

Uttar Pradesh Co-Operative Societies (Third Amendment) Act, 2007

47 of 2007

CONTENTS

1. Short Title
2. Amendment Of Section 2 Of U.P. Act No. 11 Of 1996
3. Amendment Of Section 12
4. Amendment Of Section 20
5. Amendment Of Section 29
6. Insertion Of New Section 29-A
7. Amendment Of Section 34
8. Amendment Of Section 35
9. Amendment Of Section 38
10. Amendment Of Section 44
11. Amendment Of Section 58
12. Amendment Of Section 59
13. Amendment Of Section 60
14. Amendment Of Section 64
15. Insertion Of New Section 90-C
16. Insertion Of New Section 106-A

Uttar Pradesh Co-Operative Societies (Third Amendment) Act, 2007

47 of 2007

An Act further to amend the Uttar Pradesh Co-operative Societies Act, 1965 It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-- 1. Received the assent of the Governor on December 9, 2007 and published in the U.P. Gazette, Extra., Part 1, Section (Ka), dated 10th December, 2007, pp. 7-12

1. Short Title :-

This Act may be called the Uttar Pradesh Co-operative Societies (Third Amendment) Act, 2007.

2. Amendment Of Section 2 Of U.P. Act No. 11 Of 1996 :-

In Section 2 of the Uttar Pradesh Co-operative Societies Act, 1965

hereinafter referred to as the principal Act,

(a) after clause (j) the following clauses shall be inserted, namely:-

-

"(j-1) Federal Structure means a group of apex, central and primary co-operative societies of similar nature and pursuing similar business and work;

(j-2) Federal tier means any one of the three levels of societies of a particular federal structure i.e. apex or central or primary."

(b) after clause (n) the following clause shall be inserted, namely:--

(n-1) "National Bank" means the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1961..

(c) after clause (q-1) the following clause shall be inserted, namely:--

(q-2) "Reserve Bank" means the Reserve Bank of India established under Section 3 of the Reserve Bank of India Act, 1934..

3. Amendment Of Section 12 :-

In Section 12 of the principal Act, in sub-section (2),--

(a) for clause (ii) the following clause shall be substituted, (b) namely:--

"(ii) is not contrary to the other provisions of the Act or the rules, he shall register the amendment within one month from the date of receipt of such proposal. If the Registrar does not register the amendment within one month then it will be deemed that he has refused to register the amendment and in this case it will be obligatory for the Registrar to intimate the society within next one month, the reasons for not registering the amendment."

(b) clause (3) shall be omitted.

4. Amendment Of Section 20 :-

In Section 20 of the principal Act, in the proviso, in clause (aa) after sub-clause (ii) the following sub-clause shall be inserted, namely:--

"(iii) he has not maintained deposit of at least rupees one thousand in his deposit account for a period of two years preceding the date fixed for publication of the provisional voters list."

5. Amendment Of Section 29 :-

In Section 29 of the principal Act after sub-section (7) the following

sub-section shall be inserted, namely:--

"(8) Notwithstanding anything to the contrary contained in any other provision of this Act, there shall be at least three professionals with full voting rights on the committee of Uttar Pradesh Co-operative Bank or a Central Co-operative Bank having special knowledge or experience in the field of accounting, law, banking, management, agriculture or rural economy as stipulated by the Reserve Bank of India. In case such professionals do not get elected, they shall be co-opted by the Committee of Management of the Bank as aforesaid."

6. Insertion Of New Section 29-A :-

After Section 29 of the principal Act, the following section shall be inserted, namely:--

29-A. Special provision for Primary Agricultural Co-operative Credit Societies, Central Co-operative Banks and Apex Bank.--

Notwithstanding anything to the contrary in any other provision of this Act, rules and Bye-laws of the society, the Committee of Management of a Primary Agricultural Co-operative Credit Society or a Central Cooperative Bank or an Apex Bank shall exercise such powers and perform such duties as may be necessary and expedient for the purpose of carrying out its functions under this Act which shall include,--

