

# The Karnataka Souharda Sahakari Act, 1997

KARNATAKA

India

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### Act 17 of 2000

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Karnataka Souharda Sahakari Act, 1997(Karnataka Act No. 17 of 2000)Statement of Objects and Reasons - (Act 17 of 2000). - The Karnataka Souharda Sahakari Bill, 1997 among other things provide for;-(1) the recognition, encouragement and voluntary formation of co-operatives based on self help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles specified therein;(2) removing all kind of restrictions that have come to clog the free functioning of the co-operatives and the controls and interference by the Government except registration and cancellation;(3) promotion of subsidiary organisation, partnership between co-operatives and also collaboration between co-operatives and other institutions.(4) registration of co-operatives, union co-operatives and Federal Co-operative in furtherance of the objectives specified above.(5) conversion of co-operative societies registered under the Karnataka Co-operative Societies Act, 1959 as a co-operative under the proposed legislation.Hence the Bill.(Obtained from L.A. Bill No. 25 of 1997)Statement of Objects and Reasons - (Amending Act 21 of 2004). - The Karnataka Souharda Sahakari Bill, 1997 received the assent of the President of India on 28-03-2000 with certain observations to modify and include specific suggestions of Reserve Bank of India with regard to Banking Business.Therefore in pursuance of the observations of Government of India, and suggestions of the Reserve Bank of India, it is proposed to amend the Karnataka Souharda Sahakari Act, 1997 namely:- (1) to incorporate the definition of the terms "Co-operative Bank", "Deposit Insurance Corporation", "National Bank" and "Reserve Bank" as suggested by Government of India.(2) to exclude the Housing Co-operative Societies from the purview of the Act to avoid misappropriation, misutilisation and mismanagement in Housing Co-operative Societies.(3) to require the Co-operative Societies carrying on banking business to obtain prior approval licence from Reserve Bank of India.(4) to provide that a Co-operative Bank has to carry on its business in conformity with the banking and credit policy laid down by the Reserve Bank of India and National Bank.(5) to safeguard such interests of depositors as are not detrimental to the public interest or contrary to banking policy.(6) to make liable a past member, for his commissions and omissions as such member, if he ceases to be a member of such Co-operative.(7) to fix the time to conduct elections to the first board of the Co-operative after registration by amending section 26.(8) To

provide a copy of enquiry report or information required by Reserve Bank to Reserve Bank of India relating to Co-operative Bank to enable the Reserve Bank to supervise the functioning of such Co-operative Bank.(9) To protect the interest of non-member depositor before winding up a Co-operative Bank.(10) To vest the power of supersession and liquidation of Co-operatives and of ordering inquiry into the affairs of any co-operative with the Registrar.(11) To enable the Registrar or an officer appointed by him to function ex-officio director on the board of the Federal Co-operative by amending section 54.Opportunity is also taken to make certain consequential amendments.Hence the Bill.(Obtained from LC Bill No. 1 of 2004)Statement of Objects and Reasons - (Amending Act 16 of 2005). - The Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) received the assent of the President of India on 28.03.2000 with certain observations to modify and include specific suggestions of Reserve Bank of India with regard to Banking Business. The Karnataka Souharda Sahakari Act, 1997 was amended as per Karnataka Act No. 21 of 2004 covering the specific suggestion of the Reserve Bank of India. Now, the Reserve Bank of India has given some more suggestions to amend the Act.Therefore, it is proposed to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000), namely: -1. to amend clause (e) of section 2 to state that a co-operative registered under the said Act shall be deemed to be a co-operative society for the purpose of Banking Regulation Act, 1949 and related laws.2. to amend clause (ee) of section 2 to provide that the primary object of a Co-operative Bank shall be the Business of Banking.3. to delete clause (ix) of sub-section (2) of section 10, in view of provision of section 26(1) which provides that the elections should be held in the prescribed manner and section 28 which provides for election of office bearers and section 29 which provides for filling up of casual vacancies.4. to amend section 25 to provide for the Federal Co-operative to decide the disqualification of the director of a co-operative and the Registrar to decide the appeal against the order of the Federal Co-operative.5. to amend section 53 by deleting clause (e) of sub-section (7) in view of the amendment proposed to section 25.6. to amend sub-section (1) of section 67A to provide that the Registrar shall pass an order of supersession of a Board or Liquidation of a Co-operative Bank when so required by the Reserve Bank of India in writing.Hence the Bill.[LC Bill No. 6 of 2005]Statement of Objects and Reasons - (Amending Act 4 of 2013). - It is considered necessary to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act No, 17 of 2000) to be in conformity with the provisions of the constitution (97th Amendment) Act, 2011. Opportunity is also taken to make other consequential amendments.Hence the Bill.[L.A. Bill No.42 of 2012, File No. Samvyashae 72 Shasana 2012][Entry 32 of List II of the Seventh Schedule to the Constitution of India.]Statement of Objects and Reasons - (Amending Act 34 of 2014). - It is considered necessary to further to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act No, 17 of 2000) to provide for,-(i) rejection of bye-laws on technical reasons;(ii) prescribing fee for bye-law amendments;(iii) avoid dual membership;(iv) provisions for appeal in case of rejection of membership;(v) confirm the voting rights;(vi) restrictions on collecting of deposits on non-members; and(vii) other incidental and consequential amendments.Hence the Bill.[L.A. Bill No.52 of 2014, File No. Samvyashae 07 Shasana 2014][entry 32 of List II of the Seventh Schedule to the Constitution of India.]Statement of Objects and Reasons - (Amending Act 26 of 2016). - It is considered necessary to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) to, -(i) increase the number of associate members from present 10% to 15%;(ii) provide separate reservations for the Scheduled Castes and the Scheduled Tribes members in the management of the souharda sahakari;(iii) make provision for no confidence motion against the

office-bearers in souharda co-operatives;(iv) make provision for power to seize books and property of the co-operative by the officer conducting audit, enquiry or inspection; and(v) provide for transfer surplus funds on liquidation to souharda co-operative development fund.Hence the Bill.[L.A. Bill No. 26 of 2016, File No. Samvyashae 34 Shasana 2016][Entry 32 of List II of the Seventh Schedule to the Constitution of India.]Statement of Objects and Reasons - (Amending Act 08 of 2017). - It is considered necessary to amend the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) to make a provision for appropriation of 0.50 percent of amount out of the net profit of every Co-operative towards the Sahakara Academy (Reg), Mysore, registered under the Karnataka Societies Registration Act, 1960 and sponsored by the State Government for the purpose of carrying out Co-operative education, training and research.Hence, the Bill.[L.A. Bill No.43 of 2016, File No. Samvyashae 62 Shasana 2016][entry 32 of List II of the Seventh Schedule to the Constitution of India](First Published in the Karnataka Gazette on the tenth day of May, 2000)(Received the assent of the President on the twenty eighth day of March, 2000)An Act to provide for recognition, encouragement and voluntary formation of Co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive, self-reliant and economic enterprises guided by co-operative principles and matters connected therewith;Whereas it is expedient to provide for recognition encouragement and voluntary formation of co-operatives based on self-help, mutual aid, wholly owned, managed and controlled by members as accountable, competitive self-reliant and economic enterprises guided by co-operative 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 Act, 1997.(2)It shall come into force on such [date] [Act came into force on 1.1.2001.] as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

#### **2. Definitions.**

- In this Act unless the context otherwise requires, -(a)[ "Apex cooperative" means a co-operative whose membership is open to co-operatives only and whose area of operation extends to the whole of the State. [Substituted by Act, 4 of 2013 w.e.f. 11.02.2013.](a1)"Area of operation" means jurisdictional area from which the membership is drawn or as specified in the bye-laws of the cooperatives.(a2)[ "Backward Classes" means such classes of citizens as may be classified as category "A" and "B" and notified by the Government from time to time for the purpose of reservation in the board Co-operative](a3)"Board" means the board of directors or the governing body of a cooperative or a federal cooperative by whatever name called, to which the direction and control of the management of the affairs of the cooperative is entrusted to](b)"Bye-laws" means the bye-laws of Co-operatives registered or deemed to be registered under sections 5 and 11 including

the bye-laws of the Federal Co-operative registered under section 53;(c)"Chief Executive" means any employee appointed by the board of a Co-operative or Federal Co-operative by whatever designation called who discharges the functions of a Chief Executive under the bye-laws of such Co-operative or Federal Co-operative;(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 Co-operative or union Co-operative;(e)"Co-operative" means a Co-operative including a Co-operative 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 [and for the purposes of the Banking Regulation Act, 1949 (Central Act 10 of 1949), the Reserve Bank of India Act, 1934 (Central Act 2 of 1934), the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961) and the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 67 of 1981)", it shall be deemed to be a Co-operative Society.] [Inserted by Act 16 of 2005 w.e.f. 1.6.2005.](ee)[ "Co-operative Bank" means a Co-operative engaged in or having as [its primary object] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.] , the business of banking;"Explanation. - For the purpose of this clause "banking" shall have the meaning assigned to it in section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949).](e1)[ "Cooperative Election Commission" means the cooperative election commission constituted under section 39AA of the Karnataka Co-operative Societies Act, 1959(Karnataka No. Act 11 of 1959)] [Inserted by Act, 4 of 2013 w.e.f. 11.02.2013.](f)"Co-operative Principles" means the Co-operative principles specified in Chapter X;(g)"Co-operative Society" means a Co-operative society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959);(h)"Co-operative with limited liability" means a Co-operative in which liability of its members for the debts of the Co-operative in the event of its being wound up is limited to the share amount contributed by such members;(i)"Co-operative with unlimited liability" means a Co-operative 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 Co-operative;(j)"Co-operative Year" [\*\*\*] [Omitted by Act, 4 of 2013 w.e.f. 11.02.2013.] means the year commencing from first day of April;(k)"Deficit" means the net excess of expenditure over income;(k1)[ "delegate" means a member of a cooperative to represent that cooperative in other cooperatives] [Inserted by Act, 4 of 2013 w.e.f. 11.02.2013.](kk)[ "Deposit Insurance Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961)] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](l)[ "Director" means an elected or co-opted member of the board;] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.](l1)[ "Director of cooperative audit" means the Director of cooperative audit as defined in clause (a-4) of section 2 of the Karnataka cooperative Societies Act, 1959 (Karnataka Act No. 11 of 1959)] [Inserted by Act, 4 of 2013 w.e.f. 11.02.2013.](m)"Federal Co-operative" means a Federal Co-operative constituted under section 53;(n)"Financing Agency" means a Co-operative or commercial bank and includes any other body or corporation or financial institution which gives financial assistance to a Co-operative;(o)"General Body" in relation to the Co-operative means the general body of all the members of the Co-operative under [section 23 and section 53] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] includes a representative general body of the members;(p)"General Meeting" means a meeting of the general body of the members of the Co-operative or Federal Co-operative;(q)"Government" means the State Government;(qq)[ "Insured Bank" means a Co-operative Bank having the same meaning as assigned to it in clause (i) of section

