

**THE KARNATAKA SOUHARDA  
SAHAKARI ADHINIYAM, 1997**

(Karnataka Act No 17 of 2000)

# THE KARNATAKA SOUHARDA SAHAKARI ACT, 1997

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# **THE KARNATAKA SOUHARDA SAHAKARI ADHINIYAM, 1997**

[KARNATAKA ACT No 17 OF 2000]

*(First published in the Karnataka Gazette Extraordinary on the 10<sup>th</sup> day of May,2000*

*(Received the assent of the President on the 28<sup>th</sup> day of March, 2000)*

An Act to provide for recognition, encouragement and voluntary formation of cooperatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by cooperative principles and matters connected therewith;

Whereas it is expedient to provide for recognition, encouragement and voluntary formation of cooperatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by cooperative principles and for matters connected therewith;

Be it enacted by the Karnataka State Legislature in the Forty-eighth Year of Republic of India as follows:-

## **Chapter-I**

### **PRELIMINARY**

#### **1. Short title and commencement**

- (1) This Act may be called the Karnataka Souharda Sahakari Adhiniyam, 1997.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

### **NOTIFICATION**

**No CMW 61 CLM 2000, Bangalore, dated: 26-12-2000**

**In exercise of powers conferred by sub-section (2) of Section 1 of the Karnataka Soudharda Sahakari Act, 1997 (Karnataka Act 17 of 2000), the Government of Karnataka hereby appoint the first day of January 2001 as the date from which all the provisions of the said Act shall come into force.**

## 2. Definitions

In this Act unless the context otherwise requires:-

- (a) "Board" means the board of directors of a cooperative constituted under section 24 and includes the Board of Directors of the Federal Cooperative constituted under section 54;
- (b) "Bye-laws" means the bye-laws of cooperatives registered or deemed to be registered under section 5 and 11 including the bye-laws of the Federal Cooperative registered under section 53;
- (c) "Chief Executive" means any employee appointed by the board of a cooperative or Federal Cooperative by whatever designation called who discharges the functions of a Chief Executive under the bye-laws of such cooperative or Federal Cooperative;
- (d) "Chief Promoter" means a person elected at the meeting of the promoters and authorised by the Registrar to collect initial share capital before registration and who shall take all such necessary steps for the registration of a cooperative or union cooperative;
- (e) "Cooperative" means a cooperative including a cooperative bank doing the business of banking registered or deemed to be registered under section 5 and which has the words `Souharda Sahakari' in its name;
- (f) "Cooperative Principles" means the cooperative principles specified in Chapter X;
- (g) "Cooperative Society" means a cooperative society registered under the Karnataka Cooperative Societies Act, 1959 (Karnataka Act 11 of 1959);
- (h) "Cooperative with limited liability" means a cooperative in which liability of its members for the debts of the cooperative in the event of its being wound up is limited to the share amount contributed by such members;
- (i) "Cooperative with unlimited liability" means a cooperative whose members are in the event of its being wound up jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the cooperative;
- (j) "Cooperative Year or Year" means the year commencing from first day of April;
- (k) "Deficit" means the net excess of expenditure over income;
- (l) "Director" means an elected member of the board;
- (m) "Federal Cooperative" means a Federal Cooperative constituted under section 53;
- (n) "Financing Agency" means a cooperative or commercial bank and includes any other body or corporation or financial institution which gives financial assistance to a cooperative;
- (o) "General Body" in relation to the cooperative means the general body of all the members of the cooperative under section 23 and includes a representative general body of the members;
- (p) "General Meeting" means a meeting of the general body of the members of the cooperative or Federal Cooperative;
- (q) "Government" means the State Government;

- (r) "Member" means a person who has contributed towards the share capital of a cooperative before its registration and includes a person admitted to membership after such registration in accordance with the Act, rules and the bye-laws;
- (s) "Office Bearer" means the President or Chairperson, Vice-President or Vice-Chairperson, Administrator, Liquidator and includes a member of the board or any other person not being an employee empowered to exercise the powers of an office bearer in accordance with the bye-laws;
- (t) "Primary Cooperative" means a cooperative whose membership is not open to another cooperative;
- (u) "Registrar" means an Officer of the Government appointed under section 3 to perform the functions of the Registrar of Cooperatives and includes Additional Registrars of Cooperatives, Joint Registrars of Cooperatives, Deputy Registrars of Cooperatives and Assistant Registrars of Cooperatives appointed to assist the Registrar while exercising all or any of the powers of the Registrar under this Act and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred;
- (v) "Surplus" means the net excess of income over expenditure;
- (w) "Union Cooperative" means a cooperative of five or more cooperatives registered under section 4.

## **Chapter-II**

### **REGISTRATION**

#### **3. Registrar, Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars.-**

- (1) The Government may appoint an officer of the Government to be the Registrar of Cooperatives for the State
- (2) The Government may also appoint as many officers of the Government as Additional Registrars, Joint Registrars, Deputy Registrars and Assistant Registrars of Cooperatives as it thinks fit for assisting the Registrar.
- (3) The Government may, by general or special order, confer all or any of the powers of the Registrar under this Act on the Additional Registrar, Joint Registrar, Deputy Registrar or Assistant Registrar of Cooperatives.

#### **4. Cooperatives which may be registered**

Subject to the provisions of this Act where:

- (a) not less than ten individuals belonging to different families intend to form a cooperative; or
- (b) a cooperative society which intends to convert itself into a cooperative under this Act by passing a resolution in this behalf; or
- (c) five or more cooperatives registered under this Act which intend to form into a union cooperative by passing a resolution in this behalf;

they may be registered as cooperative under this Act.

#### **5. Application for registration of cooperative**

- (1) An application for registration of a cooperative shall be made to the Registrar in such form and in such manner as may be prescribed.
- (2) Every such application shall be accompanied by,-
  - (a) the original and five copies of the bye-laws of the proposed cooperative as adopted by the promoters of such cooperative or by the representatives of cooperatives who wish to form into a union cooperative or by the general body of a cooperative society which intends to convert itself into a cooperative under this Act;
  - (b) a list of names of individuals or cooperatives which intend to form a cooperative and in the case of a cooperative society, a list of names of members of such society together with the names of members of the committee containing their addresses, occupation and financial commitments;
  - (c) a true copy of the minutes of the meeting at which the bye-laws were adopted, duly signed by atleast a majority of individuals or promoters present or representatives present at such meeting where the byelaws were adopted, or in the case of a cooperative society, a true copy of the resolution and the minutes of the general meeting;
  - (d) a copy of the challan for having paid the registration fee of one percent of the total authorised share capital by whatever name called, subject to a minimum of five hundred rupees and a maximum of five thousand rupees; and
  - (e) in case of a cooperative society, documents to show that the cooperative society has not received any share capital and any loans or guarantee by Government or loans and guarantee by any cooperative society.

- (3) The Registrar shall, if he is satisfied that.-
- (a) the application is in conformity with the provisions of this Act and rules;
  - (b) the proposed bye-laws are in conformity with section 10; and
  - (c) the name of the proposed cooperative is not the same as that of a cooperative already registered under this Act or is not the same as that used by a cooperative society already registered under section 7 of the Karnataka Cooperative Societies Act, 1959;

register the cooperative and also its bye-laws and send by registered post a certificate of registration and the original registered bye-laws signed and sealed by him to the Chief Promoter mentioned in the application or to the cooperative society within a period of ninety days from the date of receipt of application. A copy of such certificate of registration along with the copy of the bye-laws shall also be sent to the Federal Cooperative.

- (4) If the conditions laid-down in sub-section (3) are not fulfilled, the Registrar shall communicate by registered post the order of refusal together with the reasons therefor, to the Chief Promoter or to the cooperative society, as the case may be within ninety days from the date of receipt of application.
- (5) An appeal against the order under sub-section (4) shall be made;-
- (a) if the order was made by the Registrar, to the Government; or
  - (b) if the order was made by any other officer, to that officer's immediate superior officer.
- (6) If the Registrar fails either to register or to refuse registration within the period specified in sub-section (3) or (4), the cooperative shall be deemed to have been registered under the Act after the expiry of the said period.

## **6. Certificate of registration**

- (1) Where a cooperative is registered or deemed to be registered, the certificate of registration duly signed and sealed by the Registrar shall be conclusive evidence that the cooperative mentioned therein, is a cooperative registered or deemed to be registered under this Act.
- (2) Notwithstanding anything contained in the Karnataka Cooperative Societies Act, 1959, when a certificate of registration is issued to a cooperative after conversion of a cooperative society into a cooperative, the registration of such cooperative society under the Karnataka Cooperative Societies Act, 1959, shall be cancelled by the Registrar with effect from the date of issue of certificate of registration under this Act.

## **7. Cooperative to be a body cooperate**

A cooperative registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and common seal. The cooperative shall be entitled to acquire, hold and dispose of property, to enter into contracts, to sue and be sued and to do all other things necessary for the purpose for which it is constituted.

## **8. Registration with limited or unlimited liability**

A cooperative may be registered with limited or unlimited liability. Where the liability is limited, the expression "limited" shall be suffixed to the name of the cooperative.

