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NOTIFICATION

No. H. 12018/178/06-LJD, the 14th January, 2013. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor of Mizoram is hereby published for general information.

P. Singthanga,
Secretary to the Govt. of Mizoram.

The Mizoram Cooperative Societies (Amendment) Act, 2012 (Act No. 15 of 2012)

AN

ACT

Further to amend the Mizoram Cooperative Societies Act, 2006 (Act No.9 of 2006)

WHEREAS it is expedient to further amend the Mizoram Cooperative Societies Act, 2006 (Act No.9 of 2006) (hereinafter referred to as the Principal Act) in line with the Constitution (Ninety Seventh Amendment) Act, 2011 and in the interest of democratic and smooth functioning of the Cooperative Societies in the State of Mizoram and for the matters connected therewith.

It is enacted by the Legislative Assembly of Mizoram in the sixty-third year of Republic of India as follows :-

***Short title, extent
and Commencement***

1. (1) This Act may be called the Mizoram Cooperative Societies (Amendment) Act, 2012.
- (2) It shall have the like extent as the Principal Act.
- (3) It shall come into force from the date of its publication in the Official Gazette.

Amendment of Section 2

2. In Section 2 of the Principal Act,
 - (1) After sub-section (7), a new sub-section 7(a) shall be added as follows, namely :-
“7(a) “Authorized person” means a person referred to as such in Section 107(2)(17) of this Act.”

- (2) Sub-section (8) of Section 2 shall be substituted as follows, namely :-
 “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 a Society is entrusted to.”
- (3) After sub-section (17), a new sub-section 17(a) shall be added as follows, namely :-
 “17(a) “Cooperative Society” means a Society registered or deemed to be registered under any law relating to Cooperative Societies for the time being in force.”
- (4) After sub-section (51), a new sub-section 51(a) shall be added as follows, namely :-
 “51(a) “State Level Cooperative Society” means a Cooperative Society having its area of operation extending to the whole of Mizoram and which has as its members only the registered Cooperative Societies.”

Amendment of Section 31

3. In Section 31 of the Principal Act, after clause (s), a new clause (t) shall be added as follows, namely :-
 “(t) to have an access to the books, information and accounts of the Cooperative Society kept in regular transaction of its business with such member.”

Amendment of Section 46

4. In the Principal Act, clause (a) of sub-section (2) of Section 46 shall be substituted as follows, namely :-
 “Election of Chairman, Vice Chairman and Directors of the Board of Management Committee in the State Level Cooperative Societies, Secondary and Primary Cooperative.”

Amendment of Section 48

5. In Section 48 of the Principal Act,
 (1) Sub-section (1) shall be substituted as follows, namely:-
 “There shall be a board of directors or management committee for every Cooperative (hereinafter referred to as board of management committee) consisting of such number of persons as specified in the bye-laws which number, in any case, shall not exceed twenty one.”
- (2) After sub-section (2), a new sub-section 2(a) shall be added as follows, namely :-
 “2(a) The Board may appoint a person 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 societies, as co-opted member of the board of such societies.

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified under Section 48(1):

Provided further that such co-opted members shall not have the right to vote in any election of the Cooperative Society in their capacity as such member or to be eligible to be elected as office bearers of the board:

The Government may nominate functional directors of a Cooperative Society who shall also be the members of the board and such members who shall be excluded for the purpose of counting the total number of directors specified under Section 48(1):”

Amendment of Section 49

6. Section 49 of the Principal Act shall be substituted as follows, namely:-
“Notwithstanding anything contained under this Act, Rules or Bye-Laws of the concerned Cooperative, two seats in the committee of management shall be reserved for women if the Cooperative Society has women members.”

Amendment of Section 53

7. In Section 53 of the Principal Act,
(1) Sub-section (1) shall be substituted as follows, namely:-
“The term of the office of the Board of Management Committee of the Primary Cooperative, Secondary Cooperative and the Federal Cooperative Societies shall be five years from the date of election and the term of office bearers shall be coterminous with the term of the board.”
(2) The first and second proviso of sub-section (3) shall be substituted as follows, namely:-
“Provided that no member shall hold office for more than 10 years in succession, or having already held Office for 10 years, whether in succession or not, be re-elected within a shorter interval than five years from the date on which he ceased to be member of such Council or Body.

