

मुख्य पोस्ट मास्टर जनरल डाक
परिमंडल, के पत्र क्रमांक 22/153,
दिनांक 10-1-06 द्वारा पूर्व भुगतान
योजनान्तर्गत डाक व्यय की पूर्व अदायगी
डाक द्वारा भेजे जाने के लिए अनुमत.



पंजी. क्रमांक भोपाल डिवीजन
म. प्र.-108-भोपाल-09-11.

मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 173]

भोपाल, शुक्रवार, दिनांक 26 मार्च 2010—चैत्र 5, शक 1932

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 26 मार्च 2010

क्र. 2045-113-इक्कीस-अ (प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश स्वायत्त सहकारिता (संशोधन) विधेयक, 2010 (क्रमांक 10 सन् 2010) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH BILL
No. 10 OF 2010.

THE MADHYA PRADESH SWAYATTA SAHAKARITA (SANSHODHAN) VIDHEYAK, 2010

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MADHYA PRADESH BILL

No. 10 OF 2010.

THE MADHYA PRADESH SWAYATTA SAHAKARITA (SANSHODHAN) VIDHEYAK, 2010**A Bill further to amend the Madhya Pradesh Swayatta Sahakarita Adhiniyam, 1999.**

Be it enacted by the Madhya Pradesh Legislature in the Sixty first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Madhya Pradesh Swayatta Sahakarita (Sanshodhan) Adhiniyam, 2010.

Substitution of certain words throughout the Act.

2. Throughout the Madhya Pradesh Swayatta Sahakarita Adhiniyam, 1999 (No. 2 of 2000) (hereinafter referred to as Principal Act), for the words "secondary co-operative" wherever they occur, the words "principal co-operative" shall be substituted.

Amendment of Section 4.

3. In Section 4 of the Principal Act, in sub-section (5), for clause (d), the following clause shall be substituted, namely:—

“(d) a list of names of all the applicants with their photos and such proof of their permanent residential address as specified by the Registrar;”.

Amendment of Section 10.

4. In Section 10 of the Principal Act,—

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

“(1) Every co-operative shall have the same registered address which has been mentioned in its bye-laws and the co-operative shall carry on day to day business at its registered address mentioned in the bye-laws and shall maintain records pertaining to the co-operative at its registered address.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The board may, by resolution, change the address of its head office and it shall give notice of such change by registered post to its members, creditors, the Registrar and to any principal co-operative to which it is affiliated, within fifteen days of the passing of such resolution.”;

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

“(4-A) If the co-operative does not—

- (i) communicate the changed address to the Registrar; or
- (ii) carry on the business at its registered address; or
- (iii) maintain the records at its registered address,

the Registrar may impose penalty not exceeding ten thousand rupees on the Officer responsible after giving a reasonable opportunity of being heard.”.

Amendment of Section 31.

5. In Section 31 of the Principal Act, in sub-section (1), for clause (e), the following clause shall be substituted, namely:—

“(e) consideration of audited financial statements of accounts, the auditor's report relating to the previous financial year and compliance report along with the action taken on it;”.

6. In Section 35 of the Principal Act, for clause (i), the following clauses shall be substituted, namely:— **Amendment of Section 35.**

- “(i) to prepare the annual financial statement of accounts;
- (j) to file returns and information in accordance with the provisions of sub-section (1) and (2) of Section 52;
- (k) to convene annual general meeting or special general meeting under section 32;
- (l) to prepare the business policy for co-operative and to conduct the work in accordance with the business policy;
- (m) to consider the audit report of accounts of the previous financial year and to take action on its recommendations and to submit the compliance report along with the details of action taken before the annual general meeting.”.

7. In Section 41 of the Principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— **Amendment of Section 41.**

- “(1) Every co-operative shall, in its minute book, record, in Hindi or in any other language prescribed in the bye-laws, the minutes of all proceedings of every general meeting, delegate general body meeting and board meeting and the names of the member, delegates or directors present thereat and shall confirm it at the same or ensuing meeting and it shall be the responsibility of the Chief Executive of co-operative to send the copy thereof within fifteen days of every such meeting to all delegates or members or directors, as the case may be.”.

