

THE MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960



(Maharashtra Act No XXIV of 1961)

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An Act to consolidate and amend the law

Relating to Co-operative Societies in the State of Maharashtra.

WHEREAS, with a view to providing for the orderly development of the Co-operative movement in the State of Maharashtra in accordance with the relevant directive principles of State policy enunciated in the Constitution of India, it is expedient to consolidate and amend the law relating to Co-operative societies in that State; It is hereby enacted in the Eleventh Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY



(1) Short Title, Extent and Commencement:--

- (1) This Act may be called the Maharashtra Co-operative Societies Act, 1960.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

(2) Definitions -

in this Act, unless the content otherwise requires, --

- (1) "agricultural marketing society" means a society --
 - (a) the object of which is the marketing of agricultural produce and the supply of, implements and other requisites for agricultural production, and
 - (b) not less than three-fourths of the members of which are agriculturists, or societies formed by agriculturists;
- (2) "apex society" means a society, --
 - (a) The area of operation of which extends to the whole of the State of Maharashtra,
 - (b) The main object of which is to promote the principal objects of the societies affiliated to it as members and to provide for the facilities and services to them, and
 - (c) Which has been classified as an apex society by the Registrar;
- (3) Clause (3) deleted
- (4) "bonus" means payment made in cash or kind out of the profits of a society to a member, or to a person who is not a member, on the basis of his contribution (including any contribution in the form of labor or service) to the business of the society, and in the case of a farming society, on the basis both of such contribution and also the value or income or, as the case may be, the area of the lands of the members brought together for joint cultivation as may be decided by the society but does not include any sum paid or payable as bonus to any employee of the society under the Payment of Bonus Act, 1965;
- (5) "bye-laws" means bye-laws registered under this Act and for the time being in force and includes registered amendments of such by-laws;
- (6) "Central Bank" means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies; but does not include the primary urban co-operative bank;
- (7) "Committee" means the Committee of management or board of directors or other directing body, by whatever name called, in which the management of the affairs of a society is vested under section 73;
- (8) "Company" means a company as defined in the Companies Act, 1956 and includes a Banking Company and also any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any industry ;
- (9) "Consumer society" means a society, the object of which is --
 - (a) the procurement, production or processing, and distribution of goods to or the performance of other services for, its members as also other customers, and
 - (b) the distribution among its members and customers, in the proportion, prescribed by rules or by bye-laws of the society, of the profits accruing from such procurement, production or processing and distribution;
- (10) "Co-operative bank" means a Co-operative society which is doing the business of banking as defined in clause (b) of sub-sections (1) of section 5 of the Banking Companies Act, 1949 and includes any society which is functioning or is to function as an Agricultural and Rural Development Bank under Chapter XI;

- (10) (ai) "Co-operative Appellate Court", means the Maharashtra Co-operative Appellate Court constituted under this Act;
- (10) (aii) "Co-operative Court" means a Court constituted under this Act to decide disputes referred to it under any of the provisions of this Act;
- (10) (aiii) "Co-operative year" means a year ending on the 31st day of March or on such other day in regard to a particular society or class of societies as may have been fixed by the Registrar, from time to time for balancing its or their accounts;
- (10A) "Crop Protection Society" means a society, the object of which is protection of the crops, structures, machinery, agricultural implements and other equipment such as those used for pumping water on the land ;
- (11) "Dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;
- (12) "farming society" means a society in which, with the object of increasing agricultural production, employment and income and the better utilization of resources; lands are brought together and jointly, cultivated by all the member, such lands (a) being owned by or leased to the member (or some of them) or (b) coming in possession of the society in any other manner whatsoever;
- (13) "Federal Society" means a society-
 - (a) Not less than five member of which are themselves societies, and
 - (b) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meeting of such society;
- (14) "firm" means a firm registered under the Indian Partnership Act, 1932;
- (15) "general society" means a society not falling in any of the classes of societies defined by the other clauses of this section;
- (16) "housing society" means a society, the object of which is to provide its members with open plots for housing, dwelling houses or flats; or if open plots, the dwelling houses or flats are already acquired, to provide its members common amenities and services;
- (16A) "lift irrigation society" means a society, the object of which is to provide water supply by motive power or otherwise to its members, for irrigation and otherwise;
- (17) "Liquidator" means a person appointed as liquidator under this Act;
- (18) "Local authority" includes a school board and an agricultural produce market committee constituted by or under any law for the time being in force ;
- (19) (a) "member" means a person joining in an application for the registration of a Co-operative society which is subsequently registered, or a person duly admitted to membership of a society after registration and includes a nominal, associate or sympathizer member;
- (b) "Associate member" means a member who holds jointly a share of a society with others, but whose name does not stand first in the share certificate;
- (c) "Nominal member" means a person admitted to membership as such after registration in accordance with the bye-laws;
- (d) "Sympathizer member" means a person who sympathizes with the aims and objects of the society and who is admitted by the society as such member;
- (20) "officer" means a person elected or appointed by a society to any office of such society according to its bye-laws; and includes a chairman, vice-chairman, president, vice-president, managing director, manager, secretary, treasurer, member of the committee and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society
- (20A) "Official Assignee" means a person or body of persons appointed by the Registrar under sub-section (2) of section 21-A;
- (21) "Prescribed" means prescribed by rules;