Provided further that if election cannot be held for any reason, the gap period so occasioned shall not be counted to form part of the interval period of five years.”

Explanation: Notwithstanding this Amendment, the tenure of the existing Management Committee elected and constituted under the pre-amended Act shall remain unchanged and election under the amended Act shall be held for such Management Committees before the expiry of their normal tenure for which they were elected.

The members who have not completed ten years but whose re-election for another term is likely to exceed ten years provided under the amended Act shall also not be eligible for re-election before five years cooling off period.

Amendment of Section 55

8. In Section 55 of the Principal Act,
 - (1) Sub-section (1) shall be substituted as follows, namely:-

“The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a cooperative society shall vest in the Registrar of Cooperative Societies. The election shall be conducted by the Registrar in accordance with the procedure prescribed in the Mizoram Cooperative Societies Rules, 2012.”
 - (2) Clause (a) of sub-section (2) shall be substituted as follows, namely:-

“Conducted before the expiry of the term of the committee so as to ensure that the newly elected members of the committee assume office immediately on the expiry of the office of members of the outgoing management committee.”
 - (3) Sub-sections (4) and (5) shall stand deleted.
 - (4) Sub-section (6) of Section 55 shall be substituted as follows, namely:-

“Where there exist casual vacancy on the board and there exist a quorum, the board may fill 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 term of the office of the board is less than half of its original term.”

Amendment of Section 64

9. In Section 64 of the Principal Act,
- (1) Sub-section (1) shall be substituted as follows, namely:-
“The Registrar for the reasons, basis or grounds specified under sub-section (2) shall have the power to supersede or remove the duly elected management committee from office before the expiry of its full tenure and in its place appoint one or more officers to be called as administrator to manage the affairs of the cooperative for a period not exceeding six months as may be specified in the order.”
- (2) Sub-section (2) shall be substituted as follows, namely:-
“The board of management committee may be superseded or kept under suspension in case –
- (i) of its persistent default; or
 - (ii) of negligence in the performance of its duties, or
 - (iii) the board has committed any act prejudicial to the interests of the cooperative society or its members; or
 - (iv) there is stalemate in the constitution or functions of the board; or
 - (v) the authority or body as provided by the Legislature of a State, by law, under Clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of this Act;
 - (vi) has omitted or failed to comply with any direction or order issued to it by Registrar or Government in general or public interest;

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

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

Provided also that in case of a Cooperative Society, other than a multi-State Cooperative Society, carrying on the business of banking the provisions of this clause shall have the effect as if for the words “six months”, the words “one year” had been substituted.”

Amendment of Section 85

10. In Section 85 of the Principal Act,
- (1) the following shall be added in continuation of sub-section (1), namely:-
 “The accounts of every Cooperative Society shall be audited within six months of the close of the financial year to which such accounts relate.”
- (2) After sub-section (2), a new sub-section (2)(a) and (2)(b) shall be added as follows, namely:-
 “2(a) The Registrar of Cooperative Societies shall lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the cooperative societies.”
- “2(b) Every cooperative society shall cause to be audited by an auditor or auditing firms appointed by the general body of the cooperative society.
 Provided that such Auditors or auditing firms shall be appointed from a panel approved by Registrar of Cooperative Societies.”

Amendment of Section 88

11. In Section 88 of the Principal Act, the words “sixty days” shall be substituted by the words “six months” and Section 88 will read as follows:-
 “Every Cooperative, within six months of the closure of the corresponding financial year, shall file the following information or returns pertaining to the cooperative with the Registrar.”

Amendment of Section 89

12. In the Principal Act, after clause (g) of sub-section (2) of Section 89, a new clause (h) shall be added as follows, namely:-
 “(h) The audit report of the accounts of an apex Cooperative Society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.”

Amendment of Section 107

13. In Section 107 of the Principal Act, clause (17) of Sub-Section (2) shall be substituted as follows, namely:-
 “Wilful failure of any officer or custodian to handover custody of books, accounts, documents, records, cash, security and other property belonging to a cooperative society of which he is an officer or custodian, to an authorized person.”