(a) the power to,--

- (i) admit members and dispose of applications for shares;
- (ii) interpret the organizational objectives and set specific goals to be achieved towards those objectives;
- (iii) prepare annual and supplementary budgets and get the approval of the General Body thereto;
- (iv) raise and invest funds in accordance with the bye-laws;
- (v) sanction all expenditure above the prescribed level, and the plan of capital development for the coming year or years;
- (vi) enforce any debt or demand of the society and institute, defend or compromise legal proceeding for or against the society;
- (vii) asses the existing manpower resources and future requirements in the context of changes that might have taken to ensure availability of the required resources and consider and remove constraints in the process or progress of manpower planning at least once at the beginning of every year;
- (viii) appoint officers or other staff to conduct the business of the society and define inter alia their duties, service conditions, leave

concessions and disciplinary matters subject to the provisions of this Act, the rules and the bye-laws;

(ix) arrange for the education and training of members and employee and review the programmes and progress, relating thereto, at least once at the beginning of every year;

(x) dispose of applications for loans, fix rate of interest subject to the directions of the Reserve Bank of India and the National Bank for Agriculture and Rural Development and determine securities to be taken for such loans;

(xi) appoint Sub-Committee, as may be considered necessary;

(xii) make periodical appraisal of its operation;

(xiii) acquire, hold and dispose off the properties in the prescribed manner; (xiv) take loans from any financial institution regulated by the Reserve Bank of India and refinance from National Bank for Agriculture and Rural Development or any other refinancing agency directly or through any financial institution regulated by the Reserve Bank of India and not necessarily from only the federal tier to which it is affiliated, and similarly, placing its deposits with, or making investments in, any regulated financial institution and not necessarily with only the federal tier to which it is affiliated;

(xv) decide issues relating to affiliation and disaffiliation with any federal structure including entry and exit at any level;

(xvi) decide its area of operation according to the business requirement;

(xvii) take such other measures or do such other act as may be prescribed or required under this Act, the rules and the bye-laws; and

(b) the duty of--

(i) observing, in all affairs under the provisions of this Act, the rules and the bye-laws;

(ii) causing--

(A) proper receipt and disbursement of moneys of the society and maintenance of the account, assets and liabilities of the society;

(B) preparation of Annual Report of the society for every year;

(C) preparation of Annual Returns prescribed by the Registrar;

(D) preparation of the statement of account required at audit and placement of the same before the auditors;

(E) preparation of all other statement and returns and submission of the same to the Registrar;

(F) maintenance of accounts of the society regularly in proper books;

(G) maintenance of the register of members up-to-date;

(iii) formulating recommendation in accordance with the guidelines of National Bank, if any, for appropriation of the net profits declared as distributable under the provisions of this Act and the rules and submitting the same to General Body;

(iv) facilitating the inspections, inquiries and audits under this Act and considering the Audit, inspection and Inquiry Reports received from -the concerned authority and furnishing compliance thereto in accordance with the provisions of this Act and the rules; (v) convening the meetings and special meetings of the General Body in time;

(vi) watching that the loans and advances are utilized for the purposes for which they are meant and also that they are repaid punctually;

(vii) examining and taking prompt action in cases of all arrears and defaults in repayment of loans and advances;

(viii) liaising with the members in all matters of the society and ensuring the observance of the co-operative principles;

(ix) making arrangements for holding elections in time; and

(x) performing such other functions as may be entrusted to it by the General Body or required by or under this Act, the rule and the bye-laws.

(3) (i) A member of the Committee of Management shall be disqualified for continuing in the Committee if he is representing a non-credit society on the board of a Central Co-operative Bank or apex bank and the society has committed a default for a period exceeding 90 days.

(ii) A person who is a defaulting member or office-bearer of a defaulting Primary Agricultural Co-operative Credit Society shall not be eligible to be elected to the board of the society or the bank as the case may be, or continue on the Board for more than one year unless the default is cleared.

(4) A Primary Agricultural Co-operative Credit Society shall abide by all such directions regarding financial norms as may be prescribed by the Registrar in consultation with the National Bank..

7. Amendment Of Section 34 :-

In Section 34 of the principal Act, in sub-section (1) after the existing proviso, the following provisos shall be inserted, namely:--

"Provided further that in the case of Central Co-operative Bank or the Uttar Pradesh Co-operative Bank the State Government shall nominate not more than one person who shall be a government

servant in the committee of management thereof:

Provided also that on the Committee of Management of a Primary Agricultural Co-operative Credit Society, there shall be no nominee of the State Government."

