

KARNATAKA ACT NO. 35 OF 2014
THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2014

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 12
4. Amendment of section 16
5. Amendment of section 17
6. Amendment of section 18
7. Insertion of new section 18B
8. Amendment of section 20
9. Amendment of section 21
10. Amendment of section 27
11. Amendment of section 28A
12. Amendment of section 28B
13. Amendment of section 28C
14. Insertion of new section 28D
15. Substitution of section 29B
16. Amendment of section 29C
17. Amendment of section 29E
18. Amendment of section 29G
19. Amendment of section 30
20. Amendment of section 31
21. Amendment of section 39A
22. Amendment of section 39AA
23. Amendment of section 39I
24. Amendment of section 57
25. Amendment of section 58
26. Amendment of section 63
27. Amendment of section 66
28. Amendment of section 70
29. Amendment of section 98B
30. Amendment of section 98E
31. Omission of section 98Y
32. Amendment of section 105A
33. Amendment of section 132

STATEMENT OF OBJECTS AND REASONS

Amending Act 35 of 2014.- In view of the 97th Amendment of Constitution of India, it is considered necessary to further to amend the Karnataka Cooperative Societies Act, 1959 (Karnataka Act 11 of 1959) to provide for.-

- (1) Follow the social justice by giving reservation;
- (2) Substitution of word "Commission" as "Authority";
- (3) Define the delegate and nominee words;
- (4) give empower to the Registrar to make amendments for bye-laws;
- (5) prescribing the maximum limit for associated membership;
- (6) cessation of directorship in federal and apex society;
- (7) prescribing the quorum of general body;
- (8) prescribing the qualification of professional directors in urban banks according to RBI recommendations;
- (9) Simplify the elections process of cooperative societies;
- (10) Provisions for resignation of directors and office-bearers in cooperative societies;
- (11) Contribution of one percent of the net profit from Urban Cooperative Banks to the Karnataka State Cooperative Urban Banks Federation;
- (12) Provisions for re-audit and re-verification in cooperative societies;
- (13) Elections disputes of cooperative societies is made as a quasi judicial;
- (14) Reforms of administration in Agricultural Credit Structure; and
- (15) Provisions for appeal when the membership is refused in cooperative societies.

Hence, the Bill.

[L.A. Bill No.51 of 2014, File No. Samvyashae 58 Shasana 2014]

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

KARNATAKA ACT NO. 35 OF 2014

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

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2014

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

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 No.11 of 1959) for the purposes hereinafter 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 Co-operative Societies (Amendment) Act, 2014.

(2) It shall come into force at once.

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

(i) 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 category “A” and “B” and notified by the Government from time to time for the purpose of reservation in the board of cooperative societies.”

(ii) for clause (b-5), the following shall be substituted, namely:-

(b-5) "Cooperative Election Authority" means the 'Co-operative Election authority constituted under section 39AA;"

(iii) after clause (e-1), the following shall be inserted, namely:-

"(e-1-a) delegate means a member of the board of a Co-operative society appointed by the board to represent that Co-operative Society in other co-operative societies".

(iv) after clause (f-2), the following shall be inserted, namely:-

"(f-3) 'nominee' means a member of a board or official of the Co-operative society appointed by the board to represent that Co-operative society in other Co-operative societies."

(v) for clause (g), the following shall be substituted, namely:-

“(g) office-bearer” means the elected President / Vice-President / Chairperson / Vice-Chairperson / secretary or treasurer, Liquidator, Administrator, Special Officer and includes a member of the board empowered by the board to exercise any power or perform any function in regard to the business of a Co-operative Society and to give directions in regard to policies affecting the business of the society."

3. Amendment of section 12.-In section 12 of the principal Act, after sub-section (4), the following shall be inserted, namely:-

"(5) If it appears to the Registrar that any amendment of the bye-laws of a Co-operative Society is necessary or desirable in the interest of such society or to give effect to the provisions of the Act made thereunder, the Registrar may, by order, may direct the Co-operative Society, to make the amendment proposed by him in such manner as may be prescribed and within such time as he may specify.

(6) If such amendment is not made by the Co-operative Society within time specified in the said order, notwithstanding anything contained in the Act, the Registrar may, after giving the Co-operative Society an opportunity of being heard, register the said amendment and forward a copy thereof to the Co-operative Society along with a certificate signed by him which shall be conclusive evidence that the amendment has been duly registered."

4. Amendment of section 16.-In section 16 of the principal Act, in sub-section (4), for the words "shall be deemed to have been refused", the words "shall be deemed to have been accepted" shall be substituted.

