

Bill No. 114 of 2020

THE BANKING REGULATION (AMENDMENT) BILL, 2020

A

BILL

further to amend the Banking Regulation Act, 1949.

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

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

Short title and commencement.

(2) It shall be deemed to have come into force on the 26th day of June, 2020, except
5 section 4, which, in so far as it relates to—

(i) primary co-operative banks, be deemed to have come into force on the 29th day of June, 2020;

(ii) state co-operative banks and central co-operative banks, come into force on such date as the Central Government may by notification in the Official Gazette, appoint:

10 Provided that different dates may be appointed for state co-operative banks and central 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.

Substitution of new section for section 3.

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

Act not to apply to certain co-operative societies.

“3. Notwithstanding anything contained in the National Bank for Agriculture and Rural Development Act, 1981, this Act shall not apply to— 5
61 of 1981.

(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.”. 10

Amendment of section 45.

3. In section 45 of the principal Act,—

(i) in the marginal heading, for the word “reconstitution”, the word “reconstruction” shall be substituted;

(ii) in sub-section (3), after the words “other creditors”, the words “or grant any loans or advances or make investments in any credit instruments” shall be inserted; 15

(iii) in sub-section (4), after the words “During the period of moratorium”, the words “or at any other time” shall be inserted;

(iv) in sub-section (5), in clauses (e), (i) and (j), for the words “date of the order of moratorium”, the words “reconstruction or amalgamation” shall be substituted; 20

(v) in sub-section (6), in clause (a), for the word “amalgamation”, the words “reconstruction or amalgamation” shall be substituted;

(vi) in sub-section (15), the words “or a subsidiary bank” shall be omitted.

Amendment of section 56.

4. 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; 25

(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; 30

(iv) references to the provisions of the Companies Act, 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; 1 of 1956.

(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;’; 35

(C) clause (d) shall be omitted;

(D) in clause (e), sub-clauses (i) and (iii) shall be omitted;

(E) in clause (f), in section 7 as so substituted, in sub-section (2),— 40

(I) in clause (b), the words “or co-operative land mortgage banks” shall be omitted;

(II) in clause (c), in sub-clause (ii), the words “or a co-operative land mortgage bank” shall be omitted;

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

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

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

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

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

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

10 (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.

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 (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

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 (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.”;

(H) clauses (l), (n) and (p) shall be omitted;

(I) in clause (q), sub-clauses (ii) and (iv) shall be omitted;

(J) clauses (r), (ria) and (sa) shall be omitted;

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(K) in clause (t), sub-clause (i) shall be omitted;

(L) clauses (u), (v), (x), (y), (z) and (za) shall be omitted;

(M) in clause (zaa),—

 (a) in section 36AAA as so inserted,—

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

 (ii) in sub-section (I), the following proviso shall be inserted, namely:—

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 “Provided that in the 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) after sub-section (9), the following sub-section shall be inserted, namely:—

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

 (b) section 36AAB as so inserted shall be omitted;

(N) for clause (zb), the following clause shall be substituted, namely:—

 “(zb) Part IIC shall be omitted.”;

(O) in clause (zc), sub-clause (i) shall be omitted;

(P) clauses (zd) and (zf) shall be omitted;

(Q) 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;’ 5

(R) clause (zh) shall be omitted;

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

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

“53A. Notwithstanding anything contained in any other provisions 10 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 15 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.”;’.

Powers to exempt co-operative banks in certain cases.

Repeal and savings.

5. (1) The Banking Regulation (Amendment) Ordinance, 2020 is hereby repealed. 20

Ord. 12 of 2020.

(2) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation Act, 1949, as amended by the said Ordinance, shall be deemed to have been done 10 of 1949. or taken under the corresponding provisions of the said Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Banking Regulation Act, 1949 was enacted to consolidate and amend the law relating to banking. Section 3 of the said Act provides that the Act shall not apply to certain co-operative societies, except in the manner and to the extent specified therein. Section 45 empowers the Reserve Bank of India for suspension of business by a banking company and to prepare a scheme of reconstruction or amalgamation during the order of moratorium. Part V thereof provides for the application of the Banking Regulation Act, 1949 to co-operative banks, subject to certain modifications specified in section 56.