## **9. Display of names etc**

Every cooperative shall display its full name and the certificate of registration issued under this Act at its registered office or place at which it carries on business. The Registration number, name and address of its registered office shall be mentioned:

- (a) in all notices, other official publications and correspondences;
- (b) in all its contracts, business letters, order for goods, invoices, statements of accounts, receipts and letters of credit;
- (c) in all Acts of exchange, promissory notes, endorsements, cheques and orders for money it signs or signed on its behalf; and
- (d) in the corporate seal.

## **10. Bye-laws**

- (1) Subject to the provisions of this Act or rules, every cooperative shall function in accordance with its bye-laws which as far as possible shall adhere to the cooperative principles.
- (2) The bye-laws of every cooperative shall provide for the following matters, namely:-
  - (i) the name, address and area of operation of the cooperative;
  - (ii) the objects of the cooperative;
  - (iii) conditions of eligibility, disqualifications for, and procedure for admission, withdrawal, removal or cessation of membership including that of the directors and office bearers;
  - (iv) recruitment and conditions of service of staff of the cooperative;
  - (v) procedure to conduct the board meetings, rights of members including the right to vote and contest for elections;
  - (vi) the consequences of default in payment of any sum due by a member to the cooperative;
  - (vii) the powers and functions of the general body and the manner of election of representative general body. If any, and matters

- which must be dealt with by the general body and by the representative general body, if any;
- (viii) the manner and frequency of convening general meetings and quorum required;
  - (ix) the manner of conducting elections of directors, office bearers and filling up of casual vacancies thereof;
  - (x) the number and composition of the board and office bearers;
  - (xi) the extent and conditions for mobilisation of funds in the form of share capital, deposits, debentures, loans and other contributions from its members other than Government;
  - (xii) the powers, functions and duties of the President or Chair-person;
  - (xiii) the powers, functions and duties of Chief Executive;
  - (xiv) the terms and conditions on which the cooperative may deal with non-members;
  - (xv) the manner of electing representatives to union cooperatives and the Federal Cooperative;
  - (xvi) the nature and amount of authorised share capital of the cooperative;
  - (xvii) the maximum shares which a member can hold;
  - (xviii) the maximum dividend payable to members on paid up share capital;
  - (xix) the purpose for which the funds may be applied;
  - (xx) contribution towards Federal Cooperative Fund and the constitution of various funds and their purposes;
  - (xxi) appropriation of amount out of the net profit specifically for the following:-
    - (a) twenty five percent towards reserve fund constituted by the cooperative;
    - (b) three percent towards the Cooperative Education Fund, out of which one percent shall be towards the Cooperative Education Fund of the Federal Cooperative and the remaining to the Cooperative Education Fund of the Karnataka State Cooperative Federation Limited, Bangalore;
    - (c) five percent towards the Sahakari Kalyana Nidhi;
    - (d) twenty percent towards the operational reserve to meet unforeseen losses or contingencies;
    - (e) five percent towards the Common Good Fund whose purpose is approved by the general body;
    - (f) bonus not exceeding two months pay to be paid to the employees;
    - (g) dividend to the members;
  - (xxii) fixation of quantum and procedure to make good the operational deficiency incurred by the cooperative out of its reserve fund and operational reserve fund;
  - (xxiii) the manner of appointment of auditors or Chartered Accountants and their powers and functions;

- (xxiv)the manner of disposal of funds when the cooperative is under liquidation;
- (xxv)the circumstances and manner of winding up of the cooperative; and
- (xxvi)any other matter which is required to be or may be provided in the bye-laws.

## **11. Amendment of bye-laws**

- (1) A cooperative may amend any of the provisions of its bye-laws by a resolution passed by the majority of members with right to vote or two thirds of the members present and voting, whichever is less, at a general meeting or at a representative general meeting:

Provided that no such resolution shall be passed unless not less than twenty clear days of written notice of the meeting has been given along with a copy of the proposed amendment to each member of the general body or representative general body, as the case may be, and such notice and the proposed amendment are also displayed on the notice board of the cooperative for a period of not less than twenty days immediately proceeding the date of the meeting.

- (2) In case of amendment of its bye-laws by the cooperative, an application for the registration of the amendment with particulars specified in sub-section (3), shall be forwarded by registered post to the Registrar within a period of thirty days from the date of the resolution.
- (3) Every application forwarded under sub-section (2) to the Registrar, shall be signed by the President or Chairperson and shall be accompanied by three copies of the resolution adopting the amendment along with the following particulars namely:-
- (a) the date of the meeting at which the amendment was approved;
  - (b) the total number of members on the roll of the cooperative who were eligible to vote on the date of such meeting, the number present at the meeting and the number of eligible members who voted for the resolution.
- (4) If the proposed amendment is in accordance with the provisions of this Act and rules, the Registrar shall register the proposed amendment within a period of ninety days from the date of receipt of the application.
- (5) The Registrar shall communicate by registered post to the cooperative within a period of fifteen days after registration; a copy of the amendment so registered together with a certificate duly signed and sealed by him and such certificate duly signed and sealed by him and such certificate shall be conclusive evidence that the

amendment has been duly registered. A copy of such certificate and registered amendment shall be sent to the Federal Cooperative.

- (6) If the proposed amendment is not in accordance with the provisions of this Act and rules, the Registrar shall refuse to register the proposed amendment within a period of ninety days from the date of receipt of the application failing which the amendment shall be deemed to have been registered:

Provided that no order refusing the registration of such amendment shall be made except after giving the cooperative an opportunity of being heard.

- (7) The Registrar shall communicate by registered post to the cooperative, the order of refusal under sub-section (6) together with the reasons therefor within a period of fifteen days from the date of refusal.
- (8) An appeal against the order under sub-section (6) shall be made within sixty days from the date of the order.-
- (a) if the order was made by the Registrar, to the Government; or
  - (b) if the order was made by any other officer, to that officer's immediate superior officer.
- (9) An amendment to the bye-laws shall come into effect from the date of registration or deemed date of registration.

## **12. Change of Liability, transfer of Assets and Liabilities, Division and Amalgamation of Cooperatives**

- (1) A cooperative may, by a resolution passed at its general body:-
- (a) decide to amend its bye-laws to change the form or the extent of its liability;
  - (b) decide to transfer its assets and liabilities, in whole or in part, to any other cooperative which by a like resolution agrees to accept such transfer;
  - (c) divide itself into two or more cooperatives.
- (2) Any two or more cooperatives may, by passing a resolution at respective general meetings, decide to amalgamate themselves and form a new cooperative. Every such resolution of a cooperative shall be passed at its general meeting by a majority of total members with right to vote or two thirds of members present with right to vote, whichever is less, and such resolution shall also contain all particulars of the liability, transfer, division, amalgamation, as the case may be:

Provided that no such resolution shall be passed unless a notice is issued together with a copy of the proposed resolution to all its members, creditors union cooperative, Federal Cooperative to which it is affiliated, and the consent of the members, creditors, union cooperative and Federal Cooperative has been obtained.

- (3) Notwithstanding anything contained in any byelaw or contract to the contrary, any member, a union cooperative, Federal Cooperative or creditor who does not consent to the resolution shall have the option to withdraw their shares, deposits, loans or services, as the case may be, within a period of one month from the date of receipt of the notice under sub-section (2).
- (4) The union cooperative, Federal Cooperative or any member or creditor who does not exercise his option within the period specified under sub-section (3), shall be deemed to have consented to the resolution.
- (5) No resolution of a cooperative to change liability or for transfer of assets and liabilities, division and amalgamation shall be passed unless:-
  - (a) in case of change of liability or transfer of assets and liabilities:-
    - (i) the members, union cooperative, Federal Cooperative and creditors have consented or are deemed to have consented to the resolution under sub-section (3) or sub-section (4), as the case may be; or
    - (ii) all claims of the members, union cooperatives, Federal Cooperative and creditors who have exercised the option referred to under sub-section (3) within the period specified therein, have been met in full or otherwise satisfied; and
  - (b) amendment of the bye-laws of cooperative concerned is registered; and
  - (c) in the case of division or amalgamation, certificate of registration of the cooperative or cooperatives is issued.
- (6) Where a resolution passed by a cooperative in this section involves a transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee.

### **13. Consequences of transfer of assets and liabilities, division and amalgamation**

- (1) Where the whole of the assets and liabilities of a cooperative are transferred to another cooperative, the registration of the first mentioned cooperative shall stand cancelled and that cooperative shall be deemed to have been dissolved and shall cease to exist as a corporate body.
- (2) Where two or more cooperatives are amalgamated into a new cooperative, the registration of each of the amalgamating cooperatives shall stand cancelled on the registration of the new cooperative and each such cooperative shall be deemed to have been dissolved and shall cease to exist as a corporate body.
- (3) Where a cooperative divides into two or more cooperatives the registration of that cooperative shall stand cancelled on the registration of the new cooperatives and that cooperative shall be deemed to have been dissolved and shall cease to exist as a corporate body.

### **14. Partnership of Cooperatives**

- (1) Any two or more cooperatives may, by resolutions passed by three-fourth majority of the members present and after voting at a general meeting of each of such cooperatives, may enter into partnership to carry out any one or more specific business. A written notice of the date of the general meeting shall be given to each member before ten clear days of such meeting.
- (2) Nothing in the Indian Partnership Act, 1932 (Central Act 9 of 1932) shall apply to such partnership.

