

Banking Regulation (Amendment) Act, 2020

Bill No. 56 Of 2020

CONTENT

1. Short title and commencement.
2. Substitution of new section for section 3.
3. Amendment of section 56.

A Bill further to amend the Banking Regulation Act, 1949.

Banking Regulation (Amendment) Act, 2020

Bill No. 56 Of 2020

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. Short title and commencement.

(1) This Act may be called the Banking Regulation (Amendment) Act, 2020.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and that different dates may be appointed for state co-operative banks, central co-operative banks and primary co-operative banks and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Substitution of new section for section 3.

In the Banking Regulation Act, 1949 [10 of 1949] (hereinafter referred to as the principal Act), for section 3, the following section shall be substituted, namely:—

'3. Act not to apply to certain cooperative societies.

Not with standing anything contained in the National Bank for Agriculture and Rural Development Act, 1981 [61 of 1981], this Act shall not apply to—

(a) a primary agricultural credit society; or

(b) a co-operative society whose primary object and principal business is providing of long term finance for agricultural development, if such society does not use as part of its name, or in connection with its business, the words "bank", "banker" or "banking" and does not act as drawee of cheques.'

3. Amendment of section 56.

In section 56 of the principal Act,—

(A) in the opening portion, for the words "The provisions of this Act, as in force for the time being," the words "Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act" shall be substituted;

(B) in clause (a), after sub-clause (ii), the following sub-clauses shall be inserted, namely:—

'(iii) references to "memorandum of association" or "articles of association" shall be construed as references to bye-laws;

(iv) references to the provisions of the Companies Act, 1956 [1 of 1956], except in Part III and Part IIIA, shall be construed as references to the corresponding provisions, if any, of the law under which a co-operative bank is registered;

(v) references to "Registrar" or "Registrar of Companies" shall be construed as references to "Central Registrar" or "Registrar of Co-operative Societies", as the case may be, under the law under which a co-operative bank is registered;';

(C) clause (d) and sub-clauses (i) and (iii) of clause (e) shall be omitted; (D) in clause (f),—

(i) the words "or co-operative land mortgage banks"; and (ii) the words "or a co-operative land mortgage bank",

shall be omitted;

(E) clauses (fi), (fii) and (g) shall be omitted;

(F) for clause (i), the following clause shall be substituted, namely:—

'(i) for section 12, the following section shall be substituted, namely:—

"12. Issue and regulation of paid-up share capital and securities by co-operative banks.

(1) A co-operative bank may, with the prior approval of the Reserve Bank, issue, by way of public issue or private placement,—

(i) equity shares or preference shares or special shares, on face value or at premium; and

(ii) unsecured debentures or bonds or other like securities with initial or original maturity of not less than ten years, to any member of such co-operative bank or any other person residing within its area of operation, subject to such conditions and ceiling, limit or restriction on its issue or subscription or transfer, as may be specified by the Reserve Bank in this behalf.

(2) Save as otherwise provided in this Act,—

(i) no person shall be entitled to demand payment towards surrender of shares issued to him by a co-operative bank; and

(ii) a co-operative bank shall not withdraw or reduce its share capital, except to the extent and subject to such conditions as the Reserve Bank may specify in this

behalf."';

(G) clauses (l), (n), (p), sub-clauses (ii) and (iv) of clause (q), clauses (r), (ria) and (sa), sub-clause (i) of clause (t), clauses (u), (v), (x), (y), (z) and (za) shall be omitted;

(H) in clause (zaa),—

(i) for the words "multi-State co-operative bank" wherever they occur, the words "co-operative bank" shall be substituted;

(ii) after the portion beginning with "36AAA. (1) Where the Reserve Bank is satisfied" and ending with "shall not exceed five years.", the following proviso shall be inserted, namely:

"Provided that in case of a co-operative bank registered with the Registrar of Co-operative Societies of a State, the Reserve Bank shall issue such order in consultation with the concerned State Government seeking its comments, if any, within such period as the Reserve Bank may specify.";

(iii) for the portion beginning with "36AAB. Where a Multi-State Co-operative bank" and ending with "(c) shall not be liable to be called in question in any manner.", the following shall be substituted, namely:—

"(10) The provisions of section 36ACA shall not apply to a co-operative bank.";

(I) for clause (zb), the following clause shall be substituted, namely:— "(zb) Part IIC shall be omitted;"

(J) sub-clause (i) of clause (zc) and clauses (zd) and (zf) shall be omitted;— (K) for clause (zg), the following clause shall be substituted, namely:—

'(zg) in section 49B, references to "Central Government" shall be construed as references to "Central Registrar" or "Registrar of Co-operative Societies", as the case may be, under the law under which a co-operative bank is registered;'

(L) clause (zh) shall be omitted;

(M) for clause (zj), the following clause shall be substituted, namely:—

'(zj) after section 53, the following section shall be inserted, namely:—

"53A. Power to exempt co-operative banks in certain cases.

Not with standing anything contained in any other provision of this Act, the Reserve Bank may, from time to time, on being satisfied that it is necessary so to do, declare by notification in the Official Gazette, that the provisions of item (iii) of clause (b) of sub-section (1) and sub-section (2) of section 10, clause (a) of sub-section (2) of section 10A, sub-section (1A) of section 10B and clause (b) of sub-section (1) of section 35B of this Act shall not apply to a co-operative bank or class of co-operative banks, either generally or for such period as may be specified therein, subject to such conditions, limitations or restrictions as it may think fit to impose."';

STATEMENT OF OBJECTS AND REASONS

The Banking Regulation Act, 1949 was enacted to consolidate and amend the law

relating to banking. Part V of the said Act provides for the application of the Banking Regulation Act, 1949 to co-operative banks, subject to certain modifications specified in section 56 thereof. Keeping in view the developments in the banking sector and regulation thereof overtime, it has become necessary to strengthen the provisions of the said Act as applicable to co-operative banks.

2. It is proposed to bring the co-operative banks on par with the developments in the banking sector through better management and proper regulation of co-operative banks with a view to ensure that the affairs of the co-operative banks are conducted in a manner that protects the interests of the depositors. It is further proposed to strengthen the co-operative banks by increasing professionalism, enabling access to capital, improving governance and ensuring sound banking through the Reserve Bank of India.

3. In view of the above, it is decided to amend the Banking Regulation Act, 1949 by the Banking Regulation (Amendment) Bill, 2020, inter alia, to provide for the following:

(i) to amend section 3, so as to make the provisions of the said Act not applicable to—

(a) a primary agricultural credit society; or

(b) a co-operative society whose primary object and principal business is providing of long term finance for agricultural development,

if such society does not use as part of its name, or in connection with its business, the words "bank", "banker" or "banking" and does not act as drawee of cheques;

(ii) to substitute clause (i) of section 56, so as to provide for the issue and regulation of paid-up share capital and securities by co-operative banks;

(iii) to amend clause (zaa) of section 56, so as to provide that in the case of a co-operative bank registered with the Registrar of Co-operative Societies of a State, the Reserve Bank shall consult the concerned State Government before issuing order for supersession of the board of directors under section 36AAA;

(iv) to omit certain clauses of section 56 as the other provisions of the Banking Regulation Act, 1949 would apply to co-operative banks;

(v) to make other consequential changes in section 56.

4. The Bill seeks to achieve the above objectives.