

Banking Regulation Act, 1949

Amending Act 1 - Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004

THE BANKING REGULATION (AMENDMENT) AND MISCELLANEOUS PROVISIONS ACT, 2004

[Act, No. 24 of 2004]

[20th December, 2004]

PREAMBLE

A Act further to amend the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961

CHAPTER I

PRELIMINARY

1. Short Title and Commencement

(1) This Act may be called the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004.

(2) Save as otherwise provided in this Act, the provisions of this Act shall come into force on the 24th day of September, 2004.

CHAPTER II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

2. Amendment of Section 56 of Act 10 of 1949:

In Part V of the Banking Regulation Act, 1949 (hereafter referred to as the principal Act), in the provisions of the principal Act as applied to, or in relation to, co-operative societies, by section 56,--

(I) in section 5 of the principal Act, as amended by sub-clause (i) of clause (c) of the said section 56,--

(A) after clause (ccii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:-

'(ccia) "co-operative society" means a society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-State co-operative societies, or any other Central or State law relating to co-operative societies for the time being in force;

(B) after clause (cciii), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:-

'(cciiia) "multi-State co-operative bank" means a multi-State co-operative society which is a primary co-operative bank;

'(cciiib) "multi-State co-operative society" means a multi-State cooperative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;'

(C) in clause (ccvii), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(II) after section 22 of the principal Act, as amended by clause (o) of said section 56, the following section shall be inserted, namely:-

"22A Validation of licences granted by Reserve Bank to multi state co-operative societies. Notwithstanding anything contained in any law or, judgment delivered or decree or order of any court made,--

(a) no licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be invalid or be deemed ever to have been invalid merely by the reason of such judgment, decree or order;

(b) every licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be valid and be deemed always to have been validly granted in accordance with law;

(c) a multi-State co-operative society whose application for grant of licence for carrying on banking business was pending with the Reserve Bank on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004 shall be eligible to carry on banking business until it is granted a licence in pursuance of section 22 or is, by a notice in writing notified by the Reserve Bank that the licence cannot be granted to it;";

(III) for clause (zaa) of the said section 56, the following clauses shall be substituted, namely:-

'(zaa) after section 36AA of the principal Act, the following sections shall be inserted, namely:-

"36AAA Supersession of Board of directors of a multi-state co-operative bank . (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a multi-State co-operative bank being conducted in a manner detrimental to the interest of the depositors or of the multi-State co-operative bank or for securing the proper management of the multi-State co-operative bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such multi-State co-operative bank for a period not exceeding five years as may be specified in the order, which may be extended from time to time, so, however, that total period shall not exceed five years.

(2) The Reserve Bank may, on supersession of the Board of directors of the multi-State co-operative bank under sub-section (1) appoint an Administrator for such period as it may determine.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of directors of a multi-State co-operative bank,--

(a) the chairman, managing director and other directors as from the date of supersession of the Board shall vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Multi-State Co-operative Societies Act, 2002 (39 of 2002) or this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such a multi-State co-operative bank or by a resolution passed in general meeting of such co-operative bank, shall, until the Board of directors of such co-operative bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such multi-State co-operative bank.

(5) (a) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in discharge of his duties.

(b) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(6) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be Specified by the Reserve Bank and be payable by the concerned multi-State co-operative bank.

(7) On and before expiration of period of supersession of the Board of directors as specified in the order issued under sub-section (1), the Administrator of the multi-State co-operative bank shall call the general meeting of the society to elect new directors.

(8) Notwithstanding anything contained in any other law or in any contract, or bye-laws of a multi-State co-operative bank, no person shall be entitled to claim any compensation for the loss or termination of his office.

(9) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of the multi-State co-operative society has been constituted.

36AAB Order of winding up multi-State co-operative bank to be final in certain cases. Where a multi-State co-operative bank, being an eligible cooperative bank, has been registered under section 13A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), as an insured bank, and subsequently -

(a) in pursuance of a scheme prepared with the previous approval of the Reserve Bank under section 18 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002), an order sanctioning a scheme of compromise and arrangement or reorganisation or reconstruction has been made; or

(b) on requisition by the Reserve Bank, an order for winding up of the multi-State co-operative bank has been made under section 87 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002); or

(c) an order for the supersession of the Board and the appointment of an Administrator therefor has been made under section 36AAA,

such order for sanctioning the scheme of compromise and arrangement or reorganisation or reconstruction under clause (a) or the winding up of the multi-State co-operative bank under clause (b) or an order for the supersession of the Board and the appointment of an Administrator under clause (c) shall not be liable to be called in question in any manner.

36AAC Reimbursement to the Deposit Insurance Corporation by liquidator or transferee bank. Where a multi-State co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is wound up and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) or sub-section (2) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act".

(zab) in section 36AD, sub-section (3) shall be omitted;"

(IV) in clause (zb) of the said section 56, for the word, figures and letter "Part IIA", the words, figures and letters "Part IIA except sections 36AAA, 36AAB and 36AAC", shall be substituted.

CHAPTER III

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

3. Amendment of section 2 of Act 47 of 1961:

In the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in section 2,-

(a) in clause (g), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(b) in clause (r), for the words "primary co-operative bank", the words "co-operative society", "primary co-operative bank" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1966.

CHAPTER IV

REPEAL AND SAVING

4. Repeal and saving:

(1) The Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004 (Ordinance 3 of 2004) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation Act, 1949 (10 of 1949) and Deposit Insurance and Credit Guarantee Corporation Act, 1961, (47 of 1961) as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

ANNEXURE EXTRACT FROM THE BANKING REGULATION ACT, 1949

(10 of 1949)

PART V

APPLICATION OF THE ACT TO CO-OPERATIVE BANKS

56. Act to Apply to Co-operative Societies Subject to Modifications:

The provisions of this Act, as in force for the time being, shall apply to, or in relation to, co-operative societies as they apply to, or in relation to, banking companies subject to the following modifications, namely:--

(c) in section 5,--

(i) after clause (cc), the following clauses shall be inserted, namely:--

(ccvii) "central co-operative bank", "co-operative society", "primary rural credit society" and "state co-operative Bank" shall have the meanings respectively assigned to them in the National Bank for Agriculture and Rural Development Act, 1981(61 of 1981);

(zaa) in section 36AD, sub-section (3) shall be omitted.

(zb) Part IIA, Part IIC, Part III, except sub-sections (1), (2) and (3) of section 45, and Part IIIA except section 45W, shall be omitted;

EXTRACT FROM THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

(47 of 1961)

2. Definitions

In this Act, unless the context otherwise requires,--

(q) the expressions "central co-operative bank", "co-operative society" and "State co-operative bank" shall have the meanings respectively assigned to them in the National Bank for Agriculture and Rural Development Act, 1981(61 of 1981);

(r) the expressions "primary co-operative bank" and "primary credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949(10 of 1949);
