

# **Co-operative Election Commission**

## **Karnataka Co-operative Societies Act,1959**

### Contents

Section 2-Definitions

Section 17-Disqualification for membership

Section 19-Member not to exercise rights till due payment made

Section 20-Votes of members

Section 21-Manner of exercising vote

Section 27A-Participation of members in the management:

Section 28A-Management of Co-operative Societies vest in the Board

Section 28B-Board to arrange for election

Section 29A-Commencement of term of office

Section 29B-Resignation of a member

Section 29C-Disqualification for membership of the Board

Section 29E-Filling up of casual vacancy in the office of members of the Board

Section 29F-Election of President, Chairperson, Vice-President, or Vice-Chairperson, etc

Section 29G-Appointment of chief executive

Section 30-Superssion of the board

Section 39A-Conduct of elections

Section 39AA-Cooperative Election Commission

Section 39B-Cost of conducting elections

Section 39D-Maintenance of secrecy of voting

Section 39E-Officers etc. at election not to act for candidates or to influence voting

Section 39F-Prohibition of canvassing in or near polling station

Section 39G-Penalty for disorderly conduct in or near polling station

Section 39H-Penalty for misconduct at the polling station

Section 39I-Breaches of official duty in connection with election

Section 39J-Removal of ballot papers from polling station to be an offence

Section 39K-Other offences and penalties

Section 70-Disputes which may be referred to Registrar for decision

Section 109-Offences:

# **Co-operative Election Commission**

## **Karnataka Co-operative Societies Act,1959**

### **Extracts**

(relating to elections and connected issues)

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

In this Act, unless the context otherwise requires,—

(a) 'Apex Society' means a federal society whose area of operation extends to the whole of the State;

(a-1) 'Area of operation' means jurisdictional area from which the membership is drawn or as specified in the bye-laws of the society.

(a-2-1) 'Backward Classes' means such class or classes of citizens as may be classified as Backward Classes and notified by the Government from time to time.

(a3) 'Chief Executive' means any employee of a co-operative society by whatever designation called and includes an official of the State Government, an employee of any other institution or co-operative society who discharges the functions of a Chief Executive under the Act, rules or the Bye-laws;

(b) 'Board' means the board of directors or the governing body of a cooperative society, by whatever name called, to which the direction and control of the management of the affairs of the society is entrusted to.

(b-5) 'Cooperative Election Commission' means the Cooperative Election Commission constituted under section 39AA;

(c) 'Co-operative society' means a society registered or deemed to be registered under this Act;

(d-2) 'Co-operative' means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) and includes the Union Co-operative and the Federal Co-operative.

(e-2-1) 'Director' means a member of the board duly elected or nominated or co-opted in accordance with this Act, the rule and the bye-laws made under this Act;

(e4) 'Federal Society' means a co-operative society, the membership of which is not open to individuals:

(f) 'Member' means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the Bye-laws and includes a nominal and an associate member;

(g) 'Office bearer', means the President, Vice-President, Chairperson, Vice-Chairperson, 'elected secretary or treasurer' Liquidator, Administrator, Special Officer and includes a member of the Board

or any other person not being an employee empowered to exercise any power or perform any function in regard to the business of a co-operative society and to give directions in regard to policies affecting the business of the society;

(h1) 'Primary society' means a co-operative society whose membership is not open to another co-operative society;

(i-2) 'Representative' means a person elected by a group of individual members of a primary cooperative society or a secondary cooperative society to represent them and to participate on their behalf in the representative general body meeting of the society in accordance with Act, the rules and the bye-laws made under this Act;

(j-1) 'Scheduled Castes and Scheduled Tribes' means the Scheduled Castes and Scheduled Tribes specified in respect of the State of Karnataka in the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 for the time being in force;

(j2) 'Secondary society' means a co-operative society whose membership is also open to another co-operative society;

(J-6)- 'State Level Cooperative Society' means a cooperative society whose area of operation extends to the whole of the State.

**Section 17. Disqualification for membership** (1) No person shall be eligible for admission as a member of a co-operative society, if he,—

(a) has applied to be adjudicated an insolvent or is an un discharged insolvent; or

(b) has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude, such sentence not having been reversed or the offence pardoned and a period of five years has not elapsed from date of expiry of the sentence.