2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](r)"Member" means a person who has contributed towards the share capital of a Co-operative before its registration and includes a person admitted to membership after such registration in accordance with the Act, rules and the bye-laws [and includes a nominal [\*\*\*] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.] member];(rr)[ "National Bank" - means the National Bank for Agriculture and Rural Development constituted under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](s)"Officer Bearer" means the President or Chairperson, Vice President or Vice Chairperson, [elected Secretary, Treasurer or Special Officer] [Inserted by Act, 4 of 2013, w.e.f 11.02.2013.] 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 Co-operative" means a Co-operative whose membership is not open to another Co-operative;(u)"Registrar" means an Officer of the Government appointed under section 3 to perform the functions of the Registrar of Co-operatives and includes Additional Registrars of Co-operatives, Joint Registrars of Co-operatives, Deputy Registrars of Co-operatives and Assistant Registrars of Co-operatives 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;(u1) ["Representative" means a person elected by a group of individual members of a primary cooperative or a secondary cooperative to represent them and participate on their behalf in the representative general body meeting of the cooperative in accordance with this Act, or the rules and the bye-laws made there under. [Inserted by Act, 4 of 2013, w.e.f 11.02.2013.](u2)"Representative General Body" means all the representatives of a primary cooperative or a secondary cooperative.(u3)"Representative General Meeting" means a meeting of the representatives called and conducted in accordance with provisions of the Act, the rules and the bye-laws of the primary cooperative or the secondary cooperative.](v)[ "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934).] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](x)[ [Renumbered by Act 21 of 2004 w.e.f. 31.3.2004.] "Surplus" means the net excess of income over expenditure;(w) ["Secondary Co-operative" means a Co-operative whose membership is also open to another Co-operative]. [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](w1)[ "State Level Cooperative" means a cooperative whose area of operation extends to the whole of the State.] [Inserted by Act, 4 of 2013, w.e.f 11.02.2013.](y)[ [Renumbered by Act 21 of 2004 w.e.f. 31.3.2004.] "Union Co-operative" means a Co-operative of [twenty] [Substituted by Act, 4 of 2013 w.e.f. 11.02.2013.] or more Co-operatives registered under section 5.

## 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 Co-operatives 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 Co-operatives 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 Co-operatives.

#### **4. Co-operatives which may be registered.**

- [(1) No co-operative shall be registered under this Act, unless, -(a)its main objects are to serve the interests of the members in the area of operation.(b)its bye-laws provides for economic and social betterment of its members through self help and mutual aid in accordance with the co-operative principles."](2)[ [Re-numbered by Act 21 of 2004 w.e.f. 31.3.2004.] Subject to the provisions of this Act where,-(a)not less than ten individuals belonging to different families intend to form a Co-operative; or(b)a Co-operative society intends to convert itself into a Co-operative under this Act by passing a resolution in this behalf; or(c)[twenty or more cooperatives] [Substituted by Act, 4 of 2013 w.e.f. 11.02.2013.] registered under this Act intend to form into a union Co-operative by passing a resolution in this behalf; they may be [to avoid unhealthy competition among different types of Co-operatives, Registrar may issue direction and circulars from time to time, subject to these circular and direction.] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.] registered as Co-operative under this Act.[Provided that no Co-operative shall be registered if it is likely to be economically unsound or the registration of which may have an adverse impact on the development of the Co-operative movement. Provided further that no Co-operative shall be registered under this Act as a Housing Co-operative and no Housing Co-operative Society shall be converted into a Housing Co-operative.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]

#### **5. Application for registration of Co-operative.**

(1)An application for registration of a Co-operative 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 Co-operative as adopted by the promoters of such Co-operative or by the representatives of Co-operatives who wish to form into a union Co-operative or by the general body of a Co-operative society which intends to convert itself into a Co-operative under this Act;(b)a list of names of individuals or Co-operatives which intend to form a Co-operative and in the case of a Co-operative 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 bye-laws were adopted, or in the case of a Co-operative 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 Co-operative society, documents to show that the Co-operative society has not received any share capital and any loans or guarantee by Government or loans and guarantee by any Co-operative society.(3)The Registrar shall, if he is satisfied that,-(a)the application is in conformity with the provisions of this Act and rules;(aa)[ the proposed Co-operative complies with the

requirements of sound business and has reasonable chances of success,] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](b)the proposed bye-laws are in conformity with section 10; and(c)the name of the proposed Co-operative is not the same as that of a Co-operative already registered under this Act or is not the same as that used by a Co-operative society already registered under section 7 of the Karnataka Co-operative Societies Act, 1959,register the Co-operative 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 Co-operative 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 Co-operative.[Provided that in the case of [a proposed] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.] Co-operative Bank, the registration in terms of this section shall take place only with the prior approval of the Reserve Bank.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](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 Co-operative 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) may 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 Co-operative shall be deemed to have been registered under this Act after the expiry of the said period.

## **6. Certificate of registration.**

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

## **7. Co-operative to be a body corporate.**

- A Co-operative registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and common seal. The Co-operative 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 Co-operative may be registered with limited or unlimited liability. Where the liability is limited, the expression "limited" shall be suffixed to the name of the Co-operative.

## 9. Display of names etc.

- Every Co-operative 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 bills 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 Co-operative shall function in accordance with its bye-laws which as far as possible shall adhere to the Co-operative principles.(2)The bye-laws of every Co-operative shall provide for the following matters, namely:-(i)the name, address and area of operation of the Co-operative;(ii)the objects of the Co-operative;(iii)conditions of eligibility, disqualifications for, and procedure for admission, withdrawal, removal or cessation of membership including that of the directors and office bearers;(iiia)[ the rights, privileges, duties and liabilities of membership including those of [nominal members] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]](iv)recruitment and conditions of service of staff of the Co-operative;(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 Co-operative;(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 \*\*\*\*)] [Omitted by Act 16 of 2005 w.e.f. 1.6.2005.](x)the composition of the board and number of office bearers; [and the powers, functions and duties of the board] [Inserted by Act 4 of 2013 w.e.f 11.02.2013.][(x-a) the travelling allowance, daily allowance, sitting fee and other allowances of the directors.] [Inserted by Act 4 of 2013 w.e.f 11.02.2013.](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 Chairperson;(xiii)the powers, functions and duties of Chief Executive;(xiv)the terms and conditions on which the Co-operative may deal with non-members;(xv)the manner of electing representatives to union Co-operatives and the Federal Co-operative;(xvi)the nature and amount of authorised share capital of the Co-operative;(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 Co-operative Fund and the constitution of various funds and their purposes;(xxi)[ appropriation of amount out of the net profit specifically for the following: - [Inserted by Act 4 of 2013 w.e.f 11.02.2013.](a)twenty five percent towards the reserve fund constituted by the co-operative;[(a-a) 0.50 percent towards the Sahakara Academy (Reg), Mysore, registered under the Karnataka Societies Registration Act, 1960 and sponsored by the State Government for the purpose of carrying out Co-operative education, training and research.](b)two percent towards the cooperative education fund to the Karnataka State Souharda Federal cooperative. provided that no cooperative which has failed to contribute to the Cooperative Education Fund shall pay dividend to



its members.(c)twenty percent towards the operational reserve to meet unforeseen losses or contingencies;(d)five percent towards the Common Good Fund whose purpose is approved by the general body;(e)constitution of, or contribution to, such special funds as may be specified in the bye-laws.(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 Co-operative 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 Co-operative is under liquidation;(xxv)the circumstances and manner of winding up of the Co-operative; and(xxvi)any other matter which is required to be or may be provided in the bye-laws.(3)[ Notwithstanding anything to the contrary contained in this Act, in the case of a co-operative bank, the bye-laws framed under sub-section (2) pertaining to acceptance of deposits, borrowing of funds, maintenance of reserve fund, appropriation of profit. grant of loan, fixation of interest rate on deposits and advances, and such other activities as mentioned in section 6 of the Banking Regulation Act, 1949 as applicable to co-operative societies shall be subject to the provisions of the said Act, the rules, regulations or directions made or issued thereunder from time to time by the Reserve Bank or the National Bank.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]

## 11. Amendment of bye-laws.

(1)A Co-operative 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 Co-operative 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 Co-operative, an application for the registration of the amendment with particulars specified in subsection (3), shall be forwarded by registered post to the Registrar within a period of thirty days from the date of the resolution. [or by person. If there is delay in submission of proposal, the Registrar, may condone the delay if satisfied with justifiable reasons for the delay and consider bye-law the amendment proposal]. [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.](3)Every application forwarded under subsection (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 Co-operative 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.(c)[ in the case of a Co-operative Bank, a certificate signed by the President or Chairperson, stating that the proposed amendments are in conformity with sub-section (3) of section 10;] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](d)[ a treasury Challan or Demand Draft in favour of the Registrar for having remitted the fee as prescribed.] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.](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

Co-operative 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 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 Co-operative.(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 Co-operative an opportunity of being heard.(7)The Registrar shall communicate by registered post to the Co-operative, 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) may 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 Co-operatives.**

(1)A Co-operative 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 Co-operative which by a like resolution agrees to accept such transfer;(c)divide itself into two or more Co-operatives.(2)Any two or more Co-operatives may, by passing a resolution at respective general meetings, decide to amalgamate themselves and form a new Co-operative. Every such resolution of a Co-operative 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 Co-operative, Federal Co-operative to which it is affiliated, and the consent of the members, creditors, union Co-operative and Federal Co-operative has been obtained.[Provided further that in the case of a Co-operative Bank, no resolution under sub-section (1) or under this sub-section, shall be passed without the prior sanction in writing of the Reserve Bank.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](3)Notwithstanding anything contained in any bye-law or contract to the contrary, any member, a union Co-operative, Federal Co-operative 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 subsection (2).(4)The union Co-operative, Federal Co-operative or any member or creditor who does not exercise his option within the period specified under subsection (3), shall be deemed to have consented to the resolution.(5)No resolution of a Co-operative 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 Co-operative, Federal Co-operative and creditors have consented or are deemed to have consented to the resolution under subsection (3) or sub-section (4), as the case may be; or(ii)all claims of the members, union Co-operatives, Federal

Co-operative and creditors who have exercised the option referred to under subsection (3) within the period specified therein, have been met in full or otherwise satisfied; and(b)amendment of the bye-laws of Co-operative concerned is registered; and(c)in the case of division or amalgamation, certificate of registration of the Co-operative or Co-operatives is issued.(6)Where a resolution passed by a Co-operative 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 Co-operative are transferred to another Co-operative, the registration of the first mentioned Co-operative shall stand cancelled and that Co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body.(2)Where two or more Co-operatives are amalgamated into a new Co-operative, the registration of each of the amalgamating Co-operatives shall stand cancelled on the registration of the new Co-operative and each such Co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body.(3)Where a Co-operative divides into two or more Co-operatives the registration of that Co-operative shall stand cancelled on the registration of the new Co-operatives and that Co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body.

### **14. Partnership of Co-operatives.**

(1)Any two or more Co-operatives may, by resolutions passed by three-fourth majority of the members present and after voting at a general meeting of each of such Co-operatives, may enter into partnership to carryout 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;[Provided that a co-operative Bank, shall not enter into such a partnership without obtaining prior permission of the Reserve Bank in writing.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](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 Co-operative 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.[Provided that a Co-operative Bank shall not promote a subsidiary, nor shall a Co-operative promote a subsidiary whose by-laws permit the carrying on of banking business, without the prior permission of the Reserve Bank in writing.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.][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.] [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.](2)The annual reports and accounts of any such subsidiary organisation shall be placed

before the general meeting of the Co-operative every year.

