

PART-I

HARYANA GOVERNMENT

LAW AND LEGISLATIVE DEPARTMENT

Notification

The 10th May, 2013

No. Leg. 12/2013.—The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 22nd April, 2013 and is hereby published for general information :—

HARYANA ACT NO. 10 OF 2013

THE HARYANA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2013

AN

ACT

further to amend the Haryana Co-operative Societies Act, 1984.

Be it enacted by the Legislature of the State of Haryana in the Sixty-fourth Year of the Republic of India as follows :—

1. This Act may be called the Haryana Co-operative Societies (Amendment) Act, 2013. Short title.

2. For the existing preamble to the Haryana Co-operative Societies Act, 1984 (hereinafter referred to as the principal Act), the following preamble shall be substituted, namely:— Amendment of
preamble to
Haryana Act 22
of 1984.

“to consolidate and amend the law relating to co-operative societies and to facilitate the voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies in the State of Haryana and for matters connected therewith and incidental thereto.”

Amendment of
section 2 of
Haryana Act, 22
of 1984.

3. In sub-section (1) of section 2 of the principal Act,—
 - (I) after clause (aa), the following clauses shall be inserted, namely:—
 - '(ab) "auditor" means an Inspector (Audit), Senior Auditor or Audit Officer appointed in the department of Co-operation;
 - (ac) "auditing firm" means a chartered accountant or a firm of chartered accountants, who are members of the Institute of Chartered Accountants of India, within the meaning of the Chartered Accountant Act, 1949 (38 of 1949);';
 - (II) the existing clause (db) shall be omitted;
 - (III) for clause (e), the following clause shall be substituted, namely:—
 - '(e) "committee" means the board of directors or the governing body of a co-operative society, by whatever name called, upon which the power of direction and control of the management of the affairs of the society is entrusted to;';
 - (IV) after clause (ha), the following clause shall be inserted, namely:—
 - '(hb) "election authority" means Co-operative Election Authority constituted under sub-section (1A) of section 28 of this Act;';
 - (V) for clause (m), the following clauses shall be substituted, namely:—
 - (m) "officer" means the President, Vice-President, Chairperson, Vice-Chairperson, Managing Director, Chief Executive Officer, Secretary, Manager, Member of Committee, Treasurer, Liquidator, Administrator appointed, elected or nominated, as the case may be and also includes any other person employed by the Society and empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;';
 - (VI) for clause (r), the following clause shall be substituted, namely:—
 - '(r) "Registrar" means a person appointed to perform the function of the Registrar of Co-operative Societies under this Act and includes any person appointed to assist the Registrar when exercising any of the powers of the Registrar;';

Amendment of
section 25 of
Haryana Act 22 of
1984.

4. In sub-section (3) of section 25 of the principal Act,—
 - (I) for the words "once in a year", the words "within a period of six months of close of the financial year" shall be substituted; and
 - (II) after clause (h), the following clause shall be inserted, namely:—
 - "(ha) appointment of auditor or auditing firm from the panel prepared by the State Government or authority authorised by the State Government;"

Amendment of
section 28 of
Haryana Act 22 of
1984.

5. In section 28 of the principal Act,—
 - (I) in the proviso to sub-section (1), for the words "one woman member", the words "two women members" shall be substituted;

- (II) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The State Government may, by notification, constitute an election authority for the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections of a prescribed co-operative society :

Provided that till the time such authority is constituted, the election of such society shall be got conducted by the Registrar or the existing committee of such society, as the case may be.”;

- (III) in explanation to sub-section (2), for the word “Registrar”, the words “election authority” shall be substituted; and

- (IV) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The committee shall, unless superseded earlier by the Registrar, hold office for a period of five years from the date of election and the term of office bearers shall be coterminous with the term of the committee:

Provided that irrespective of anything contained in the bye-laws, the committee may fill a casual vacancy in the committee by election, if the term of office of the committee is more than half of its original term, or by co-option, if the term of office of the committee is less than half of its original term, as the case may be, out of the same class of members in respect of which the casual vacancy has arisen .”.

6. In section 29 of the principal Act,—

- (I) for the existing marginal heading, the following marginal heading shall be substituted, namely:—

“Nomination and co-option on committee.”;

- (II) second proviso to clause (b) of sub-section (1) shall be omitted;

- (III) after sub-section (3), the following sub-section shall be added, namely:—

“(4) In case of co-operative societies other than the Co-operative Banks, 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 societies shall be co-opted as members of the committee of such society:

Provided that in case of a co-operative bank, two professional directors having experience as specified by the Reserve Bank of India shall be co-opted in the committee, if not already elected:

Amendment of
section 29 of
Haryana Act 22
of 1984.

Provided further that the number of such co-opted members, to be called as functional directors, shall not exceed two in addition to twenty-one directors as specified in clause (xx) of sub-section (2) of section 9A and shall be members but not have the right to vote in any election or be eligible to be elected as office bearer of the committee.”.

Amendment of
section 30 of
Haryana Act 22
of 1984.

Amendment of
section 33 of
Haryana Act 22
of 1984.