(c) carries on business of the kind carried on by such co-operative society;

(d) is already a member of a co-operative society carrying on business of the same kind as itself;

(e) is not eligible for membership under section 16:

(f) is a paid employee of the society or of its financing bank; or

(g) as such member, has failed to transact such minimum business: or utilize such minimum service or facilities in a year as may be specified in the bye-laws for a continuous period of three years

(2) If a member becomes subject to any of the disqualifications specified in sub-section (1), he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

(3) If any question arises as to whether a member is deemed to have ceased or has ceased to be a member under sub-section (2) or (2A), the Registrar may either suo-motu or on a report made to him and after giving an opportunity to the person concerned of being heard, decide the question.

#### **Section 19. Member not to exercise rights till due payment made**

Save as otherwise provided in sub-section (8) of section 16, no member of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society, as may be specified in the Bye-laws.

#### **Section 20. Votes of members**

(1) No member, no representative or no delegate of a society shall have more than one vote in the general meeting or in the election of the members of the Board of a co-operative society.

(2) The following shall not have the right to vote at a general meeting or an election of the members of the Board of the co-operative society in which they are members, namely:—

(a) a nominal or associate member;

(a-i) an individual member who is a defaulter;

(a-ii) members admitted as per clauses (d), (e), (f) and (g) of sub-section (1) of section 16, who are defaulters;

(a-iii) a person who has become member of a society not later than twelve months prior to the date of such meeting:

Provided that nothing in this clause shall apply to member of a society participating in the first general body meeting of such society held immediately after its registration;

(a-iv) a member, a representative or a delegate who has failed to attend three general meetings out of the last five general meetings;

(a-v) a member or a representative who has failed to utilize such minimum services or facilities in a co-operative year as may be specified in the byelaws for three consecutive cooperative years.

(b) a co-operative society,—

(i) the Board of which stands superseded or to which a special officer is appointed under section 31 of the Act;

(ii) which is ordered to be wound up under section 72;

(iii) which has not commenced working or has ceased to work;

(iv) whose principal object is to advance loans and whose percentage of recovery is less than fifty percent of the total demand for the co-operative year immediately preceding the co-operative year

during which the meeting is held and which has failed to pass on to the financing bank or the credit agency, as the case may be, to which it is indebted,-

(a) fifty percent of the demand of the society, if the demand of the society is less than the demand of the financing bank or credit agency, or

(b) the actual demand of the financing bank or credit agency, if the demand of the society is more than the demand of the financing bank or credit agency,

not later than fifteen days of the close of the said co-operative year.

(v) other than the society referred to in sub-clause (iv), which is a defaulter;

Explanation.—A member shall be deemed to be a defaulter if he has failed to pay the arrears of any kind due by him to the society as borrower, or has failed to pay any other amount due by him to the society at least fifteen days before the date of the general meeting or the date of election of the members of the board after a notice of not less than thirty days in this behalf been issued to him.

(3) An Agricultural Credit Society which is a member of the concerned District Central Co-operative Bank, but has been permitted by the Registrar to raise loan from another financing agency for the purpose of financing its members shall not have a right to vote at a meeting of such District Central Co-operative Bank.

### **Section 21. Manner of exercising vote**

(1) Every member, every representative, every delegate and every nominee shall exercise his vote in person and not by proxy at a general meeting or an election of the members of the Board of a co-operative society.

Explanation: For the purposes of section 20 and this section and wherever else it occurs, the word 'delegate' means a member of a cooperative society to represent that society in other cooperative societies.

(2) Notwithstanding anything contained in sub-section (1),—

(a) the Board of a co-operative society which is a member of another co-operative society may appoint one of the members of the Board to vote on its behalf in the affairs of that other society;

(b) where the Life Insurance Corporation of India, the State Warehousing Corporation or such other institutions approved by the State Government or a market Board or a local authority or a firm, or a self-help group, a company or any other body corporate constituted under any law for the time being in force is a member of a co-operative society, a person nominated by such institution, market Board or local authority or a firm, or a self-help group a company or any other body corporate constituted under any law for the time being in force, may vote on its behalf in the affairs of the society;

Provided that where a new Board has been elected to a co-operative society, such newly elected Board shall send a delegate or nominee to any other co-operative society where it is a member.