## **16. Collaboration by Co-operatives.**

- Any Co-operative or Co-operatives 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 bye-laws of such Co-operative or Co-operatives. 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 Co-operative.[Provided that in the case of a Co-operative Bank, such collaboration shall be entered into with the prior approval of the Reserve Bank in writing.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]

## **Chapter III Funds**

### **17. [ Mobilisation of Funds. [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.]**

- A Co-operative may subject to the jurisdiction and such conditions as specified in its bye-laws mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from its members.Provided that a Co-operative shall not be eligible to receive any loan, subsidy, grant or financial aid in any form from the Government or any guarantee by the Government.Provided further that nothing contained in the first provision shall apply to a Co-operative Bank].

### **18. Investment of Funds.**

- Such of its funds as are not immediately required for use by a Co-operative, may be invested or deposited outside its business, namely: -(a)[ in any of the securities approved by the Government; or] [substituted by Act 26 of 2016 w.e.f. 24.12.2016.](b)with any Co-operative bank or scheduled bank.[Provided that in the case of a Co-operative Bank, such investment shall be made in accordance with the instructions and directives issued by the Reserve Bank from time to time.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]

### **19. Restrictions on contribution by a Co-operative.**

- No Co-operative shall make a contribution in whatever form ether 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.

**19A. [ Deduction from salary to meet cooperatives' claim in certain cases.  
[Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1)A member of a cooperative may execute an agreement in favour of the cooperative providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay the amount so deducted to the cooperative in satisfaction of any debt or other demand owing by the member to the cooperative. Provided that the employee shall obtain prior concurrence in writing of the employer agreeing to deduct from his salary or wages such an amount as specified in such agreement. Provided further that the liability of the employer shall be limited to the extent of deduction of an amount which if included makes the total of all the deductions from the salary not to exceed fifty percent of the salary of the employee. Provided also that the board of the cooperative shall determine the amount of loan and the number of installments to be granted to the employee in such a manner that the total of all deductions including the deduction on account of the loan installment along with interest thereon shall not exceed fifty percent of the salary of the employee. (2) On the execution of such an agreement, the employer shall, if so required by the co-operative by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the cooperative within fourteen days from the date of the deduction. (3) Nothing contained in this section shall apply to persons employed in railways as defined in Article 366 of the constitution, mines and oil fields.]

## **Chapter IV**

### **Management of Co-Operative**

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

(1) Subject to the provisions of this Act, no person shall be admitted as a member of a Co-operative, - (a) unless he needs the services of the Co-operative 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 [or if he is a member of another Co-operative having same objectives] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.] with the business of the Co-operative as specified in the bye-laws; and (c) unless he fulfills such other conditions as may be specified in the bye-laws of the Co-operative: Provided that after the registration of a Co-operative, 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 Co-operative for two consecutive [cooperative years] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] to the minimum level specified in the bye-laws; or (b) has not attended three consecutive general meetings of the Co-operative 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 Co-operative exceeding an amount and for a period specified in the bye-laws. (2A) [ No cooperative shall, without sufficient cause in writing, refuse admission to membership to any person under the provisions of this Act or the Rules and the bye-laws made there under The board of the cooperative shall send a written

communication of its decision to such person within sixty days from the date of receipt of his application] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.](3)If a question arises as to the eligibility or otherwise 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.

## **20A. [ Acceptance or refusal of membership. [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]**

- Whenever any person seeking membership of a Co-operative applies for the membership with requisite fee and share amount as prescribed in the bye-law of that Co-operative, the board of that Co-operative shall either grant membership for that person or refuse with reasons within sixty days from the date of receipt of application for membership. If no communication of admission as a member is received by the applicant before the expiry of the said period, his application for admission shall be deemed to have been accepted by the cooperative on the last day of the said period. If the applicant is refused membership, he can appeal to the Registrar against such refusal within thirty days from the date of refusal. The Registrar shall decide on such appeal and issue orders which the Co-operative has to implement within fifteen days from the date of order.

## **20B. Right of members to vote.**

- Members who are admitted as members atleast one year before the date of General meeting or election as the case may be, only will have the right to vote in general meeting or in an election of the members of the board of a Co-operative. Provided, this restriction shall not apply to member of a Co-operative participating in the first general meeting or first election of such Co-operative held immediately after its registration]

## **21.**

[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.]

## **21A. [ Nominal members. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1)A cooperative may, in its interest, admit,-(a)any person;(b)any firm, company, cooperative society or cooperative or anybody or corporation constituted by or under any law for the time being in force;as a nominal member for a period not exceeding three years for a specific purpose mentioned in the bye-laws.(c)[ or a recognized self-help group which do not have Government aid]Provided that such person or institution has any kind of business relationship with the cooperative or who or which is in need of the services of the cooperative or who or which is in a position to provide services required by the cooperative.[\*\*\*] [Omitted by Act 34 of 2014 w.e.f. 06.09.2014.](2)A nominal member shall not be entitled to any share in any form whatsoever in the assets or profits of the cooperative and shall not have the right to participate in the management and to vote at any meeting of the co-operative including the election to the board of the co-operative and

shall not be eligible to be elected as a director or an office-bearer of the cooperative.(3)A nominal member shall have such rights and privileges and be subject to such liabilities as may be specified in the byelaws of the co-operative]

## **21B. [ Associate membership. [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]**

(1)A Co-operative may admit,-(a)any individual; or(b)any firm, company, Co-operative society or any body or corporation constituted by or under any law for the time being inforce- as an associate member for a specific purpose as specified in its byelaws;[Provided that other than employees co-operatives number of associate members shall not exceed fifteen percent of the total members.](2)An associate members can have shares of Co-operative but is not eligible to be an office-bearer of Co-operative. An associate member cannot take part in the management of Co-operative and cannot vote in any meetings or election of the Co-operative.(3)Save as provided in this section an associate member shall have all the rights and duties of a member as specified in the byelaws of a Co-operative.]

## **22. [ Restriction on collection of deposits from non-members. [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.]**

- No cooperative except those have obtained license from Reserve Bank of India to do banking business, can collect deposits either from any non-members or nominal members]

## **23. General Body.**

(1)Subject to the provisions of this Act, rules and the bye-laws, the final authority of a Co-operative shall vest in its general body.(2)Where a Co-operative 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 bye-laws. 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 of the preceding cooperative year submitted by the board; [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](b)appointment and removal of the auditor and internal auditor for the audit of accounts of the current year;(c)consideration of the audit report and audited financial statements for the preceding cooperative year;(d)consideration and decision on the compliance report submitted by the board regarding the rectification of defects and remedying the irregularities pointed out in the audit report of the preceding cooperative year;(e)disposal of the surplus or net profits of the preceding cooperative year](b)[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.](c)[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.](d)[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.](e)[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.](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 for the next cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](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)[ review of the use of the services of the cooperative

by the directors of the board; [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](k-1) consideration of the loans and advances made to the directors and their relatives, the defaults, if any, and the action taken for recovery thereof;(k-2) amalgamation, division, merger, transfer of assets and liabilities;(k-3) decision on bad debts considered as irrecoverable;[\*\*\*](l)removal of directors of the board [\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.](m)report on action taken on inquiry report under section 37, if any;(n)report on membership of the Co-operative in other Co-operatives;(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 [\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.] 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 [Preceding cooperative year] [Substituted by Act, 4 of 2013 w.e.f. 11.02.2013.];(u)winding up of the Co-operative; and(v)such other functions as are specified in the bye-laws.[23A. Opening of branches by a Cooperative in its area of operation.- A cooperative may commence branches, sub branches, pay offices or offices called by whatever name in the area of operation for the use of its members only with the prior approval of its general meeting and the federal cooperative.[Provided, in case of urban Co-operative Banks, to open a branch where Reserve Bank of India granted permission in such case permission of the souharda federal is not required.] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]

### **23B. Representative General body meeting.**

-The general body of a primary or secondary cooperative, whose membership exceeds three thousand or whose area of operation is more than a Taluka, may amend its bye-laws providing for the constitution of a smaller body consisting of such number of members of the cooperative as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws and any reference, by whatever form or words in this Act to the general body or a meeting thereof shall have effect as if such reference were a reference to the representative general body or a meeting thereof, as the case may be [the newly registered Co-operatives may make provision for representative general body in their bye-laws] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]

### **24. [ Constitution of the Board. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- The Board of every cooperative shall consist of not less than [thirteen] but not exceeding the number of [elected] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.] members specified below excluding the chief executive 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)] [Substituted by Act, 26 of 2016 w.e.f. 24.12.2016.](2)[ Save as otherwise in the Act, the term of the directors will be five years from the date of election. Provided, the term of the directors of souharda federal will ends with the Co-terminus of the representative Co-operative.] [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.](3)The chief executive shall be an ex-officio member of the board and shall not have a right to vote in the election of the office bearers.]

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

(1)A person shall be disqualified [for being elected or continued as director of the [Co-operative for a maximum period] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] of five years from the date of incurring disqualification] 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 bye-laws; or(c)absents himself from three consecutive board meetings without leave of absence; or(d)[ is convicted for an offence involving moral turpitude under any law for the time being in force, or for an offence under this Act; or] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.](e)[ has been a defaulter in the repayment of any instalment of a loan taken by him or has been a surety for a borrower who has defaulted in repaying his loan continuously for three instalments.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](f)[ [Clause (e) has been renumbered as clause (f) by Act 21 of 2004 w.e.f. 31.3.2004.] incurs any disqualification as specified in sub-section (2).(2)All the directors shall incur disqualification for being elected as directors in a [Co-operative for a maximum period of five years] [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.] from the date of incurring such disqualification and shall also be disqualified to continue as directors of that Co-operative or any other Co-operative, if during the term of office as directors of a Co-operative they, -(a)have not rendered necessary assistance to the cooperative election commission for conducting election to the board before the expiry of its term within the stipulated time [\*\*\*] [Omitted by Act 34 of 2014 w.e.f. 06.09.2014.] ; or(a-1) have not submitted returns and information to the Registrar and the federal cooperative as per section 34 within a period of six months from the close of the cooperative year; or(a-2) have committed serious financial irregularities or frauds which have been detected; or(b)have not conducted the annual general meeting [within the twenty fifth day of September every year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] 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 cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] along with the report

of the auditor before the annual general meeting.(d)[ have violated the order or direction of the Federal Cooperative or violated any order of quasi-judicial authority or court; [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.](e)have opened branches without prior approval of the Federal Cooperative](3)A director or an employee who is guilty of misappropriation, breach of trust or any other omission or commission resulting in loss to the Co-operative, 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.(4)[ Any question as to whether a member of the board is or has become subject to any disqualification specified in this section shall be decided by the Federal Co-operative after giving the person concerned a reasonable opportunity of being heard.(5)Any person aggrieved member may prefer an appeal against the order made under sub-section (4) to the Registrar within thirty days from the date of order.] [Inserted by Act 16 of 2005 w.e.f. 1.6.2005.]

## **25A. [ Motion of no-confidence against office-bearer. [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.]**

(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.]

## **26. [ Election to the board. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1)The election to a board shall be conducted immediately before the expiry of the term of the outgoing board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of office of the members of the outgoing board.(2)The cooperative election commission shall conduct the election to the board of every cooperative.(3)The newly elected directors of the board shall assume office immediately on the expiry of the term of the outgoing board.