7. In section 30 of the principal Act, before the first proviso, for the word “Registrar”, the words “election authority” shall be substituted.

8. In section 33 of the principal Act,—

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

“(1) Wherein any co-operative society, a committee constituted in accordance with the provisions of this Act, rules made thereunder or bye-laws of the society does not exist or has ceased to exist, the Registrar may, notwithstanding anything to the contrary contained in the Act, rules or bye-laws, appoint administrators not exceeding five for a period of six months or one year, as the case may be, as specified under section 34 of the Act or till a committee is constituted under section 28, whichever is earlier:

Provided that the Managing Director appointed under section 31, if any, shall be one of the administrators:

Provided further that the election authority shall cause the election to be held within the period of six months or one year, as the case may be, as specified in section 34 of the Act.”; and

(ii) sub-section (3A) shall be omitted.

Amendment of
section 34 of
Haryana Act 22 of
1984.

9. In section 34 of the principal Act,—

(I) for the existing marginal heading, the following marginal heading shall be substituted, namely:—

“Supersession and suspension of committee.”;

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

“(1) If, in the opinion of the Registrar, the committee of any co-operative society,—

- (i) is persistently making default; or
- (ii) is negligent in the performance of its duties imposed on it under this Act or the rules or the bye-laws framed thereunder; or
- (iii) has committed any act which is prejudicial to the interest of the society or its members; or
- (iv) has failed to conduct elections in accordance with the provisions of this Act; or

- (v) has caused a stalemate in the constitution or functions, the Registrar may, after giving the committee an opportunity to state its objections, if any and considering the objections, if received, by order in writing, supersede the committee and order fresh election of the committee or appoint administrators to manage the affairs of the society for such period not exceeding six months and in case of a co-operative society carrying on the business of banking, for a period not exceeding one year:

Provided that the committee of any such co-operative society 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 further that if the committee of a co-operative bank is superseded, the Registrar shall do so with the approval of the Reserve Bank:

Provided further that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply:

Provided further that the Registrar shall ensure implementation of regulatory prescriptions of the Reserve Bank including supersession of the managing committee of Central Co-operative Bank or the Haryana State Co-operative Apex Bank Limited and the appointment of administrators within one month of being so advised by the Reserve Bank.”

10. For section 48 of the principal Act, the following section shall be substituted, namely:—

“48. Balance sheet and other periodical statements.—(1) Every co-operative society shall file prescribed returns within a period of six months of the close of every financial year with the Registrar, including returns on the following matters, namely:—

- (a) annual report of its activities;
- (b) audited statement of accounts;
- (c) plan for surplus disposal as approved by the general body of the society;
- (d) list of amendments to the bye-laws of the co-operative society, if any;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections, when due; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of this Act.

Amendment of
section 48 of
Haryana Act 22 of
1984.

Amendment of
section 95 of
Haryana Act 22 of
1984.

(2) Co-operative Credit Structure other than co-operative bank shall abide by all such directions regarding financial norms, as may be specified by the Registrar in consultation with the National Bank.”

11. For section 95 of the principal Act, the following section shall be substituted, namely:-

“95. Audit.- (1) The Government or an authority authorised by the Government shall prescribe the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of co-operative societies, approve the panel of auditing firms and shall also fix their remuneration.

(2) Every co-operative society shall get its accounts audited from auditors or empanelled auditing firms at least once in a year, within six months of close of year as per the guidelines issued by the Registrar. In case of failure to do so, the Registrar shall get the accounts audited at the expense of the society.

(3) A person shall not be qualified for appointment as auditing firm of a society, if the proprietor, partner or Director of such firm is,—

- (a) an officer or a member or employee of that co-operative society; or
- (b) indebted to that co-operative society ;or
- (c) who has given any guarantee or provided any security in connection with the indebtedness of any third person to that co-operative society for an amount exceeding five thousand rupees.

(4) If an auditing firm after its appointment becomes subject to any of the disqualifications specified in sub-section (3), it shall be deemed to have vacated its office as such.

(5) The audit under sub-section (1) shall include valuation of assets and liabilities, an examination of balance sheet, profit and loss account and overdue debts, if any, the verification of the cash balance and securities and observance of provisions of this Act, rules, bye-laws made thereunder and various other laws applicable to the working of co-operative society.

(6) The person auditing the accounts of a co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(7) The members of the committee, manager, administrator or any officer, employee and agent of the society shall furnish to the person auditing the accounts of a co-operative society all such information as to its transactions and working, as required.

(8) The Registrar or the person authorized by him under sub-section (2) to audit the accounts of a society, shall have power where necessary,—

(a) to summon at the time of its audit any officer, agent, servant, member of the society, past or present, or any other person who he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to the society, by officer, agent, servant or member in the possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit to take these into custody.

(9) If, at the time of audit, the accounts of a society are not complete, the Registrar or the person authorized by him, may cause the accounts of such society to be written and maintained in accordance with accounting procedure in this regard, at the expense of the society.

(10) Where the accounts have been caused to be written and maintained under sub-section (9), the Registrar may after giving such society an opportunity of being heard, make an order requiring the society to pay such costs and compensation, as determined by him.