### **15. Promotion of subsidiary organisations:**

- (1) Any cooperative may, by a resolution passed at its general meeting by a majority of members present with a right to vote, promote one or more subsidiary organisations for the furtherance of its objectives and such organisations may be registered under any law for the time being in force.
- (2) The annual reports and accounts of any such subsidiary organization shall be placed before the general meeting of the cooperative every year.

### **16. Collaboration by Cooperatives**

Any cooperative or cooperatives may enter into collaboration with any other organisation or organisations approved by the Government to carry out any one or more specified business provided in the byelaws or such cooperative or cooperatives. Where such collaboration requires creation of a new organisation under any other law for the time being in force, such organisation may be registered as an institution under such law for fulfillment of the objectives with which it was created and such collaboration shall be reviewed every year by the general body of the cooperative.

## Chapter-III

### FUNDS

#### 17. Mobilisation of Funds

A cooperative may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions.-

- (i) from its members; or
- (ii) from any other person, institutions and organisations;

to such extent and subject to such conditions as may be specified in the bye-laws of the cooperative:

Provided that a cooperative 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.

#### 18. Investment of Funds

Such of its funds as are not immediately required for use by a cooperative, may be invested or deposited outside its business, namely:-

- (a) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882); or
- (b) with any cooperative bank or scheduled bank.

#### 19. Restrictions on contribution by a Cooperative

No cooperative shall make a contribution in whatever form either in cash or in kind either directly or indirectly to an organisation that has an object in furtherance of the interest of a political party or of any religious faith.

## Chapter-IV

### MANAGEMENT OF COOPERATIVE

#### 20. Persons who may be admitted or continued as members

Subject to the provisions of this Act, no person shall be admitted as a member of a cooperative

- (a) unless he needs the services of the cooperative and accepts the responsibility of membership and is competent to contract under the Contract Act, 1872 (Central Act IX of 1872);
- (b) if he conducts any business, such business being in conflict or competition with the business of the cooperative as specified in the byelaws; and

- (c) unless he fulfills such other conditions as may be specified in the bye-laws of the cooperative:

Provided that after the registration of a cooperative, the members shall be admitted only by the elected board.

- (2) No person shall be eligible to continue as a member if such person.-
  - (a) has not used the services of the cooperative for two consecutive years to the minimum level specified in the byelaws; or
  - (b) has not attended three consecutive general meetings of the cooperative and such absence has not received the consent of the general body; or
  - (c) is in default regarding any payment to be made to the cooperative exceeding an amount and for a period specified in the byelaws.
- (3) If a question arises as to the eligibility or other-wise of a person to become a member or to continue as a member, the board shall decide the question after giving such person an opportunity of being heard. The decision of the board shall be final.

## **21. Removal of membership**

- (1) The board may, by a resolution passed by a majority of not less than two thirds of the members present and voting, remove the membership of a person in the cooperative for acts or omissions which are detrimental to the interest of the cooperative.

Provided that a member shall not be removed unless a reasonable opportunity of making representation in this regard has been provided to him.

- (2) Where a member has been removed by the board, an appeal shall lie to the general body and the decision of the general body shall be final.
- (3) A person whose membership has been removed shall, subject to the provisions of this Act, rules and byelaws, be ineligible for re-admission as a member of that cooperative for a period of one year after the date of such removal.

## **22. Restriction on services to non-members**

The services of a cooperative shall ordinarily be available only to members unless otherwise provided in the bye-laws.

## 23. General Body

- (1) Subject to the provisions of this Act, rules and the byelaws, the final authority of a cooperative shall vest in its general body.
- (2) Where a cooperative so desires its bye-laws may provide for a representative general body drawn from the members, to be constituted in such manner and with such functions as specified in the bylaws. Any reference in this Act to the general body shall apply to the representative general body also.
- (3) Subject to the other provisions of this Act, rules and the bye-laws, the following matters shall be dealt with by the general body namely:
  - (a) consideration of the annual report presented by the board;
  - (b) appointment and removal of auditors, Chartered Accountants and internal auditors;
  - (c) consideration of the auditor's report and audited statement of accounts;
  - (d) consideration of audit compliance report;
  - (e) disposal of net profit;
  - (f) review of operational deficit, if any;
  - (g) approval of the long term perspective plan and the annual operational plan;
  - (h) approval of the annual budget;
  - (i) creation of specific reserves and other funds as specified in the bye-laws;
  - (j) review of actual utilisation of reserve and other funds;
  - (k) election of directors of the board;
  - (l) removal of directors of the board and filling up of casual vacancies;
  - (m) report on action taken on inquiry report under section 37, if any;
  - (n) report on membership of the cooperative in other cooperatives;
  - (o) review of annual report and accounts of any organisation created under sections 14, 15, or 16, if any;
  - (p) consideration of an appeal of a person whose application for membership has been rejected or whose membership has been removed by the board, if any;
  - (q) consideration of the list of employees recruited who are relatives of directors or of the Chief Executive;
  - (r) amendment of bye-laws;
  - (s) formation of code of conduct for the directors and office bearers;
  - (t) brief note of admission and removal of members during the previous year;
  - (u) winding up of the cooperative; and
  - (v) such other functions as are specified in the bye-laws.

## 24. Board

- (1) Every cooperative shall have a board consisting of such number of directors as may be specified in the bye-laws. In case of primary cooperatives, such number shall not be less than nine and more than fifteen excluding the Chief Executive.
- (2) The term of office of the directors shall be five years from the date of assuming office and the election shall be held for the entire board.

**Explanation:** Where the election to the board has been held in the middle of the year, the remaining part of the year shall be deemed to be a full year.

## 25. Disqualification for being elected or continued as director

- (1) A person shall be disqualified for being elected or continued as a director, if such person:
  - (a) has at any time lost the right to vote as a member or to continue as such; or
  - (b) has incurred any other disqualifications as specified in the byelaws; or
  - (c) absents himself from three consecutive board meetings without leave of absence; or
  - (d) is convicted for an offence under this Act; or
  - (e) incurs any disqualification as specified in sub-section (2).
- (2) The directors shall incur disqualification for being elected as directors in a cooperative for a period of five years from the date of incurring such disqualification and shall also be disqualified to continue as directors of that cooperative or any other cooperative, if during the term of office as directors of a cooperative they:-
  - (a) have not conducted elections within the time specified in the bye-laws and before the expiry of the term stipulated in section 24; or
  - (b) have not conducted the annual general meeting within six months of closure of the year, or requisitioned meeting of the general body within the time stipulated in section 30; or
  - (c) have not placed the audited accounts for the preceding year along with the report of the auditor before the general body at its annual general meeting.
- (3) A director or an employee who is guilty of mis-appropriation, breach of trust or any other omission or commission resulting in loss to the cooperative, shall be personally liable to make good that loss without prejudice to such criminal action to which he is liable under any other law for the time being in force.

## **26. Election of Board**

- (1) The board of a cooperative shall conduct elections to elect the succeeding board before the expiry of the term of office of the outgoing board in the manner specified in the bye-laws.
- (2) Where the board does not take necessary action to conduct elections to the board before the expiry of the term of directors, the Federal Cooperative shall appoint an Administrator immediately for a period not exceeding three months to conduct such elections.
- (3) The elections of the directors shall be held at the general meeting by secret ballot.
- (4) The newly elected directors shall assume office immediately at the expiry of the term of office of the outgoing directors.

## **27. Powers and functions of the board**

Subject to the provisions of this Act, rules and bye-laws, the board shall have powers:

- (a) to admit and remove members;
- (b) to elect and remove the office bearers;
- (c) to appoint and remove the Chief Executive;
- (d) to fix staff strength;
- (e) to frame policies concerning the organisation and services to members;
- (f) to frame regulations regarding:
  - (i) custody and investment of funds;
  - (ii) maintenance of accounts;
  - (iii) mobilisation, utilisation and investment of various funds;
  - (iv) appropriate management information systems including filing of statutory returns;
  - (v) such other matters as may be necessary for the effective performance of the cooperative;
- (g) to place the annual report, annual financial statements, annual plan and budget for the approval of the general body;
- (h) to consider audit and compliance reports and place them before the general body;
- (i) to review membership in other cooperative;
- (j) to perform such other functions as may be delegated by the general body or as specified in the bye-laws.

## **28. Election of office bearers**

- (1) The Chief Executive shall within fifteen days from the date of election of the board convene a meeting in the prescribed manner of all the elected members of the board for the purpose of electing President or Chairperson, Vice-president or Vice Chairperson and such other office bearers as are required to be elected under the byelaws of the cooperative. One of the elected members who is not a candidate for the election of President or Chairperson, Vice-President or Vice Chairperson, shall be chosen to preside over such meetings:

Provided that at the election of the office bearers held immediately after registration of a cooperative, one of the elected directors who is not a candidate for the election of the office bearers, shall be chosen to preside over the meeting of the first board.

Provided further that at the election of office bearers if all the elected directors are the candidates, the chief Executive shall preside over such meeting of the board.

- (2) The President or Chairperson or in his absence, the Vice-President or Vice-Chairperson shall.-
  - (a) preside over meetings of the board and the general body;
  - (b) have only a casting vote in the event of equality of votes on any matters being decided upon by the board except election to the office bearers:

Provided that in the event of equality of votes in the election of office bearers, the election shall be by drawing lot; and

- (c) exercise such other powers as are specified in the bye-laws or as may be delegated by the board.