## **4. [ \*\*\*]]**

## **26A. [ Co-operative election commission. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- The cooperative election commission constituted under section 39AA of the Karnataka Cooperative Societies Act, 1959 shall also be the election commission for the purpose of conducting elections under this Act and shall be empowered to exercise the same powers and discharge same functions conferred under said Act in respect of cooperatives and federal cooperative under this Act.]

## **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 Co-operative; (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; [ (h-1) to consider the inquiry report, if any, take action for rectification of the irregularities pointed out, if any, in the inquiry, cause compliance report and place the report before the general body; [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] (h-2) to cause the completion of the audit of accounts for the preceding cooperative year within the first day of September every year and obtain the audit report thereon. (h-3) to convene annual general meeting within twenty fifth day of September every year. (h-4) to convene special general meeting as and when necessary or on requisition. (h-5) to file returns and information to the Registrar and federal cooperative before thirtieth day of September every year. ] (i) to review membership in other Co-operatives; (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 co-operative election commission shall take action to conduct election to the office of the President or Chair person, Vice president or Vice Chair person and any other office-bearers to be elected in accordance with the bye-laws within fifteen days from date of election of the board] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] (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. (3) [The term of office of the President or chair person, vice president or vice chair person and any other office-bearers shall be five years from the date of election and shall be co-terminus with the term of the board.] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] Explanation. - If the election to the office of 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. [Provided that the term of the office-bearers of souharda federal ends with the Co-terminus of the representative Co-operative] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]

## **28A. [ Resignation of a board member or office-bearer of a Co-operative. [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]**

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

## **29. [ Filling up of casual vacancies. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- "The board may fill up a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of office of the board is less than half its original term]

## **30. Meetings.**

- [(1) The board may convene as many board meetings and general meetings in a co-operative year according to its needs and shall convene at least one board meeting every two months and one annual general meeting within the twenty fifth September of every year for transaction of business stated in sub-section (3) of section 23.] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](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 Co-operative 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 Co-operative shall convene such general meeting within [thirty] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] days of receipt of requisition signed by not less than one-tenth of members of the Co-operative.(3)If the Co-operative and the Federal Co-operative, fail to convene the special general meeting within the time specified under sub-section (2), the Registrar shall convene the special general meeting within [forty five] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] days after the receipt of requisition signed by not less than one-tenth of the members of the Co-operative.(4)[ The quorum for a general meeting shall be as specified in the bye-laws, but shall not be less than [ten percent or one thousand members eligible to vote whichever is less] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] of the members eligible to vote at the meeting and the quorum for a representative general meeting shall not be less than sixty percent of the representatives eligible to vote at the meeting. If there is no quorum at the time of transaction of any business in any general meeting, such business shall not be transacted.(5)The quorum for a meeting of the board shall be as specified in the bye-laws but shall not be less than the number next to fifty per cent of the strength of the board. If there is no quorum at the time of transacting any business in any meeting of the board, such business shall not be transacted.]

## **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 Co-operative: Provided that the Co-operative may borrow the services of the employees of other Co-operatives, Co-operative societies, Federal Co-operative, 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 Co-operative and shall, subject to the general control and superintendence of the Board, - (a) be in-charge of the overall control and supervision of the day-to-day affairs of the Co-operative; (b) sign documents, enter into agreements and contracts and institute and defend suits and other legal proceedings on behalf of the Co-operative; (c) have powers to endorse, sign, negotiate cheques and other negotiable instruments and operate the bank accounts of the Co-operative; (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 Co-operative; (f) present the draft annual report and financial statements for the approval of the board [within thirty days from the close of the cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]; (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 Co-operative; and (i-1) furnish the financial statements, schedules and other statements with the approval of the board and the related books of accounts, records and other documents necessary for the annual audit of accounts of the cooperative to the auditor within the thirty days from the close of the cooperative year. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]; (i-2) place before the board the action to be taken for rectification of defects pointed in the audit report, obtain approval of the board and take action accordingly. (i-3) place before the board the action to be taken for rectification of defects pointed in the inquiry report, if any, obtain approval of the board and take action accordingly. (i-4) render necessary information and assistance to the cooperative election commission for conduct of elections before the term of expiry of the board. (i-5) furnish to the Registrar and Federal cooperative within the thirtieth day of September every year, the returns and information to be submitted as per section 34 to the Registrar and the Federal cooperative. (i-6) report any information on any vacancy in the board to the cooperative election commission. (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.**

(1) Every Co-operative 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 Co-operative 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 cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] and the memberwise use of various services; (e) accounts of all sums of money received and expended by the Co-operative and its

branch, if any, and purposes;(f)accounts of all purchases and sales of goods by the Co-operative;(g)accounts of the assets and liabilities of the Co-operative;(h)the minutes book(i)copies of the board resolution; and(j)annual report and audit report and where a Co-operative has branch office, accounts and records related to such branch.(1A)[ Every cooperative shall provide opportunity to every member to peruse the books, information and accounts of the cooperative kept in regular transaction of its business with such member.] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.](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.(3)The books of accounts of every Co-operative together with supporting records and vouchers shall be preserved for such period as may be decided by the board.

### **32A. [ [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]**

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### **33. [ [Audit of Co-operatives] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013].**

(1)Every Cooperative shall get its accounts audited at least once in a year before the first day of September following the close of the cooperative year by an auditor or an auditing firm appointed by the general body of the cooperative from a panel of auditors or auditing firms approved by the Director of cooperative audit;Provided that the Director of co-operative audit shall be the authority competent to prepare and maintain a list of auditors and auditing firms who satisfy the prescribed qualification and experience for undertaking the audit of accounts of the co-operatives in the state.[\*\*\*] [Omitted by Act 34 of 2014 w.e.f. 06.09.2014.](2)The general body of every cooperative shall at its general meeting appoint an auditor or an auditing firm to audit the accounts of the cooperative for the cooperative year in which the general meeting is held.[Provided that, if the Director of Co-operative audit is satisfied that the Co-operative has failed to appoint an auditor or an auditing firm to audit its accounts for a Co-operative year in their general body and to intimate the same as provided in the Rules, the Director of Co-operative Audit after giving an opportunity of hearing in writing to the Co-operative and confirming that the Co-operative has not appointed an auditor or an auditing firm, may appoint an auditor or an auditing firm to audit the accounts of Co-operative from the approved panel of auditors or auditing firms and such an appointed auditor or auditing firm shall be deemed as the auditor or the auditing firm for the purpose of conducting audit of that Co-operative for that particular year under consideration;Provided further that in case of Government auditors mentioned in the panel of auditors or auditing firms maintained by the Director of Co-operative Audit, they shall be mentioned by designation only and that in case of a Co-operative selecting a Government Auditor from the Pannel of Auditors the Co-operative shall intimate to the Director of Co-operative Audit] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.](3)The manner of preparation of the list of auditors and auditing firms by the Director of co-operative audit and the procedure for giving the panel to each co-operative shall be as prescribed.(4)The audit under sub-section (1) shall include an examination of overdue debts, if any, the physical verification and valuation of the assets and liabilities, verification of the cash balance and securities, certification of the profits or losses, compliance with the transparency law and other laws applicable to the

cooperatives including the instructions and directives of NABARD or Reserve Bank of India and an examination of the working and the other prescribed particulars of the cooperative.(5)The auditor or auditing firm shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to the cooperative or in the custody of any member of the board or the office-bearer or the chief executive or any other employee of the cooperative and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties to produce the same at the registered office of the cooperative or any branch thereof or at any public office at the headquarters of the cooperative.(6)Every person who is, or has at any time been, an officer or employee of the cooperative and every member and past member of the cooperative shall furnish such information in regard to the transactions and working of the cooperative as the Auditor or Auditing firms approved by the Director of Cooperative Audit may require.(7)The board of every cooperative shall ensure that the annual financial statements like the receipts and payments or income and expenditure, profit and loss and the balance sheet along with such schedules and other statements as may be prescribed as at the end of a cooperative year are prepared and presented for audit before the auditor or auditing firm within thirty days of the closure of that cooperative year.(8)The Auditor or Auditing firm shall conduct and complete the audit of accounts as provided for in this Act or the rules and send copies of the audit report and communicate the results of audit to the cooperative, the Federal cooperative, the Registrar, the Director of co-operative audit and to the financing bank or credit agency, and if the cooperative is affiliated to any other cooperative, to such cooperative, within the first day of September every year.(9)The auditor or auditing firms shall have right to receive all notices and every communication relating to the general meeting of a cooperative and, at the cost of the cooperative, shall be entitled to attend such meeting and to be heard at the general body meeting, in respect of all or any part of the business with which he is concerned as auditor or auditing firm.(10)If the result of the audit held under sub-section (1) discloses any defects in the working of the cooperative, the board shall take steps to rectify the defects and remedy the irregularities pointed out in the audit report and place the audit report along with the action taken report before the general meeting to be held before the twenty-fifth day of the September every year and explain therein the said defects or the irregularities. The board shall continue to take steps for rectification of all the defects and remedying of all the irregularities in the audit report and apprise the general meetings every year till all the defects are rectified and the irregularities are remedied. The board shall send a report of action taken to the Registrar, the Federal cooperative and the Director of Co-operative Audit within thirty days from the date of the general meeting.(11)The Director of Co-operative Audit shall submit the audit reports of the apex cooperatives to the State Government annually for being laid before the legislature in the manner prescribed.(12)If it appears to the general body of a co-operative that there is a prima-facie case of fraud or misappropriation or embezzlement of funds not detected or properly examined by the auditor during the regular audit or misclassification of accounts, the general body may resolve to provide for a re-audit of any account of the cooperative with a view to truly reflect the financial position of the cooperative and the provisions of the Act and the rules applicable to the audit shall apply to such re-audit;(13)If it appears to the State Government on an application by a cooperative or otherwise that it is necessary or expedient to re-audit the accounts of a cooperative, the State Government may, by an order provide for such re-audit and the provisions of the Act and the rules applicable to the audit shall apply to such re-audit.Provided that such re-audit shall be ordered only when there is a prima-facie

case of fraud or misappropriation or embezzlement of funds not detected or properly examined by the auditor or auditing firms during regular audit or misclassification of accounts or for any other valid reasons with a view to truly reflect the financial position of the cooperative.(14)Without prejudice to the provisions of sub- sections (4) to (6), the auditor shall inquire;(a)Whether loans and advances made by the co-operative on the basis of security have been properly secured and whether terms on which they have been made are not prejudicial to the interests of the co-operative or its members;(b)Whether transactions of the co-operative which are represented merely by book entries are not prejudicial to the interests of the co-operative;(c)Whether personal expenses have been charged to revenue account;(d)Where it is stated in the books and papers of the co-operative that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance sheet is correct, regular and not misleading; and(e)Whether any special issue or subject matter referred to for inquiry by the Reserve Bank or National Bank has been duly enquired into and report thereof is submitted to the Reserve Bank or National Bank as the case may be.(15)The auditor shall make a report to the cooperative on the accounts examined by him and on every balance sheet and profit and loss account and on every other document required to be part of or annexed to the balance sheet or profit and loss account. The report shall state whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by this Act in the manner so required and give a true and fair view,-(a)in the case of the balance sheet, of the state of the cooperative's affairs as at the end of the year; and(b)in the case of the profit and loss account, of the profit or loss for the year.(16)The auditor's report shall also state,-(a)state whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;(b)state whether in his opinion, proper books of accounts have been kept by the co-operative so far as appears from his examination of those books and proper returns adequate for the purpose of his audit have been received from branches or offices of the co-operative not visited by him;(c)state whether the report on the accounts of any branch office audited by a person other than the cooperative's auditor has been forwarded to him and how he has dealt with the same in preparing the auditor's report;(d)state whether the cooperative's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;(17)Where any of the matters referred to in clauses (a) and (b) of sub-section (14) or in clauses (a) and (b) of sub-section (15) or clause (a) to (d) of sub-section (16) is answered in the negative or with a qualifying observation, the auditor's report shall state the reason for the answer.(18)The audit report shall have,-(a)all particulars of the defects are the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or auditing firm shall investigate and report the modus operandi, the entrustment, amount involved, and fix the responsibility for such misappropriation or embezzlement of funds or fraud, on the members of the board or the employees of the cooperative or any other person as the case may be with all necessary evidence.(b)accounting irregularities and their implications on the financial statements to be indicated in detail in the report with the corresponding effects on the profit and loss.(c)the functioning of the general body, board and sub-committees of the Co-operative to be checked and any irregularities or violations observed reported duly fixing the responsibilities for such irregularities or violations.(d)all schedules and other statements as may be prescribed.(19)[The remuneration of the auditor or auditing firm of a Co-operative shall be borne by the



