

BILL NO. 15 OF 2004

The
Delhi Co-operative Societies
(Amendment)
Bill, 2004

**(As passed by the Legislative Assembly of the
National Capital Territory of Delhi on 21st December 2004)**



THE DELHI CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2004

A

BILL

to amend the Delhi Co-operative Societies Act, 2003

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fifty-fifth Year of the Republic of India as follows:-

**Short title,
extent and
commence
ment.**

1. (1) This Act may be called the Delhi Co-operative Societies (Amendment) Act, 2004.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint

**Amendment of
section 2.**

2. In the Delhi Co-operative Societies Act, 2003 (Delhi Act 3 of 2004) (hereinafter referred to as "the principal Act"), in section 2, **clause (a) shall be omitted.**

**Amendment of
section 9.**

3. In the principal Act, in section 9, in sub-section (1) -
 - (i) in clause (d), the word "**and**" occurring at the end thereof, shall be omitted.
 - (ii) after clause (e), the following clause shall be inserted, namely:-

"(f) that in case of a co-operative housing society, the confirmation of availability of land to the co-operative housing society from the land allotting agency has been received by the Registrar."

**Amendment of
section 16.**

4. In the principal Act, in section 16 -
 - (a) in sub-section (1), after clause (b), the following clause shall be inserted, namely:-

"(c) approve a scheme of compromise or arrangement or reconstruction."
 - (b) in sub-section (3) after the word "amalgamation" and before the words "as the case", the words "**or scheme of compromise or arrangement or reconstruction**" shall be substituted.



**Amendment of
section 31.**

5. In the principal Act, in section 31-
- (i) in sub-section (1), for the words "ninety days" occurring after the words "period of" and before the word "next", the words "one hundred and eighty days" shall be substituted.
 - (ii) in sub-section (2), for the words "ninety days" occurring after the words "period of" and before the word "registrar or", the words "one hundred and eighty days" shall be substituted."

**Amendment of
section 35.**

6. In the principal Act, in section 35-
- (1) in sub-section (1) – the following *proviso* be added:
- "provided that the entire process of election will be conducted by a Returning Officer to be appointed by the Government who shall be not below the rank of a Gazetted Officer."**
- (2) in sub-section (10) –
- (i) for clause (c), the following clause shall be substituted, namely:-

" (c) where the total amount of issued equity share capital held by the Government is fifty one per cent but less than sixty per cent of the total issued share capital, three members on the committee:

Provided that in case of a financing bank, there shall be a Director on the Board from NABARD with or without any share holding with right to vote in the affairs thereof;";

- (ii) after clause (c), the following clause shall be inserted, namely:-

"(cc) where the total amount of issued equity share capital held by the Government is sixty per cent or more of the total issued share capital or the Government has given loan or made advances to the co-operative society or guaranteed the repayment of principal and payment of interest on debentures or bonds issued by the co-operative society or guaranteed the payment of principal and payment of interest on loan and advances to the co-operative society in amount not less than sixty



percent in the aggregate of the total amount so borrowed by the co-operative society, three-fourth of members of the committee including the Chairman;

Provided that the right once accrued under this clause shall continue until the percentage of the amount in respect of share contribution or guaranteed loan goes down to less than fifty per cent;”.

**Amendment of
section 37.**

7. In the principal Act, in section 37, in sub-section (1) –
- (i) For the words “persistently makes default” occurring after the word “society” and before the words “or is negligent”, the words **“continuously makes default for ninety days”** shall be substituted;
 - (ii) for the words and expression “fails to initiate action for recovery or fails to recover any dues of a federal co-operative society or any financial institution after the finality of award and issue of recovery certificate or after such recovery fails to pay the recovery amount to the federal co-operative society or the financial institution” occurring after the words “this Act or” and before the words “the Registrar may after”, the words, figures and expression **“fails to comply with the provisions of section 92 or there is a stalemate in the constitution or function of the committee or fails to initiate recovery of the dues of the financing institution inspite of a notice issued to the co-operative society by the financing institution within a period of ninety days or fails to remit the recovered amount from members, to the financing institution to which the society is indebted within a period of ninety days”** shall be substituted;
 - (iii) in clause (b) –
 - (a) for the words “however, that the aggregate period does not exceed five hundred fifty days” occurring at the end thereof, the words **“however, that the aggregate period does not exceed three hundred and sixty five days:”** shall be substituted;
 - (b) **the second proviso shall be omitted;**