## **29. Filling up of casual vacancies**

Where there is a casual vacancy in the office of director on account of death, resignation, disqualification or for any other reasons, the board may fillup the casual vacancy for the remaining term by co-option from the eligible members:

Provided that no such co-option shall be made if the remaining period of such vacancy is less than six months.

### **30. Meetings**

- (1) In an year the board shall convene at least six board meetings and one general meeting before thirteenth of September each year.
- (2) The board shall convene a special general meeting within thirty days of receipt of a requisition from not less than one-tenth of members of the cooperative or as provided in the bye-laws. Such requisition shall contain the reasons for convening the meeting. In the event of failure by the board, the Federal Cooperative shall convene such general meeting within forty-five days of receipt of requisition signed by not less than one-tenth of members of the cooperative.
- (3) If the cooperative and the Federal Cooperative, fail to convene the special general meeting within the time specified under sub-section (2), the Registrar shall convene the special general meeting within ninety days after the receipt of requisition signed by not less than one-tenth of the members of the cooperative.

### **31. Employees**

- (1) Subject to the approval of the general body, the board shall determine the cadre strength of the establishment and the scales of pay of the employees of the cooperative:

Provided that the cooperative may borrow the services of the employees of other cooperatives, cooperative societies, Federal Cooperative, State or Central Government or their Organisations, Public Sector Undertakings and such other professional experts on such terms and conditions as may be approved by the general body.

- (2) The Chief Executive shall be the Chief Administrative Officer of the cooperative and shall, subject to the general control and superintendence of the board,-
  - (a) be incharge of the overall control and supervision of the day-to-day affairs of the cooperative;
  - (b) sign documents, enter into agreements and contracts and institute and defend suits and other legal proceedings on behalf of the cooperative;
  - (c) have powers to endorse, sign, negotiate cheques and other negotiable instruments and operate the bank accounts of the cooperative;
  - (d) be responsible to assist the board in matters relating to recruitment, performance and discipline of the employees;
  - (e) arrange to maintain proper records and accounts of the cooperative;
  - (f) present the draft annual report and financial statements for the approval of the board within sixty days of closure of the year;

- (g) assist to convene the board meetings, general meetings and the special general meeting in accordance with the bye-laws;
- (h) assist the board in the formulation of policies and programmes;
- (i) furnish to the board information necessary for monitoring the performance of the cooperative; and
- (j) perform any other functions as specified in the bye-laws or as decided by a resolution of the board meetings or general meetings.

## **Chapter-V**

### **ACCOUNTS, AUDIT AND INQUIRY**

#### **32. Maintenance of records, Accounts, etc**

Every cooperative shall maintain at its registered office the following namely:-

- (a) a copy of the Karnataka Souharda Sahakari Act, 1997 with upto-date amendments;
  - (b) registration certificate and registered bye-laws and the amendments registered from time to time in original;
  - (c) a copy of the bye-laws of the Federal Cooperative and each of its subsidiaries, if any;
  - (d) a register of members with details regarding voting rights for the current year updated within thirty days of closure of the year and the memberwise use of various services;
  - (e) accounts of all sums of money received and expended by the cooperative and its branch, if any, and purposes;
  - (f) accounts of all purchases and sales of goods by the cooperative;
  - (g) accounts of the assets and liabilities of the cooperative;
  - (h) the minutes book;
  - (i) copies of the board resolution; and
  - (j) annual report and audit report and where a cooperative has branch office, accounts and records related to such branch.
- (2) Copies of the resolutions of the board and general meetings, voters list, bye-laws, statement of annual accounts and such accounts relating to a member, shall be made available to any member during the business hours after payment of necessary fees as may be decided by the board.
- (4) The books of accounts of every cooperative together with supporting records and vouchers shall be preserved for such period as may be decided by the board.

### **33. Audit**

- (1) Every cooperative shall get its accounts audited by an auditor or a Chartered Accountant appointed by the general body at its meeting.
- (2) The auditor's or Chartered Accountant's report, in addition to the report on the accounts of the cooperative, shall also contain a report on the attendance at meeting by directors, loans and advances sanctioned to the directors, the business transacted by the directors with the cooperative, expenditure on board meetings, remuneration paid to directors, expenses reimbursed to directors, expenditure on education and training for members, staff, directors and others.
- (3) The board shall prepare and present annual financial statements for audit within sixty days of closure of the year. The audit shall be completed within such period as may be specified in the byelaws.
- (4) The remuneration payable to the auditor or Chartered Accountant shall be determined by the board.
- (5) Every notice of annual general meeting shall be sent to the auditor or Chartered Accountant and he shall attend such meeting.
- (6) Every office bearer, director, whether present or past or every employee of the cooperative shall furnish such information and explanation and give access to records, documents, books of accounts and vouchers of the cooperative as are in opinion of the auditor or Chartered Accountant, necessary to enable him to make the examination and report.
- (7) Where a cooperative fails to get its annual accounts audited within the time stipulated in the byelaws, it shall be the responsibility of the Federal Cooperative to get the accounts of the cooperative audited. The cost of conducting such audit shall be recovered from the cooperative.

### **34. Furnishing Information**

Before 31<sup>st</sup> October of every year, a cooperative shall furnish the following information to the Registrar namely.-

- (a) annual report of activities of the previous year and programme for the ensuing year;
- (b) audited statement of accounts;
- (c) plan for disposal of surplus as approved by the general body;
- (d) list of directors and their terms of office;
- (e) list of amendments to the bye-laws of the cooperative; and
- (f) declaration regarding the date of conducting the general body meeting and elections, if any.

### **35. Inquiry**

- (1) The Federal Cooperative may, on receipt of an application from a creditor to whom a cooperative is indebted or not less than one-third of the members of the board or not less than one-tenth of the total number of members of that cooperative, conduct an inquiry or cause an inquiry to be conducted expeditiously into the specific matters raised in such application relating to the constitution, management, working or financial aspects of the cooperative. Every such application shall be accompanied by such fee as may be provided in the byelaws of the Federal Cooperative.
- (2) The inquiry shall be completed within a period of six months from the date of application for inquiry.
- (3) In the event of failure to conduct such inquiry by the Federal Cooperative, the persons referred in sub-section (1) may make an application to Registrar who shall conduct or cause to be conducted the inquiry in respect of matters raised in such application. Such application shall be accompanied by such fee as may be prescribed.
- (4) The Federal Cooperative or the Registrar, as the case may be may conduct inquiry or appoint an inquiry officer to conduct inquiry (hereinafter referred to as inquiry officer) for the purpose.
- (5) The Federal Cooperative or the Registrar shall, within a period of one month from the date of receipt of inquiry report, send a copy of the inquiry report;-
  - (a) to the applicants;
  - (b) to the cooperative concerned;
  - (c) to all the creditors concerned; and
  - (d) to the Federal Cooperative or the Registrar, as the case may be.

### **36. Power to summon and examine persons and documents**

- (1) The Federal Cooperative, the Registrar or the Inquiry Officer, as the case may be, shall issue to the concerned cooperative, a notice in writing of not less than fifteen days regarding the date of commencement of the inquiry:

Provided that, for reasons to be recorded in writing, a shorter notice may be issued.
- (2) The Federal Cooperative or Registrar or the Inquiry Officer conducting inquiry may provide a reasonable period of not less than seven days to comply with sub-section (3).
- (3) For the purpose of inquiry under this Act, the Federal Cooperative or the Registrar or Inquiry Officer conducting such inquiry,-

- (a) may require in writing the President or Chairperson or other authority concerned to produce such receipts, vouchers, statements, returns, correspondence, notice or any other documents as he or it may consider necessary for the purpose of inquiry;
- (b) shall have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the cooperative and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office or the head-quarters of the cooperative or any branch thereof; and
- (c) may summon any person who, it or he has reason to believe, has knowledge of any of the affairs of the cooperative relating to the charges in the inquiry to appear before it or him at any public office or the head quarters of the cooperative or any branch thereof and may examine such person on oath.

### **37. Action on inquiry Report**

The Federal Cooperative or the Register, as the case may be, after such inquiry, if satisfied that any or all of the office bearers or directors or Chief Executive is or are responsible for any payment contrary to the Act, rules or the bye-laws and has or have caused loss or deficiency in the assets of the cooperative by breach of trust or negligence or has or have misappropriated or fraudulently retained any money or property belonging to such cooperative, without prejudice to any civil or criminal proceedings to which they may be liable, may direct the board to convene the general meeting within such reasonable time as the Federal Cooperative or the Registrar, as the case may be, specify to discuss the findings of the inquiry report and for initiating necessary action against the concerned.

## **Chapter–VI**

### **SUPERSESION**

### **38. Supersession**

- (1) If, in the opinion of the Federal Cooperative, the board of a cooperative.-
  - (i) persistently makes default or is negligent in performance of the duties imposed on it under this Act or rules or the byelaws; or
  - (ii) has commits any act which is prejudicial to the interests of the cooperative or its members; or
  - (iii) is not functioning properly on account of the number of members of the board falling short of the required number to form quorum

- due to disqualification, resignation, death or removal of directors;  
or
- (iv) is not functioning in accordance with the provisions of this Act or rules or the byelaws or any order made or direction issued by the Federal Cooperative; or
  - (v) fails to conduct annual general meeting within six months from the closure of the year; or
  - (vi) is otherwise not functioning properly.

may supercede the board and appoint an administrator to manage the affairs of the cooperative for such period not exceeding six months, as may be specified by the Federal Cooperative.