(3) A member once nominated by the Board of a co-operative society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other co-operative society shall not be changed except by a resolution passed in a general body meeting by a majority of the members present and voting in such meeting.

**27A. Participation of members in the management:**

Every member of a cooperative society shall participate in the management of the society,-

- (a) by attending three out of the last five annual general meetings;
- (b) by utilizing every year such minimum services or facilities offered by the society as may be specified in the byelaws.

Provided that if a member fails to utilize the minimum services or fails to attend the minimum meetings, he shall lose his right to vote, for a period of three years.

**Section 28A. Management of Co-operative Societies vest in the Board**

(1) The management of a co-operative society shall vest in a Board constituted in accordance with this Act, the rules and the Bye-laws of such society. The Board shall exercise such powers, discharge such duties and perform such functions as may be conferred or imposed upon it by this Act, the rules and the Bye-laws.

(2) The Board of a co-operative society shall consist of not less than nine but not exceeding the number of members specified below excluding and the Chief Executive, namely:—

- (i) in case of a primary society and a secondary society whose area of operation extends to,-
  - (a) a part of taluk, eleven members;
  - (b) whole of taluk, thirteen members;
  - (c) beyond a taluk but not beyond a district, fifteen members:

Provided also that in case of Urban Cooperative Banks having area of operation not beyond a district the maximum number shall not exceed seventeen members.

- (d) beyond a district, nineteen members;
- (ii) in the case of a federal society, including Apex societies, twenty one members;

(3) In the Board of every co-operative society there shall be reserved:—

- (i) one seat to be filled by election, in favour of the persons belonging to the Scheduled Castes and Scheduled Tribes;
- (ii) two seats to be filled by election, in favour of women:

(iii) one seat to be filled by election, in favour of the person belonging to backward classes provided that such reservation shall be made on the board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

(4) Subject to the provisions of sections 29A and 39A, the term of office of the members of the Board shall be five years from the date of election and they shall be deemed to have vacated office as such members of the Board on the date of completion of the said term: Provided that if an election to the Board of any co-operative society had already been held in accordance with the Bye-laws of such society, prior to the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1997, the term of office of the Board of such co-operative society shall be three years including the co-operative year in which such election was held.

Provided also that the first general meeting of the Co-operative Society or Societies formed after amalgamation or reorganization or division in accordance with section 14 shall be held within three months from the date of registration to elect the first Board to manage the affairs of the Co-operative Society or Societies, and the term of office of such Board shall also be five years from the date of election

(4A) The board of a cooperative society, may 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 cooperative society to be the members of the board.

Provided that the number of such co-opted members shall not exceed two in addition to the maximum number specified in sub-section (2).

Provided further that such co-opted members shall not have a right to vote in any election of the cooperative society in their capacity as such members or to be eligible for being elected as office-bearers of the board.

Provided also that the functional directors not exceeding three, if any, shall also be the members of the board in accordance with the byelaws and such members shall be excluded for the purpose of counting the total number of directors specified in sub-section (2).

Provided also that the professional directors and functional directors shall not form a part of the quorum for the conduct of the board meetings.

(5) If the new Board is not constituted under section 29A, on the date of expiry of the term of office of the Board, or if the election is not held within the time limits specified in section 39A, the Registrar or any other officer within whose jurisdiction the society is situated, and who is authorized by the Registrar, shall be deemed to have assumed charge as Administrator and he shall, for all purposes

function as such Board of management. The Administrator shall, subject to the control of the Registrar, exercise all the powers and perform all the functions of the Board of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required, in the interest of the co-operative society.

Provided that the Registrar shall appoint an administrator to a Co-operative Society or each of the co-operative Societies formed after amalgamation or reorganization or division in accordance with section 14 for a period of three months and the administrator so appointed shall arrange for holding elections to a Board of such Co-operative Society or Societies as the case may be.