(iv) in sub-section (3), the following words shall be inserted at the end thereof, namely:-

“without the prior approval of the Registrar.”

(v) in sub-section (7), for the words “ five hundred and fifty days” occurring after the words “not exceeding” and before the words, “in the aggregate”, the words **“three hundred and sixty five days”** shall be substituted.

Amendment of section 60.

8. In the principal Act, in section 60, in sub-section (1), for the words “sixty days” occurring after the words “period of” and before the word “from”, the words **“ninety days”** shall be substituted.

Amendment of section 61.

9. In the principal Act, in section 61, to sub-section (1), the following proviso shall be added, namely:-

“Provided that where a serious complaint is made by a member or a public servant in writing about the affairs of a co-operative society or committee or office bearers, to the Registrar or to any person authorized by him in this regard not below the rank of Joint Registrar and if the Registrar is prima-facie satisfied, after recording his views in writing and affording an opportunity to the person against whom complaint has been made, he may order an inspection in respect of only issue or issues as the case may be, raised in the complaint and the inspection shall be conducted by a person not below the rank of an Assistant Registrar.”

Substitution of new section for section 71.

“Reference of disputes to arbitration.

10. In the principal Act, for section 71, the following section shall be substituted, namely:-

71. (1) The Registrar may, on receipt of the reference of dispute under section 70 -

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf, or
- (c) refer it for disposal to an arbitrator.

(2) The method, manner of selection, appointment of arbitrators, their qualifications, terms and



conditions of appointment and fees payable to them shall be as prescribed under the rules.

(3) (a) For selecting persons for appointment as arbitrators, the Government shall constitute a selection committee which shall consist of the following namely:-

- (i) Minister in charge of the Department of Co-operative Societies – Chairman
- (ii) One elected member of the Delhi Legislative Assembly - Member
- (iii) Secretary (Co-operation) to the Government –Member
- (iv) Secretary (Law and Justice) to the Government–Member
- (v) Registrar of Co-operative societies – Member

(b) All decisions of the selection committee shall be taken by majority.

(4) The Registrar may withdraw any reference under clause (b) of sub-section (1) or referred under clause (c) of sub-section (1) and decide it himself or refer the same to another arbitrator for decision.

(5) The Registrar or any other arbitrator to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

Substitution of new section for section 91

"Special provision for regularization of occupancy right of persons who have acquired

11. In the principal Act, for section 91, the following section shall be substituted, namely:-

91. Any person who has acquired property on occupancy right in a co-operative housing society through the instrument of power of attorney or agreement for sale shall have the opportunity to become member of the concerned co-operative housing society where the property exists by getting the property converted from leasehold to freehold and on paying the transfer fee of ten



such a right through the instrument of power of attorney or agreement for sale.

thousand rupees or such amount as may be determined by the Registrar from time to time to the concerned co-operative housing society along with dues, including the dues of the apex or financial institution, if any :

Provided that the member who has sold his plot or flat on power of attorney or agreement for sale shall have no voting right in the affairs of the co-operative housing society, however, the power of attorney holder shall acquire voting right only after getting the property converted into freehold:

Provided further that any such person can have access to the paid services, namely, the use of community hall, swimming pool or any other common facilities available to the members or the use of common parking spaces provided by the co-operative housing society only after becoming a nominal member of the co-operative housing society as per its bye-laws and after paying a nominal membership fee of two hundred rupees to the co-operative housing society:

Provided also that the committee of co-operative housing society shall issue 'no objection certificate' to the general power of attorney holder on his application required for submission to get the property converted to free-hold from the lessor, within the period of thirty days of its receipt, after ensuring that there are no dues outstanding against the member or general power of attorney holder in the records of the co-operative housing society."

