



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

RNI No. 27009/1973 Postal Regn No. NE-313 (MZ) 2006-2008 Rs. 2/- per issue

VOL - XXXVIII Aizawl, Monday, 16.11.2009, Kartika 25, S.E 1931, Issue No. 523

NOTIFICATION

No.H.12018/178/06-LJD, the 16th November, 2009. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Cooperative Societies (Amendment) Act, 2009 (Act No. 13 of 2009).

(Received the assent of the Governor of Mizoram on 9.11.2009)

P. Chakraborty,
Commissioner/Secretary to the Govt. of
Mizoram.

The Mizoram Cooperative Societies (Amendment) ACT, 2009 **(ACT No. 13 of 2009)**

AN
ACT

to further amend the Mizoram Cooperative Societies Act, 2006 (Act No. 9 of 2006)
(hereinafter referred to as the Principal Act)

WHEREAS it is expedient to further amend the Mizoram Cooperative Societies Act, 2006 (Act No. 9 of 2006) in the interest of democratic and smooth functioning of the Cooperative Societies in the State of Mizoram and for the matters connected therewith.

Be it enacted by the Legislative Assembly of Mizoram in the sixtieth year of Republic of India as follows :-

Short Title, extent
and commencement

- 1) This Act may be called the Mizoram Cooperative Societies (Amendment) Act, 2009.

- 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 46** 2. 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 Societies shall be conducted biennially and the terms shall ordinarily be two years”.
- Amendment of Section 49** 3. Clauses (a), (b) and (c) of sub section (1) of Section 49 of the Principal Act shall stand deleted.
- Amendment of Section 50** 4. Section 50 of the Principal Act shall stand deleted.
- Amendment of Section 51** 5. In the Principal Act, clauses (c) and (d) of section 51 shall stand deleted.
- Amendment of Section 53** 6. In the Principal Act, sub -section (1) of Section 53 shall be substituted as follows, namely :-
- “The terms of office of the Board of Management Committee of the Primary Cooperative, Secondary Cooperative and the Federal Cooperative shall ordinarily be two years from the date of assumption of office by the Board of Management Committee”.
- Amendment of Section 54** 7. Sub-section (2) of Section 54 of the Principal Act shall stand deleted.
- Amendment of Section 98** 8. In section 98 of the Principal Act, after clause (e), a new clause (f) and (g) shall be added as follows, namely:-
- “(f) any proceedings for recovery of dues due to a cooperative as arrears of land revenue on a certificate granted by Registrar under section 104 or 106 or both, as the case may be”.
- (g) any proceedings for recovery of dues to a cooperative by Registrar or any other person authorized by him or an officer of cooperative authorized or notified by State Government who is empowered to exercise power for the purpose”.
- Amendment of Section 99** 9. Clause (d) and (e) of Section 99 of the Principal Act shall stand deleted
- Amendment of Section 122** 10. Clauses (a), (b) and (c) of sub-section (1) of Section 122 of the Principal Act shall be substituted as follows, namely :-

- “(1) No person shall be eligible to contest an election or chosen as a Committee Member of a Cooperative Bank :-
- a. Incase of Mizoram Urban Cooperative Development Bank Ltd., :-
 - (i) Unless he is a member of the Mizoram Urban Cooperative Development Bank Ltd., for a continuous period of minimum three years.
 - (ii) Unless he has maintained a minimum deposit balance of rupees two thousand at all times in Mizoram Urban Cooperative Development Bank Ltd., for any continuous period of minimum three years.
 - b. Incase of Mizoram Cooperative Apex Bank Ltd., -
 - (i) Unless the Society he represents is a member of Mizoram Cooperative Apex Bank Ltd., for a continuous period of minimum three years.
 - (ii) Unless the Society he represents maintained a minimum deposit balance of rupees five thousand at all time for a minimum continuous period of three years in Mizoram Cooperative Apex Bank Ltd.
 - c. If the Cooperative he represents is cancelled.

Sd/-
Commissioner/Secretary,
Law and Judicial Department,
Govt. of Mizoram.

STATEMENT OF OBJECTS AND REASONS

The Mizoram Cooperative Societies Act, 2006 was enacted in the year 2006 and came into force with effect from 1st April, 2007. On application of the said Act, some of the provisions in the Act are found to be insufficient for effective functioning and management of the Cooperative Societies. It is, therefore, required to incorporate new provisions and delete or amend some of the provisions in the Act for reasons indicated below.

1. The existing provisions of clause (a) of sub-section (2) of section 46 of the Principal Act read as follows :-

“(a) election of directors of the board of management committee. Election of Board of Directors of State Level Societies shall be conducted biennially and the term of office shall be two years”.

One of the most important function of the Annual General Assembly is election of the Board of Management Committee. Therefore, clause (a) of sub-section (2) of Section 46 of the Principal Act

needs to be substituted in the interest of Cooperative Societies in order to speed up the formation of Chairman, Vice Chairman and directors of the Board of Management Committee. According to sub-section (2) of section 54 of the Principal Act, the Chairperson and other office bearers are to be elected by the Board Members from among the elected members within seven days from the date of declaration of election results. Hence, the following amendment is proposed.