#### **Section 28B. Board to arrange for election**

(1) The election of a board shall be conducted before the expiry of the term of the 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 members of the Board who have failed to make arrangements for election within the time limit specified in section 39A, shall be deemed to have vacated their office on the last day of the time limit so specified and such members shall not be eligible for election as members of the Board for a period of five years from the date of expiry of their term.

(3) The Administrator who shall assume charge under sub-section (5) of section 28A, shall, as early as possible but within a period of six months arrange for the constitution of a new Board of the society in accordance with the Act, rules and the Bye-laws.

Provided that the administrator so appointed shall not continue for a period beyond three months in respect of a society in co-operative credit structure.

#### **29A. Commencement of term of office**

(1) The term of office of the members of the Board shall commence on the date on which the majority of the elected members of the Board assume office or the term of the outgoing Board expires, whichever is later.

(2) Notwithstanding anything contained in this Act or the rules or the Bye-laws of a co-operative society, the Board shall be deemed to be duly constituted when the majority of the elected members of the Board are available to function as members of the Board after the election.

(3) The Board deemed to be constituted under sub-section (2) shall be competent to exercise all the powers and perform all the functions of the Board of the co-operative society.

**29B. Resignation of a member:** A member of a Board, other than a nominated member, may resign his membership in writing under his hand and delivered to the Chief Executive and his seat 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.

### **29C. Disqualification for membership of the Board**

(1) No person shall be eligible for being elected or appointed or continued as a member of the Board of any co-operative society, if,—

(a) he is in default to that society or any other co-operative society in respect of any dues from him as borrower;

(b) he is interested directly or indirectly in any contract made with such co-operative society or in the sale or purchase made by such co-operative society privately or in auction or in any contract or transaction of the co-operative society (other than investment and borrowing) involving financial interests in that contract, sale, purchase or transaction;

(c) he or any of his near relation carries on a business of the kind carried on by such co-operative society or by a co-operative society of which such co-operative society is a member;

Provided that if any question arises as to whether any person is near relation or not, the case shall be decided by the Registrar and his decision shall be final.

(d) he is employed as legal practitioner on behalf of such co-operative society or accepts employment as legal practitioner against such co-operative society;

(e) he is a paid employee other than the chief executive of such co-operative society or of its financing bank;

(f) he is a near relation of a paid employee of such co-operative society.

Explanation.—For the purpose of this clause and clause (c) ‘near relation’ means,—

(i) husband, wife and unmarried daughter;

(ii) father, mother, undivided son, undivided brother and unmarried sister; and

(iii) such other relations as may be Prescribed to be a near relation.

(g) he was a paid employee of a co-operative society and was dismissed, removed or compulsorily retired from service of a co-operative society;

(h) he is disqualified to be a member of the society or to vote as such member;

(i) he has been convicted for an offence punishable under section 153A or section 171E or section 171F or sub-section (2) or sub-section (3) of section 505 of the Penal Code, 1860 (Central Act 45 of

1860) or under section 39J or clause (b) of sub-section (2) of section 39K of this Act, unless a period of six years has elapsed from the date of such conviction;

(j) he has been convicted by a Court in India for any offence and sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed from the date of his release;

(k) he is found guilty of corrupt practice within the meaning of section 39C unless a period of six years has elapsed from the date on which he was found guilty;

(l) he has failed to remit to any co-operative society any amount (other than a loan) retained by him in contravention of the provisions of this Act, rules or Bye-laws;

(m) he is a representative of a co-operative society which is in default to a financing bank or to any co-operative society in respect of any dues by the co-operative society which he represents, for a continuous period of one year:

Provided that the disqualification under this clause for being continued as a member of the Board shall apply to a co-operative society which has defaulted in payment of an amount exceeding thirty percent of such dues;

(n) he was a member of the Board which failed to make arrangement for election within the time limit specified in section 39A.

(o) he, is in the Board of a District Central Society or a Federal Society or an Apex Society as a representative of a Co-operative Society; and,-

(i) he ceases to be a member of the primary or secondary society which he represents; or

(ii) the society which nominated him as a representative withdraws his nomination; or

(iii) the Board of the society of which he is a member has been removed under section 30, or a special officer is appointed under section 31;

(iv) the society of which he is the representative has been liquidated;

(p) he has absented himself for three consecutive meetings of the board of such society without leave of absence.

