



KARNATAKA LEGISLATIVE ASSEMBLY
FOURTEENTH LEGISLATIVE ASSEMBLY
FOURTH SESSION

THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT)
BILL, 2014
(L.A. Bill No. 51 of 2014)

A Bill 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, 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, out of which one seat shall be reserved for category “A” and another seat shall be reserved for category “B”.”

(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.

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) insub-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.-Insection 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.

STATEMENT OF OBJECTS AND REASONS

In view of the 97th Amendment of Constitution of India, it is considered necessary to further to amend the Karnataka Co-operative 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 Co-operative Societies;
- (10) Provisions for resignation of directors and office-bearers in Co-operative Societies;
- (11) Contribution of one percent of the net profit from Urban Co-operative Banks to the Karnataka State Co-operative Urban Banks Federation;
- (12) Provisions for re-audit and re-verification in Co-operative Societies;
- (13) Elections disputes of Co-operative 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 Co-operative Societies.

Hence, the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed Legislative measure.

MEMORANDUM OF REGARDING DELEGATED LEGISLATION

clause-3	Section 12 sought to be inserted by sub-section (5) empowers to the Registrar of Co-operative Societies to give directions to the Co-operative Society to make the proposed amendment.
clause-13	Sub-section 2 of section 28C sought to be inserted by clause (g) empowers the State Government to make rules regarding the cadre strength and pay-scales of employees of Co-operative Societies.
clause-22	Section 39AA sought to be substituted by sub-section (4) empowers the State Government to tenure of Secretary of Co-operative Election Authority.

The proposed delegation of Legislative power is normal in character.

H.S.MAHADEVPRASAD

Minister for Co-operation and Sugar

P. OMPRAKASHA

Secretary
Karnataka Legislative Assembly

ANNEXURE**EXTRACT FROM THE KARNATAKA COOPERATIVE SOCIETIES ACT,
1959 (KARNATAKA ACT NO.11 OF 1959)****XX****XX****XX****2. Definitions.-XX****XX****XX**

(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.

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

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(g) ‘office bearer’, means the President, Vice-President, Chairperson, Vice-Chairperson, Liquidator, Administrator, Special Officer and includes a member of the committee or any other person not being an employee empowered 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;;

XX**XX****XX****16. Persons who may become members.- XX****XX****XX**

(4) Every Co-operative Society shall within two months from the date on which application for admission was delivered to such society either admit or refuse to admit any such person as a member, and shall send a written communication of such admission or refusal to the applicant before the said period. 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 refused by the Co-operative Society on the last day of the said period for purposes of section 105A.

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17. Disqualification for membership.-(1) No person shall be eligible for admission as a member of a Co-operative Society, if he,—

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(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”.

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18. Nominal or associate members.-(1) Notwithstanding anything contained in section 16, a Co-operative Society may admit,—

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(d) Self help group as nominal members

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20. Votes of members.- XX XX XX

(2) The following shall not have the right to vote at a general meeting or an election of the members of the committee of the Co-operative Society in which they are members, namely:—

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(a-iii) a person who has become member of a society not later than twelve months prior to the date of such meeting:

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(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 Co-operative years

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(2) The following shall not have the right to vote at a general meeting or an election of the members of the committee of the Co-operative Society in which they are members, namely:—

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(b) a Co-operative Society,—

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(iv) whose principal object is to advance loans and whose percentage of recovery is less than fifty percent of the total demand for the Co-operative year immediately preceding the Co-operative year during which the meeting is held and which has failed to pass on to the financing bank or the credit agency, as the case may be, to which it is indebted,-

(a) fifty percent of the demand of the society, if the demand of the society is less than the demand of the financing bank or credit agency, or 1959:

(b) the actual demand of the financing bank or credit agency, if the demand of the society is more than the demand of the financing bank or credit agency,

- not later than fifteen days of the close of the said Co-operative year.

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21. Manner of exercising vote.- XX XX XX

(3) A member once nominated by the committee 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 in a general body meeting by a majority of the members present and voting in such meeting.

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27. Annual General Meeting.-XX XX XX

(n-6)- decision on bad debts considered as irrecoverable;

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(4) The quorum for a general meeting shall be as specified in the by-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

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28A. Management of Co-operative Societies vest in the committee.-XX

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(2) The committee of a Co-operative Society shall consist of not less than nine but not exceeding the number of members specified below excluding the Chief Executive, namely:—

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(3) In the committee of every primary society there shall be reserved:—

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(iii) one seats to be filled by election, in favour of the persons belonging to backward classes.

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(4) Subject to the provisions of sections 29A and 39A, the term of office of the members of the board shall be five Co-operative years from the date of election and they shall be deemed to have vacated office as such members of the Committee on the date of completion of the said term:

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(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 Co-operative Society.

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28B. Committee to arrange for election.- (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

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28C- Powers and functions of the board.- XX XX XX

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

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(e) to elect the chairperson and such other office-bearers;

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(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;

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29B. Resignation of a member.- A member of a committee, other than a nominated member, may resign his membership in writing under his hand and delivered to the Chief Executive and his seat 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 committee convened next after the delivery of such letter.