2. Certain amendments were considered necessary in the said Act to provide for better management and proper regulation of co-operative banks and to ensure that the affairs of the co-operative banks are conducted in a manner that protects the interests of the depositors, by increasing professionalism, enabling access to capital, improving governance and ensuring sound banking through the Reserve Bank of India. Accordingly, the Banking Regulation (Amendment) Bill, 2020 was introduced in Lok Sabha on the 3rd March, 2020, but the same could not be passed.

3. Further amendments were proposed to be made in section 45 of the Act to enable the Reserve Bank of India to make a scheme to protect the interests of the public, the banking system, depositors or to secure the banking company's proper management, without first making an order of moratorium so as to avoid disruptions in the financial system.

4. As the economic situation arising from the COVID-19 pandemic had increased the stress in both co-operative banks and banking companies, there was an immediate need for legislation in this regard. As Parliament was not in session, the Banking Regulation (Amendment) Ordinance, 2020 was promulgated by the President of India on the 26th day of June, 2020 under clause (1) of article 123 of the Constitution.

5. The Banking Regulation (Amendment) Bill, 2020 which seeks to replace the Banking Regulation (Amendment) Ordinance, 2020 (Ord. 12 of 2020) provides for the following, namely:—

(i) substitution of section 3 to provide that the 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;

(ii) amendment of section 45 to address the potential disruptions in the financial system by providing for the Reserve Bank of India to prepare a scheme for the reconstruction or amalgamation of the banking company without the necessity of first making an order of moratorium;

(iii) amendment of section 56 to provide that notwithstanding anything contained in any other law for the time being in force, the provisions of the Act shall apply to co-operative societies, subject to the modifications specified therein.

6. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 3rd September, 2020.

NIRMALA SITHARAMAN.

ANNEXURE

EXTRACTS FROM THE BANKING REGULATION ACT, 1949

(10 OF 1949)

* * * * *

Act to apply to co-operative societies in certain cases.

3. Nothing in this Act shall apply to—

(a) a primary agricultural credit society;

(b) a co-operative land mortgage bank; and

(c) any other co-operative society, except in the manner and to the extent specified in Part V.

* * * * *

Power of Reserve Bank to apply to Central Government for suspension of business by a banking company and to prepare scheme of reconstitution or amalgamation.

45. (1) *

(3) Except as otherwise provided by any directions given by the Central Government in the order made by it under sub-section (2) or at any time thereafter, the banking company shall not during the period of moratorium make any payment to any depositors or discharge any liabilities or obligations to any other creditors.

(4) During the period of moratorium, if the Reserve Bank is satisfied that—

(a) in the public interest; or

(b) in the interests of the depositors; or

(c) in order to secure the proper management of the banking company; or

(d) in the interests of the banking system of the country as a whole,

it is necessary so to do, the Reserve Bank may prepare a scheme—

(i) for the reconstruction of the banking company, or

(ii) for the amalgamation of the banking company with any other banking institution (in this section referred to as “the transferee bank”).

(5) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—

* * * * *

(e) subject to the provisions of the scheme, the continuation by or against the banking company on its reconstruction or, as the case may be, the transferee bank, of any actions or proceedings pending against the banking company immediately before the date of the order of moratorium;

* * * * *

(i) the continuance of the services of all the employees of the banking company (excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947 are specifically mentioned in the scheme) in the banking company itself on its reconstruction or, as the case may be, in the transferee bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date of the order of moratorium:

14 of 1947.

Provided that the scheme shall contain a provision that—

(i) the banking company shall pay or grant not later than the expiry of the period of three years from the date on which the scheme is sanctioned by the Central Government, to the said employees the same remuneration and the same terms and conditions of service as are, at the time of such payment or grant, applicable to employees of corresponding rank or status of a comparable banking company to be determined for this purpose by the Reserve Bank (whose determination in this respect shall be final);

(ii) the transferee bank shall pay or grant not later than the expiry of the aforesaid period of three years, to the said employees the same remuneration and the same terms and conditions of service as are, at the time of such payment or grant, applicable to the other employees of corresponding rank or status of the transferee bank subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee bank:

Provided further that if in any case under clause (ii) of the first proviso any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee bank, the doubt or difference shall be referred, before the expiry of a period of three years from the date of the payment or grant mentioned in that clause, to the Reserve Bank whose decision thereon shall be final;