“(a) Election of Chairman, Vice Chairman and Directors of the Board of Management Committee in the State Level Cooperative Societies, Secondary and Primary Cooperative Societies shall be conducted biennially and the term of office shall ordinarily be two years”.

As per sub-section (1) of section 46 of the Principal Act, it is the duty and responsibility of every Cooperative to call the Annual General Meeting within ninety days after the closure of the financial year. The financial year of every Cooperative begins from First April and ends on thirty first March. Therefore, the word **“Ordinarily”** be added while prescribing the term of office of the Board of Management Committee to be at par with the financial year of every Cooperative Societies.

2. The existing provisions of sub-sections (1), (2) and (3) of section 49 of the Principal Act are as reproduced below.

“(1) Notwithstanding anything contained under this Act, Rules or Bye-Laws of the concerned Cooperative, the seats in the Committee of Management shall be reserved as per the specified number of the following category of persons :

- (a) at least one seat for members belonging to scheduled caste or scheduled tribe;
 - (b) at least one seat for members belonging to weaker section of the Cooperative as defined by State Government;
 - (c) at least one seat for women members.
- (2) The representation of scheduled caste or scheduled tribe, weaker sections or women in the meeting of management committee may be more than the number of seats specified under sub-section (1) but in no case it shall be less than such number specified therein.
- (3) If persons belonging to reserved categories failed to get elected in the normal course of election, the Management Committee shall co-opt at least such number of members not defeated in the election, belonging to such reserved categories specified under sub-section (1)”.

The provisions of clauses (a), (b) and (c) of sub-section (1), and of sub-section (2) and (3) of section 49 of the Principal Act **may stand deleted in view** of the fact that members of Cooperative Organisations in Mizoram are all tribal people and as such separate reservation of seats for scheduled castes/tribes, weaker sections and women in the Board of Management Committee is not imperative on ground of equal right and opportunity possessed by all the members of Cooperative Societies to contest in the election of Board of Management Committee.

3. The existing provisions of section 50 of the Principal Act read as follows :-

“Every Cooperative shall reserve at least one seat in the management committee for employees’ representative whose primary responsibility shall be to protect the interest of all employees while decisions pertaining to employees are taken at such meetings. The employee representative may be associated either through election or by nomination by the Management Committee and in the event of nomination, it shall be ensured that the person so nominated is acceptable to or having the support of majority of employees.”

It is the existing practice of the Cooperative Organisations to associate with employees while decisions pertaining to employees are taken place in the meeting of the Board of Management Committee in terms of their respective Bye-Laws. As such, reservation of seat for employees in the Management Committee need not be incorporated in the existing provisions of section 50 and hence section 50 of the Principal Act **may stand deleted** in the interest of Cooperative Societies.

4. The existing provisions of clauses (c) and (d) of section 51 of the Principal Act are reproduced below :

“(c) preferably a bachelor degree holder in Cooperatives, Economic, Finance, Agriculture, or other disciplines having direct relation to the type of activities undertaken or to be undertaken by the Cooperative and if the required number of members of management committee with bachelor degree are not available, the qualification may be relaxed to the level of senior or higher secondary education or X standard or VIII standard respectively but in any case not below V standard.

(d) in the absence of qualified persons available as mentioned under sub-section (c) a person worked or currently working for the benefit of cooperatives and its development for a period of at least 10 years may also be admitted as a member of management committee.”

Clauses (c) and (d) of section 51 of the Principal Act have been by now experienced to be the most controversial part of the provisions. The qualification prescribed for becoming a member of the Board of Management Committee is too high, too much controversial for common and simple members participating in the election of the Board of Management Committee and is not in the interest of Cooperative Movement in Mizoram particularly keeping in view of the present status and position of Cooperative Societies in Mizoram. **Hence, sub-sections (c) and (d) of section 51 may stand deleted.**

5. The existing provisions of sub-section (1) of section 53 of the Principal Act read as follows :-

“(1) The term of office of the Board of Management Committee shall be two years from the date of assumption of office by the management committee.”

It is imperative to specify the term of office of the Board of Management Committee in respect of Primary Cooperative, Secondary Cooperative and the Federal Cooperative. Hence, it may be substituted as follows :-

“(1) The terms of office of the Board of Management Committee of the Primary Cooperative, Secondary Cooperative and the Federal Cooperative shall be two years from the date of assumption of office by the Management.”

6. The existing provisions of sub-section (2) of section 54 of the Principal Act read as follows :-

“(2) The Chairperson and other office bearers as may be prescribed in the bye-laws shall be elected by the board members from among the elected members within seven days from the date of declaration of election results in accordance with the bye-laws and the chairperson shall :

- (a) preside over meetings of the board and the general body;
- (b) have a second vote in the event of equality of votes on any matter being decided upon by the board except in the matters relating to the conduct of election;
- (c) exercise such other powers as delegated by the board specified in the policies framed or resolutions adopted by the board.”

