

Annexure - XVI

[\(Paragraph 8.34\)](#)

Legislative Amendments suggested in Banking Regulation Act, 1949 (AACs)

(i) Existing section 5(cci) may be substituted as under:

'Co-operative bank means a State co-operative bank, a Central co-operative bank and an Urban co-operative bank.'

(ii) Existing section 5 (ccv) may be substituted as under:

"Urban Cooperative bank" means a cooperative society registered either under the Cooperative Societies Act of a State or under the Multi State Cooperative Societies Act,

- (1) The primary object or principal business of which is the transaction of banking business,
- (2) The paid up share capital and reserves of which are not less than such amount as prescribed by Reserve Bank,
- (3) The by-laws of which do not permit admission of any cooperative credit society or any cooperative bank as a member,
- (4) The registered office of which is located in a semi urban/ urban centre/metro.

(The term semi urban/urban centre/metro may be defined by way of explanation to Section 5(ccv).)

(iii) Amendment in **clause (ccvi) of Section 5** of the B.R. Act:

'Primary Credit Society means - a cooperative society, the primary object or principal business of which is to provide financial accommodation to its members alone.'

(iv) Amendment in **Section 7** of the Act :

Clause (a) of sub-section 2 of Section 7 of the B.R. Act, may be deleted.

(v) Amendment in **Section 11** -

For the existing Section 11 (1), the following clause may be substituted - Notwithstanding any law relating to the cooperative societies for the time being in force, no cooperative bank shall commence or carry on the business of banking in India, unless the aggregate value of its paid up capital and reserve, are not less than such amount as is prescribed by the Reserve Bank.

(vi) Amendment in **Section 22** of the B.R. Act:

- (1) Clause (a) of Sub-Section 1 may be deleted.
- (2) Sub-Section (2) may be substituted as under:

Every existing cooperative society or a cooperative society formed after the commencement of the Banking Regulation Amendment Act of year proposing to function as urban cooperative bank, shall before the expiry of 3 months from the date of its registration and every cooperative bank which comes into existence as a result of the division of any other cooperative society carrying on business as a cooperative bank or the amalgamation of two or more cooperative societies carrying on banking business shall before the expiry of three months from its so coming into existence and every primary credit society which proposes to convert itself into an urban cooperative bank shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this Act.

Provided that nothing contained in this Section shall apply to such cooperative societies as were carrying on banking business before the commencement of the Banking Regulation Amendment Act of 1999.

- (3) In Proviso (iii) to sub-section 2 of Section 22, the words 'primary co-operative bank' may be substituted by the words 'urban co-operative bank'.

(vii) Amendment in **Section 24**

The existing Clause (c) of Sub-section (2) of section 24 may be substituted by the following Clause:

the central cooperative bank of the district concerned or with the state-cooperative-bank of the State concerned or any branch of a scheduled cooperative-bank or in the absence of such branch in the place where the urban cooperative bank is located, with a scheduled commercial bank, shall be deemed to be cash maintained in India."

(viii) Incorporation of **Section 30** of the B.R. Act, 1949

- (1) In clause (s) of Section 56, for the words "Section 29 & 30" the words "Section 29" shall be substituted.
- (2) Section 30 As Applicable to Banking Companies, with such modification as necessary, may be made applicable to co-operative banks

(ix) Amendments in Section 36 of the Banking Regulation Act, 1949(AACS).

In clause (d) of sub section (1) of section 36, after sub-clause

(ii), the following sub-clause may be inserted namely ;

(iii) "require the urban co-operative bank to make, with in such time as may be stipulated in the order, such changes in the management, as the Reserve Bank may consider necessary."

(x) Incorporation of **Part II A and Part II C**, of the Banking Regulation Act, (As Applicable to Banking Companies).

"Part II A and Part II C, of the Banking Regulation Act, (As Applicable to Banking Companies) may be made applicable also to Co-operative Banks".

(xi) In corporation of **Section 45**

Section 45 may be made applicable to co-operative banks with sub-section (4) to (9) substituted as under and sub-section (10) to (15) omitted.

Sub-section (4)- During the period of moratorium, if the Reserve Bank is satisfied that in public interest; or in the interest of the depositors; or for securing the proper management of the urban co-operative bank; or in the interest 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 co-operative bank.
- (ii) for the amalgamation of the co-operative bank with any other co-operative bank(in this Section referred to as ' the transferee bank').