Provided that the Federal Cooperative shall not supersede the board unless the board has been given an opportunity of being heard in the matter.

- (2) On the issue of the order under sub-section (1):-
  - (a) the directors of the board shall be deemed to have vacated their office; and
  - (b) the Administrator shall be deemed to have assumed charge of the affairs of the cooperative.
- (3) The Administrator shall, subject to the control of the Federal Cooperative, exercise and perform all the powers and functions of the board or any office bearers of the cooperative and take all such actions as may be required under this Act, rules and the byelaws in the interest of the cooperative.
- (4) The Federal Cooperative shall, before taking action under sub-section (1), consult the financing agency of the cooperative to which it is indebted. It shall, in respect of a cooperative bank, also consult the Reserve Bank of India or National Bank for Agriculture and Rural Development (hereinafter referred to as NABARD) as the case may be.
- (5) The Administrator shall, before the expiry of his term, arrange for constitution of the new board for the cooperative in accordance with its bye-laws.
- (6) Notwithstanding anything contained in this Act, rules and bye-laws, the Federal Cooperative shall, in case of a cooperative bank, if so required in writing by the Reserve Bank of India or NABARD in public interest or for preventing the affairs of the cooperative bank being conducted in the manner detrimental to the interest of the depositors or for securing proper management of the cooperative bank, by order in writing, supersede the board of that cooperative bank and appoint an Administrator to manage the affairs of the cooperative bank for such period as may specified by the Federal Cooperative in concurrence with the Reserve Bank of India or NABARD.

## Chapter-VII

### SETTLEMENT OF DISPUTES

#### 39. Disputes which may be referred to the 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 cooperative or the Federal Cooperative arises:-

- (a) among members, past members and persons claiming through members, past members and deceased members; or
- (b) between a member, past member or person claiming through a member, past member or deceased member and the cooperative or the Federal Cooperative, its board or any office bearer, agent or employee of the cooperative or the Federal Cooperative; or
- (c) between the cooperative or the Federal Cooperative or its board and any past board, any office bearer, agent or employee, or any past office bearer, past agent or past employee, or the nominee, heirs or legal representatives of any deceased office bearer, deceased agent, or deceased employee of the cooperative or the Federal Cooperative; or
- (d) between the cooperative or the Federal Cooperative and any other cooperative or a credit agency:

such dispute shall be referred to the Registrar for decision and no civil or labour or revenue court or Industrial Tribunal shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a cooperative or Federal Cooperative, namely.-

- (a) a claim by the cooperative or the Federal Cooperative for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- (b) a claim by a surety against the principal debtor where the cooperative or the Federal Cooperative has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand be admitted or not;
- (c) any dispute arising in connection with the election of a President or Chairperson, Vice-President or Vice Chairperson or director of the cooperative or the Federal Cooperative.
- (d) any dispute between a cooperative or Federal Cooperative and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of

employment, working conditions and disciplinary action taken by a cooperative or Federal Cooperative, notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 140 of 1947);

(e) a claim by a cooperative or Federal Cooperative for any deficiency caused in the assets of the Cooperative or Federal Cooperative by a member, past member, deceased member or deceased member or deceased office bearer, past agent or deceased agent or by any servant, past servant or deceased servant or by its board, past or present whether such loss be admitted or not.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a cooperative or the Federal Cooperative, the decision of the Registrar thereon shall be final and shall not be called in question in any court.

#### **40. Period of limitation**

(1) No dispute under section 39 shall be entertained unless it is referred to the Registrar within six years from the date of the cause of action;

Provided that a dispute relating to the election of a director, President or Chairperson, Vice-president or Vice Chairperson, or other office bearers of the board shall be referred to the Registrar within thirty days from the date of declaration of the result of the election.

(2) Notwithstanding anything contained in sub-section (1), the Registrar may entertain a dispute referred after the period specified in sub-section (1) if he is satisfied that the person making the reference had sufficient cause for not making the reference within that period.

#### **41. Disposal of disputes**

The Registrar may, on receipt of the reference of a dispute under section 39.-

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been vested by the Government with powers in that behalf; or
- (c) refer it for disposal to an arbitrator appointed by the Registrar.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute,

make such interlocutory orders as he may deem necessary in the interest of justice.

- (4) When a dispute is referred to an arbitrator under clause (c) of sub-section (1), the award shall, subject to such rules as may be prescribed, include the fee payable to the arbitrator and the fees and expenses payable to the Registrar. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar and shall, subject to appeal be binding on the parties to the dispute.
- (5) Notwithstanding anything contained in section 39, when any dispute under clause (a) or (b) of sub-section (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by the cooperative concerned or the Federal Cooperative that in the interest of the cooperative or the Federal Cooperative it is necessary for an effective decision of the dispute to implead persons who cannot be made parties to the dispute in proceedings before him, he may permit the cooperative or the Federal Cooperative to institute a regular suit in a civil court having jurisdiction and the Civil Court shall be competent to entertain such suit.

#### **42. Bar of jurisdiction of courts**

- (1) Save as provided in this Act, no civil or labour or revenue court or industrial tribunal shall have any jurisdiction in respect of.-
  - (a) the registration of a cooperative or Federal Cooperative or byelaws or amendment of bye-laws;
  - (b) the removal of a board or a director thereof;
  - (c) any dispute required under section 39 to be referred to the Registrar;
  - (d) any matter concerning the winding up and the dissolution of a cooperative.
- (2) While a cooperative is being wound up, no suit or other legal proceedings relating to the business of such cooperative shall be proceeded with or instituted against the Liquidator as such or against the cooperative or any member thereof, except by leave of the Registrar or the Federal Cooperative and subject to such terms as he or it may impose.
- (3) Save as provided in this Act, no order or decision or award made under this Act, shall be questioned in any court on any ground whatsoever.

#### 43. Execution of orders, etc.-

(1) Every decision or award made under section 41, every order made by the liquidator under section 50, and every order made by the Karnataka Cooperative Appellate Tribunal under section 46 and every order made under sub-section (8) of section 11, shall subject to any other provisions of this Act, be binding on the person or cooperative or the Federal Cooperative against whom the order, decision or award has been obtained or passed and shall, if not carried out.-

- (a) on a certificate signed by the Registrar or any person authorised by him in this behalf, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such court; or
- (b) be executed according to the law and under the rules for the time being in force for the recovery as arrears of land revenue:

Provided that an application for the recovery of any sum under this clause shall be made to the Deputy Commissioner, accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf within twelve years from the date fixed in the order, decision or award and if no such date is fixed, from the date of the order, decision or award, as the case may be.

- (c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf (hereinafter in this Section referred to as authorised officer) by the attachment and sale or sale without attachment of any property of the person or a cooperative or the Federal Cooperative against whom the order, decision or award has been obtained or passed.

(2) (a) Notwithstanding anything contained in this Act, every question relating to the execution, discharge or satisfaction of an order, decision or award referred to in sub-section (1) or relating to the confirmation or setting aside of a sale held in an execution of such order, decision or award in pursuance of clause (c) of sub-section (1) or relating to any claim or objection to an attachment of any property made under section 44 or in execution in pursuance of the said clause (c) shall be determined, by an order of the Registrar or the authorised person before whom such question arises.

- (b) (i) Where any claim is preferred against or any objection is made to the attachment of any property made under section 44 or in execution in pursuance of clause (c) of sub-section (1) of this section on the ground that the said property is not liable to such attachment, the Registrar or the authorised person shall proceed to investigate the claim or objection:

Provided that where the Registrar or the authorised person considers that the claim or objection was designedly or unnecessarily delayed, he shall make an order refusing such investigation.

- (ii) Where upon the said investigation, the Registrar or the authorised person is satisfied that for the reason stated in the claim or objection such property was not, at the date of the attachment, in the possession of the person or cooperative or the Federal Cooperative against whom the order, decision or award has been obtained or passed (hereinafter in this section referred to as the judgment-debtor) or of some person in trust for the judgement-debtor or in the occupancy of a tenant or other person paying rent to the judgement debtor or that being in the possession of the judgement – debtor at the said date, it was so in his possession, not in his own account or as his own property, but on account of or in trust for some other persons, or partly on his own account and partly on account of some other person, the Registrar or the authorised person shall make an order, releasing the property wholly or to such extent as he thinks fit, from attachment.
- (iii) Where the Registrar or the authorised person is satisfied that the property was on the said date, in the possession of the judgement – debtor as his own property and not on account of any other person or was in the occupancy of a tenant or other person paying rent to him, the Registrar or the authorised person shall disallow the claim.
- (iv) Where a claim or an objection is preferred, the party against whom an order is made, may within a period of one year from the date of such order, institute a suit in a civil court to establish the right which he claims to the property in dispute; but subject to the result of such suit, if any, the order of the Registrar or the authorised person shall be conclusive.

#### **44. Attachment of property before award or order**

- (1) If the Registrar is satisfied on an application, report, enquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act.
  - (a) is about to dispose of the whole or any part of his property; or
  - (b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or Liquidator, as the case may be.

he may, unless adequate security is furnished, direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent civil court.