(j) notwithstanding anything contained in clause (i) where any of the employees of the banking company not being workmen within the meaning of the Industrial Disputes Act, 1947 are specifically mentioned in the scheme under clause (i), or where any employees of the banking company have by notice in writing given to the banking company or, as the case may be, the transferee bank at any time before the expiry of the one month next following the date on which the scheme is sanctioned by the Central Government, intimated their intention of not becoming employees of the banking company on its reconstruction or, as the case may be, of the transferee bank, the payment to such employees of compensation if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the banking company immediately before the date of the order of moratorium;

* * * * *

(6) (a) A copy of the scheme prepared by the Reserve Bank shall be sent in draft to the banking company and also to the transferee bank and any other banking company concerned in the amalgamation, for suggestions and objections, if any, within such period as the Reserve Bank may specify for this purpose.

* * * * *

(15) In this section, “banking institution” means any banking company and includes the State Bank of India or a subsidiary bank or a corresponding new bank.

Explanation.—References in this section to the terms and conditions of service of as applicable to an employee shall not be construed as extending to the rank and status of such employee.

* * * * *

PART V

APPLICATION OF THE ACT TO CO-OPERATIVE BANKS

Act to apply to co-operative societies subject to modifications.

56. 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:—

(a) throughout this Act, unless the context otherwise requires,—

* * * * *

(ii) references to “commencement of this Act” shall be construed as references to commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965;

23 of 1965.

* * * * *

(d) for section 5A, the following section shall be substituted, namely:—

Act to override bye-laws, etc.

“5A. (1) The provisions of this Act shall have effect, notwithstanding anything to the contrary contained in the bye-laws of a co-operative society, or in any agreement executed by it, or in any resolution passed by it in general meeting, or by its Board of directors or other body entrusted with the management of its affairs, whether the same be registered, executed or passed, as the case may be, before or after the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965.

23 of 1965.

(2) Any provision contained in the bye-laws, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.”;

(e) in section 6, in sub-section (1),—

(i) in clause (b), the words “,but excluding the business of a managing agent or secretary and treasurer of a company” shall be omitted;

* * * * *

(iii) in clause (m), after the word “company”, the words “or co-operative society” shall be inserted;

(f) for section 7, the following section shall be substituted, namely:—

Use of words “bank”, “banker” or “banking”.

7. (1) No co-operative society other than a co-operative bank shall use as part of its name or in connection with its business any of the words “bank”, “banker” or “banking”, and no co-operative society shall carry on the business of banking in India unless it uses as part of its name at least one of such words.

(2) Nothing in this section shall apply to—

* * * * *

(b) a co-operative society formed for the protection of the mutual interest of co-operative banks or co-operative land mortgage banks, or

(c) any co-operative society, not being a primary credit society, formed by the employees of—

* * * * *

(ii) a co-operative bank or a primary credit society or a co-operative land mortgage bank, insofar as the word “bank”, “banker” or “banking” appears as part of the name of the employer bank, or as the case may be, of the bank, whose subsidiary the employer bank is;

(fi) in section 8, for the proviso, the following proviso shall be substituted, namely:—

“Provided that this section shall not apply—

1 of 1984.

(a) to any such business as aforesaid which was in the course of being transacted on the commencement of clause (iii) of section 42 of the Banking Laws (Amendment) Act, 1983, so, however, that the said business shall be completed before the expiry of one year from such commencement; or

(b) to any business as is specified in pursuance of clause (o) of sub-section (1) of section 6;”;

(fii) in section 9, for the second proviso, the following provisos shall be substituted, namely:—

1 of 1984.

“Provided further that in the case of a primary credit society which becomes a primary co-operative bank after the commencement of clause (iii) of section 42 of the Banking Laws (Amendment) Act, 1983, the period of seven years shall commence from the day it so becomes a primary co-operative bank:

Provided also that the Reserve Bank may, in any particular case, extend the aforesaid period of seven years by such period as it may consider necessary where it is satisfied that such extension would be in the interests of the depositors of the co-operative bank;

(g) sections 10, 10A, 10B, 10BB, 10C and 10D shall be omitted;

* * * * *

(i) sections 12, 12A, 13 and 15 to 17 shall be omitted;

* * * * *

(l) for section 20 of the principal Act, the following section shall be substituted, namely:—

“20. Restriction on loans and advances.—(1) No co-operative bank shall—

(a) make any loans or advances on the security of its own shares; or

(b) grant unsecured loans or advances—

(i) to any of its directors; or

(ii) to firms or private companies in which any of its directors is interested as partner or managing agent or guarantor or to individuals in cases where any of its directors is a guarantor; or