(2) No person including a person elected by a co-operative society as a member of a Board of another co-operative society of which such co-operative society is a member shall be a President or Chairperson, Vice-President or Vice-Chairperson or other office bearer of more than two co-operative societies.

(3) If the board of a cooperative society fails,-

(a) to assist the cooperative Election Commission for conducting elections as per section 39A and section 29F; or

(b) to call the annual general meeting under section 27 or special general meeting when required under section 28; or

(c) to present the audited accounts and annual report in the annual general meeting;

every member of such defaulting board shall be disqualified for being elected or appointed or continued as a member of the board of the society for a period of five years from the date of the order of disqualification".

(4) Nothing in sub-section (2) shall apply,—

(i) to any person who is appointed by the State Government or the Registrar as the President or Chairperson, Vice-President or the Vice-Chairperson; or

(ii) to any person who is merely a member of the Board.

(5) In the case of co-operative marketing societies, consumers co-operative societies and such class or classes of co-operative societies as may be specified by the State Government, by notification in the official Gazette, no member shall be eligible for being appointed or elected as a member of the Board of such co-operative society if he does not fulfill the minimum qualifications relating to his transactions with the co-operative society up to such monetary limits as may be specified from time to time in such notification.

(6) There shall be no representative of individual members on the Boards of a District Central Co-operative Bank or an Apex Co-operative Bank or such other classes of co-operative banks as may be Prescribed.

(7) Any question as to whether a member of the Board was or has become subject to any of the disqualifications mentioned in this section shall be decided by the Registrar after giving the person concerned a reasonable opportunity of being heard.

(8) If any member of a board of a co-operative society during the term of his office,—

(a) becomes subject to any disqualifications specified in sub-sections (1), (2) and (5); or

(b) has acted or has been acting fraudulently or with gross negligence or in contravention of the provisions of this Act, the rules or the Bye-laws of the co-operative society or without the sanction of the Board of the co-operative society where such sanction is necessary or contrary to the resolution of the co-operative society or its board or in any way prejudicial to the interest of the co-operative society; or

(c) has acted or has been acting persistently against the directions or orders issued under this Act, rules or Bye-laws; or

(d) is not discharging his duties satisfactorily; the Registrar may either on a report made to him or otherwise, by order remove such member, and in cases falling under clauses (a), (b), (c) and (d) of this sub-section disqualify him from holding any office in the co-operative society for such period not exceeding five years, as may be specified in such order:

Provided that no order shall be made under this sub-section unless a reasonable opportunity of being heard, is given to the person against whom the order is to be made.

(9) A copy of the order made under sub-section (8) shall be communicated to the member and the co-operative society concerned.

(10) being elected or appointed or continued as a delegate of another society, if he suffers from any disqualification mentioned in sub-section (1). The provisions of sub-section (8) shall, mutatis-mutandis, apply.

(11) No member of a cooperative society shall be eligible for being elected or appointed or continued as a representative, if he suffers from any disqualification mentioned in sub-section (I) other than clauses (m) and (n) thereof. The provisions of sub-section (8) shall, mutatis- mutandis, apply".

#### **29E. Filling up of casual vacancy in the office of members of the Board**

Any vacancy in the office of members of the Board of a co-operative society by reason of death, resignation, removal or otherwise, shall be filled up in such manner as may be specified in the Bye-laws of such society.

Provided that the cooperative election commission shall conduct the election to fill up any vacancy in the office of the director of the board if the remaining term of office of the board is more than half of its original term.

Provided further that 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 of its original term.

#### **29F. Election of President, Chairperson, Vice-President, or Vice-Chairperson, etc**

(1) Every co-operative society shall have a President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers elected in accordance with the provisions of this Act, rules or Bye-laws.

(2) The President or Chairperson shall preside over meetings of the Board of the society and its sub-Board as well as general meeting of the society

(3) In the event of vacancy in the office of President or Chairperson by resignation, death or removal or otherwise, the Vice-President or Vice-Chairperson shall perform the duties of the President or Chairperson as the case may be, until a member is duly elected as President or Chairperson.