- (2) Where the Registrar directs attachment of the property under sub-section (1), he shall issue a notice calling upon the person whose property is so attached to furnish security he thinks adequate within a specified period, and if the person fails to provide the security so demanded, the Registrar may confirm the order and after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section may direct the disposal of the property so attached towards the claim if awarded.
- (3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons, not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

**45. Procedure for settlement of disputes and power of the Registrar or any other person to whom a dispute is referred for decision**

- (1) The Registrar or any other person to whom a dispute is referred for decision under section 39, hearing a dispute under section 41 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a civil court by the Code of Civil procedure, 1908.
- (2) Except with the permission of the Registrar or any other person deciding a dispute, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.
- (3) (a) If the Registrar or any other person to whom a dispute is referred is satisfied that a person, whether he be a member of the cooperative or the Federal Cooperative or not, has acquired any interest in the property of a person who is a party to a dispute he may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Registrar or his nominee or any other person shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.  
  
(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Registrar or any other person to whom a dispute is referred for decision under section 41 may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order any other

person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar or any other person to whom a dispute is referred for decision under section 41, may, at any stage of the proceedings, either upon or without the application of any party, and on such terms as may appear to the Registrar, or any other person deciding a dispute, as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, or any other person deciding a dispute under section 41, as the case may be, may be necessary in order to enable the Registrar or such person effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar or any other person to whom a dispute is referred for decision under section 41.

(4) Every order, decision or award made or given by the Registrar, or any officer or other person or a liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

#### **45. Appeal**

An appeal against the decision or award made under section 41, shall lie before the Karnataka Cooperative Appellate Tribunal constituted under section 2B of the Karnataka Cooperative Societies Act, 1959.

### **Chapter-VIII**

#### **WINDING UP OF COOPERATIVES**

#### **46. Winding up of a Cooperative**

(1) On an application made by not less than one-fifth of the members of a cooperative to wind up the affairs of the said cooperative, the board shall convene a general meeting by issuing a notice to each member. Such notice along with a notice to attend the general meeting shall also be issued to the Federal Cooperative, union cooperative, creditors, auditor and to the subsidiary organisation of the cooperative, who shall also have a right to make a representation at the general body.

- (2) The general body shall approve the resolution to wind up the cooperative and to appoint a liquidator after the same is passed by two-thirds of the members present in the general meeting and voting. Such resolution shall contain the details of the assets and liabilities of the cooperative, the claims of any creditors, the number of members and the nature and extent of interest of each member in the cooperative. A copy of resolution after approval by the general body shall be sent by registered post to the Registrar, the Federal Cooperative and union cooperative within fifteen days from the date of such approval.

**Explanation:** In this section “interest” means interest of a member in a cooperative and includes shares, member loans, deposits and obligations of any kind that:

- (i) arise by virtue of the bye-laws of the cooperative; and
  - (ii) are owed by the cooperative to the member.
- (3) The Federal Cooperative may require from a cooperative, liquidator or any other person who is required to furnish information, an annual or other returns showing:
    - (a) the progress of winding up;
    - (b) the distribution of any undistributed surplus or reserves; and
    - (c) any other information that it may require.
  - (4) The Federal Cooperative after consideration of the information under sub-section (3) may approve the resolution to wind up a cooperative and communicate the same to the concerned cooperative and the Registrar. Such resolution shall take effect on the date of approval by the Federal Cooperative.

#### **48. Winding up by the Federal Cooperative**

- (1) Where the Federal Cooperative has reasonable cause to believe that a cooperative:
  - (a) has not commenced business within two years after registration;
  - or
  - (b) has not carried on business for two consecutive years; or
  - (c) is no longer operating in accordance with the cooperative principles and the provisions of this Act;

the Federal Cooperative may suo-motu, require the Chief Executive of cooperative to intimate whether such cooperative is carrying on business or is submitting annual returns.

- (2) If no reply is received from the Chief Executive within one month, the Federal Cooperative shall within fourteen days after the expiry of said

period record that no reply has been received by it and shall publish a notice in the news paper having general circulation in the local area to wind up the cooperative.

- (3) If the Federal Cooperative receives a reply from the cooperative that it is not carrying on business or is not in operation or does not wish to continue as a cooperative or cannot submit an annual return, the Federal Cooperative shall publish in the newspaper and send to the cooperative a notice specifying the date on the expiry of which the cooperative shall, unless cause is shown to the contrary, be wound up.
- (4) The Federal Cooperative after considering the reply, if any, is satisfied:
  - (i) that the cooperative has no assets or liabilities, shall issue a certificate that the cooperative has been wound up and send a report to the Registrar to cancel the registration of such cooperative; or
  - (ii) that the cooperative has assets or liabilities, it shall on receipt of a report from the Chief Executive of such cooperative that liquidator has not been appointed by the general body after a resolution to wind up has been passed, appoint a liquidator and send a report to the Registrar.
- (1) Where the Registrar receives a certificate of winding up of a cooperative under clause (i) of sub-section (4) from the Federal Cooperative, he shall cancel the registration of such cooperative forthwith.

#### **45. Duties of Liquidator**

- (1) The liquidator immediately after he assumes the charge of office of liquidator, shall intimate the same to the Registrar and Federal Cooperative, to each claimant, share holder and to each creditor of the cooperative. A notice of his appointment shall also be published in the Gazette once in a week for two consecutive weeks and in the newspaper published or distributed in the place where the registered office of the cooperative is situated. He shall also take reasonable steps to give notice of the liquidation of such cooperative in the area where the cooperative carried on its business.
- (2) The notice issued under sub-section (1) shall specify:
  - (i) the amount indebted to the cooperative and the time and place for payment of amount due to the cooperative by the debtor to the liquidator;
  - (ii) the time and place of delivery of the property of the cooperative to the liquidator; and

- (iii) the present or future position of the claims against the cooperative whether liquidated or otherwise, and shall require all the persons concerned to comply with such notice not later than two months after the first publication of the notice.
- (1) The liquidator shall:
  - (a) take into custody and control the property of the cooperative;
  - (b) prepare a statement of assets and liabilities of the cooperative under liquidation and send a copy of such statement to the Federal Cooperative and to the Registrar;
  - (c) open and maintain a trust account for the money of the cooperative;
  - (d) keep accounts of the money of the cooperative received and paid out by him;
  - (e) maintain separate lists of the members, creditors and other persons having claims against the cooperative;
  - (f) where at any time he determines that the cooperative is unable to pay or adequately provide for the discharge of its obligations, apply to the Federal Cooperative for directions; and
  - (g) deliver to the Federal Cooperative at least once in every six months' period or more often as the Federal Cooperative may require, financial statements of the cooperative in any form that the liquidator considers proper or that the Federal Cooperative may require.

#### **45. Powers of Liquidator**

- (1) The liquidator may:
  - (a) retain lawyers, accountants, engineers, appraisers and other professional advisors;
  - (b) defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the cooperative;
  - (c) carry on the business of the cooperative as required for an orderly liquidation;
  - (d) sell by public auction any property of the cooperative;
  - (e) do all acts and execute any documents in the name and on behalf of the cooperative;
  - (f) borrow money on the security of the property of the cooperative;

- (g) settle or compromise any claims by or against the cooperative; and
  - (h) take all such steps that are necessary for the liquidation of the cooperative.
- (1) Where a liquidator has reason to believe that any person has in his possession or under his control or has concealed, withheld or misappropriated any property of the cooperative, he shall inform the Federal Cooperative to take further action against such person.
  - (2) No liquidator or his relatives shall purchase directly or indirectly any part of the stock-in-trade, debts or assets of the cooperative under liquidation.

## **51. Final Accounts**

- (1) A liquidator shall pay the costs of liquidation out of the property of the cooperative and shall pay or make adequate provision for payment of all claims against the cooperative.
- (2) After paying or making adequate provision for all claims against the cooperative, the liquidator shall apply to the Federal Cooperative for approval of his final accounts and for permission to distribute in cash or in kind the amounts due to the members out of the remaining property of the cooperative in accordance with the bye-laws.
- (3) Where the Federal Cooperative approves the final accounts rendered by a liquidator in pursuance of sub-section (2), it shall:
  - (a) issue directions regarding the custody or disposal of the documents and records of the cooperative; and
  - (b) discharge the liquidator.
- (1) Where the Federal Cooperative discharges the liquidator under sub-section (3), the Federal Cooperative shall issue a certificate of winding up and report to the Registrar for cancellation of registration.
- (2) The cooperative ceases to exist as a corporate body from the date on which the certificate of registration is cancelled.

## **52. Disposal of Assets of a Cooperative under Liquidation**

After preparation of a statement of assets and liabilities by the liquidator under clause (b) of sub-section (3) of section 49 with a view to realise optimum value for the assets of the cooperative under liquidation, the liquidator may also invite the Federal Cooperative or other cooperatives or cooperative societies to purchase the assets of such cooperative.

## Chapter-IX

### THE FEDERAL COOPERATIVE

#### 53. Constitution, functions and management of Federal Cooperative

- (1) There shall be a Federal Cooperative in the State. All Cooperatives registered under this Act shall be the members of such Federal Cooperative.
- (2) After the registration of fifty cooperatives under this Act, the Registrar shall frame the bye-laws of the proposed Federal Cooperative and take steps to register the Federal Cooperative and its bye-laws.

Provided that till the assumption of office by the first Board, the Registrar shall exercise the powers and perform the functions of the Federal Cooperative under this Act.

