

KARNATAKA ACT NO.34 OF 2014
THE KARNATAKA SOUHARDA SAHAKARI (AMENDMENT) ACT, 2014
Arrangement of Sections

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STATEMENT OF OBJECTS AND REASONS

Amending Act 34 of 2014:- It is considered necessary to further to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act No, 17 of 2000) to provide for,-

- (i) rejection of bye-laws on technical reasons;
- (ii) prescribing fee for bye-law amendments;
- (iii) avoid dual membership;
- (iv) provisions for appeal in case of rejection of membership;
- (v) confirm the voting rights;
- (vi) restrictions on collecting of deposits on non-members; and
- (vii) other incidental and consequential amendments.

Hence the Bill.

[L.A. Bill No.52 of 2014, File No. Samvyashae 07 Shasana 2014]
[entry 32 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO.34 OF 2014

(First Published in the Karnataka Gazette Extra-ordinary on the Sixth day of September, 2014)

THE KARNATAKA SOUHARDA SAHAKARI (AMENDMENT) ACT, 2014

(Received the assent of the Governor on the Second day of September, 2014)

An Act further to amend the Karnataka Souharda Sahakari Act, 1997.

Whereas it is expedient further to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act No 17 of 2000) for the purposes herein after appearing;

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

1. Short title and commencement:- (1) This Act may be called the Karnataka Souharda Sahakari (Amendment) Act, 2014 .

(2) It shall come into force at once.

2. Amendment of section 2.- In the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act No 17 of 2000) (hereinafter referred to as the principal Act), in section 2, for clause (a2), the following shall be substituted, namely:-

"(a2) "Backward Classes" means such classes of citizens as may be classified as category "A" and "B" and notified by the Government from time to time for the purpose of reservation in the board Co-operative".

3. Amendment of section 4.- In section 4 of the principal Act, in sub-section (2), after words "they may be", the following shall be inserted, namely:-

"to avoid unhealthy competition among different types of Co-operatives, Registrar may issue direction and circulars from time to time, subject to these circular and direction."

4. Amendment of section 11.- In section 11 of the principal Act,-

(i) in sub-section (2), the following shall be inserted at the end, namely:-

"or by person. If there is delay in submission of proposal, the Registrar, may condone the delay if satisfied with justifiable reasons for the delay and consider bye-law the amendment proposal".

(ii) in sub-section (3), after clause (c), the following shall be inserted, namely:-

"(d) a treasury Challan or Demand Draft in favour of the Registrar for having remitted the fee as prescribed."

5. Substitution of section 17.- For section 17 of the principal Act, the following shall be substituted, namely:-

"17. Mobilisation of Funds.- A Co-operative may subject to the jurisdiction and such conditions as specified in its bye-laws mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from its members.

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

Provided further that nothing contained in the first provision shall apply to a Co-operative Bank."

6. Amendment of section 20.- In section 20 of the principal Act, in sub-section (1), in clause (b), after the words "competition", the words "or if he is a member of another Co-operative having same objectives" shall be inserted.

7. Insertion of new sections 20A and 20B.- After section 20 of the principal Act, the following shall be inserted, namely:-

"20A. Acceptance or refusal of membership.- Whenever any person seeking membership of a Co-operative applies for the membership with requisite fee and share amount as prescribed in the bye-law of that Co-operative, the board of that Co-operative shall either grant membership for that person or refuse with reasons within sixty days from the date of receipt of application for membership. If no communication of admission as a member is received by the applicant before the expiry of the said period, his application for admission shall be deemed to have been accepted by the cooperative

on the last day of the said period. If the applicant is refused membership, he can appeal to the Registrar against such refusal within thirty days from the date of refusal. The Registrar shall decide on such appeal and issue orders which the Co-operative has to implement within fifteen days from the date of order.

20B. Right of members to vote.- Members who are admitted as members atleast one year before the date of General meeting or election as the case may be, only will have the right to vote in general meeting or in an election of the members of the board of a Co-operative.

Provided, this restriction shall not apply to member of a Co-operative participating in the first general meeting or first election of such Co-operative held immediately after its registration”.

8. Amendment of section 21A.- In section 21A of the principal Act, in sub-section (1), the second proviso shall be omitted.

9. Insertion of new section 21B.- After section 21A of the principal Act, the following shall be inserted, namely:-

"21B- Associate membership.- (1) A Co-operative may admit,-

- (a) any individual; or
 - (b) any firm, company, Co-operative society or any body or corporation constituted by or under any law for the time being in force
- as an associate member for a specific purpose as specified in its byelaws;

Provided that no Co-operative shall have as its associate members more than ten percent of total members. In case if a Co-operative already has associate members more than ten percent of its total membership, the excess associate members shall be either converted as an ordinary member of Co-operative or removed from associate membership of Co-operative within six months from the date of coming into force of the Karnataka Souhardha Sahakari (Amendment) Act, 2014.