(4) The term of office of the office-bearers of a cooperative society shall be five years from the date of election and shall be co-terminus with the term of the board.

(5) The Cooperative Election Commission shall conduct elections to the board and also to the office of President or Chair person, Vice President or Vice-Chairperson and such other office-bearers as are required to be elected as per the bye-laws of the cooperative society within fifteen days from the date of constitution or deemed constitution of the board after a general election.

(6) The cooperative election commission shall conduct elections within sixty days from the date it being notified about the occurrence of any casual vacancy in the office of a director or any office bearer of a co-operative society to fill up such casual vacancy.

**29G. Appointment of Chief Executive:**

(4-C)The Chief Executive of a Co-operative Society shall not have a right to vote in the election of the office-bearers of the board

**30. Supersession of the board:**

(1) Notwithstanding anything contained in any law of the time being in force, no board of a cooperative society shall be superseded or kept under suspension for a period exceeding six months. Provided that in case of a cooperative society carrying on the business of banking, the provision of this clause, shall have effect as if for the words "six months", the words "one year" had been substituted.

(2) If in the opinion of the Registrar, the board of a cooperative society-

(i) persistently makes default or is negligent in the performance of the duties imposed on it by this Act, or the rules or the bye-laws; or

(ii) commits any act, which is prejudicial to the interest of the society or its members; or

(iii) where there is a stalemate in the constitution or functioning of the board; or

(iv) has serious financial irregularities or frauds which have been detected; or

(v) fails to provide books and records, necessary information and assistance to the election

commission as per the calendar set out by the election commission to conduct elections to the board within the stipulated time and as a result or otherwise, the election commission has failed to conduct elections to the board within the stipulated time;

Registrar, may, after giving the board an opportunity to state objections, if any, by order in writing, superseded or suspend the said board and appoint an administrator to manage the affairs of the society for such period not exceeding six months.

Provided that the board of any cooperative society shall not be superseded or kept under suspension where there is no Government share holding or loan or financial assistance or any guarantee by the Government.

Provided further that the supersession or suspension of the board of a cooperative bank shall be done only after consultation with the Reserve Bank of India / National Bank as the case may be and the provisions of Banking Regulation Act., 1949 shall also apply.

(3) The administrator so appointed shall, subject to the control of the Registrar and such instructions as he may give from time to time, exercise all or any of the functions of the board or of any office-bearer of the co-operative society and take such action as he may consider necessary in the interest of the society.

(4) In case of supersession of a board, the administrator shall, before the expiry of his term of office, arrange for the conduct of elections and the constitution of a new board in accordance with this Act" the rules and the bye-laws of the co-operative society and hand over management to the elected board.

(5) In case of suspension of a board, the Registrar shall reinstate the said board and the administrator shall, on the expiry of his term of office, handover the management to the said board and the period of suspension shall be reckoned while computing the original term of office of the board.

(6) Any officer or employee of the Government or a Cooperative organization may be appointed as administrator of a cooperative society-

(i) if he is appointed on full time basis, his pay and other allowances shall be borne by the cooperative society. The service rules applicable to him in the department or organization shall continue to govern his service as administrator of the society;

(ii) if he is appointed as administrator in addition to his regular post, he shall be paid remuneration at the rate of ten percent of his basic pay out of the funds of the cooperative society. The service rules applicable to him in the department or organization shall continue to govern his service as administrator of the society;

### **39A. Conduct of elections**

(1) Every general election of the members of the board and election of the office-bearers of a cooperative society including any casual vacancy to the extent applicable shall be held subject to the superintendence, direction and control of the Cooperative Election Commission.

(2) The general elections of the members of the boards of the cooperative societies shall be held in four stages as under,-

- (a) the elections in respect of primary cooperative societies shall be held in the first stage;
- (b) in the second stage, the electoral process for holding elections to the secondary societies shall commence fifteen days after the completion of the elections of the primary societies;
- (c) in the third stage, the electoral process for holding election to the federal societies shall commence thirty days after the completion of the elections of the secondary societies; and
- (d) in the fourth stage, the electoral process for holding election to the apex societies shall commence thirty days after the completion of the elections of the federal societies.