(iii) to any company in which the chairman of the Board of directors of the co-operative bank (where the appointment of a chairman is for a fixed term) is interested as its managing agent, or where there is no managing agent, as its chairman or managing director:

Provided that nothing in clause (b) shall apply to the grant of unsecured loans or advances—

(a) made by a co-operative bank—

(i) against bills for supplies or services made or rendered to Government or bills of exchange arising out of *bona fide* commercial or trade transactions, or

(ii) in respect whereof trust-receipts are furnished to the co-operative bank;

(b) made by a primary co-operative bank to any of its directors or to any other person within such limits and on such terms and conditions as may be approved by the Reserve Bank in this behalf.

(2) Every co-operative bank shall, before the close of the month succeeding that to which the return relates, submit to the Reserve Bank a return in the prescribed form and manner showing all unsecured loans and advances granted by it to companies in cases other than those in which the co-operative bank is prohibited under sub-section (1) to make unsecured loans and advances in which any of its directors is interested as director or managing agent or guarantor.

(3) If, on examination of any return submitted under sub-section (2), it appears to the Reserve Bank that any loans or advances referred to in that sub-section are being granted to the detriment of the interests of the depositors of the co-operative bank, the Reserve Bank may, by order in writing, prohibit the co-operative bank from granting any such further loans or advances or impose such restrictions on the grant thereof as it thinks fit, and may by like order direct the co-operative bank to secure the re-payment of such loan or advance within such time as may be specified in the order.

* * * * *

(n) in section 21, in sub-section (2), in clauses (c) and (d), for the words “any one company, firm, association of persons or individual,” the words “any one party” shall be substituted;

* * * * *

(p) in section 23,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Without obtaining the prior permission of the Reserve Bank, no co-operative bank shall open a new place of business or change otherwise than within the same city, town or village, the location of an existing place of business:

Provided that nothing in this sub-section shall apply to—

(a) the opening for a period not exceeding one month of a temporary place of business within a city, town or village or the environs thereof within which the co-operative bank already has a place of business, for the purpose of affording banking facilities to the public on the occasion of an exhibition, a conference or a mela or any other like occasion;

(b) the opening or changing the location of branches by a central co-operative bank within the area of its operation.”;

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

“(4A) Any co-operative bank other than a primary co-operative bank requiring the permission of the Reserve Bank under this section shall forward its application to the Reserve Bank through the National Bank which shall give its comments on the merits of the application and send it to the Reserve Bank:

Provided that the co-operative bank shall also send an advance copy of the application directly to the Reserve Bank.”.

(q) in section 24,—

* * * * *

(ii) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) A scheduled co-operative bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934 and every other co-operative bank, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent. of the total of its demand and time liabilities in India as on last Friday of the second preceding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify from time to time and such assets shall be maintained in such form and manner, as may be specified in such notification.”;

* * * * *

(iv) in sub-section (6), in clause (a), for the words “fourteen days”, the words “thirty days” shall be substituted.”.

* * * * *

(r) section 25 shall be omitted.

* * * * *

(ria) in section 26A, for the words “banking companies”, the words “co-operative Bank” shall be substituted;

* * * * *

(sa) for section 30, the following section shall be substituted, namely:—

“30. (1) Without prejudice to anything contained in any other law for the time being in force, where the Reserve Bank is satisfied that it is necessary in the public interest or in the interest of the co-operative bank or its depositors so to do, it may at any time by general or special order direct that an additional audit of the co-operative bank accounts, for any such transactions or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint a person duly qualified under any law for the time being in force to be an auditor of companies to conduct such audit, and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the co-operative bank.

(2) The expenses of, or incidental to, the additional audit specified in the order made by the Reserve Bank shall be borne by the co-operative bank.

2 of 1934.

Audit.

(3) The auditor referred to in sub-section (1) shall have such powers, exercise such functions vested in and discharge the duties and be subject to the liabilities and penalties imposed on auditors of companies by section 227 of the Companies Act, 1956 and also that of the auditors, if any, appointed by the law establishing, constituting or forming the co-operative bank to the extent the provisions of the Companies Act, 1956 are not inconsistent with the provisions of such law. 1 of 1956.