- (22) "Processing society" means a society, the object of which is the processing of goods;
- (23) "Producers' society" means a society, the object of which is, the production and disposal of goods or the collective disposal of the labour of the members thereof;
- (24) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under this Act;
- (25) "Resource society" means a society, the object of which is the obtaining for its members of credit, goods or services required by them;
- (26) "rules" means rules made under this Act;
- (27) "society" means a Co-operative society registered, or deemed to be registered, under this Act;
- (28) "Society with limited liability" means a society having the liability of its members limited by its bye-laws ;
- (29) "society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society;
- (30) Clause 30 deleted.
- (31) "Working capital" means funds at the disposal of a society inclusive of paid up share capita, funds built out of profits, and money rose by borrowing and by other means.

CHAPTER II REGISTRATION



3. Registrar and his subordinates --

The State Government may appoint a person to be the Registrar of Co-operative Societies for the State; and may appoint one or more persons to assist such Registrar with such designations, and in such local areas or throughout the State, as it may specify in that behalf and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar. They shall be subordinate to the Registrar, and subordination of such persons amongst themselves shall be such as may be determined by the State Government.

3A. Temporary vacancies –

If the Registrar or a person appointed to assist such Registrar is disabled from performing his duties or for any reason vacates his office or leaves his jurisdiction or dies, then –

- (a) in the case of the Registrar, the Additional or Joint Registrar, in the office of the Registrar, and
- (b) In the case of a person appointed to assist the Registrar, the senior-most officer holding the next higher post, in the respective office.

Shall unless other provision has been made in that behalf, hold temporarily the office of the Registrar or, as the case may be, of the person appointed to assist the Registrar in addition to his own office and shall be held to be the Registrar or the person appointed to assist the Registrar under this Act, until the Registrar or the person appointed to assist the Registrar resumes his office, or until such time as the successor is duly appointed and takes charge of his appointment.

4. Societies which may be registered:—

A society, which has as its objects the promotion of the economic interests or general welfare of its members or of the public, in accordance with co-operative principles or a society established with the object of facilitating the operations of any such society, may be registered under this Act:

Provided that, no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development' of the co-operative movement, or the registration of which may be contrary to the policy directives which the State Government may, from time to time, issue.

5. Registration with limited or unlimited liability:-

A society may be registered with limited or unlimited liability.

6. Conditions of registration:-

- (1) No society, other than a federal society, shall be registered under this Act,. Unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic viability of a society and development of the Co-operative movement, determine from time to time for a class of societies (each of such persons being a member of a different family), who are qualified to be members under this Act, and who reside in the area of operation of the society:

Provided that, a lift irrigation society consisting of less than ten but of five or more such persons may be registered under this Act.

- (2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same town or village, or in the same group of villages.
- (2A) No crop protection society shall be registered, unless the Registrar is satisfied, after such inquiry as he thinks necessary, that a draft of the proposal made by the society for protecting the crops, structures, machinery agricultural implements and other equipment such as those used for pumping water on the land, was duly published for inviting all owners of lands likely

to be affected by the proposal and all other persons likely to be interested in the said lands to join the proposal or to send their objections or suggestions and that the objections and suggestions received, if any, have been duly considered by the society and that the owners in possession of not less than 66 per cent in the aggregate of the lands included in the proposal have given their consent in writing to the making of the proposal and that the proposal made is feasible. For this purpose, the society shall submit to the Registrar:

- (a) a plan showing the area covered by the proposal and the surrounding land as shown in the map or maps of the village or village affected;
- (b) An extract from the record of rights duly certified showing the names of the owners of the lands and the areas of the lands included in the proposal;
- (c) Statements of such of the owners of the lands as consented to the making of the proposal signed by owners before two witnesses;
- (d) A detailed estimate of the cost of implementing the proposal;
- (e) A detailed statement showing how the cost is proposed to be met.

