAKA ACT NO. 13 OF 2004
THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2004

Arrangement of Sections

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STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 to provide for:-

- (i) conversion of a Co-operative under Karnataka Souharda Sahakari Act, 1997 into a Co-operative Society.
- (ii) voting rights to the Co-operative Societies after 12 months of their admission as in the case of individuals.
- (iii) prior sanction of RBI in respect of a Co-operative Bank under section 26A and 26B.
- (iv) the Registrar to conduct the general meeting in case of failure to the committee to hold Annual general body meeting.
- (v) the election shall be held within a three months from the date of registration of a Co-operative Society or Societies formed after amalgamation or reorganisation or division and that an administrator be appointed for the said period of three months.
- (vi) vesting of powers under section 30, 31, 59 and 64 with the Registrar.
- (vii) appeal provision against the orders of Registrar under sec 12, 17 and 31.
- (viii) vesting of compounding of offences relating to audit with the Director of Co-operative Audit.

Some consequential amendments are also made in view of judgement passed by the Hon'ble High Court in W.A.No: 1899-1912/2001 and W.P.No. 21461/1999.

Hence the Bill

[L.A. BILL No. 1 OF 2004]

(Entry 32 of List II of the Seventh Schedule to the Constitution of India)

KARNATAKA ACT NO. 13 OF 2004

(First published in the Karnataka Gazette Extra-ordinary on the Sixth day of March, 2004)

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2004

(Received the assent of the Governor on the Fourth day of March, 2004)

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

Whereas it is expedient further 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 fifty-fourth 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, 2004

(2) It shall come into force on such ¹[date] as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

2. Amendment of section 2.- In section 2 of the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the principal Act), after clause (d-1), the following clause shall be inserted, namely:-

"(d-2) Co-operative means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) and includes the Union Co-operative and the Federal Co-operative".

3. Amendment of section 6.- In section 6 of the principal Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:-

"(g) in the case of the co-operative which intends to convert itself into a Co-operative Society under this Act, the application shall be accompanied by a resolution of the general meeting of such Co-operative approving such conversion."

4. Amendment of section 7.- In section 7 of the principal Act, in sub-section (1), the following shall be inserted at the end, namely:-

"and send by registered post, a certificate of registration and the original registered bye-laws signed with date and seal by him to the chief promoter mentioned in the application or to the chief executive of the Co-operative which is converted"

5. Amendment of section 17.- In section 17 of the principal Act, in sub-section (1) ,-

- (i) in clause (c), the words "or any of his near relation carries on" shall be omitted;
- (ii) explanation to clause (c) shall be omitted.

6. Amendment of section 20.- In section 20 of the principal Act, in sub-section (2),-

(a) in clause (a-iii), for the words "an individual member", the words, "a person" shall be substituted.

(b) in the proviso, for the words "an individual member" the word "member" shall be substituted;

7. Amendment of section 21.- In section 21 of the principal Act, in sub-section (2), for clause (a), the following shall be substituted, namely:-

"(a) the committee of a Co-operative society which is a member of another co-operative society may appoint one of the members of the committee to vote on its behalf in the affairs of that other society"

8. Amendment of section 26 A.- In sub-section (1) of section 26A of the principal Act.-

(a) the words "In case of an assisted society prior permission of the Registrar, to enter into such partnership, is necessary" shall be omitted;

(b) the following proviso shall be inserted at the end, namely:-

"Provided that no such partnership shall be entered into without prior permission of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank".

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1. The Act has come into force on 22nd March 2004, vide Notification No. CMW 83 CLM 2003 date 22-3-2004 (Karnataka Gazette Extraordinary No. 375, Dated 22-3-2004)

9. Amendment of section 26B.- In section 26B of the principal Act,-

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

(a) the words "An assisted society may enter into such collaboration with the prior approval of the Registrar" shall be omitted.

(b) the following proviso shall be inserted at the end, namely:-

"Provided that no such collaboration shall be entered into without the prior approval of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank".

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

(a) after the word "Registrar", the words " or Reserve Bank of India, as the case may be" shall be inserted.

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

"(d) "in the case a of Co-operative Bank, the scheme is not detrimental to the interest of depositors or Banking Policy".

10. Amendment of section 27.- In section 27 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

" (3) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar or any other person authorised by him in this behalf shall, without prejudice to the provisions of sub-section (2) convene the general meeting for the purpose of sub-section (1)."

11. Amendment of section 28A.- In section 28A of the principal Act,-

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

"Provided also that the first general meeting of the Co-operative Society or Societies formed after amalgamation or reorganization or division in accordance with section 14 shall be held within three months from the date of registration to elect the first committee to manage the affairs of the Co-operative Society or Societies, and the term of office of such committee shall also be five Co-operative years".

"(ii) in sub-section (5), the following proviso shall be inserted at the end, namely:-

"Provided that the Registrar shall appoint an administrator to a Co-operative Society or each of the co-operative Societies formed after amalgamation or reorganization or division in accordance with section 14 for a period of three months and the administrator so appointed shall arrange for holding elections to a Committee of such Co-operative Society or Societies as the case may be".

12. Amendment of section 30.- In section 30 of the principal Act, in sub-section (1), the words " with the prior approval of the State Government and" shall be omitted.

13. Amendment of section 31.- In section 31 of the principal Act, in sub-section (1), the words " with the approval of the State Government and " shall be omitted.

14. Amendment of section 57.- In section 57 of the principal Act, for sub sections (2A) and (2B), the following, shall be substituted, namely:-

"(2A) A Co-operative Society shall, from out of the balance of its net profits, contribute two percent to the Co-operative Education Fund to be administered by the Karnataka State Co-operative Federation Limited, Bangalore.

(2B) No Co-operative Society which has failed to contribute to the Co-operative Education Fund shall pay dividend to its members."

15. Amendment of section 59.- In section 59 of the principal Act, in sub-section (2), for the words "the State Government may, by notification specify shall have power to borrow from a credit agency subject to such conditions as may be prescribed", the words "the Registrar may, by general or special order, specify, shall have power to borrow from a credit agency subject to such conditions as may be specified in such order" shall be substituted.

16. Amendment of section 64.- In section 64 of the principal Act, in sub-section(2-A), for the words "by the State Government on the recommendation of the Registrar", the words, "by the Registrar for the reasons to be recorded in writing" shall be substituted.

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

- (i) for clause (b), the following shall be substituted namely:-
"(b) an order of the Registrar made under sub-section (4) or sub-section (6) of section 12".
- (ii) after clause (b), the following shall be inserted, namely:-
"(c) an order of the Registrar under section 17"
- (iii) after clause (e), the following shall be inserted, namely:-
"(e-1) an order of the Registrar appointing a special officer under sub-section (1) of section 31"

18. Amendment of section 110A.- In section 110A of the principal Act,-

- (1) in sub-section (1), after the word and figures "section 109", the words and figures "except an offence in respect of contravention of section 63" shall be inserted;
- (2) after sub-section (1), the following shall be inserted, namely:-
"(1A) The Director of Co-operative Audit may accept from any person against whom a reasonable suspicion exists that he has committed an offence in respect of contravention of section 63 punishable under sub-section (9) of section 109, a sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed".
- (3) in sub-section (2), after the words "the Registrar", the words "or the Director of Cooperative Audit, as the case may be" shall be inserted.

By Order and in the name of the Governor of Karnataka

M.R.HEGDE
Secretary to Government
Department of Parliamentary Affairs and Legislation