Co-operative and shall be at such rates as may be fixed by general body of the Co-operative based on the Working Capital and Turnover of the Co-operative as per the guidelines issued by Director of Co-operative audit from time to time.(20)Notwithstanding anything contained in the preceding sub-sections, the Director of Co-operative Audit subject to the approval of State Government shall have power to re-examine or re-verify particular account or accounts of the audited accounts of any Co-operative pertaining to preceding three years and instruct the concerned auditor to incorporate the lapses observed during such re-examination or re-verification in the next audit report to be issued.Explanation. - For the purpose of this Section;(i)'Auditor' means an auditor or an officer of the Department of Co-operative Audit who has passed, in addition to the graduation or post graduation degree, Higher Diploma in Co-operative Management / Diploma in Co-operative Audit / General Diploma in Co-operative Management and who has completed the period of probation successfully and who has a working knowledge of the Kannada language; orA Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 who shall have a fair knowledge of the functioning of the Co-operatives and shall have an experience of at least three years in auditing and who would like to be included in the panel and such chartered accountant shall have adequate understanding and knowledge of the Kannada language sufficient for the due performance of auditing Or a Cost Accountant within the meaning of Cost and Works Accountant Act, 1959, who shall have fair knowledge of the functioning of the Co-operatives and shall have an experience of atleast 3 years in auditing and shall have working knowledge of kannada language.'Auditing firm' means a firm of more than one Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 Or a firm of more than one Cost Accountant within the meaning of Cost and Works Accountant Act, 1959 who or which shall have a fair knowledge of the functioning of the Co-operatives and shall have an experience of at least three years in auditing and which would like to be included in the panel and such chartered accountants shall have adequate understanding and knowledge of the Kannada language sufficient for the due performance of auditing." [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.]]

### **34. Furnishing Information.**

- [Within six months from the close of the cooperative year, every cooperative shall furnish the following returns and information to the Registrar and the Federal cooperative] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] [and in the case of Co-operative Bank also to the Reserve Bank] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.] namely:-(a)[ annual report of the activities for the preceding cooperative year and the 2000:KAR.ACT 17 Souharda programme for the ensuing cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](b)audited [financial statements] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](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 Co-operative; and(f)declaration regarding the date of conducting the general body meeting and elections, if any.(g)[ any information required by the Registrar and the Federal cooperative under the provision of this Act] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]

### **35. [ Inquiry. [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.]**

(1)The Registrar may conduct an inquiry or cause an inquiry to be conducted expeditiously into any specific matter touching the constitution, management, working or financial condition of a Co-operative.(2)An inquiry of the nature referred [in the following circumstances also shall be held] to in sub-section (1) shall be held on the application of.-(a)the Federal Co-operative to which the Co-operative is affiliated; or(b)not less than one third of the members of the Board of the Co-operative or(c)not less than one tenth of the total number of members of the Co-operative.(3)The application under sub-section (2) shall be accompanied by such fee as may be prescribed.(4)The Registrar may himself conduct the inquiry or appoint an inquiry officer to conduct the inquiry. The cost of inquiry shall be met by the creditor or the Federal Co-operative or the Co-operative, as the case may be, as may be decided by the Registrar.(5)An inquiry under sub-section (2) shall be completed within a period of twelve months which may however be extended by the Registrar for a further period of six months for reasons to be recorded in writing.(6)When an inquiry is made under this section, the Registrar shall, within a period of one month from the date of receipt of inquiry report, send a copy of the inquiry report to-(a)the applicants;(b)the Co-operative concerned;(c)the creditors concerned;(d)the Federal Co-operative and(e)the Reserve Bank in case the inquiry conducted under this section relates to a Co-operative Bank.]

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

(1)[The Registrar or the Enquiry Officer] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] as the case may be, shall issue to the concerned Co-operative, 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 Registrar or the Enquiry Officer] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] 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 Registrar or the inquiry officer conducting such inquiry:-](a)may require in writing the President or Chairperson or the Chief Executive or other authority concerned to produce such receipts, vouchers, statements, returns, correspondence, notice or any other documents as he may consider necessary for the purpose of inquiry.(b)shall, at all time, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the Co-operative 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 at the headquarters or at the head office of the Co-operative or any branch thereof;(c)[ may summon any officer of a financing bank or a credit agency as the case may be or any person having any kind of business relationship with the cooperative or any person who is connected with the functioning of and who has knowledge about the affairs of the cooperative to produce any records or documents, if any, related to the transactions with and working of the cooperative and furnish such information and the explanations, at the registered office or branch of the cooperative or at any public office at the headquarters of the cooperative, as the inquiry officer may require for the purpose of the inquiry](d)may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the Co-operative, require the office bearers of the Co-operative to call a general meeting

at such time and place at the head quarters of the Co-operative or any branch thereof and to determine such matters as may be directed by him, and where the office bearers of the Co-operative refuse or fail to call such a meeting he shall have power to call it himself; Explanation. - Any meeting called under clause (d) shall have the powers of the general meeting called under the bye-laws of the Co-operative and its proceedings shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.]

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

- [The Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] , 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 Co-operative by breach of trust or negligence or has or have misappropriated or fraudulently retained any money or property belonging to such Co-operative, 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 or the Registrar, specify to discuss the findings of the inquiry report and for initiating necessary action against the concerned. [The general body if fails to initiate action against culprits and Registrar shall issue direction to take action against the culprits, and follow up action till the defects are rectify.] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]

### **37A. [ Surcharge. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1) If in the course of an audit under section 33, inquiry under section 35, inspection under section 53 or the winding up of a Co-operative under section 48, it is found that the board of such cooperative or the President, Vice-President, the Chairperson, Vice chairperson or any other member of the board or any person who is or was entrusted with the organization or management of such co-operative or who is or has at any time been an officer or an employee of the co-operative has made any payment contrary to the Act, the rules or the bye-laws or has caused any deficiency in the assets of the co-operative by breach of trust or negligence or has misappropriated or fraudulently retained any money or other property belonging to such Co-operative, the Registrar may, on an application of the board, Liquidator or any creditor or the Federal cooperative, frame charges against such person or persons and after giving such person and in the case of a deceased person, to his representative who inherits his estate, an opportunity of making representation, make an order requiring him to pay or restore the money or property or any part thereof with interest at such rate as he may determine or to contribute such sum to the assets of the co-operative by way of compensation to such extent as he may consider just and equitable. (2) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally liable. (3) The order made by the Registrar under sub-section (1) may also provide for recovery of cost of surcharge proceeding from the person against whom the order is made at such rate and in such manner as may be prescribed. (4) The application under sub-section (1) shall be decided within a period of twelve months excluding the period of stay granted by the court if any. However, the Registrar may for reasons to be recorded in writing extend the said period upto eighteen months. provided that the State Government may, on a report made by the Registrar, extend the period of inquiry beyond

eighteen months, if it is satisfied that there are genuine or valid grounds for such extension.]

## Chapter VI

### Supersession

#### 38. Supersession.

(1) If, in the opinion of the Federal Co-operative, the Board of a Co-operative, - (i) persistently makes default or is negligent in performance of the duties imposed on it under this Act or rules or the bye-laws; or (ii) has committed any act which is prejudicial to the interests of the Co-operative 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 bye-laws] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] or (v) [fails to conduct the annual general meeting within the six months of the close of year but within the twenty fifth day of September every year; or] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] [(v-a) has committed grave financial irregularities or fraud which have been detected; or [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] (v-b) has a stalemate in its constitution or its functions; or (v-c) fails to provide necessary assistance to the cooperative election commission and as a result or otherwise the cooperative Election Commission has not conducted election immediately before the term of expiry of the outgoing board; or (v-d) fails to get the audit of accounts done within first day of September every year and present the said audit report before the general meeting; or] (vi) is otherwise not functioning properly. may supersede the Board and appoint an administrator to manage the affairs of the Co-operative for such period not exceeding six months, as may be specified by the Federal Co-operative: Provided that the Federal Co-operative shall not [supersede or suspend the board] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] unless the board has been given an opportunity of being heard in the matter. [Provided further that the board of any such cooperative shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the government; Provided also that in case of a cooperative carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply and the provisions of this clause shall apply as if for the words "six months", the words "one year" had been substituted.] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] (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 Co-operative. (3) The Administrator shall, subject to the control of the Federal Co-operative, exercise and perform all the powers and functions of the Board or any office bearers of the Co-operative and take all such actions as may be required under this Act, rules and the bye-laws in the interest of the Co-operative. (4) The Federal Co-operative shall, before taking action under sub-section (1), consult the financing agency of the Co-operative to which it is indebted. It shall, in respect of a Co-operative Bank, also consult the [Reserve Bank or National Bank] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] as the case may be. (5) The Administrator shall, before the expiry of his term, arrange for constitution of the new Board for the Co-operative in accordance with its bye-laws. (6) Notwithstanding anything contained in this Act, rules and bye-laws, the Federal

Co-operative shall, in case of a Co-operative Bank, if so required in writing by the [The Reserve Bank or National Bank] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] in public interest or for preventing the affairs of the Co-operative Bank being conducted in the manner detrimental to the interest of the depositors or for securing proper management of the Co-operative Bank, by order in writing, supersede the board of that Co-operative Bank and appoint an Administrator to manage the affairs of the Co-operative Bank for such period as may specified by the Federal Co-operative in concurrence with [The Reserve Bank or National Bank] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.].(7)[ The Federal cooperative shall determine the remuneration payable to the Administrator. The amount of such remuneration and the expenses made by the Administrator in connection with the management of the cooperative shall be borne from out of the funds of the cooperative. The service rules applicable to the officer or employee appointed as Administrator of the cooperative shall continue to govern his service as Administrator of the cooperative] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]

### **38A. [ Appointment of Special Officer. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1)Where the activities of a cooperative are not being conducted in accordance of the provisions of this Act, the Rules or the bye-laws made there under as a result of the directors of the board falling short of the required number to form a quorum due to disqualification, resignation or death or removal of a director or where all the directors of a cooperative have incurred any disqualification under sub-section (2) of section 25 or where all the directors have tendered resignation, [or for the reason that the new board has not been constituted and the term of previous board has expired] the Federal cooperative may by order appoint a Special Officer for such co-operative, for such period not exceeding six months.(2)Before making an order under sub-section (1), it shall not be necessary for the Federal cooperative to give any co-operative or persons likely to be affected by such order, an opportunity to state its or their objection, if any.(3)The Special Officer shall inform the cooperative election commission about conducting election to fill up the vacant seats on the board and the Election Commission shall conduct election for the remaining term of the vacant seats.(4)As soon as the elections are held and the number of directors to form the quorum are available, the Special Officer shall handover the management to the board and the office of the Special officer shall be deemed to have been vacated.]