5. Amendment of section 17.- In section 17 of the principal Act, in sub-section (1), clause (g) shall be omitted.

6. Amendment of section 18.- In section 18 of the principal Act, in sub-section (1), after clause (d), the following proviso shall be inserted, namely:-

“Provided that the number of associate members under clause (a) in any Co-operative Society shall not exceed fifteen percent of the total membership of the society. However, in case of Co-operative Societies already having more than fifteen percent of their total membership as associate members, the excess associate members shall be either made as member, if eligible under

the section 16 or shall be removed from the associate membership within six months from the date of commencement of the Karnataka Co-operative Societies (Amendment) Act, 2014."

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

"18-B. Cessation of directorship.-A director of a secondary Co-operative Society or a Federal Society or an Apex Society who is a representative of another co-operative society shall cease to be a director of such co-operative society forthwith if,-

- (i) he ceases to be a director of the primary or secondary Co-operative Society which he represents; or
- (ii) the Co-operative Society which nominated him as a representative, withdraws his nomination; or
- (iii) the board of the Co-operative Society of which he is a member has been removed under section 30, or a special officer appointed under section 31; and
- (iv) the Co-operative Society of which he is the representative has been liquidated."

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

- (i) in clause (a-iii), the words "or election" shall be inserted at the end;
- (ii) after clause (a-v), the following proviso shall be inserted at the end, namely:-

"Provided that in case of members in sub-clauses (a-iv) and (a-v), such members shall not have the right to vote at a general meeting or an election of members of the board for a period of three years."

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

"(iv) whose principal object is to advance loans and whose percentage of recovery is,-

(a) less than fifty percent of its total demand for the Co-operative year immediately preceding the Co-operative year during which the meeting or election is held or;

(b) which fails to pass on to the financing bank or the credit agency, as the case may be, fifty percent of the demand or the entire portion of the recovered amount of the demand of the financing bank or credit agency, whichever is higher, at least fifteen days before the date of the general meeting or the date of election, after a notice of not less than thirty days in this regard has been issued to that society".

9. Amendment of section 21.-In section 21 of the principal Act, for sub-section(3), the following shall be substituted, namely:-

"(3) A member once nominated by the board of a Co-operative Society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other Co-operative Society shall not be changed except by a resolution passed with substantial reasons in a board meeting by a two third majority of the members present and voting in such meeting. However a Co-operative Society shall not nominate or appoint any member of the board to vote on behalf of it in more than two co-operative societies."

10. Amendment of section 27.-In section 27 of the principal Act,-

(i) in sub-section (1), in clause (n), in sub-clause (n-6), after the words "as irrecoverable", the words and abbreviation "as per the guidelines of Reserve Bank of India or NABARD in respect of urban Co-operative Banks or Societies in Co-operative credit structure as the case may be or in the absence of such guidelines as per the guidelines issued by the Registrar" shall be inserted;

(ii) for sub-section (4), the following shall be substituted, namely:- "(4) The quorum for a general meeting shall be as specified in the bye-laws but not less than one thousand members or ten percent of the members eligible to vote whichever is less."

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

(i) in sub-section (2), for the words "not less than nine", the words "not less than eleven" shall be substituted; and

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

"Provided that, subject to the minimum and maximum number of the members of the board specified in sub-section (2) of section 28A, the bye-laws of a Co-operative Society shall provide for the composition of the board of that society to include within the permissible limits,-

(a) in case of assisted society, Government nominee as specified in sub-section (4-B) of section 28A;

(b) in case of all Co-operative Societies other than non agricultural credit Co-operative Societies, if necessary, an ex-officio member and nominee from financing or the credit agency.

The remaining members of the board shall be filled only through election subject to the provisions of section 29E";

- (iii) in sub-section (3), in clause (iii), the following shall be substituted, namely:-
 “(iii) Two seats to be filled by election, in favour of the persons belonging to backward classes in such manner as may be prescribed.
- (iv) in sub-section (4), the words, "the board shall", the words "the board shall save as otherwise" shall be substituted.
- (v) in sub-section (4-A), after the fourth proviso, the following proviso shall be inserted, namely:-

"Provided also that if the directors Co-opted to urban Co-operative Banks do not have the requisite knowledge and experience as stipulated by Reserve Bank of India, the board of such banks shall remove such persons within two months from the date of receipt of direction by the Reserve Bank of India after giving such directors an opportunity of being heard".