Amendment of section 94.

12. In the principal Act, in section 94, after the first proviso, the following proviso shall be added, namely:-

"Provided further that where a house building co-operative society has been provided land to run a club, school, community centre, dispensary or community facility, etc., by the lessor, the above provision shall not apply to such a co-operative house building society, if the general body decides to run these activities for the benefit of the members



and the residents.”

Substitution of new section for section 97.

“Winding up, etc. of co-operative banks at the direction of the Reserve Bank. Amendment of section 105.

Substitution of new section for section 118.

“Offences and Penalties.

13. In the principal Act, for section 97, the following section shall be substituted, namely:-

97. Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up or an order sanctioning scheme of compromise or arrangement or of amalgamation or reconstruction of a co-operative bank, if so required by the Reserve Bank.”

14. In the principal Act, in section 105, for the words “arbitration council” occurring after the words “ Registrar or the” and before the words “or the Tribunal”, the word “arbitrator” shall be substituted.

15. In the principal Act, for section 118, the following section shall be substituted, namely:-

118. (1) Any co-operative society or an officer or member thereof, willfully making a false return or furnishing false information, or any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act, or willfully not furnishing any information required from it or him or by a person authorized in this behalf under the provisions of this Act, shall be punishable with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees.

(2) Any employer who, without sufficient cause, fails to pay to a co-operative society the amount deducted by him under section 52 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five thousand rupees.



- (3) Any officer or custodian who willfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to a person entitled under section 38 or section 60 or section 61 or section 62 or section 99 shall be punishable with fine which may extend to two thousand rupees and in the case of a continuing breach, with a further fine which may extend to five thousand rupees for every day during which the breach is continued after conviction for the first such breach.
- (4) Any person who acts in contravention of section 44 or section 45 or sub-section (2) of section 66 or section 67 or section 68 or section 138 shall be punishable with fine of five hundred rupees.
- (5) The committee of a co-operative society or any of its officers or employees who falsify or tamper with the record of the co-operative society, shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.
- (6) Any officer or employee of a co-operative society including the paid secretary who dishonestly or fraudulently misappropriates or otherwise converts for his own use or intentionally causes loss to the property of the co-operative society entrusted to him or under his control as such officer or employee, or allows another person so to do shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.
- (7) If any allotment of plot or flat is made by the committee in contravention of the provisions of sub-section (1) of section 77, the committee and its members responsible shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.
- (8) If a co-operative society fails to file return as



required under section 32, the committee or the negligent officer shall be punishable with a fine, which may extend to five hundred rupees.

- (9) If committee fails to dispose of application within the period prescribed in section 91, the committee members responsible shall be liable for a penalty of ten thousand rupees and in the case of a continuing breach, with a further fine of one hundred rupees for every day during which the breach is continued after the expiry of the prescribed period.
- (10) On conviction, a member of the co-operative society shall be debarred from contesting election of a committee for a period of six years."

Amendment of section 133.

16. In the principal Act, in section 133, for the words "arbitration council" occurring at two places, the word "**arbitrator**" shall be substituted.

Amendment of section 137.

17. In the principal Act, in section 137, for the words "arbitration council" occurring in clauses (zl) and (zm) of sub-section (2), the word "**arbitrator**" shall respectively be substituted.

The above Bill has been passed on the 21st day of December 2004 by the Legislative Assembly of the National Capital Territory of Delhi.

Delhi

23rd December 2004



Ch. Prem Singh
Speaker, Legislative Assembly of the
National Capital Territory of Delhi