### **38B. [ Power to seize books and property. [Inserted by Act 26 of 2016 w.e.f.24.12.2016.]**

- 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.]

## Chapter VII

### Settlement of Dispute

#### 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, other than a dispute relating to the election of the board and the election of the office-bearers, arises] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] (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 Co-operative or the Federal Co-operative, its board or any office bearer, agent or employee of the Co-operative or the Federal Co-operative; or (c) between the Co-operative or the Federal Co-operative 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 Co-operative or the Federal Co-operative; or (d) between the Co-operative or the Federal Co-operative and any other Co-operative or a credit agency, [\*] **[Omitted by Act 34 of 2014 w.e.f. 06.09.2014.] shall be referred to the Registrar for decision** [\*] [Omitted by Act 21 of 2004 w.e.f. 31.3.2004..] (2) For the purposes of subsection (1), the following shall be deemed to be disputes touching the constitution, management or the business of a Co-operative or Federal Co-operative, namely:—(a) a claim by the Co-operative or the Federal Co-operative 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 Co-operative or the Federal Co-operative 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 Co-operative or the Federal Co-operative. (d) any dispute between a Co-operative or Federal Co-operative 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 Co-operative or Federal Co-operative, notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947); (e) a claim by a Co-operative or Federal Co-operative for any deficiency caused in the assets of the Co-operative or Federal Co-operative by a member, past member, 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 Co-operative or the Federal Co-operative, the decision of the Registrar thereon shall be final and shall not be called in question in any court. [4.\*\*\*

## 5.

\*\*\*] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]]

### 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. [Provided further a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of the order relating to such dispute.] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] (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.

(1) 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 subsection (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 subsection (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by the Co-operative concerned or the Federal Co-operative that in the interest of the Co-operative or the Federal Co-operative 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 Co-operative or the Federal Co-operative 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 Co-operative or Federal Co-operative or

bye-laws or amendment of bye-laws;(b)[ removal of a member or disqualification and removal of a director or removal of the board] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](c)[any application for surcharge filed before the Registrar under section 37A or] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] any dispute required under section 39 to be referred to the Registrar;(d)any matter concerning the winding up and the dissolution of a Co-operative.(2)While a Co-operative is being wound up, no suit or other legal proceedings relating to the business of such Co-operative shall be proceeded with or instituted against the Liquidator as such or against the Co-operative or any member thereof, except by leave of the Registrar or the Federal Co-operative 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 Co-operative Appellate Tribunal under section 46 and every order made under subsection (8) of section 11, shall subject to any other provisions of this Act, be binding on the person or Co-operative or the Federal Co-operative 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 person) by the attachment and sale or sale without attachment of any property of the person or a Co-operative or the Federal Co-operative 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 subsection (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 Co-operative or the Federal Co-operative 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.

#### **43A. [ Fee. [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]**

- The Registrar shall notify from time to time, quantum of fees to be submitted along with applications in respect of disputes and enforcement of orders issued under the Act]

#### **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, or

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)[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013..](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 Co-operative or the Federal Co-operative 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 bona fide, 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 make 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.

#### **46. [ Appeal. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- An appeal against the decision or award made under Section 41, or an order made under section 37A shall lie to the Karnataka Appellate Tribunal constituted under the Karnataka Appellate Tribunal Act 1976 (Karnataka Act No. 10 of 1976) within sixty days from the date of the decision or award or order.][Provided that no appeal against an order, decision or award for payment of money shall be considered by the Appellate Authority unless it is accompanied by satisfactory proof for having deposited with the concerned cooperative twenty-five percent of the amount due in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount of payable by the appellant and in case no amount is required to be paid by the appellant, the amount so deposited shall be refunded to him by the cooperative] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.]

## Chapter VIII

### Winding Up of Co-Operatives

#### 47. Winding up of a Co-operative.

(1) On an application made by not less than one-fifth of the members of a Co-operative to wind up the affairs of the said Co-operative, the board shall convene a general meeting by issuing a notice to each member. Such notice alongwith a notice to attend the general meeting shall also be issued to [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] union Co-operative, creditors, auditor and to the subsidiary organisation of the Co-operative, 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 Co-operative 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 Co-operative, the claims of any creditors, the number of members and the nature and extent of interest of each member in the Co-operative. A copy of resolution after approval by the general body shall be sent by registered post to Registrar, [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] and Union Co-operative within fifteen days from the date of such approval. [Provided that in the case of a Co-operative Bank, no action in terms of sub-sections (1) and (2) shall be taken unless a copy of the application referred to in sub-section (1) is sent to the Reserve Bank or National Bank, as the case may be, and its consent obtained and] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.] Explanation. - In this section "interest" means interest of a member in a Co-operative and includes shares, member loans, deposits and obligations of any kind that, -(i) arise by virtue of the bye-laws of the Co-operative; and (ii) are owed by the Co-operative to the member. (3) [The Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] may require from a Co-operative, 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 [he may require.] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] (4) [The Registrar after consideration of the information under sub-section (3) may approve the resolution to wind up the Co-operative and communicate the same to the said Co-operative and the Federal Co-operative. Such resolution shall take effect from the date of approval by the Registrar.] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.]

#### 48. [ Winding up by the Registrar. [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.]

(1) If the Registrar after an audit has been made under section 33 or an inquiry has been held under section 35 or on receipt of an application made by not less than three fourths of the members of a Co-operative, is of the opinion that the Co-operative ought to be wound up, he may issue an order directing it to be wound up. (2) Where the Registrar has reasonable cause to believe that a Co-operative, -(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 co-operative principles and the provisions of this Act, rules and the bye-laws of the Co-operative, he may suo moto [or on the recommendation of the federal co-operative] require the Chief Executive of

the Co-operative to intimate whether such Co-operative is carrying on business or is submitting annual returns.(3)If no reply is received from the Chief Executive within one month, the Registrar shall within fourteen days after the expiry of the said period record that no reply has been received by him and shall publish a notice in the newspaper having wide circulation in the local area to wind up the Co-operative.(4)If the Registrar receives a reply from the Co-operative that it is not carrying on business or is not in operation or does not wish to continue as a Co-operative or can not submit an annual return, he shall publish in the newspaper and send to the Co-operative a notice specifying the date on the expiry of which the Co-operative shall, unless cause is shown to the contrary, be wound up.(5)If the Registrar after considering the reply, if any, is satisfied.-(i)that the Co-operative has no assets and liabilities, he shall issue a certificate that the Co-operative has been wound up and cancel the registration of such Co-operative forthwith; or(ii)that the Co-operative has assets and liabilities, he shall on receipt of a report from the Chief Executive of such Co-operative that a liquidator has not been appointed by the general body after a resolution to wind up has been passed,appoint a liquidator and communicate the same to the Co-operative and the Federal Co-operative.(6)The Registrar may cancel an order for the winding up of a Co-operative, at any time, in any case, where in his opinion, the Co-operative should continue to exist.(7)Notwithstanding anything contained in this section, no Co-operative bank shall be wound up or an order for winding up shall be cancelled except with the previous sanction in writing of the "Reserve Bank or National Bank.]

#### **49. 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 Co-operative, to each claimant, share holder and to each creditor of the Co-operative. [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.] [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.] 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 Co-operative is situated. He shall also take reasonable steps to give notice of the liquidation of such Co-operative in the area where the Co-operative carried on its business.(2)The notice issued under subsection (1) shall specify, -(i)the amount indebted to the Co-operative and the time and place for payment of amount due to the Co-operative by the debtor to the liquidator; and(ii)the time and place of delivery of the property of the Co-operative to the liquidator; and(iii)the present or future position of the claims against the Co-operative 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.(3)The liquidator shall, -(a)take into custody and control the property of the Co-operative;(b)prepare a statement of assets and liabilities of the Co-operative under liquidation and send a copy of such statement to the Federal Co-operative and to the Registrar [and in the case of a Co-operative Bank, also to Reserve Bank] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](c)open and maintain a trust account for the money of the Co-operative;(d)keep accounts of the money of the Co-operative received and paid out by him;(e)maintain separate lists of the members, creditors and other persons having claims against the Co-operative;(f)[ where at any time, he determines that the co-operative or the co-operative

bank is unable to pay or adequately provide for the discharge of its obligations, apply in the case of a Co-operative Bank to Reserve Bank, and in other cases to the Registrar for directions;] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.](g)deliver to [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] atleast once in every six months, period or more often as the [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] may require, financial statements of the Co-operative in any form that the liquidator considers proper or that the [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] may require [and in the case Cooperative Bank, deliver such financial statement also to the Reserve Bank.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.]

## **50. 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 Co-operative;(c)carry on the business of the Co-operative as required for an orderly liquidation;(d)sell by public auction any property of the Co-operative;(e)do all acts and execute any documents in the name and on behalf of the Co-operative;(f)borrow money on the security of the property of the Co-operative;(g)settle or compromise any claims by or against the Co-operative; and(h)take all such steps that are necessary for the liquidation of the Co-operative.(2)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 Co-operative, he shall inform [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] to take further action against such person.(3)No liquidator or his relatives shall purchase directly or indirectly any part of the stock-in-trade, debts or assets of the Co-operative under liquidation.

## **51. Final Accounts.**

(1)A liquidator shall pay the costs of liquidation out of the property of the Co-operative and shall pay or make adequate provision for payment of all claims against the Co-operative.(2)After paying or making adequate provision for all claims against the Co-operative, the liquidator shall apply to [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] 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 Co-operative in accordance with the bye-laws.(3)Where the [the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] approves the final accounts rendered by a liquidator in pursuance of sub-section (2), [he] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.] shall,-(a)issue directions regarding the custody or disposal of the documents and records of the Co-operative; and(b)discharge the liquidator.(4)[ Where the Registrar discharges the liquidator under sub-section (3), he shall issue a certificate of winding up of the Co-operative and cancel the registration of such Co-operative.] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.](5)The Co-operative ceases to exist as a corporate body from the date on which the certificate of registration is cancelled.

## **52. Disposal of assets of a Co-operative under liquidation.**

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

### **52A. [ Transfer of surplus funds, deposits and assets. [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.]**

- 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.]

