

KARNATAKA ACT NO. 26 OF 2016

(First Published in the Karnataka Gazette Extra-ordinary on the
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THE KARNATAKA SOUHARDA SAHAKARI (AMENDMENT) ACT, 2016

(Received the assent of the Governor on the Twenty ninth day of July, 2016)

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

Whereas, it is expedient further to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000);

Be it enacted by the Karnataka State legislature in the sixty seventh year of the republic of India, as follows:-

1. Short title and Commencement.- (1) This Act may be called the Karnataka Souharda Sahakari (Amendment) Act, 2016.

(2) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint.

2. Amendment of section 15.- In the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) (hereinafter referred to as the principal Act) in section 15, in sub-section (1), after the proviso, the following shall be inserted, namely:-

"Provided further that, subject to such rules as may be prescribed, no co-operative shall promote or invest in subsidiary organizations without prior approval of the registrar."

3. Amendment of section 18.- In section 18 of the principal Act, for clause (a), the following shall be substituted, namely:-

"(a) in any of the securities approved by the Government; or"

4. Amendment of section 21A.- In section 21A of the principal Act, sub-section (1), after clause(b), the following shall be inserted, namely:-

"(c) or a recognized self-help group which do not have Government aid" shall be inserted.

5. Amendment of section 21B.- In section 21B of the principal Act, in sub-section (1), for the proviso, the following shall be substituted, namely:-

"Provided that other than employees co-operatives number of associate members shall not exceed fifteen percent of the total members."

6. Amendment of section 24.- In section 24 of the Principal Act,-

(i) for the word "eleven" the word "thirteen" shall be substituted;

(ii) for sub-section (1), the following shall be substituted, namely:-

"(1) in case of a primary co-operative and a secondary co-operative whose area of operation extends to,-

- (a) a part of taluk, thirteen members;
- (b) whole of taluk, fifteen members;
- (c) beyond a taluk, seventeen members;
- (d) in the case of a union co-operative, nineteen members
- (e) in the case of an apex co-operative including the federal co-operative, twenty one members.

Provided that one seat shall be reserved in favour of members belonging to the scheduled castes and one seat for the members belonging to the scheduled tribes, two seats shall be reserved in favour of women members and two seats shall be reserved in favour of members belonging to backward classes as may be notified by the State Government, on the board of every co-operative consisting of individuals as members and having members from such class or category of persons.

Provided further that every co-operative shall co-opt persons having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the co-operative, as members of the board of such co-operative and such co-opted members shall not have the right to vote in any election of the co-operative in their capacity as such member or to be eligible to be elected as office bearers of the board.

Provided also that the number of such co-opted members shall not exceed two in addition to twenty one directors specified in sub-section (1).

Provided also that not more than three functional directors if necessary of a cooperative shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the sub-section (1)."

7. Amendment of section 25.- In section 25 of the principal Act, in sub-section (2) after clause (c) the following shall be inserted, namely:-

"(d) have violated the order or direction of the Federal Cooperative or violated any order of quasi-judicial authority or court;

(e) have opened branches without prior approval of the Federal Cooperative."

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

"25A. Motion of no-confidence against office-bearer: (1) A motion of no-confidence against an office bearer may be moved only after two years of his assumption of office. In case, the motion of no-confidence is once defeated, a fresh motion shall not be introduced within one year thereafter. No motion of no-confidence shall be moved unless there is a request from not less than one-third of the elected members of the Board of a co-operative concerned.

(2) An office bearer of a co-operative shall be deemed to have vacated his office forthwith, if a resolution expressing want of confidence in him is passed by a majority of two third of the total number of elected directors of a co-operative at a meeting specially convened for the purpose.

(3) The procedure for no-confidence motion shall be such as may be prescribed."

9. **Insertion of new section 38B.**- After section 38A of the Principal Act, the following shall be inserted, namely:-

"38B. **Power to seize books and property.**- If any officer or person conducting audit under section 33, inquiry under section 35, or inspection, has reason to believe that any books or other property of the co-operative have tampered with or are likely to be tampered with, if left with the co-operative with a view to eliminate or efface or change or manipulate any evidence which may be deemed necessary by such officer or person in connection with the proof of any defect or irregularities noticed by him during the course of audit, inquiry or inspection, the Registrar by issuing a special order empower such officer to seize and impound such books or property in such manner and for such period as may be prescribed."

10. **Amendment of section 48.**- In section 48 of the Principal Act, in sub-section (2), in the hanging paragraph, after the words "he may suo moto" the words "or on the recommendation of the federal co-operative." shall be inserted.

11. **Amendment of section 49.**- In section 49 of the Principal Act, in sub-section (1) after the words "creditor of co-operative" the following shall be inserted, namely:-

"the Liquidator, as so appointed, shall take the charge and enlist the asset and liabilities of the co-operative and obtain approval for the priority list from the Registrar and shall commence the liquidation process after such approval only."

12. **Insertion of new section 52A.**- After section 52 of the Principal Act, the following shall be inserted, namely:-

"52A **Transfer of surplus funds, deposits and assets.**- After completion of the liquidation process, if any surplus funds, deposits, movable or immovable assets remains, such funds or assets shall be transferred to the souharda co-operatives development fund with the approval of the Registrar. The establishment, custody, management and utilisation of such fund shall be such as may be prescribed."

13. **Insertion of new section 69A.**- After section 69 of the Principal Act, the following shall be inserted, namely:-

"69A. **Complaint regarding offences.**- No complaint regarding offences under section 68 shall be instituted unless it is approved by the Registrar.

Provided that no approval of the Registrar shall be necessary for filing criminal complaint against the delinquents for alleged misappropriation or

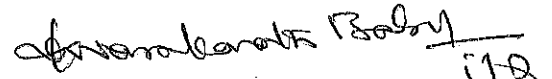
embezzlement of funds of a co-operative detected during course of audit, enquiry or inspection or in the normal course of business of a co-operative.

69B. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority or the Director of co-operative Audit or any other person subordinate to him acting on his authority or against the new Board of the co-operative or the administrator appointed under section 38 or the Special Officer appointed under section 38A in respect of anything done in good faith or purporting to have been done under this Act."

The above translation of ಕರ್ನಾಟಕ ಸೌಹಾರ್ದ ಸಹಕಾರಿ (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2016 (2016ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 26) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

VAJUBHAI VALA
GOVERNOR OF KARNATAKA

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



(K.DWARAKANATH BABU)

Secretary to Government
Department of Parliamentary Affairs