- (3) Where the Federal Cooperative is registered under this Act, the Registrar shall issue a certificate of registration signed by him which shall be conclusive evidence that the Federal Cooperative is duly registered as such under this Act.
- (4) The Federal Cooperative registered under this Act shall be a body corporate having perpetual succession and a common seal with power to hold property, enter into contracts, institute and defend the suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.
- (5) The Federal Cooperative shall immediately after its registration adopt its bye-laws framed by the Registrar. Any amendments of the bye-laws shall be in accordance with the procedure specified in section 11 and such amendment of bye-laws shall come into force on the date it is filed with the Registrar.
- (6) The provisions of Section 10 relating to framing of bye-laws by a cooperative shall, mutatis mutandis, apply to the Federal Cooperative.
- (7) The Federal Cooperative shall perform the following functions, namely:
  - (a) promote and organise cooperatives and for this purpose frame model bye-laws and issue guidelines for framing various policies for cooperatives in accordance with cooperative principles;
  - (b) provide cooperative training, education and information and propagate cooperative principles;

- (c) undertake research and evaluation and assist in the preparation of perspective development plans for the member cooperatives;
  - (d) promote harmonious relations between member cooperatives;
  - (e) consideration of an appeal of a director of cooperative who has been disqualified or removed;
  - (f) provide management development services to member cooperatives including participation in board meetings when required;
  - (g) evolve code of conduct for member cooperatives;
  - (h) evolve viability norms for member cooperatives;
  - (i) provide legal assistance and advice to member cooperatives;
  - (j) provide any other services at the behest of member cooperatives;
  - (k) promote new forms of cooperative enterprises;
  - (l) constitute and maintain a cooperative education fund;
  - (m) undertake experimental projects towards the application of cooperative ideology;
  - (n) liaise on behalf of and amongst cooperatives;
  - (o) serve as data bank of cooperatives;
  - (p) represent the interest of member cooperatives;
  - (q) ensure conduct of audit, elections and general body meetings of its member cooperatives within the time stipulated;
  - (r) undertake business and services on behalf of the member cooperatives;
  - (s) convene the special general body meeting where a member cooperative fails to convene such a meeting under sub-section (2) of section 30;
  - (t) prepare a panel of auditors and Chartered Accountants and send the same to the member cooperatives for appointment;
  - (u) conduct an inquiry or cause an inquiry to be conducted under section 35; and
  - (v) have the power of inspection, liquidation and supersession of the board of the member cooperatives.
- (1) The President or Chairperson of a member cooperative shall be the representative at the general body of the Federal Cooperative. If for any reason, the Chairperson or President is unable to represent, he may nominate any director of the board to be the representative. The representative shall continue to represent the cooperative in the Federal cooperative as long as he remains in office in the member cooperative.

## **52. Board of the Federal Cooperative**

- (1) The Board shall be responsible to manage the affairs of the Federal Cooperative.
- (2) The Board, except the first Board of the Federal Cooperative, shall consist of one representative from every revenue district in the State. If there are no cooperatives registered in any district under this Act or there are no eligible persons to be elected as directors, no representation shall be given to such district.
- (3) The term of the Board of the Federal Cooperative shall be five years from the date of assuming office.
- (4) The Chief Executive shall be the ex-officio director of the Board and shall not have right to vote in the election of office bearers.

## **52. Disqualification for being elected or continued as director**

- (1) A person shall be disqualified for being elected or continued as director of the Federal Cooperative, if such person:
  - (a) has at any time lost the right to vote as a member or to continue as such; or
  - (ii) has not been a voting member of the Federal Cooperative for a period of atleast two years, immediately preceeding the year of election; or
  - (iii) incurs any other disqualification specified in the bye-laws of the Federal Cooperative; or
  - (iv) absents himself from three consecutive board meetings or general meetings without leave of absence; or
  - (v) is convicted for an offence under this Act.
- (1) In addition to such disqualifications as may be specified in the bye-laws, the directors shall incur disqualification for being elected as directors of the Federal Cooperative if during their term as directors of the Federal Cooperative or any other cooperative, have not:
  - (a) conducted elections before the expiry of the term of the board;
  - (ii) conducted the annual general meeting within six months of closure of the year, or a requisitioned meeting of the general body within the specified time; or
  - (iii) placed the audited accounts for the preceeding year along with the reports of the auditors or Chartered Accountants, as the case may be, before the general body in its annual general meeting.

## **52. Powers and Functions of the Board**

The Board of the Federal Cooperative shall be the authority to exercise all the powers and perform all the functions conferred on the Federal Cooperative under this Act, rules and the bye-laws, and shall have powers:

- (a) to elect the President or Chairperson, Vice-President or Vice-Chairperson and other office bearers;
  - (b) to remove from office the President or Chairperson, or Vice President or Vice-Chairperson and other office bearers;
  - (c) to appoint and remove the Chief Executive;
  - (d) to fix staff strength;
  - (e) to frame policies concerning the organisation and services to the member cooperatives;
  - (f) to frame regulations regarding:
    - (i) custody and investment of funds;
    - (ii) maintenance of accounts;
    - (iii) mobilisation, utilisation and investment of various funds;
    - (iv) monitoring and management information system including statutory returns to be filed; and
    - (v) such other subjects and matters necessary for the effective performance of the Federal Cooperative;
- 
- (a) to place the annual report, annual financial statements, and annual plan and budget for the approval of the general body;
  - (b) to consider audit and compliance report and place the reports before the general body; and
  - (c) to undertake such other functions as may be delegated by the general body.

**52. Powers and functions of President or Chairperson Vice-President or Vice-Chairperson and other office bearers**

- (1) There shall be a President or Chairperson, Vice-President or Vice Chairperson of the Federal Cooperative elected from amongst the elected members of the Board.
- (2) The President or Chairperson shall preside over the meetings of the Board and general body of the Federal Cooperative. In the absence of the President or Chairperson, the Vice-President or Vice-Chairperson shall preside over the meetings of the board and general body of the Federal Cooperative. The President or Chairperson shall have only a casting vote in the event of equality of votes on any matter being decided upon by the board except election to the office bearers. The President or Chairperson shall exercise such powers as may be delegated by the board and specified in the policies framed or resolutions adopted by the board.

- (3) The term of office of the President or Chairperson and Vice-President, Vice-Chairperson shall be two and half years from the date of election.

**Explanation:** If the election to the President or Chairperson, Vice President or Vice Chairperson is held in the middle of the term, the remaining part of the term shall deemed to be a full term.

## **58. Elections**

- (1) The conduct of elections of the Board of Directors of the Federal Cooperative shall be the responsibility of the incumbent board of the Federal Cooperative. Elections shall be conducted before the expiry of the term of the office of the outgoing directors in the manner specified in the bye-laws.
- (2) The newly elected directors shall assume office immediately after expiry of the term of the outgoing board.
- (3) Where the number of nominations exceeds the number of directors to be elected, the election of directors shall be by secret ballot.

## **58. Filling up of Casual Vacancies**

- (1) Where there is a casual vacancy on account of death, resignation, or disqualification on the board and where:
  - (i) there is a quorum of directors, the board shall fillup the casual vacancy by cooption of a member for the remaining term;  
  
Provided that such cooption shall not be made if the remaining period is less than six months; or
  - (ii) there is no quorum of directors, the Chief Executive shall immediately take steps to call a general meeting for election of directors to fill up the vacancy for the remaining term.

## **58. Meetings**

- (1) The number of board meetings and general meetings shall be specified in the bye-laws of the Federal Cooperative.  
  
Provided that not less than six board meetings and one general meeting shall be held in a year.
- (2) The board shall convene a special general meeting within thirty days of receipt of a requisition to this effect from not less than one tenth of members of the Federal Cooperative or as provided in

the bye-laws and any such requisition shall contain the reasons for conducting such meeting.

- (3) In the event of failure by the Federal Cooperative to call such meeting, the Registration shall convene such general meeting within sixty days of receipt of such a request made to him by not less than one tenth of the members of the Federal Cooperative.
- (4) The Chief Executive of the Federal Cooperative shall record in the minute's book minutes of all proceedings of every general meeting and of every meeting of the board of the Federal Cooperative.
- (5) Such minutes shall be communicated to all persons invited for the meeting within thirty days of the conclusion of the meeting.
- (6) The minutes so recorded shall be signed by the person who chaired the said meeting.

#### **58. Employees of the Federal Cooperative**

- (1) The Board of Federal Cooperative shall determine the cadre strength of the establishment and scales of pay of its employees:

Provided that the Federal Cooperative may borrow the services of the employees of other cooperatives, cooperative societies, State or Central Government or their Organisations, Public-Sector Undertakings and such other professional experts on such terms and conditions as may be approved by the general body.

Provided further that the first Chief Executive shall be appointed by the Registrar.

- (2) The Chief Executive shall perform functions in accordance with the bye-laws and shall:
  - (a) have general superintendence and control over the day to day affairs of the Federal Cooperative;
  - (b) be the person to sue and be sued on behalf of the cooperative;
  - (c) have powers on behalf of the Federal Cooperative to endorse, sign, negotiate cheques and other negotiable instruments and operate the bank accounts of the Federal Cooperative;
  - (d) be responsible for appointment of employees and to ensure discipline, performance and welfare;
  - (e) be the person to enter into agreements or contracts on behalf of the Federal Cooperative;
  - (f) arrange to maintain proper records and accounts of the Federal Cooperative;

- (g) present the draft annual report and financial statements for the approval of the board within the time stipulated in the bye-laws;
- (h) convene the board meetings and general body meetings in consultation with the President or Chairperson, in accordance with the bye-laws and record the proceedings thereof;
- (i) assist the board in the formation of policies and plans;
- (j) be responsible to the board;
- (k) furnish to the board information necessary for monitoring the performance of the Federal Cooperative;
- (l) furnish registers and accounts at the time of audit by the auditor or by the Chartered Accountant; and
- (m) perform any other function authorised by a resolution of the board and general body.