Provided that the cooperative election commission may start the preparatory work for the preparation of the electoral rolls for and the conduct of the elections during the last six months prior to the expiry of the term of office of the board of a cooperative society.

(3) Notwithstanding anything contained in this Act, the rules or the bye-laws of any cooperative society, the elections to the boards and consequent election of the office-bearers which are due during March and

April 2013 shall be held;

- (i) before the thirtieth day of September 2013 in respect of the primary cooperative societies;
- (ii) before the thirty first day of October 2013, in respect of the secondary cooperative societies;
- (iii) before the thirtieth day of November 2013 in respect of the federal societies;
- (iv) before the thirty first day of December 2013 in respect of the apex cooperative societies;

Provided that the incumbent boards of all such cooperative societies shall continue to be in their respective offices till the conduct of the elections as above.

### **39AA. Cooperative Election Commission**

(1) The State Government shall, by notification in the Official Gazette, constitute a Cooperative Election Commission consisting of a Cooperative Election Commissioner and a Secretary.

(2) The cooperative election commission shall be vested with the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the cooperative societies in the State.

(3) The Government shall appoint a person who is or has been an officer of the rank of Principal Secretary or Secretary to the State Government to be Cooperative Election Commissioner on the recommendation of the Chief Minister and such Cooperative Election Commissioner shall hold office for a term of five years.

- (4) The State Government shall appoint a person who is or has been an officer of the rank of Additional Registrar of Cooperative societies to be the Secretary of the Cooperative Election Commission.
- (5) The conditions of service including the salary and allowances of the Cooperative Election Commissioner and the secretary shall be such as may be prescribed.
- (6) Subject to the provisions of sub-section(8), the Co-operative Election Commissioner shall be removed from his office only by an order of governor on the ground of proved misbehavior or incapacity after an enquiry ordered by the Governor and conducted by a Judge of the High Court, who has on inquiry, reported that the Election Commissioner ought to be removed on such ground.
- (7) The Governor may suspend from office, and if deemed necessary prohibit also from attending the office during inquiry, the Election Commissioner in respect of whom an enquiry has been ordered under sub section (6) until the Governor has passed orders on receipt of the report of the High Court Judge.
- (8) Notwithstanding anything contained in sub-section (6), the Governor may by order remove from office the cooperative election commissioner if the Cooperative Election Commissioner,-
- (a) is adjudged an insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the Governor involves moral turpitude; or
  - (c) has engaged during his term of office in any paid employment outside the duties of his office; or
  - (d) is, in the opinion of the Governor unfit to continue in office by reason of infirmity of mind or body; or
  - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Election Commissioner.
- (9) If the Cooperative Election Commissioner any way, concerned or interested in any contract or agreement made by or on behalf of the Government of Karnataka or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (6) be deemed to be guilty of misbehavior.
- (10) The Cooperative Election Commission shall in consultation with the State Government determine the number of officers and other employees required for the discharge of the functions conferred on it under subsection(2) and require the State Government to provide the services of such officers and employees.



(11) The State Government shall, when so requested by the Cooperative Election Commission, make available to the Cooperative Election Commission such staff as may be necessary for the discharge of the functions conferred on the Cooperative Election Commission under sub-section(2).

(12) The salary, allowances, terms and conditions of services of the officers and the employees of the cooperative election commission shall be such as may be prescribed.

(13) Subject to the provisions of this Act, procedure and guidelines for the conduct of election shall be such as may be prescribed.

(14) The cost of preparation of electoral rolls for, and the conduct of the elections shall be met in such manner as may be prescribed.

(15) The board of every cooperative society shall,-

(a) inform the Cooperative Election Commission about the expiry of its term of office at least six months before the date of expiry of such term;

(b) furnish such books, records and information as the commission may require as per the calendar prescribed by the Cooperative Election Commission; and

(c) provide all necessary help, assistance and cooperation for the smooth preparation of electoral rolls for and the conduct of elections.