(4) In addition to the matters referred to in the order under sub-section (1) the auditor shall state in his report—

(a) whether or not the information and explanation required by him have been found to be satisfactory;

(b) whether or not the transactions of the co-operative bank which came to his notice have been within the powers of the co-operative bank;

(c) whether or not the returns received from branch offices of the co-operative bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss accounts, shows a true balance or profit or loss for the period covered by such account;

(e) any other matter which he considers should be;

* * * * *

(t) in section 31,—

(i) for the words “within three months” and “of three months”, the words “within six months” and “of six months” shall, respectively, be substituted;

* * * * *

(u) sections 32 to 34 shall be omitted;

(v) in section 34A, sub-section (3) shall be omitted;

* * * * *

(x) in section 35A, in sub-section (1), in clause (c), for the words “any banking company”, the words “the banking of business any co-operative bank” shall be substituted;

(y) section 35B shall be omitted;

(z) in section 36, in sub-section (1),—

(a) clause (b) shall be omitted;

(b) for clause (d), the following clause shall be substituted, namely:—

“(d) at any time if it is satisfied that for the re-organisation or expansion of co-operative credit on sound lines it is necessary so to do, by an order in writing and on such terms and conditions as may be specified therein,—

(i) depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of the co-operative bank or of

any other body constituted by it and require the co-operative bank to give an opportunity to the officer so deputed to be heard at such matters as the officer may consider necessary or proper for the reorganisation and expansion of co-operative credit on sound lines, and also require such officer to send a report of such proceedings to the Reserve Bank;

(ii) appoint one or more of its officers to observe the manner in which the affairs of the co-operative bank or its offices or branches are being conducted and make a report thereon;”.

(za) in section 36A,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The provisions of section 11, section 18 and section 24 shall not apply to a co-operative bank which has been refused a licence under section 22 or whose licence has been cancelled under that section or which is or has been prohibited or precluded from accepting deposits by virtue of any order made under this Act or of any alteration made in its bye-laws.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Subject to the provisions of sub-sections (1) and (2), a co-operative society carrying on business as a primary co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 or a co-operative society which becomes a primary co-operative bank after such commencement shall, notwithstanding that it does not at any time thereafter satisfy the requirements of the definition of primary co-operative bank in clause (ccv) of section 5 continue to be a primary co-operative bank within the meaning of this Act, and may, with the approval of the Reserve Bank and subject to such terms and conditions as the Reserve Bank may specify in that behalf, continue to carry on the business of banking.”;

(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.

* * * * *

(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 of multi-State co-operative bank to be final in certain cases.—Where a multi-State co-operative bank, being an eligible co-operative bank, has been registered under section 13A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as an insured bank, and subsequently— 43 of 1961.

(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, an order sanctioning a scheme of compromise and arrangement or reorganisation or reconstruction has been made; or 39 of 2002.

(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; or 39 of 2002.

(c) an order for the supersession of the Board and the appointment of an Administrator therefore 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.

* * * * *

(zb) Part IIA except sections 36AAA, 36AAB and 36AAC, Part IIC, Part III, except sub-sections (1), (2) and (3) of section 45, and Part IIIA except section 45W shall be omitted;

(zc) in section 46,—

(i) in sub-section (4), the word “or” occurring at the end of clause (i) and clause (ii) shall be omitted;

* * * * *

(zd) in section 47, the words, brackets, figures and letters “sub-section (5) of section 36AA or” shall be omitted;

* * * * *

(zf) in section 49A, for the proviso, the following proviso shall be substituted, namely:—

“Provided that nothing contained in this section shall apply to—

(a) a primary credit society,

(b) any other co-operative society accepting such deposits at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, for a period of one year from the date of such commencement; and 23 of 1965.

(c) any savings bank scheme run by the Government.”;

* * * * *

(zg) sections 49B and 49C shall be omitted;

(zh) in section 50, the figures and letters “10, 12A, 16,” “35B,” and “43A” shall be omitted;

* * * * *

(zj) in section 52,—

(i) in sub-section (2), the words, figures and letter “and the form in which the official liquidator may file lists of debtors to the Court having jurisdiction under Part III or Part IIIA and the particulars which such lists may contain” shall be omitted;

(ii) sub-section (4) shall be omitted;

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LOK SABHA

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further to amend the Banking Regulation Act, 1949.

(Smt. Nirmala Sitharaman, Minister of Finance)