8. For Section 45 of the Principal Act, the following Section shall be substituted, namely:— **Substitution of Section 45.**

- “45. (1) A co-operative may raise funds in shape of equity capital from its members to such extent and under such conditions as may be specified in the bye-laws. **Mobilisation of Funds.**
- (2) A co-operative may raise funds from its members in shape of deposits and loans to such extent which shall not be more than 25 times of the share capital and reserve fund.
- (3) A co-operative may borrow funds only from any Scheduled bank or financial institution as defined in the Reserve Bank of India Act, 1934 (No. 2 of 1934) or co-operative bank or regional rural bank as defined in the Banking Regulation Act, 1949 (No. 10 of 1949) and to such extent and under such conditions as may be specified in the bye-laws.
- (4) A co-operative shall not accept any deposits from non-member or institutions and shall not perform any work relating to banking business unless such co-operative has obtained licence under the Banking Regulation Act, 1949 (No. 10 of 1949).”.

9. In Section 51 of the Principal Act, in sub-section (14), in clause (g), for full stop, the semi-colon shall be substituted and thereafter the following new clause shall be inserted, namely:— **Amendment of Section 51.**

- “(h) state whether the loss incurred in the business of the co-operative is the result of gross negligence or serious irregularities.”.

10. In Section 52 of the Principal Act, for sub-section (3), the following sub-section shall be substituted, namely:— **Amendment of Section 52.**

- “(3) If the returns and information as specified in sub-section (1) and (2) are not filed with or furnished to the Registrar within the period specified in sub-section (1), the Registrar may, by an order, impose penalty of not exceeding ten thousand rupees, on the board which was responsible, after giving the board a reasonable opportunity of being heard and all the Directors of the board shall be jointly liable for such penalty.”.

- Amendment of Section 55.** 11. In Section 55 of the Principal Act—
- (i) for the words “one thousand” wherever they occur, the words “ten thousand” shall be substituted;
- (ii) after sub-section (4), the following sub-section shall be inserted, namely:—
- “(4-A) Every person who—
- (a) destroys, mutilates or alters any book or securities, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the co-operative; or
- (b) invests fund of co-operative other than as provided in this Act and the bye-laws, shall be guilty of an offence and shall on conviction be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both.”.
- Insertion of Section 55-A.** 12. After Section 55 of the Principal Act, the following Section shall be inserted in Chapter VII, namely:—
- Cognizance of offences.** “55-A (1) No court inferior to that of a Magistrate First Class shall try any offence under this Act.
- (2) No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence by the Registrar or by a person specially authorised by him in this behalf.”.

STATEMENT OF OBJECTS AND REASONS

The Madhya Pradesh Swayatta Sahakarita Adhiniyam, 1999 (No.2 of 2000) was enacted with a view to promote and develop co-operative as democratic entrepreneur based on self help and mutual aid, which are not dependent on Government help. It was found that in many co-operatives there are irregularities and no action can be taken against these co-operative in absence of the provisions in the aforesaid Act and the sole object of flourishing co-operative as democratic entrepreneur based on self help and mutual aid is not fully achieved. Certain practical difficulties have also been experienced during the working of the Act. It has, therefore, been decided to amend the Act suitably.

2. The salient features of the proposed amendments are as under :—

- Clause 2: A co-operative whose members are co-operatives is the principal co-operative but the words “secondary co-operative” has been used throughout the Act, which is not appropriate, hence the words “principal co-operative” are proposed to be substituted.
- Clause 3: Section 4 is proposed to be amended for submitting the application with photo of applicant and proof of his residential address.
- Clause 4: Section 10 is being amended to make it compulsory for a co-operative to carry on its business at its registered address, to maintain records at registered address and to communicate the changed address to the Registrar and on its failure, a penalty of fine up to Rs.10,000/- has been proposed.
- Clause 5: General body has been empowered to consider the compliance report on the auditor’s report and action taken on it.
- Clause 6: With a view to enhance the functions of the board, Section 35 is proposed to be amended.
- Clause 7: The provisions of mobilisation of fund have been revised. Clause 8: The Auditor shall state in the report about the loss incurred in the business of co-operative is not the result of gross negligence or serious irregularities, necessary provision has been proposed.
- Clause 9: If the returns and information are not furnished, the Registrar has been empowered to impose penalty under section 52.
- Clause 10: The provisions of offences have been revised and penalty has been enhanced.
- Clause 11: For cognizance of offences necessary provision has been proposed to be inserted.

3. Other amendments are minor or of consequential nature which call for no explanation.

4. Hence this Bill.

Bhopal :
Dated the 18th March 2010.

GAURI SHANKAR CHATURBHAI BESEN
Member-in-Charge