(vi) in sub-section (4-B), in clause(1), after the words, "Primary Agricultural Credit Co-operative Society", the following shall be inserted, namely:-

"The nominated person can vote in all meetings and elections of the co-operative society; and also can contest in all the elections of the Co-operative Society. The ex-officio members and nominee from financial or credit agency shall have the voting right but are not eligible to contest as office bearer ”.

12. 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, be conducted before the expiry of the term of the board."

13. Amendment of section 28C.-In section 28C of the principal Act, in sub-section (2),-

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

"(e) to elect the chairperson and other office bearers under the superintendence of Co-operative Election Authority."

(ii) In clause (g) after the word “employees”, the words “as prescribed in the rules” shall be inserted.

14. Insertion of new section 28D.- After section 28C of the principal Act, the following shall be inserted, namely:-

"28D. Foreign tours by members, directors, office-bearers and employees of a cooperative societies.- The Members, directors, office-bearers and the employees of a Co-operative Society shall not undertake foreign tours at the expense of the Co-operative Society without prior approval of the Government."

15. Substitution of section 29B.-For section 29B of the principal Act, the following shall be substituted, namely:-

"29B. Resignation of member of a board or office-bearer of a Co-operative Society.- A member of the board of a Co-operative Society or an office-bearer of a Co-operative Society, may resign his membership of the board or as an office-bearer of a society, as the case may be, in writing under his hand addressed to the Chief Executive and it shall become vacant on the expiry of fifteen days from the date of such communication unless within the said period of fifteen days such member of the board or office bearer withdraws such resignation in writing under his hand and addressed to the Chief Executive. The Chief Executive shall place the letter of resignation before the meeting of the board convened next after the communication of such letter. If the member who has resigned, is a nominated member of the society, the chief executive shall inform the nominating society immediately on receipt of the resignation letter."

16. Amendment of section 29C.-In section 29C of the principal Act,-

(i) in sub-section (1), clause (o) shall be omitted.

17. Amendment of section 29E.-In section 29E of the principal Act, after the second proviso, the following proviso shall be inserted, namely

"Provided also that, if the board fails to fill up such casual vacancy within three months of the date of occurrence, the Registrar shall fill up through nomination."

18. Amendment of section 29G.-In section 29G of the principal Act, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:-

"Provided also that, if the society fails to do so within three months, the Government or the Registrar, as the case may be, may appoint on its or on his own, a Chief executive to that Co-operative Society."

19. Amendment of section 30.- In section 30 of the principal Act,-

(i) in sub-section (2), in clause (v), after the second proviso, the following proviso shall be inserted, namely:-

"Provided also that, no member of the board superceded under sub-section (2) shall, be eligible for being elected as a member of the board of such society or any other Co-operative Society for a period of one year from the date of removal of such board and no such order of disqualification for contesting the election to the Board shall be made unless a reasonable opportunity of being heard, is given to the person against whom such order is made"; and

(ii) in sub-section (6), the following proviso shall be inserted at the end, namely:-

"Provided that no member of the board, removed shall, be eligible for being elected as a member of the board of such Bank or any other Co-operative Society for a period of one year from the date of removal of the board and no such order of disqualification shall be made unless a reasonable opportunity of being heard, is given to the persons against whom the order is made."

20. Amendment of section 31.-In section 31 of the principal Act, in sub-section (5), for the words "in accordance with its bye-laws," the words "in accordance with the Act, rules and its bye-laws" shall be substituted.

21. Amendment of section 39A.-In section 39A of the principal Act,-

(i) in sub-section (1), after the words "the extent applicable", the following shall be substituted, namely:-

"shall be held under the superintendence of Co-operative Election Authority."

(ii) in sub-section (2), for clause (b), (c) and (d), the following shall respectively be substituted, namely:-

" (b) the elections in respect of secondary Co-operative Societies shall be held in the second stage

(c) the elections in respect of federal Co-operative Societies shall be held in the third stage

(d) the elections in respect of Apex Co-operative Societies shall be held in the fourth stage."

(iii) sub-section (3) shall be omitted with proviso.

22. Amendment of section 39AA.-In section 39AA of the principal Act,-

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

"The superintendence, direction and control of the preparation of the electoral rolls for all elections to the Co-operative Societies in the State shall be vested with the Co-operative Election Authority."

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

"The Government 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 Co-operative Election Commissioner and such Co-operative Election Commissioner shall hold office for a term of five years."

(iii) for sub-section (4), the following shall be substituted, namely.-

"(4) Subject to the pleasure of the State Government, the State Government shall appoint a person who is an officer not below the rank of Additional Registrar of Co-operative Societies to be the Secretary of the Cooperative Election Authority for such period as may be prescribed."