(11) Audit report of apex societies whose annual turnover is more than one thousand crore rupees shall be laid before the State Legislature.

(12) The Registrar may order for test check of societies audited by the auditing firms in the manner, as may be prescribed.

(13) The Registrar shall get conducted a special audit of Co-operative Credit Structure other than Primary Agriculture Co-operative Societies on the request of the Reserve Bank and shall endorse a copy of the report of such special audit to the Reserve Bank and National Bank.

(14) Audit fee, if any, due from any co-operative society shall be recoverable in the same manner as provided in section 104.”.

12. In section 96 of the principal Act, for the word “auditor” wherever occurring, the words “auditor or auditing firms” shall be substituted.

Amendment of
section 96 of
Haryana Act 22
of 1984.

13. In section 117 of the principal Act,—

(I) for existing sub-sections (3), (4) and (5), the following sub-sections shall be substituted, namely:—

Amendment of
section 117 of
Haryana Act 22
of 1984.

"(3) A co-operative society or an officer or a member thereof willfully making a false return or furnishing false information, or any person willfully or without any reasonable excuse, disobeying any summons, requisition or lawful written order issued under the provisions of this Act or willfully not furnishing any information required from him, by a person authorized in this behalf under the provision of this Act, shall be punishable with fine which may extend to ten thousand rupees.

(4) Any employer or officer or agent acting on behalf of such employer who without sufficient cause fails to deposit to a co-operative society, the amount deducted by him under section 45 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with fine which may extend upto ten thousand rupees.

(5) Any officer or custodian who willfully fails to produce or hand over custody of books, record, cash, security and other property belonging to a co-operative society, to a person entitled under sections 50, 51, 95, 97, 98, 99 and 106, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both and in case of a continuing breach beyond six months with a further fine which may extend to one hundred rupees for every day during which the breach is continued after conviction for the first such breach.";

(II) after sub-section (8), the following sub-sections shall be added, namely:-

"(9) Any officer or employee of a co-operative society giving loans to non-members and other societies including co-operatives without the approval of Registrar, shall be punishable with a fine which may extend upto ten thousand rupees or imprisonment which may extend to six months or both.

(10) If any officer, employee, agent or servant of a society or any other person dealing with the society embezzles money belonging to that society, he shall be punishable with fine which may extend upto ten thousand rupees or imprisonment for a term which may extend upto two years or both.

(11) If any person dishonestly or fraudulently makes or executes or cause to make or execute any document or valuation certificate or project report or register or cause to register any fictitious company or firm or society in order to support any application for loan and thereby induces any society to deliver

any loan to him or to any other person which causes loss to the society, he shall be punishable with fine upto ten thousand rupees or imprisonment for a term which may extend upto two years or both.

(12) Any person who before, during or after the election of the members or committee or officers adopts any corrupt practices shall be punishable with fine which may extend upto ten thousand rupees or imprisonment upto six months or both.

(13) Any person who collects share money for a society and does not deposit the same in the account of the Society in the Bank within fourteen days of its receipt or makes use of funds so raised for personal use or conducting any business or trading in the name of the co-operative society already registered under this Act or otherwise, shall be punishable with a fine extending upto ten thousand rupees or imprisonment extending to six months or both.

(14) Any person who collects share money or any other sum by misrepresentation from a member or prospective member in the name of the Co-operative society registered under this Act shall be punishable with a fine extending upto ten thousand rupees, or imprisonment extending to six months or both.

(15) Any officer or member of a society who destroys, mutilates, tampers or otherwise alters, falsifies or secrets or is privy to the destruction, mutilation, alteration, falsification or secreting of any book, paper or securities or makes or is privy to the belonging to the society, shall be punishable with a fine extending upto ten thousand rupees, or imprisonment extending upto six months or both.

(16) Any person who knowingly gives a false certificate, in whatever form, showing that a person is or is not defaulter or an active member, shall be punishable with a fine extending upto ten thousand rupees.

(17) In a society, where the bye-laws do not provide for acceptance of deposits, and a officer or member accepts deposits on its behalf, shall be punishable with a fine upto ten thousand rupees or imprisonment extending upto one year or both.

(18) If any person willfully or without any reasonable cause does not provide information as per sub-section (2) of section 120, within the period prescribed, shall be punishable with a fine of hundred rupees per day, which may extend to ten thousand rupees

(19) No order under this section shall be passed without giving an opportunity of hearing.

(20) The offences under sub-sections (2), (3), (4), (6), (7), (8), (16) and (18) of this section shall be compoundable by the Registrar.”.

Amendment of
section 120 of
Haryana Act 22
of 1984.

14. for existing section 120 of the principal Act, the following section shall be substituted, namely:—

“120. Copy of Act, rules and bye-laws etc. to be open to inspection.- (1) Every co-operative society shall keep a copy of this Act, rules and its bye-laws and also a list of its members open to inspection free of charge at all reasonable times at the registered address of the society.

(2) Every co-operative society may provide access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member by charging fee, if any, prescribed by the Registrar.”.

RAJ RAHUL GARG,

Secretary to Government, Haryana,
Law and Legislative Department.