When such society is registered, the cost of implementing the proposal shall be met wholly or in part by contribution to be levied by the society from each owner of the land included in the proposal, including any such owner who may have refused to become a member of the society. The owner of every land included in the proposal shall also be primarily liable for the payment of the contribution leviable from time to time in respect of such land.

- (3) No federal society shall be registered unless it has at least five societies as its members.
- (4) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.
- (5) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act.

Explanation :- For the purposes of this Section and Section 8 the expression "member of a family" means wife, husband, father, mother, 'son, or unmarried daughter.

7. Power to exempt societies or class of societies from conditions as to registration:

Notwithstanding anything contained in this Act, the State Government, by general or special order, exempts any society or class of societies from any of the requirements of this Act as to registration, subject to such conditions (if any) as it may impose.

8. Application for registration.—

- (1) For the purposes of registration, an application shall be made to the Registrar in the prescribed form and shall be accompanied by four copies of the proposed bye-laws of the society and such registration fee as may be prescribed in this behalf. Different registration fees may be prescribed for different classes of societies, regard being had to the service involved in processing an application for registration. The person by whom, or on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.
- (2) The application shall be signed-
 - (a) In the case of a society other than a federal society by at least ten persons (each of such persons being a member of a different family), who are qualified under this Act, and
 - (b) In the case of a federal society, by at least five societies.

No signature to any application on behalf of a society shall be valid, unless the person signing is a member of the committee of such a society and is authorized by the committee by resolution to sign on its behalf the application for registration of the society and its bye-laws; and a copy of such resolution is appended to the application.

9. Registration.—

- (1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, 3or any other law for the time being in force, or policy directives issued by the State Government under Section 4, and that its proposed bye-laws are not contrary to this Act or to the rules, he "shall within two months, from the date of receipt of the application register the society and its bye-laws.
- (2) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall,' within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who are which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the society and its bye-laws shall be deemed to have been registered 2and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days.
- (3) Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefore, to the person making the application and if there be more than one to the person who has signed first therein.
- (4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under the Act.

10. Evidence of registration.—

A certificate of registration signed by the Registrar, shall be conclusive evidence that die society therein mentioned, is duly registered, unless it is proved that the registration of the society has been cancelled.

11. Power of Registrar to decide certain questions.—

When any question arises whether a person is an agriculturist or not, or whether any person resides in the area of operation of the Society or not 2or whether a person is or is not engaged in or carrying on any profession, business or employment, or whether a person belongs or does not belong to such class of persons as declared under sub-section (1 A) of Section 22 and has or has not incurred a disqualification under that subsection, such question shall be decided by the Registrar and his decision shall be final, but no decision adverse to any such person shall be given without giving him an opportunity of being heard.

12. Classification of societies.—

- (1) The Registrar shall classify all societies into one or other of the classes of societies defined in Section 2 and also into such sub-classes thereof as may be prescribed by rules.
- (2) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another; and may, in the public interest and subject to such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.
- (3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the State Government may, from time to time direct.

13. Amendment of bye-laws of society.—

- (1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar. 'Every application for registration of an amendment of the bye-laws shall be disposed off by the Registrar within a period of two months from the date of its receipt.

- (1A) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within, a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the amendment of the bye-laws shall be deemed to have been registered.
- (1B) No amendment of the bye-laws of a society shall be registered by the Registrar under this section or in the case of the bye-laws which are deemed to have been registered shall have effect, if the amendment is repugnant to the policy directives, if any, issued by the State Government under Section 4.
- (2) When the Registrar registers an amendment of the bye-laws of a society or where an amendment of the bye-laws is deemed to have been registered he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.
- (3) Where the Registrar refuses to register such amendment, of the bye-laws of a society, he shall communicate the order of refusal, together with his reasons therefore, to the society.

14. Power to direct amendment of bye-laws.—

- (1) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.
- (2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting such State federal society as may be notified by the State Government, register such amendment and issue to the society a copy of such amendment certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly; and the bye-laws as amended shall, subject to appeal (if any), be binding on the society and its members.

15. Change of name.—

- (1) A society may, by resolution passed at a general meeting and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the society, or of any of its members, or past members, or deceased members; and any legal proceedings pending before any person, authority or Court may be continued by or against the society, under its new name.
- (2) Where a society changes its name, the Registrar shall enter the new name in its place in the register of societies and shall also amend the certificate of registration accordingly.