29C. Disqualification for membership of the committee.- (1) No person shall be eligible for being elected or appointed or continued as a member of the committee of any Co-operative Society, if,—

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(o) he, is in the Committee of a District Central Society or a Federal Society or an Apex Society as a representative of a Co-operative Society; and,-

(i) he ceases to be a director of the primary or secondary society which he represents; or

(ii) the society which nominated him as a representative withdraws his nomination; or

(iii) the committee of the society of which he is a member has been removed under section 30, or a special officer is appointed under section 31;

(iv) the society of which he is the representative has been liquidated;

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29E. Filling up of casual vacancy in the office of members of the Committee.- Any vacancy in the office of members of the committee of a Co-operative Society by reason of death, resignation, removal or otherwise, shall be filled up in such manner as may be specified in the bye-laws of such society.

Provided that the Co-operative 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

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30-Supersession or suspension of the board.- **XX XX XX**

(2) If in the opinion of the Registrar, the board of a Co-operative society-

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(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 Co-operative 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 Co-operative 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.

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

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31. Appointment of Special Officer by the Registrar.- XX XX

(5) The Special Officer shall, before the expiry of his term, arrange for constitution of a new committee for the Co-operative Society in accordance with its bye-laws.

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

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

- (a) the elections in respect of primary Co-operative 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 Co-operative 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 Co-operative society.

(3) Notwithstanding anything contained in this Act, the rules or the bye-laws of any Co-operative 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 Co-operative Societies;
- (ii) before the thirty first day of October 2013, in respect of the secondary Co-operative Societies;
- (i) before the thirtieth day of November 2013 in respect of the federal societies;
- (ii) before the thirty first day of December 2013 in respect of the apex Co-operative Societies;

Provided that the incumbent boards of all such Co-operative Societies shall continue to be in their respective offices till the conduct of the elections as above.

39AA. Co-operative Election Commission.- XX XX

(2) The Co-operative 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 Co-operative 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 Co-operative election commissioner on the recommendation of the Chief Minister and such Co-operative 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 Co-operative Societies to be the Secretary of the Cooperative Election Commission.

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(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 Co-operative 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.

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(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.

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(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.

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(15) The board of every Co-operative society shall,-

- (a) inform the Co-operative 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 Co-operative Election Commission; and
- (c) provide all necessary help, assistance and Co-operation for the smooth preparation of electoral rolls for and the conduct of elections.

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39I. Breaches of official duty in connection with election.- XX XX

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

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57. Net profits and their disposal.- XX XX XX

¹[(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.

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58. Investment of funds.- A Co-operative Society may invest or deposit its funds,—

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(e) with any scheduled bank regulated by the Reserve Bank of its choice and approved by the general body of that society till the date of the next annual general body meeting.

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63 Audit.- (1) Every Co-operative Society shall get its accounts audited at least once in a year before the first of September following the close of the Co-operative 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 Co-operative 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 Co-operative 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 Co-operative Society shall at its general meeting appoint an auditor or an auditing firm to audit the accounts of the society for the Co-operative year in which the general meeting is held.

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(13) If it appears to the State Government on an application by a Co-operative 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.

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(19) The remuneration of the auditor or auditing firm of a Co-operative 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 Co-operative Audit shall maintain a list of Co-operative 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 Co-operative Societies and the auditors or auditing firms and ensure the completion of audit of accounts of all the Co-operative Societies in time every year.

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-operative 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.

(iii) '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 Co-operative 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.

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66. Power to seize books and property.- If any officer or person conducting audit under section 63, inquiry under section 64 or inspection under section 65, has reason to believe that any books or other property of the society have been tampered with or are likely to be tampered with, if left with the society with a view to eliminate or efface or change or manipulate any evidence which may be deemed necessary by such officer or person in connection with the proof of any defect or irregularities noticed by him during the course of audit, inquiry or inspection, he shall have power to seize and impound such books or property in such manner and for such period as may be prescribed.

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70. Disputes which may be referred to Registrar for decision.- (1)

Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society other than a dispute pertaining to the election of the board and election of the office-bearers arises,—

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(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 Co-operative election commission shall be disposed of by the Registrar as if this amendment had not been made.

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

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98E. Freedom in all financial and internal administrative matters.- XX XX XX

(iii) the personnel policies including issues relating to recruitment, promotion, staffing, training, posting and compensation to staff as per business requirements of the society;

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98Y. Exemption by the State Government.-No society in the Co-operative Credit Structure shall be exempted under section 121 of this Act in 1959 any manner from the application of the provisions of this chapter without prior consultation with the Reserve Bank or the National Bank.

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105A. Appeals relating to admission of members to societies.-(1) Any person who has made an application for admission as a member under sub-section (3) of section 16 may appeal to the general body against any refusal of the Co-operative Society to admit him as a member or against any failure on its part within the period referred to in sub-section (4) of section 16 to admit him as a member or to send a notice of its refusal to admit.

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(3)The general body of the Co-operative 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 Co-operative 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.

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132. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to

the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may, by notification in the official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may by notification make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(Provisionally admitted)

KARNATAKA LEGISLATIVE ASSEMBLY

FOURTEENTH ASSEMBLY

FOURTH SESSION

Amendments to the Karnataka Co-operative Societies (Amendment) Bill, 2014 (L.A. Bill No. 51 of 2014)

CLAUSE-11

In clause 11 of the said Bill, in section 28A, in sub-section (3), for 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."

(P.OMPRAKASHA)

Secretary,
Karnataka Legislative Assembly