8. Amendment Of Section 35 :-

In Section 35 of the principal Act,

(a) In sub-section (1) after the existing proviso, the following provisos shall be inserted, namely:--

"Provided further that in the case of a Central Co-operative Bank or the Uttar Pradesh Co-operative Bank, the suspension or supersession of the Committee of Management shall not be made by the Registrar unless the Reserve Bank of India has been consulted :

.Provided also that the Committee of Management of a Primary Agricultural Co-operative Credit Society can be superseded by the Registrar only on the following grounds--

(i) if a society incurs losses for three consecutive years, or
(ii) if serious financial irregularities or fraud have been committed,
(iii) if there are judicial directives to this effect or there is perpetual lack of quorum."

(b) For sub-section (3) the following sub-section shall be substituted, namely:--

"(3) Where the Registrar has superseded the Committee of Management under sub-section (1), he may appoint in its place--

(a) a new committee consisting of one or more members of the society; or

(b) an administrator or Committee of administrators who need not necessarily be members of the society :

Provided that if the Committee of Management is superseded under sub-section (1), the Committee of Management shall be reconstituted within three months from the date of supersession after holding the election in accordance with the provisions of this Act."

(c) after sub-section (7), the following sub-section shall be inserted, namely:--

"(8) The members of the superseded Committee of Management shall not be entitled to contest the election again for a period of three years from the date of supersession."

9. Amendment Of Section 38 :-

In Section 38 of the principal Act, in sub-section (1) the following proviso shall be inserted, at the end namely:--

"Provided that on the request of the Reserve Bank of India the competent authority shall remove a director or the Secretary/Chief Executive Officer of a Central Co-operative Bank or the Uttar Pradesh Co-operative Bank, who do not fulfill the criteria stipulated by the Reserve Bank of India after giving him an opportunity of being heard.".

10. Amendment Of Section 44 :-

In Section 44 of the principal Act, in sub-section (2), in clause (b) the following proviso shall be inserted at the end, namely:--

"Provided that in case of a Co-operative Bank or a Primary Agriculture Credit Co-operative Society the State Government shall not subscribe more than twenty five percent in the share capital of such society and where the share capital of the State Government is more than twenty five percent, it shall bring down the same to twenty five percent or less and shall convert the rest of its share capital in grant to the society.".

11. Amendment Of Section 58 :-

In Section 58 of the principal Act, in sub-section (1-A), in clause (b) the following proviso shall be inserted at the end, namely:--

"Provided that the provisions of this clause shall not apply to a Primary Agriculture Credit Co-operative Society, a Central Co-operative Bank or the Apex Bank.".

12. Amendment Of Section 59 :-

In Section 59 of the principal Act, the following proviso shall be inserted at the end, namely:--

"Provided that in the case of a Co-operative Credit Society, the committee of management shall be competent to invest its surplus and other funds in any financial institution regulated by Reserve Bank in the interest of the society.".

13. Amendment Of Section 60 :-

In Section 60 of the principal Act, the following proviso shall be inserted at the end, namely:--

"Provided that a Primary Agriculture Credit Co-operative Society shall receive deposits only from its ordinary members admitted

under Section 17 of this Act and no other person shall be allowed to make deposit in a Primary Agriculture Credit Co-operative Society."

14. Amendment Of Section 64 :-

In Section 64 of the principal Act,--

(a) in sub-section (1) the following proviso shall be inserted at the end, namely:--

"Provided that the audit of a Co-operative Bank shall be conducted by the Chartered Accountants appointed by the Committee of Management of the concerned bank from the panel approved by the Registrar for this purpose. The Registrar shall also determine the fees of such Chartered Accountants which shall be paid by the concerned bank."

(b) after sub-section (4), the following sub-section shall be inserted, namely:--

"(5) Where the Reserve Bank requests for the special audit of a co-operative bank it shall be conducted and the report of such special audit shall be submitted to the Reserve Bank within the time stipulated in such request."

15. Insertion Of New Section 90-C :-

After Section 90-B of the principal Act, the following section shall be inserted, namely:--

"90-C.--

The provisions of Section 90-B shall be applicable to all the banks whether insured or not and if advised by the Reserve Bank for the supersession of its Committee of Management or its winding up or liquidation and appointment of liquidator the Registrar shall execute it within one month."

16. Insertion Of New Section 106-A :-

After Section 106 of the principal Act, the following section shall be inserted, namely:--

"106-A.--

Prohibition of use of certain words by a society other than a bank.--
No Co-operative Society other than a Co-operative Bank and the Uttar Pradesh Sahkari Gram Vikas Bank shall use the word "Bank", "Banker" and "Banking" in its name."