(2) An associate members can have shares of Co-operative but is not eligible to be an office-bearer of Co-operative. An associate member cannot take part in the management of Co-operative and cannot vote in any meetings or election of the Co-operative.

(3) Save as provided in this section an associate member shall have all the rights and duties of a member as specified in the byelaws of a Co-operative.

10. Substitution of section 22:- For section 22 of the principal Act, the following shall be substituted, namely:-

"22. Restriction on collection of deposits from non-members.- No cooperative except those have obtained license from Reserve Bank of India to do banking business, can collect deposits either from any non-members or nominal members”.

11. Amendment of section 23.- In section 23 of the principal Act, in sub-section (3), clause (k-4) shall be omitted.

12. Amendment of section 23A:- In section 23A of the principal Act, the following proviso shall be inserted at the end, namely:-

“Provided, in case of urban Co-operative Banks, to open a branch where Reserve Bank of India granted permission in such case permission of the souharda federal is not required.”

13. Amendment of section 23B.- In section 23B of the principal Act, the following shall be inserted at the end, namely:-

"the newly registered Co-operatives may make provision for representative general body in their bye-laws".

14. Amendment of section 24.- In section 24 of the principal Act,-

- (i) after the words "exceeding the number of ", the word "elected " shall be inserted;
- "(i-a) in the first proviso, after the words "belonging to backward classes", the words "in such manner" shall be inserted;"
- (ii) in sub-section (1), in fourth proviso, after the words, “Functional director”, the words “if necessary” shall be inserted.
- (iii) for sub-section (2), the following shall be substituted, namely:-

“(2) Save as otherwise in the Act, the term of the directors will be five years from the date of election.

Provided, the term of the directors of souharda federal will ends with the Co-terminus of the representative Co-operative.”

15. Amendment of section 25.- In section 25 of the principal Act,-

(1) in sub-section (1), for the words "Co-operative for a period", the words "Co-operative for a maximum period" shall be substituted;

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

(i) for the words “Co-operative for a period of five years”, the words "Co-operative for a maximum period of five years" shall be substituted.

(ii) in clause (a), the words “or as result or otherwise the cooperative election commission has failed to conduct elections to the Board within the stipulated time” shall be omitted.

16. Amendment of section 26.- In section 26 of the principal Act, sub-section (4) along with proviso shall be omitted.

17. Amendment of section 28.- In section 28 of the principal Act, after sub-section (3), the following proviso shall be inserted, namely:-

“Provided that the term of the office-bearers of souharda federal ends with the Co-terminus of the representative Co-operative.”

18. Insertion of new section 28-A.- After section 28 of the principal Act, the following shall be inserted, namely:-

“28-A. Resignation of a board member or office-bearer of a Co-operative - A member of the board of a Co-operative or an office-bearer of a Co-operative, may resign his membership of the board or his post as an office-bearer of the Co-operative, as the case may be, in writing under his hand and deliver the same to the Chief Executive and his seat or post, as the case may be, shall become vacant on the expiry of fifteen days from the date of such delivery unless within the said period of fifteen days he withdraws such resignation in writing under his hand and delivered to the Chief Executive. The Chief Executive shall place the letter of resignation before the meeting of the board convened next after the delivery of such letter”.

19. Amendment of section 30.- In section 30 of the principal Act, in sub-section (4), for the words “twenty percent”, the words “ten percent or one thousand members eligible to vote whichever is less” shall be substituted.

20. Amendment of section 33.- In section 33 of the principal Act,-

(1) in the heading, for the word “Audit”, the words, “Audit of Co-operatives” shall be substituted;

(2) in sub-section (1), the second proviso shall be omitted.

(3) in sub-section (2), the following provisos shall be inserted, namely:-

“Provided that, if the Director of Co-operative audit is satisfied that the Co-operative has failed to appoint an auditor or an auditing firm to audit its accounts for a Co-operative year in their general body and to intimate the same as provided in the Rules, the Director of Co-operative Audit after giving an opportunity of hearing in writing to the Co-operative and confirming that the Co-operative has not appointed an auditor or an auditing firm, may appoint an auditor or an auditing firm to audit the accounts of Co-operative from the approved panel of auditors or auditing firms and such an appointed auditor or auditing firm shall be deemed as the auditor or the auditing firm for the purpose of conducting audit of that Co-operative for that particular year under consideration;

Provided further that in case of Government auditors mentioned in the panel of auditors or auditing firms maintained by the Director of Co-operative Audit, they shall be mentioned by designation only and that in case of a Co-operative selecting a Government Auditor from the Pannel of Auditors the Co-operative shall intimate to the Director of Co-operative Audit”.