16. Change of liability.—

- (1) Subject to the provisions of this Act and the rules, a society may, by amendment of its bye-laws, change the form or extent of its liability.
- (2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding anything in any bye-law or / contract to the contrary, any member or creditor shall, during a period of one month from the date of service of such notice upon him, have the option of withdrawing his shares, deposits or loans.
- (3) Any member or creditor, who does not exercise his option within the period specified in sub-section (2), shall be deemed to have assented to the change.
- (4) An amendment of the bye-laws of a society, changing the form or extent of its liability, shall not be registered or take effect until, either—
 - (a) all members and creditors have assented, to deemed to have assented, thereto as aforesaid; or

- (b) All claims of members and creditors who exercise the option, given by sub-section (2), within the period specified therein, have been met in full or otherwise satisfied.

17. Amalgamation, transfer, division or conversion of societies.—

- (1) A society may, with the previous approval of the Registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide-
- (a) to amalgamate with another society ;
 - (b) to transfer its assets and liabilities, in whole or in part, to any other society;
 - (c) to divide itself into two or more societies ; or
 - (d) to convert itself into another class of society :

Provided that when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that -

- (i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons, whose interests are likely to be affected (hereinafter in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be;
 - (ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and
 - (iii) All claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.
- (2) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.
- (3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.
- (4) Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

18. Power to direct amalgamation, division and reorganization in public interest, etc:-

- (1) Where the Registrar is satisfied that it is essential in the public interest or in the interest of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganized then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government by order notified in the Official Gazette, provide for the amalgamation, division or reorganization of those societies into a single society, or into societies with such constitution, property rights,

interests and authorities, and such liabilities, duties and obligations as may be specified in the order.

- (2) No order shall be made under this section, unless-
 - (a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned;
 - (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society or from any member or class of members thereof, or from any creditor or class of creditors.
- (3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, the division or reorganization.
- (4) Every member or creditor of or other person interested in, each of the societies to be amalgamated, divided or reorganized who has objected to the scheme of amalgamation, division or reorganization, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or re-organisation his share or interest if he be a member and the amount in satisfaction of his dues if he be a creditor.
- (5) On the issue of an order under sub-section (2), the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or re-organised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.
- (6) Nothing contained, in this section shall apply for the amalgamation of two or more co-operative banks or two or more primary agricultural credit societies.

18-A. Amalgamation of Co-operative Banks.—

- (1) Where the Registrar is satisfied that it is essential in the public interest, or in order to secure the proper management of one or more co-operative banks that two or more such banks should be amalgamated, then notwithstanding anything contained in section 17, the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in the Official Gazette, by order provide for the amalgamation of those banks into a single bank, with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order. Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in or against any bank to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that bank having due regard to the proportion of the assets of such bank, to its liabilities. Such order may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation of the banks.
- (2) No order shall be made under sub-section (1), unless-
 - (a) a copy of the proposed order has been sent in draft to each of the banks concerned;
 - (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the banks) as the Registrar may fix in that behalf, either from the banks or any members, depositors, creditors, employees or other persons concerned.

- (3) On the issue of an order under sub-section (1), notwithstanding anything contained in this Act or in any law for the time being in force or in any contract, award or other instruments for the time being in force, the provisions thereof, shall be binding on all banks and their members; depositors, creditors, employees and other persons having any rights, assets, or liabilities in relation to all or any of the banks concerned.
- (4) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Registration Act, 1908, the order issued under subsection (1) shall be sufficient conveyance for transfer or vesting the rights, assets and liabilities of the banks concerned as provided in the order.
- (5) The amalgamation of banks under this section shall not affect any rights or obligations of the banks so amalgamated or render defective any legal proceedings, which might have been continued or commenced by or against any such banks; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated banks.
- (6) Where two or more banks have been amalgamated, the registration of the bank in which the other banks are amalgamated may be continued and the registration of the other banks may be cancelled, or where the amalgamated bank is newly registered, the registration of all the amalgamating banks shall be cancelled.
- (7) Any order made by the Registrar under this section shall be final and conclusive, and shall not be called in question in any Court.