#### **58. Funds of the Federal Cooperative**

- (1) The Federal Cooperative shall constitute a fund called "Federal Cooperative Fund"
- (2) The Federal Cooperative Fund shall consist of:
  - (i) interest free initial loan of a sum of rupees ten lakhs made by the Government which is repayable within a period of ten years by the Federal Cooperative to Government; and
  - (ii) contributions made by each member cooperative every year at such rates specified in the bye-laws of the Federal Cooperative;
- (1) The Federal Cooperative shall also maintain a Cooperative Education Fund.
- (2) If any member cooperative fails to make the contribution towards the Federal Cooperative Fund without prejudice to any action to which such member cooperative is liable under section 68, such cooperative shall not have a right to vote and contest for any office in the general body meeting of the Federal Cooperative.

#### **58. Accounts**

The Federal Cooperative shall maintain the following records and books of accounts, namely:

- (a) the minutes book;
- (b) registration certificate and a copy of the registered bye-laws and of the amendments registered from time to time;
- (c) bye-laws of the Federal Cooperative and of each of its member cooperatives with upto date amendments;

- (d) accounts of all sums of money received and expended by the Federal Cooperative and the respective purposes;
- (e) accounts of all purchases and sales of goods by the Federal Cooperative;
- (f) accounts of the assets and liabilities of the member cooperatives and the Federal Cooperative;
- (g) a register showing total membership and the memberwise use of various services;
- (h) a list of members with voting rights for the current year updated within thirty days of closure of the year;
- (i) up-to-date copies of the board resolutions; and
- (j) annual report and audit report.

#### **58. Audit**

The accounts of the Federal Cooperative shall be audited every year by an auditor or a Chartered Accountant appointed by the Federal Cooperative.

#### **59. Inquiry**

- (1) On an application of a creditor to whom the Federal Cooperative is indebted or of not less than one third of the members of the board of the Federal Cooperative or of not less than one tenth of the total members of the member cooperatives, the Registrar shall conduct an inquiry forthwith into any matter raised in such an application relating to the constitution, management, working and financial conditions of the Federal Cooperative. The cost of inquiry shall be met by the creditor or by the Federal Cooperative or by the member cooperatives, as the case may be.
- (2) The Registrar shall issue, in writing, a notice not less than fifteen days to the Federal Cooperative regarding the date on which he proposes to commence the inquiry;
 

Provided that for reasons to be recorded in writing he may issue a shorter notice.
- (3) The inquiry shall be completed as far as may be within a period of six months from the date of order of the inquiry. However, such period may be extended by six months under extraordinary circumstances.
- (4) The Registrar shall, within a period of one month from the date of conclusion of the inquiry, send a copy of the inquiry report to the Federal Cooperative and to the applicant.
- (5) For the purpose of inquiry under this Act, the Registrar,:

- (a) may require in writing the President or Chairperson Vice President or Vice Chairperson, or any Director, office bearer or officer or any other authority concerned to produce such receipts, vouchers, statements, returns, correspondences, notice or any other documents, as he may consider necessary for the purpose of inquiry;
- (b) shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the Federal Cooperative and may summon any person in possession or responsible for the custody of any other properties to produce the same at any public office or at the head quarters of the Federal Cooperative or any branch thereof;

may summon any person who, he has reason to believe has knowledge of any of the affairs of the Federal Cooperative, to appear before him at public office or at the headquarters of the Federal Cooperative or any branch thereof and may examine such person on oath.

#### **58. Action on Inquiry Report**

Where the inquiry report reveals mismanagement on the part of any or all of the office bearers or directors or officers and employees of the Federal Cooperative, the Registrar may without prejudice to any civil or criminal proceedings to which they may be liable, direct the board to convene a general meeting within such reasonable time as he may specify, to discuss the findings of the inquiry report and for initiating necessary action against the concerned.

### **Chapter-X**

#### **COOPERATIVE PRINCIPLES**

#### **59. Cooperative principles**

The Cooperatives registered under this Act shall as far as possible be guided by the following cooperative principles, namely,-

- (1) Cooperatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.
- (2) Cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In Primary cooperatives, members have equal voting rights (One member, one

vote) and cooperatives at other levels are organised in a democratic manner.

- (3) Members contribute equitably to, and democratically control the capital of, their cooperative. At least part of that capital is usually the common property of all cooperative. They usually receive limited compensation, if any, on the capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes; developing the cooperative possibly by setting up reserves part of which at least would be indivisible, benefitting members in proportion to their transactions with the cooperative; and supporting other activities approved by the membership.
- (4) Cooperatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations including Government or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy.
- (5) Cooperatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their cooperatives. They inform the general public particularly young people and leaders about the nature and benefits of cooperation.
- (6) Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, regional, national and international structures.
- (7) While focusing on member needs, cooperatives work for the sustainable development of their communities through policies accepted by their members.

## **Chapter-XI**

### **OFFENCES AND PENALTIES**

#### **58. Offences and penalties**

- (1) If an office bearer or director or a Chief Executive or any employee of a cooperative or Federal Cooperative wilfully fails to issue a notice, send a return or document or neglects or refuses to furnish any information or wilfully furnishes a false or an insufficient information required under this Act or the bye-laws of a cooperative, shall be punishable with a fine which may extend to five thousand rupees or imprisonment which may extend to one year or with both.
- (2) If an office bearer, a Chief Executive, a director or any employee of a cooperative or Federal cooperative fails to do any

act required to be done under this Act or allows to be done any act forbidden by this Act or the bye-laws or fails to fulfil the duties or indulges in fraudulent activities concerning the constitution, management and business or misuses funds and properties or indulges in the conduct of election to the board of directors "in corrupt" practices as defined under section 123 of the Representation of Peoples Act, 1951 (Central Act 43 of 1951) or fails to provide such information or produce such books or records or to give assistance or fails to appear in person before the person conducting an inquiry under sections 35 and 65 or audit under section 33 and 64 or fails to contribute to the "Federal Cooperative Fund" of the Federal Cooperative, shall be punishable with fine which may extend to ten thousand rupees or with imprisonment which may extend to two years or with both.

## **Chapter-XII**

### **MISCELLANEOUS**

#### **58. Cognizance of offence**

No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

#### **59. Power to remove difficulties**

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification and after publication in the Official Gazette, make such provisions as appear to it to be necessary or expedient to remove the difficulty.

#### **60. Power to make rules**

- (1) Government may, by notification and after previous publication in the Official Gazette, make rules to carry out the purposes of this Act.
- (2) Every rule made under this Act shall as soon as may be after it is made be laid before each house of the State legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions in which it is so laid or the sessions immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **58. Savings**

Notwithstanding anything contained in section 6 of this Act, where a cooperative society registered under the Karnataka Cooperative Societies Act 1959 is converted to a cooperative under this Act, and at the time of such conversion was a party to any proceedings under sections, 63, 64, 65, 69, 70, 99, 100, 101, 103, 104, 106, 108 or 109 of the Karnataka Cooperative Societies Act, 1959 such proceedings shall be continued and finally decided, as if the cooperative society was not converted into a cooperative under this Act and any decree or order or award so passed in such proceedings against any person or a cooperative registered under this Act, shall be executed against such person or such cooperative in accordance with section 101 the Karnataka Cooperative Societies Act, 1959.

## **STATEMENT OF OBJECTS AND REASONS**

The Karnataka Souhardha Sahakari Act, 1997 among other things provide for;

- (1) the recognition, encouragement and voluntary formation of cooperatives based on self help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by cooperative principles specified therein;
- (2) removing all kinds of restrictions that have come to clog the free functioning of the cooperatives and the controls and interference by the Government except registration and cancellation;
- (3) promotion of subsidiary organisation, partnership between cooperatives and also collaboration between cooperatives and other institutions.
- (4) registration of cooperatives, union cooperatives and Federal Cooperative in furtherance of the objectives specified above.
- (5) conversion of cooperative societies registered under the Karnataka Cooperative Societies Act, 1959 as a cooperative under the proposed legislation.

Hence the Act.

## **FINANCIAL MEMORANDUM**

The Officers and Staff of the Cooperative Department will be deployed for implementation of the proposed Act. Hence there will be no extra expenditure on this account.

However, the Government has to make an interest free initial loan of Rs 10.00 lakhs to the Fund of the Federal Cooperative which is returnable within a period of ten years.

**MEMORANDUM REGARDING DELEGATED  
LEGISLATION**

- Clause 35: Sub-clause (3) of clause 35 of the Act empowers the State Government to prescribe fees on the application for an enquiry under section 35.
- Clause 72: Empowers the State Government to make rules to carry-out the purposes of the Act.

The proposed delegation of legislative power is normal in character.

S.S.PATIL,  
*Minister for Cooperation.*

YAKUB SHARIFF,  
*Secretary.*