(iv) in sub-section (6), (7) and (8), for the word "Governor" wherever they occurs, the word "Government" shall be substituted.

(v) for sub-section (10), the following shall be substituted, namely:-

"(10) The Cooperative Election Authority shall in consultation with the State Government determine the number of officers and other employees required for the discharge of the functions of the Co-operative Election Authority."

(vii) in sub-section (12), for the word "commission", the word "authority" shall be substituted.

(viii) in sub-section (15), in clause (a) and (b), for the word "commission" wherever they occurs, the word "authority" shall be substituted.

23. Amendment of section 39I.- In section 39I of the principal Act, sub-section (2) and (3) shall be omitted.

24:- Amendment of section 57:- In section 57 of the principal Act, in sub-section (2A) the following proviso shall be inserted at the end, namely:-

"Provided, urban Co-operative Banks shall contribute one percent of its net profit to the Karnataka State Co-operative Urban Banks Federation in addition to the two percent as prescribed in sub-section (2A)."

25. Amendment of section 58.- In section 58 of the principal Act, after clause (e), the following proviso shall be inserted, namely:-

"Provided that, if a Co-operative Society invest or deposit outside the area of operation of the such society prior permission shall be obtained from the Registrar."

26. Amendment of section 63.-In section 63 of the principal Act,-

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

"Provided further that, the National Bank shall prepare a list of auditors and auditing firms who satisfy, the prescribed qualification and experience for undertaking the audit of accounts of State Co-operative Bank and District Central Co-operative Banks."

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

"Provided that, if the Director of Co-operative audit is satisfied that the society has failed to appoint an auditor or an auditing firm to audit its accounts for a Co-operative year their general body and to intimate the same, the Director of Co-operative Audit, after giving an opportunity in writing to such society and after confirming that the society has not appointed an auditor or auditing firm, may appoint an auditor or an auditing firm to audit the accounts of that society from the approved panel of auditors or auditing firms and such appointed auditor or auditing firm shall be deemed as the auditor or the auditing firm for the purpose of conducting audit of that society for that particular co-operative 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 Society selecting a Government auditor from the empanelled list, the Co-operative Society shall intimate to the concerned deputy director of the Co-operative audit of the concerned district to cause the audit from a departmental auditor mentioning the auditors designation only.

(iii) after sub-section (13), the following shall be inserted, namely:-

"(13A)- 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 reverify particular account or accounts of the audited accounts of any Co-operative Society pertaining to preceding three years and instruct the concerned auditor to rectify the lapses observed during such re-examination or reverification in the next audit report to be issued."

(iv) in sub-section (19), the following words shall be inserted at the end, namely:- "based on the working capital and turnover of the society as per the guidelines issued by Director of Co-operative audit from time to time."

(v) after sub-section (20), in the explanation,-

(a) in clause (i), the words "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-operative societies and an experience of atleast three years in auditing and working knowledge of Kannada language" shall be inserted at the end;

(b) in clause (ii), after the words "Chartered Accountants Act, 1949", the words "or a firm of more than one Cost Accountant within the meaning of Cost and Works Accountant Act, 1959" shall be inserted.

27. Amendment of section 66.- In section 66 of the principal Act, after the words, and figures "section 65", the words, "or otherwise" shall be inserted.

28. Amendment of section 70.-In section 70 of the principal Act,-

(i) in sub-section (1), the words, "other than a dispute pertaining to the election of the board and election of office-bearers" shall be omitted.

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

29. Amendment of section 98B.-In section 98B of the principal Act,-

(a) after the figures, "28A", the figures and letter "28C, 28D" shall be inserted;

(b) after the figures, "30", the figures and letter "30B" shall be inserted; and

(c) for the word and figures "and 109", the word and figures "109 and 121" shall be substituted.

30. Amendment of section 98E.-In section 98E of the principal Act, clause (iii) shall be omitted.

31. Omission of section 98Y.- Section 98-Y of the principal Act, shall be omitted.

32. Amendment of section 105A.- In section 105A of the principal Act,-

(i) in sub-section (1), for the words "General Body", the word "Registrar", shall be substituted; and

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

"(3) The Registrar shall after giving a notice to the Co-operative Society and also to the person seeking admission, and giving a reasonable opportunity of being heard, pass such orders as deemed fit. The Co-operative Society shall give effect to the decision within fifteen days of the receipt of the order."

33. Amendment of section 132: In Section 132 of the Principal Act, after the words “the provisions of this Act”, the words “or clarifications if any” shall be inserted.

By Order and in the name of the Governor of Karnataka

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