## **Chapter IX**

### **The Federal Co-Operative**

## **53. Constitution, functions and management of Federal Co-operative.**

(1) There shall be a Federal Co-operative in the State. All Co-operatives registered under this Act shall be the members of such Federal Co-operative. (2) After the registration of fifty Co-operatives under this Act, the Registrar shall frame the bye-laws of the proposed Federal Co-operative and take steps to register the Federal Co-operative 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 Co-operative under this Act. (3) Where the Federal Co-operative is registered under this Act, the Registrar shall issue a certificate of registration signed by him which shall be conclusive evidence that the Federal Co-operative is duly registered as such under this Act. (4) The Federal Co-operative 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 Co-operative 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 [approved by the Registrar] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.]. (6) [\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.]. (7) The Federal Co-operative shall perform the following functions, namely:-(a) promote and organise Co-operative and for this purpose frame model bye-laws and issue guidelines for framing various policies for Co-operatives in accordance with co-operative principles; (b) provide co-operative training, education and information and propagate co-operative principles; (c) undertake research and evaluation and assist in the preparation of perspective development plans for the member Co-operatives; (d) promote harmonious relations between member Co-operatives; (e) [\*\*\*] [Omitted by Act 16 of 2005 w.e.f. 1.6.2005.]. (f) provide management

development services to member Co-operatives including participation in board meetings when required;(g)evolve code of conduct for member Co-operatives;(h)evolve viability norms for member Co-operatives;(i)provide legal assistance and advice to member Co-operatives;(j)provide any other services at the behest of member Co-operatives;(k)promote new forms of Co-operative enterprises;(l)constitute and maintain a Co-operative education fund;(m)undertake experimental projects towards the application of Co-operative ideology;(n)liaison on behalf of and amongst Co-operatives;(o)serve as data bank of Co-operatives;(p)represent the interest of member Co-operatives;(q)ensure conduct of audit, elections and general body meetings of its member Co-operatives within the time stipulated;(r)undertake business and services on behalf of the member Co-operatives;(s)convene the special general body meeting where a member Co-operative fails to convene such a meeting under sub section (2) of section 30;(t)[\*\*\*] [Omitted by Act 4 of 2013 w.e.f. 11.02.2013.](u)[ have the power of inspection of the member Co-operatives: [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.]Provided that in the case of a Co-operative Bank, no action under this clause shall be taken unless it has the approval of the Reserve Bank.](8)[ The provisions of section 23 relating to general body shall mutatis mutandis apply to the Federal Co-operative.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](9)[ [Renumbered by Act 21 of 2004 w.e.f. 31.3.2004.] The President or Chairperson of a member Co-operative shall be the [delegate] [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.] at the general body of the Federal Co-operative. If for any reason, the Chairperson or President is unable to represent, he may nominate any director of the board to be the [delegate] [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.] . The [delegate] [Substituted by Act 34 of 2014 w.e.f. 06.09.2014.] shall continue to represent the Co-operative in the Federal Co-operative as along as he remains in office in the member Co-operative.

### **53A. [ Bye-laws of the Federal Cooperative. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1)Subject to the provisions of this Act and the Rules, the Federal cooperative shall function in accordance with its bye-laws which shall as far as possible adhere to the cooperative principles.(2)The bye-laws of the Federal cooperative shall provide for the following matters namely:-(i)the name, address and area of operation of the Federal Cooperative;(ii)the objectives and functions of the Federal co-operative;(iii)the admission and termination of membership;(iv)the rights, duties and liabilities of membership including those of the nominal members;(v)recruitment of staff and their conditions of service;(vi)the functions and duties of the chief executive;(vii)the procedure for the conduct of board meetings and the quorum;(viii)constitution of the board and the powers, functions and duties of the board and the office bearers;(ix)the rights of the directors including the right to vote and the right to contest in the elections;(x)the qualifications and disqualifications for being elected or continued as a member of the board;(xi)the powers and functions of the general body;(xii)the procedure and conduct of general meetings and the frequency and the quorum required;(xiii)the consequences of the default of any member in payment of any dues to the Federal cooperative;(xiv)the scope and terms for mobilisation of funds;(xv)the procedure for collection of the members' subscription and the quantum;(xvi)purposes for which the funds may be applied;(xvii)the constitution of various funds and their purposes;(xviii)the appointment of the auditor and his powers and functions;(xix)the powers, function and duties of the President or Chairperson;(xx)the travelling allowance, daily allowance, sitting fee and other

allowances of the directors and the office bearers;(xxi)the procedure for the implementation and formulation of the programmes of cooperative education and training;(xxii)constitution of sub committees, their duties and functions;(xxiii)procedure for amendment for bye-laws;(xxiv)the term of office of the board and the office bearers;(xxv)any other matter which is required to be or may be provided in the bye-laws.]

### **53B. [ Disqualification of Directors. [Insetrted by Act 34 of 2014 w.e.f. 06.09.2014.]**

- If federal Co-operative fails to function in accordance with Act, Rules the Registrar may disqualify the persons who are responsible for the failure, after due inquiry and giving reasonable opportunity.Provided, if vacuum situation is created in section 38A shall apply mutatis-mutandis.]

### **54. Board of the Federal Co-operative.**

- [(1) The board shall be responsible for the direction and control of the management of the affairs of the federal cooperative;(2)The strength of the board of the Federal cooperative shall not exceed twenty one excluding the Chief executive;Provided that the federal cooperative 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 Federal cooperative, as members of its board and such co-opted members shall not have the right to vote in any election of the Federal cooperative in their capacity as such members or to be eligible to be elected as office bearers of the board.Provided further that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified above.Provided also further that the functional directors not exceeding three of the Federal cooperative shall be also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified above.] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](3)The term of the Board of the Federal Co-operative shall be five years from the date of [election] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](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.

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

(1)A person shall be disqualified for being elected or continued as director of the Federal Co-operative, if such person,-(i)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 Co-operative 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 Co-operative; or(iv)absents himself from three consecutive board meetings or general meetings without leave of absence; or(v)[ is convicted for an offence involving moral turpitude under any law for the time being in force or for an offence committed under this Act.] [Substituted by Act 21 of 2004 w.e.f. 31.3.2004.](2)[ In addition to such disqualification as may be specified in the bye-laws, the directors of the Federal cooperative shall incur disqualification for being elected or continued as directors of the Federal cooperative or any other cooperative if,



during their term of office, they have -(a)not provided necessary assistance to the cooperative election commission for conducting elections to the board before the term of expiry of the outgoing board;(b)not conducted the annual general meeting within the twenty fifth day of September every year or have not conducted the special general meeting within the specified time from the date of requisition;(c)failed to present the audit report along with audited financial statements of the preceding year in the annual general meeting;(d)failed to submit returns to the Registrar as per section 64A within six months from the date of close of the cooperative year;(e)committed grave financial irregularities or fraud which have been detected.](3)[ If any question arises as to whether a member of the board was or has become subject to any of the disqualification mentioned in this section, the Registrar shall either suo motu or on a report made to him shall decide the question after giving the person concerned a reasonable opportunity of being heard.] [Inserted by Act 21 of 2004 w.e.f. 31.3.2004.](4)[ The provisions [\*\*\*] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] shall mutatis-mutandis apply to the Federal cooperative if its directors incur any of the disqualifications mentioned in clauses (a), (b), (c), (d) and (e) of sub-section (2).] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]

## 56. Powers and Functions of the Board.

- The Board of the Federal Co-operative shall be the authority to exercise all the powers and perform all the functions conferred on the Federal Co-operative under this Act, rules and the bye-laws, and shall have powers,-(a)[to inform the Cooperative Election Commission to conduct election to the office of] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] 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 Co-operatives;(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 of information system including statutory returns to be filed; and(v)such other subjects and matters necessary for the effective performance of the Federal Co-operative;(g)to place the annual report, annual financial statements, and annual plan and budget for the approval of the general body;[(g-1) to consider the inquiry report, if any, take action for rectification of the irregularities pointed out, if any, in the inquiry, cause compliance report and place the report before the general body; [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.](g-2) to prepare the annual financial statements, schedules, and other statements and produce the same to the auditor along with the concerned books of accounts, records and other documents within the thirty days from the date of close of the cooperative year;(g-3) to provide necessary information and assistance to the Cooperative Election Commission for conducting election before the expiry of the term of the office of the board;(g-4) to file returns and information to the Registrar as per section 64A within the thirtieth day of September every year;](h)to consider audit and compliance report and place the reports before the general body; and(i)to undertake such other functions as may be delegated by the general body.

## **57. 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 Co-operative 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 Co-operative. 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 Co-operative. 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, Vice President or Vice Chairperson and any other office bearer to be elected as per the bye-laws shall be five years from the date of election and their term shall be co-terminus with the term of the board.] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] Explanation. - If the election to the office of President or Chairperson, Vice-President or Vice-Chairperson is held in the middle of the term, the remaining part of the term shall be deemed to be a full term.

### **57A. [ Supersession or Suspension of the board. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- The provisions of the section 38 shall mutatis-mutandis apply to the supersession or suspension of the board of the Federal cooperative. The Registrar shall be competent to take action against the federal cooperative.]

## **58. [ Elections. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1) The Cooperative Election Commission shall be responsible for conducting elections to the board and the office of the office bearers of the Federal cooperative. (2) The election to the board shall be conducted immediately before the expiry of the term of the outgoing board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of office of the outgoing board. (3) The newly elected directors of the board shall assume office immediately on the expiry of the term of the outgoing board. (4) The provisions of section 26A shall mutatis-mutandis apply in relation to the cooperative election commission.]

## **59. [ Filling up of casual vacancies. [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- The board may fill up a casual vacancy on the board by virtue of death, resignation, disqualification or any other reason by nomination out of the same class of members in respect of which the casual vacancy has arisen, if there is a quorum. Provided that the board may fill up the casual vacancy through co-option only if the remaining term is less than half of the original term of the board.]

## 60. Meetings.

(1)The number of board meetings and general meetings shall be specified in the bye-laws of the Federal Co-operative:[Provided that the board shall conduct not less than six board meetings and one general meeting in a cooperative year;Provided further that the annual general meeting shall be held within twenty fifth day of September of every year.] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](2)[The board of the Federal cooperative may convene special general meeting at any time as per its needs, but shall convene] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] 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 Co-operative 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 Co-operative to call such meeting, the Registrar 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 Co-operative.(3A)[ The quorum for a general meeting shall be as specified in the bye-laws, but shall not be less than twenty percent of the members eligible to vote at the meeting. If there is no quorum at the time of transaction of any business in any general meeting, such business shall not be transacted.(3B)The quorum for a meeting of the board shall be as specified in the bye-laws but shall not be less than the number next to fifty per cent of the strength of the board. If there is no quorum at the time of transacting any business in any meeting of the board, such business shall not be transacted.] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.](4)The Chief Executive of the Federal Co-operative 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 Co-operative.(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

## 61. Employees of the Federal Co-operative.

(1)The Board of Federal Co-operative shall determine the cadre strength of the establishment and scales of pay of its employees:Provided that the Federal Co-operative may borrow the services of the employees of other Co-operatives, Co-operative 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 Co-operative.(b)be the person to sue and be sued on behalf of the Co-operative;(c)have powers on behalf of the Federal Co-operative to endorse, sign, negotiate cheques and other negotiable instruments and operate the bank accounts of the Federal Co-operative;(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 Co-operative;(f)arrange to maintain proper records and accounts of the Federal Co-operative;(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 Co-operative;(l)[ furnish the financial statements, schedules and other statements with the approval of the board and the related books of accounts, records and other documents necessary for the annual audit of accounts of the Federal cooperative to the auditor within the thirty days from the close of the cooperative year; [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.](l-1) place before the board the action to be taken for rectification of defects pointed in the audit report, obtain approval of the board and take action accordingly.(l-2) place before the board the action to be taken for rectification of defects pointed in the inquiry report, if any, obtain approval of the board and take action accordingly.(l-3) render necessary information and assistance to the cooperative election commission for conduct of elections before the term of expiry of the board.(l-4) furnish to the Registrar within the thirtieth day of September every year, the returns and information to be submitted as per section 64A to the Registrar.](m)perform any other function authorised by a resolution of the board and general body.