### **39B. Cost of conducting elections**

The expenses of holding any election, including the payment of traveling allowances, dearness allowances and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election shall be borne by the co-operative society concerned.

### **39C. Corrupt practices**

The following shall be deemed to be corrupt practices for the purposes of this Act, namely:—

(i) 'Bribery' as defined in clause (1) of section 123 of the Representation of the Peoples Act, 1951 (Central Act 43 of 1951), for the time being in force;

(ii) undue influence as defined in clause (2) of the above section for the time being in force;

(iii) the appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;

(iv) the promotion of, or attempt to promote, feeling of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his

agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate or for prejudicially affecting the election of any candidate;

(v) the publication by a candidate or his agent or by any other person, with the consent of candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidature, being a statement reasonably calculated, to prejudice the prospects of that candidates election;

(vi) the hiring or procuring whether on payment or otherwise, any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

Provided that the use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purposes of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression ‘vehicle’ means any vehicle used or capable of being used for the purposes of road transport, whether propelled by mechanical power or otherwise whether used for the drawing of other vehicles or otherwise;

(vii) the holding of any meeting at which intoxicating liquors are served;

(viii) the issuing of any circular, placard or poster having reference to the election which does not bear the name and address of the printer and publisher thereof:

(ix) any other practice which the State Government may by rule specify to be a corrupt practice.

### **39D. Maintenance of secrecy of voting**

(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

### **39E. Officers etc. at election not to act for candidates or to influence voting**

(1) No person who is a returning officer, or an assistant returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to

perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour,—

- (a) to persuade any person to give his vote at an election; or
- (b) to dissuade any person from giving his vote at an election; or
- (c) to dissuade any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

### **39F. Prohibition of canvassing in or near polling station**

(1) No person shall, on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognizable.

### **39G. Penalty for disorderly conduct in or near polling station.**

(1) No person shall on the date or dates on which a poll is taken at any polling station,—

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighborhood thereof, any apparatus for amplifying or reproducing the human voice such as megaphone or a loud speaker; or
- (b) shout or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighborhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of officers and other persons on duty at the polling station.

(2) Any person, who contravenes or willfully aids or abets the contravention of the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

### **39H. Penalty for misconduct at the polling station**

(1) Any person who during hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer, may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorized in this behalf by such Presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

### **39I. Breaches of official duty in connection with election**

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(4) The persons to whom this section applies are the returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nomination or withdrawal of candidature or the recording or counting of votes at an election and the expression "official duty" shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

### **39J. Removal of ballot papers from polling station to be an offence**

(1) Any person who at any election fraudulently takes or attempts to take a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1) such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to the police officer by the presiding officer or when the search is made by police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

### **39K. Other offences and penalties**

(1) A person shall be guilty of an electoral offence, if at any election, he,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than ballot paper which he is authorized by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,—

(a) if he is a returning officer, assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty, if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression 'official shall' not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under sub-section (2) shall be cognizable.

#### **70. Disputes which may be referred to 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 co-operative society other than dispute pertaining to the election of the board and election of office-bearers arises,—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its Board or any officer, agent or employee of the society, or

(c) between the society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other co-operative society, or a credit agency such dispute shall be referred to the Registrar for decision and no civil or labour or revenue court or Industrial Tribunal shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely:—

(a) a claim by the society 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 society 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 is admitted or not;

(d) any dispute between a co-operative society 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 society notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, 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 society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

(4) All disputes related to the election of the members of the board and the election of President, Vice-President, Chairman, Vice-Chairman or any other office-bearer shall be filed in the jurisdictional Civil Court.

(5) All disputes pending with the Registrar as on the date of the constitution of Cooperative Election Commission shall be disposed of by the Registrar as if this amendment had not been made.

**109.Offences:**

(20) Every member of the board which fails and the chief executive who fails to provide necessary books, records and information within time and assist the Cooperative Election Commission for the conduct of elections within the time stipulated under section 39AA shall be punishable with imprisonment for a term of six months or with fine of ten thousand rupees or with both;

(21) Any person who, before, during or after the election of the members of the board or office-bearers, adopts any corrupt practice under section 39C or commits any electoral offences under section 39K 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.