Sub-section (5) - The scheme aforesaid may contain provisions for all or any of the following matters , namely;

- (a) the constitution , name and registered office , the capital assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the urban co-operative bank on its reconstruction or as the case may be, of the transferee bank;
- (b) in the case of amalgamation of the cooperative bank, the transfer to the transferee bank of the business, properties, assets and liabilities of the cooperative bank on such terms and conditions as may be specified in the Scheme;
- (c) any change in the Committee of Management or Managing Body or the appointment of a new Committee (by whatever name called) of a cooperative bank on its reconstruction, or as the case may be of the transferee bank and the authority by whom, the manner in which, the other terms and conditions on which, such change or appointment shall be made and in

the case of appointment of a new Committee of Management or of any Director/Member of the Committee, the period for which such appointment shall be made;

- (d) The alteration in the by-laws of the cooperative bank on its reconstruction or, as the case may be of the transferee bank for the purpose of altering the capital thereof or for such other purpose as shall be necessary to give effective the reconstruction or amalgamation;
- (e) Subject to the provisions of the scheme the continuation by or against the cooperative bank on its reconstruction or as the case may be, the transferee bank, of any action or proceedings pending against the Banking Company immediately before the date of the order of moratorium;
- (f) The reduction of the interest or rights which the members, depositors and other creditors have in or against the cooperative bank before its reconstruction or amalgamation to such extent as the Reserve Bank considers necessary in the public interest or in the interest of the members, depositors and other creditors or for the maintenance of the business of the cooperative bank;
- (g) The payment in cash or otherwise to depositors and other creditors in full satisfaction of their claim -
 - (i) in respect of their interest or right in or against the cooperative bank before its reconstruction or amalgamation ;
 - (ii) or where their interests or rights aforesaid in or against the cooperative banks has or have been reduced under clause (f), in respect of such interests or rights as so reduced;
- (h) the allotment of the members of the cooperative bank for shares held by them therein, before its reconstruction or amalgamation (whether their interest in such shares has been reduced under clause (f) or not) of shares in the cooperative bank on its reconstruction or as the case may be, in the transferee bank and where any members claim payment in cash and not allotment of shares or where it is not possible to allot shares to any members payment in cash to those members in full satisfaction of their claim -
 - (i) in respect of their interest in shares in the cooperative bank before its reconstruction or amalgamation; or
 - (ii) where such interests has been reduced under clause (f) in respect of their interest in shares have so reduced.
- (i) The continuance of the services of all the employees of the cooperative bank (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 cooperative bank 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, as the case may be, by which they were being governed, immediately before the date of the order of

moratorium.

Provided that if in any case, any doubt or difference arises, as to whether the qualification and experience of any of the employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding bank or status of the transferee bank, the doubt or difference shall be referred to the Reserve Bank whose decision thereon shall be final.

- (j) Any other terms and condition for the reconstruction or amalgamation of the cooperative bank.
 - (k) Such incidental consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.
6. (a) A copy of the Scheme prepared by the Reserve Bank shall be sent in draft to the co-operative bank and also to the transferee bank and any other bank concerned in the amalgamation, for suggestions and objections if any, within such period as the Reserve Bank may specify for this purpose.
- (b) The Reserve Bank may make such modification, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the cooperative bank and also from the transferee bank and any other cooperative bank concerned in the amalgamation and from any members, depositors or other creditors of each of those cooperative banks.
7. The scheme shall thereafter come into force on such day as the Reserve Bank may specify in this behalf and shall be implemented in accordance with law, provided that different dates may be specified for different provisions of the Scheme.
8. On and from the date of coming into operation of the scheme or any provision thereof, the Scheme or such provision, shall be binding on the cooperative bank or as the case may be on the transferee bank and any other cooperative bank concerned in the amalgamation and also on all the members, depositors and other creditors and the employees of each of the cooperative banks and on any other person having any right or liability in relation to any of those cooperative banks including the trustees or other persons managing or connected in any other manner with any provident fund or other fund maintained by any of those cooperative banks; as from the date specified in this behalf in the section, the property and assets of the co-operative bank shall, by virtue of and to the extent provided in the Scheme shall stand transferred to, and rest in, and the liabilities of the co-operative bank shall, by virtue of and to the extent possible in the Scheme, stand transferred to, and become the liability of, the transferee bank.
9. The provisions of the Sections and of any Scheme made under it shall have effect notwithstanding anything to the contrary contained in any of the provisions of this Act or any other Law or any Agreement, Award or other instrument for the time being in force.

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

(xii) Amendment in **Section 49A**

"In proviso to Section 49A, clause (a) may be deleted".

(xiii) Substitution of form in Scheduled III

The form of balance sheet and profit & loss account applicable to co-operative banks shall be substituted as per [Annexure II](#).