18-B. Amalgamation of primary agricultural credit societies.—

- (1) Where the Registrar is satisfied that it is essential-
 - (a) For ensuring economic viability of one or more primary agricultural credit societies ;
 - (b) For avoiding overlapping or conflict of jurisdictions of such societies in any area;
 - (c) In order to secure the proper management of one or more such societies
 - (d) In the interest of the credit structure or co-operative movement in the State as a whole ;
 - (e) in the interest of the depositors ; or
 - (f) for any other reason in the public interest,

that two or more primary agricultural credit societies should be amalgamated, then notwithstanding anything contained in section 17, the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in this behalf, by order published in the Official Gazette, provide for the amalgamation of those societies into a single society. The constitution, property, rights, interests and authorities and the liabilities, duties and obligations of the amalgamated society shall be such as may be specified in the order. Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in, or against, any society to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that society, having due regard to the proportion of the assets of such society, to its liabilities. Such order may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation of the societies.
- (2) No order shall be made under sub-section (1), unless-
 - (a) a copy of the proposed order has been sent in draft to each of the societies concerned ;
 - (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the societies) as the Registrar may fix in that behalf, either from the societies or any members, depositors, creditors, employees or other persons concerned.
- (3) When any order is made by the Registrar under sub-section (1), the provisions of sub-sections (3) to (7) (both inclusive) of Section 18-A shall, mutatis mutandis apply to such order,

in the same manner as they are applicable to any order made by him under sub-section (1) of that section.

18-C. Reorganization of societies on account of alteration of limits of local areas in which they operate.—

- (1) Where the area of operation of any society or societies is restricted to any district, Taluka, municipal area or any other local area and such area is divided into two or more areas, or merged in any other area, or is diminished or increased or otherwise altered, under any law for the time being in force and the State Government is satisfied that in the public interest or in the interest of the co-operative movement, or in the interest of the society or societies, or for the purpose of proper demarcation of area of operation for the societies in each area, it is essential to reorganise any such society or societies, the State Government may by an order, published in the Official Gazette, and in such other manner as it deems fit, provide for division of any existing society into two or more societies, amalgamation of two or more existing societies into one society, dissolution of any existing society or reconstitution of any existing society, affected by the territorial changes.
- (2) An order made under sub-section (1) may provide for all or any of the following matters namely :—
 - (a) The division of an existing society into two or more societies and the area of operation of each society;
 - (b) the amalgamation of two or more existing societies into one society and area of its operation ;
 - (c) the dissolution of any existing society ;
 - (d) the reorganization of any existing society and the area of its operation ;
 - (e) the removal of the committee of any existing society and the appointment of an administrator or an interim committee of management, to manage the affairs of the existing society of the new society or societies, under the control and direction of the State Government, for a period not exceeding two years, as may be specified in the order or until the successor committee of the concerned society is duly constituted, whichever is earlier:

Provided that the period of two years may be extended by the State Government from time to time, so however that the total period does not exceed three years in the aggregate;

Provided further that, it shall be competent for the State Government to alter and appoint, from time to time, during the said period or extended period and for any reason whatsoever, any other Administrator or an interim committee of management or any or all the members of such committee, as it deems fit, notwithstanding that the term of extended term of office of the Administrator or an interim committee of management or of any or all the members of such committee has not expired.

- (f) in the case of an existing federal society, the transfer of any of its members societies as member of another federal society named in the order;
- (g) the transfer, in whole or in part, of the assets, rights and liabilities of any existing society, including the rights and liabilities under any contract made by it, to one or more societies and the terms and conditions of such transfer ;
- (h) the substitution of any such transferee for the existing society, or the addition of any such transferee, as a party to any legal proceeding or any proceeding pending before an officer or authority, to which the existing society is a party; and the transfer of any proceedings pending before the existing society or its officer or authority to any such transferee or its officer or authority;
- (i) the transfer or re-employment of any employee of the existing society to, or by, such transferee and the terms and conditions of service applicable to such employees after such transfer or re-employment:

Provided that, the terms and conditions of any such employee shall not be made less favorable than those applicable to him while in the service of the existing society, except with

the previous approval of the State Government;

- (j) the application of the bye-laws of the existing society to one or more societies without any modifications or with such modifications as may be specified in the order;
 - (k) All incidental, consequential and supplementary matters as may be necessary or expedient to give effect to the order made under this section.
- (3) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Registration Act, 1908, the order issued under this section shall be sufficient conveyance for transfer of the assets, rights and liabilities of the existing society as provided in the order.
 - (4) Any order made by the State Government under this section shall be final and conclusive and shall not be called in question in any Court.
 - (5) Except otherwise provided by this section or by any order issued there under, the provisions of this Act and the rules and orders issued there under, shall in all other respects apply to the existing societies and the new or reorganised societies formed under this section.