## **62. Funds of the Federal Co-operative.**

(1)The Federal Co-operative shall constitute a fund called "Federal Co-operative Fund".(2)The Federal Co-operative 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 Co-operative to Government; and(ii)contributions made by each member Co-operative [every cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] at such rates specified in the bye-laws of the Federal Co-operative.(3)The Federal Co-operative shall also maintain a Co-operative Education Fund.(4)If any member Co-operative fails to make the contribution towards the Federal Co-operative Fund without prejudice to any action to which such member Co-operatives is liable under section 68, such Co-operative shall not have a right to vote and contest for any office in the general body meeting of the Federal Co-operative.

### **62A. [ Cooperative Education and Training. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

(1)The cooperative education fund constituted under clause (xxi) of sub-section (2) of Section 10 shall be utilized for the purpose of promotion of the cooperative movement in the State and for providing education to the members, directors and cooperators of the cooperatives and the general public and training to the employees of the cooperatives;(2)Every co-operative shall pay its Education fund contribution to the account of the Karnataka State Souharda Federal cooperative;(3)All contributions made by the cooperatives towards co-operative education fund and donations received, if any, from any person or institution shall be credited to the cooperative education fund.(4)Every cooperative shall pay the education fund contribution, within thirty days from the date of the annual general meeting to the Federal cooperative.(5)The cooperative education fund shall be maintained and administered by the Karnataka State Souhardha Federation Cooperative Limited in such manner as may be prescribed.(6)No expenditure out of the cooperative education fund shall be incurred without the approval of an advisory committee constituted for the purpose as prescribed]

### **63. Accounts.**

- The Federal Co-operative 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 Co-operative and of each of its member Co-operatives with upto date amendments; (d) accounts of all sums of money received and expended by the Federal Co-operative and the respective purposes; (e) accounts of all purchases and sales of goods by the Federal Co-operative; (f) accounts of the assets and liabilities of the member Co-operatives and the Federal Co-operative; (g) a register showing total membership and the member wise use of various services; (h) a list of members with voting rights for the current year updated within thirty days of [closure of the cooperative year] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] (i) up-to-date copies of the Board resolutions; and (j) annual report and audit report.

#### **63A. [ Furnishing information to the members. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]**

- The Federal cooperative shall provide access to every member to peruse the books, information and accounts kept in regular transaction of its business with such member and to obtain the related information and accounts.]

#### **64. [ [Audit of Federal Co-operative] [Substituted by Act 4 of 2013 w.e.f. 11.02.2013.] .**

(1) The Federal cooperative shall get its accounts audited atleast once within the first day of September every year by an auditor or an auditing firm appointed by its general body meeting from a panel of the auditors or auditing firms approved by the Director of cooperative audit and obtain the audit report within the said period. (2) The provision of section 33 related to the audit of a cooperative shall mutatis-mutandis apply to the Federal cooperative.]

#### **64A. [ Filing returns to the Registrar. [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.] - The Federal cooperative shall, within a period of six months, from the close of the cooperative year, file the following returns and information to the Registrar; namely,-**

(a) annual report of the activities of the preceding year and the programme for the ensuing year; (b) audited financial statements; (c) plan for disposal of surplus or savings as approved by the general body; (d) list of amendments made to the bye-laws, if any; (e) declaration regarding the date of conducting the general body meeting and elections, if any; (f) list of directors and their term; (g) any other information required by Registrar under the provisions of this Act.]

## **65. Inquiry.**

(1) On an application of a creditor to whom the Federal Co-operative is indebted or of not less than one third of the members of the Board of the Federal Co-operative or of not less than one-tenth of the total members of the member Co-operatives, 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 Co-operative. The cost of inquiry shall be met by the creditor or by the Federal Co-operative or by the member Co-operatives, as the case may be. (2) The Registrar shall issue, in writing, a notice of not less than fifteen days to the Federal Co-operative 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 Co-operative 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 Co-operative 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 Co-operative or any branch thereof; may summon any person who, he has reason to believe has knowledge of any of the affairs of the Federal Co-operative, to appear before him at public office or at the headquarters of the Federal Co-operative or any branch thereof and may examine such person on oath.

## **66. 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 Co-operative, 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**

### **Co-Operative Principles**

## **67. Co-operative principles.**

- The Co-operatives registered under this Act shall as far as possible be guided by the following Co-operative principles, namely: - (1) Co-operatives 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)Co-operatives 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 Co-operatives, members have equal voting rights (one member, one vote) and Co-operatives at other levels are organised in a democratic manner.(3)Members contribute equitably to, and democratically control the capital of their Co-operative. Atleast part of that capital is usually the common property of the Co-operative. 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 Co-operative possibly by setting up reserves part of which atleast would be indivisible, benefitting members in proportion to their transactions with the Co-operative, and supporting other activities approved by the membership.(4)Co-operatives 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 Co-operative autonomy.(5)Co-operatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their Co-operatives. They inform the general public particularly young people and leaders about the nature and benefits of co-operation.(6)Co-operatives serve their members most effectively and strengthen the Co-operative movement by working together through local, regional, national and international structures.(7)While focusing on member needs, Co-operatives work for the sustainable development of their communities through policies accepted by their members.[Chapter XA] [Chapter XA Inserted by Act 21 of 2004 w.e.f. 31.3.2004.] Special Provisions for Insured Banks

## **67A. Certain orders to be passed by the Registrar if so required by the Reserve Bank.**

(1)Notwithstanding anything to the contrary contained in this Act, in the case of a co-operative bank which is an insured bank, [the Registrar shall] [Substituted by Act 16 of 2005 w.e.f. 1.6.2005.],-(i)if so required by the Reserve Bank, in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, [\*\*\*] [Omitted by Act 16 of 2005 w.e.f. 1.6.2005.] make an order for winding up of a Co-operative Bank;(ii)where an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 [\*\*\*] [Omitted by Act 16 of 2005 w.e.f. 1.6.2005.] make an order sanctioning a scheme of compromise or arrangement or amalgamation or reconstruction including division or re-organisation of the Co-operative Bank;(iii)if so required by the Reserve Bank, in the public interest, or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of depositor or for securing the proper management of the bank [make an order] [Substituted by Act 16 of 2005 w.e.f. 1.6.2005.] for supersession and removal of the Committee of the Management or other Managing Body, by whatever name called, of the co-operative bank and the appointment of an Administrator therefor for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank and the Administrator so appointed, shall after the expiry of his term, continue in his office until the day preceding the date of the first taking over by the new board of such bank.(2)In the case of co-operative bank which is an insured bank, the Federal Co-operative or the General body of a

Co-operative bank shall not decide the winding up or sanctioning a scheme of compromise or arrangement or amalgamation or reconstruction of the bank or make an order for supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an Administrator therefor, unless previous sanction in writing from the Reserve Bank is obtained.(3)No appeal, revision or review shall lie against an order made under sub-sections (1) and (2) on the requisition or previous sanction granted by the Reserve Bank and such order or sanction shall not be liable to be called in question in any manner.

## **67B. Reimbursement to the Deposit Insurance Corporation by the liquidators.**

- Where a co-operative bank being an insured bank is wound up or taken into liquidation and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of the Deposit Insurance Corporation Act, 1961.

## **Chapter XI**

### **Offences and Penalties**

#### **68. Offences and penalties.**

(1)If an office bearer or director or a Chief Executive or any employee of a Co-operative or Federal Co-operative willfully fails to issue a notice, send a return or document or neglects or refuses to furnish any information or willfully furnishes a false or an insufficient information required under this Act or the bye-laws of a Co-operative, 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 Co-operative or Federal Co-operative 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 sections 33 and 64 or fails to contribute to the "Federal Co-operative Fund" of the Federal Co-operative, shall be punishable with fine which may extend to ten thousand rupees or with imprisonment which may extend to two years or with both.(3)[ Any employer, who without sufficient cause, fails to make the deduction or fails to pay to a co-operative the amount deducted by him for a period of fourteen days from the date on which such deduction is made shall be punishable with a fine of rupees five thousand or an imprisonment for a term of six months or with both.(4)Any office bearer, chief executive, a director or an employee of a co-operative or federal cooperative who is in possession of any information, books and records and who fails to furnish such information or produce such books or records or who willfully fails to handover custody of the books, accounts, documents, records, cash, security and other property



belonging to a co-operative or the federal cooperative of which he is an officer or custodian, to an authorized person or who fails, without sufficient cause, to comply with a lawful written order or a requisition or a summons issued under the provisions of this Act shall be punishable with a fine of rupees ten thousand or an imprisonment for a term of two years or with both.(5)If the board and the Chief Executive of any cooperative or the federal cooperative fail to get its accounts for the preceding year audited within the period time stipulated under section 33 or section 64 as the case may be and present the audit financial statement along with audit report before the annual general meeting such every director and chief executive of such cooperative or federal cooperative shall be punishable with a fine of rupees five thousand or an imprisonment of six months or with both.(6)If the board and the Chief Executive of any cooperative or the federal cooperative fail to submit the returns and information to the registrar and federal cooperative as specified in the Section 34 or 64A as the case may be, every director and chief executive of such cooperative or the federal cooperative shall be punishable with a fine of rupees ten thousand or an imprisonment of two years or with both.(7)If the board and the Chief Executive of any cooperative or the federal cooperative fail to assist the cooperative election commission by furnishing the books, records and information required for conducting elections within the prescribed time under Section 26 or section 58, as the case may be, every director and Chief Executive of such cooperative or the federal cooperative shall be punishable with a fine of rupees ten thousand or an imprisonment of six months or with both.(8)Any person who, before, during or after the election of the members of the board or office-bearers of a cooperative or the federal cooperative, adopts any corrupt practice as specified under section 39C or commits any electoral offences specified under section 39K of the Karnataka Cooperative Societies Act, 1959 shall be punishable with a fine of rupees ten thousand or an imprisonment of two years or with both.] [Inserted by Act 4 of 2013 w.e.f. 11.02.2013.]

## **Chapter XII**

### **Miscellaneous**

#### **69. Cognizance of offence.**

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

#### **69A. [ Complaint regarding offences. [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.]**

- 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. [Inserted by Act 26 of 2016 w.e.f. 24.12.2016.]**

- 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.]

## **70. 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 [or clarification if any] [Inserted by Act 34 of 2014 w.e.f. 06.09.2014.] as appear to it to be necessary or expedient to remove the difficulty.

## **71. Power to make rules.**

(1)The 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.

## **72. Savings.**

- Notwithstanding anything contained in section 6 of this Act, where a Co-operative society registered under the Karnataka Co-operative Societies Act 1959 is converted to a Co-operative 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 Co-operative Societies Act, 1959 such proceedings shall be continued and finally decided, as if the co-operative society was not converted into a co-operative under this Act and any decree or order or award so passed in such proceedings against any person or a co-operative registered under this Act, shall be executed against such person or such co-operative in accordance with section 101 of the Karnataka Co-operative Societies Act, 1959.(The above translation of the PÀ£ÁðlPÀ, Ë°ÁzÀð , À°ÀPÁjCçü×AiÄÄªÄÄ