The provisions of sub-section (2) of section 54 of the Principal Act will no longer be relevant in the event of amendment of clause (a) of sub-section (2) of section 46 as indicated at Sl. No. 2 of Statement of Objects and Reasons. Hence, the same **may stand deleted**, since the powers and functions of Chairman have been prescribed in the Bye-Laws of every Cooperative Societies.

7. The existing provisions of clauses (d) and (e) of section 99 were incorporated in section 99 purely by mistake. Therefore, in section 98 of the Principal Act, after clause (e), in form of new clauses (f) and (g) of the following provisions have to be added so that the provisions of section 98 will be in order and complete :

- “(f) any proceedings for recovery of dues to a Cooperative as arrears of land revenue on a certificate granted by Registrar under section 104 or 106 or both, as the case may be.**
- (g) any proceedings for recovery of dues to a Cooperative by Registrar or any other person authorized by him or an office of Cooperative authorized or notified by State Government who is empowered to exercise power for the purpose.”**

8. The provisions of clauses (d) and (e) of section 99 are no longer relevant in view of the proposed amendment of section 98, as stated in para 7 herein above. Therefore, the existing provisions of clauses (d) and (e) of section 99 of the Principal Act **may be deleted**.

9. The existing provisions of sub-section (1) of section 122 read as follows:-

“(1) No person shall be eligible to contest the election or chosen as a Committee Member of a Cooperative Bank :

(a) unless he is a member of the Cooperative Bank for a minimum continuous period of three years;

(b) unless he has maintained a minimum deposit balance of rupees two thousand on an average every day for a minimum continuous period of three years and continues to maintain such deposit even after three years;

(d) if the cooperative he represents is cancelled.”

There are two categories of Banking Institutions under Cooperative Sector in Mizoram of which one is the Mizoram Cooperative Apex Bank Ltd., with membership confined to Primary Cooperative Societies and the other one is Mizoram Urban Cooperative Development Bank Ltd. (MUCO Bank) with membership open to individual members. Therefore, it is imperative to specify the eligibility of the members to contest the election to the Board of Management Committee in both the Cooperative Banks in the manner proposed below:

“(1) No person shall be eligible to contest an election or chosen as a Committee Member of a Cooperative Bank:-

(a) In case of Mizoram Urban Cooperative Development Bank Ltd.;

(i) unless he is a member of the Mizoram Urban Cooperative Development Bank Ltd., for a continuous period of minimum three years.

(ii) unless he has maintained a minimum deposit balance of rupees two thousand at all times in Mizoram Urban Cooperative Development Bank Ltd., for a continuous period of minimum three years.

(b) In case of Mizoram Cooperative Apex Bank Ltd.;

(i) unless the Society he represents is a member of Mizoram Cooperative Apex Bank Ltd., for a continuous period of minimum three years.

(ii) unless the society he represents maintained a minimum deposit balance of rupees five thousand at all times for a minimum continuous period of three years in Mizoram Cooperative Apex Bank Ltd.

(c) If the cooperative he represents is cancelled.”

Hence, this Amendment Bill.

Sd/-
(**J.H. ROTHUAMA**)
Minister,
Cooperation.

FINANCIAL MEMORANDUM

The Mizoram Cooperative Societies Act, 2006 was enacted in the year 2006 and came into force with effect from 1st April, 2007. On application of the said Act, some of the provisions in the Act are found to be insufficient and controversial for effective functioning and management of the Cooperative Societies. It is, therefore, necessary to incorporate new provisions and delete or otherwise amend some of the existing provision in the Act.

There is no financial implication of the Cooperation Department in the implementation or enforcement of the proposed amendments of the provision of the aforesaid Act.

Sd/-
(**J.H. ROTHUAMA**)
Minister,
Cooperation.

MEMORANDUM OF DELEGATED LEGISLATION

The Bill attempts to amend the under noted provisions of the Mizoram Cooperative Societies Act, 2006 in the interest of democratic and smooth functioning of the Cooperative Societies in the State of Mizoram duly examined and vetted by the Law & Judicial Department, Govt. of Mizoram. The approval of Finance Department has also been obtained in the matter.

1. Amendment of clause (a) of sub-section (2) of section 46 of the Principal Act.
2. Amendment of clauses (a), (b) and (c) of sub-section (1) of section 49 of the Principal Act.
3. Amendment of section 50 of the Principal Act.
4. Amendment of clauses (c) and (d) of section 51 of the Principal Act.
5. Amendment of Sub-section (1) of section 53 of the Principal Act.
6. Amendment of sub-section (2) of section 54 of the Principal Act.
7. Insertion of new clauses (f) and (g) after clause (e) of section 98 of the Principal Act.
8. Amendment of clauses (d) and (e) of section 99 of the Principal Act.
9. Amendment of clauses (a) (b) and (c) of sub-section (1) of section 122 of the Principal Act.

Sd/-
(**J.H. Rothuama**)
Minister,
Cooperation.