(4) For sub-section (19) and explanation, the following shall be substituted, namely:-

"(19) The remuneration of the auditor or auditing firm of a Co-operative shall be borne by the Co-operative and shall be at such rates as may be fixed by general body of the Co-operative based on the Working Capital and Turnover of the Co-operative as per the guidelines issued by Director of Co-operative audit from time to time.

(20) Notwithstanding anything contained in the preceding sub-sections, the Director of Co-operative Audit subject to the approval of State Government shall have power to re-examine or re-verify particular account or accounts of the audited accounts of any Co-operative pertaining to preceding three years and instruct the concerned auditor to incorporate the lapses observed during such re-examination or re-verification in the next audit report to be issued.

Explanation:- For the purpose of this Section;

(i) '**Auditor**' means an auditor or an officer of the Department of Co-operative Audit who has passed, in addition to the graduation or post graduation degree, Higher Diploma in Co-operative Management / Diploma in Co-operative Audit / General Diploma in Co-operative 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 Co-operatives and shall have an experience of at least three years in auditing and who would like to be included in the panel and such chartered accountant shall have adequate understanding and knowledge of the Kannada language sufficient for the due performance of auditing Or a Cost Accountant within the meaning of Cost and Works Accountant Act, 1959, who shall have fair knowledge of the functioning of the Co-operatives and shall have an experience of atleast 3 years in auditing and shall have working knowledge of kannada language.

(ii) '**Auditing firm**' means a firm of more than one Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 Or a firm of more than one Cost Accountant within the meaning of Cost and Works Accountant Act, 1959 who or which shall have a fair knowledge of the functioning of the Co-operatives and shall have an experience of at least three years in auditing and which would like to be included in the panel and such chartered accountants shall have adequate understanding and knowledge of the Kannada language sufficient for the due performance of auditing."

(iii)

21. Amendment of section 35.- In section 35 of the Principal Act, in sub-section (2), in clause (1), after the words, "native referred", the words "in the following circumstances also shall be held." shall be inserted.

22. Amendment of Section 37:- In section 37 of the principal Act, the following shall be inserted at the end, namely:-

"The general body if fails to initiate action against culprits and Registrar shall issue direction to take action against the culprits, and follow up action till the defects are rectify."

23. Amendment of section 38-A.- In section 38-A of the principal Act, in sub-section (1), for the words, "directors have tendered resignation" the words, "or for the reason that the new board has not been constituted and the term of previous board has expired" shall be inserted.

24. Amendment of section 39.- In section 39 of the principal Act, (i) in sub-section (1), clause (d), the words, "except dispute" shall be omitted.

(ii) sub-sections (4) and (5) shall be omitted.

25. Insertion of new section 43-A.- After section 43 of the principal Act, the following shall be inserted, namely:-

"**43-A. Fee.-** The Registrar shall notify from time to time, quantum of fees to be submitted along with applications in respect of disputes and enforcement of orders issued under the Act".

26. Amendment of section 46.- In section 46 of the principal Act, the following shall be inserted at the end, namely:-

“ Provided that no appeal against an order, decision or award for payment of money shall be considered by the Appellate Authority unless it is accompanied by satisfactory proof for having deposited with the concerned cooperative 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 of 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 cooperative”.

27. Amendment of section 53.- In section 53 of the principal Act, in sub-section (9), for the word “representative”, wherever they occurs the word “delegate” shall respectively be substituted.

28. Insertion of new section 53B.- After section 53A of the principal Act, the following shall be inserted, namely:-

“53B. Disqualification of Directors.- If federal Co-operative fails to function in accordance with Act, Rules the Registrar may disqualify the persons who are responsible for the failure, after due inquiry and giving reasonable opportunity.

Provided, if vacuum situation is created in section 38A shall apply mutatis-mutandis.”

29. Amendment of section 55.- In section 55 of the principal Act, in sub-section (4), the words, brackets and figures “sub-sections (6) and (7) of section 30” shall be omitted.

30. Amendment of section 64.- In section 64 of the principal Act, in the heading, for the word “Audit”, the word "Audit of Federal Co-operative" shall be substituted.

31. Amendment of section 70.- In section 70 of the principal Act, after the word "provisions", the words " or clarification if any " shall be inserted.

The above translation of ಕರ್ನಾಟಕ ಸೌಹಾರ್ದ ಸಹಕಾರಿ (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2014 (2014ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 34) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

VAJUBHAI VALA
GOVERNOR OF KARNATAKA.

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

S.B.GUNJIGAVI
Secretary to Government,
Department of Parliamentary Affairs