19. Reconstruction of societies.—

Where a proposal for a compromise or arrangement-

- (a) between a society and its creditors, or
- (b) between a society and its members,

is approved at a special general meeting, called for the purpose, the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society, which is being wound up, of the Liquidator, order reconstruction in the prescribed manner of the society.

20. Partnership of societies.—

- (1) Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member has had clear ten days' written notice of the resolution and the date of the meeting.
- (2) Nothing in the Indian Partnership Act, 1932, shall apply to such partnership.

20-A. Collaboration by societies.—

- (1) Any society or societies may, with the prior approval of the State Government, 2and subject to such terms and conditions as the State Government may impose and in such manner as may be prescribed,) enter into collaboration with any Government undertaking or any undertaking approved by the State Government for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.
- (2) Before approving any such scheme of collaboration by any society or societies under sub-section (1), the State Government shall have due regard to the following matters, namely :
 - (a) that the scheme is economically viable;
 - (b) that it can be implemented without, in any way, eroding the cooperative character of the society or the societies concerned;
 - (c) That the scheme is in furtherance of the interests of the members of the society or a society concerned, or is in the public interest and in the interest of the co-operative movement in general.

21. Cancellation of registration.-

The Registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, or it is de-registered under the provisions of sub-section (1) of Section 21-A or winding up proceedings in respect of the society are closed or terminated under Section 109. The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

21-A. De-registration of societies.—

- (1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the Chief Promoter, the committee and the members of the society, de-register the society :

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing of each such individual member, a public notice of the proceedings of the de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the Chief Promoter and the members of the Committee of the Society, and no proceeding in respect of the de-registration of the society shall be called in question in any court merely on the ground that individual notice is not served on any such member.

- (2) When a society is de-registered under the provisions of subsection (1), the Registrar may, notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.
- (3) Subject to the rules made under this Act, the Official Assignee shall realize the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records, and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.
- (4) The Official Assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.
- (5) The powers of the Registrar under Sub-sections (1) and (2) shall not be exercised by any officer below the rank of a Joint Registrar of Co-operative Societies.

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES



22. Person who may become member.—

- (1) Subject to the provisions of section 24, no person shall be admitted as a member of society except the following, that is to say-
- (a) an individual; who is competent to contract under the Indian Contract Act, 1872,
 - (b) a firm, company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860;
 - (c) a society registered, or deemed to be registered under this Act;
 - (d) the State Government or the Central Government;
 - (e) a local authority;
 - (f) a public trust registered under any law for the time being in force for the registration of such trusts :

Provided that, the provisions of clause (a) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or college:

Provided further that, subject to such terms and conditions as maybe laid down by the State Government by general or special order, a firm or company may be admitted as a member only of society which is a federal or urban society or which conducts or intends to conduct an industrial undertaking -

Provided also that, any firm or company, which is immediately before the commencement of this Act, a member of a society deemed to be registered under this Act, shall have, subject to the other provisions of this Act, the right to continue to be such member on and after such commencement

Explanation: For the purpose of this section an “urban society” means a society the business of which mainly falls within the limits of a municipal corporation, municipality, cantonment or notified area committee.

- (1-A) Notwithstanding anything contained in sub section (1) the State Government may, having regard to the fact that the interest of any person or class of persons conflicts or likely to conflict with the objects of any society or class of persons conflicts or likely to conflict with the objects of any society or class of societies, by general or special order, published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified society or class of societies, so long as such person or persons are engaged in or carry on that profession, business or employment (as the case may be; and the question whether a person is or is not so engaged in or carrying on any profession business or employment or whether a person belongs or does not belong to such class of persons as declared under this sub section and has or has not incurred a disqualification under this sub section shall be decided by the Registrar under section 11.
- (1-B) Notwithstanding anything contained in sub section (1) where the Registrar has decided under Section 11 that a person has incurred a disqualification under sub section (1-A), the Registrar or the person not below the rank of District Deputy Registrar of Cooperative Societies, authorized by him in this behalf, may, by order, remove such person from membership of the society; and such person shall cease to be a member of the society on expiration of a period of one month from the date of receipt of ;such order by him.
- (2) Where a person Is refused admission as a member of society, the decision (with the reasons therefore) shall be communicated to that person within fifteen days of the date of the decision, or within three months from the date of receipt of the application for admission, whichever is earlier. If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been admitted as a member of the society. If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a

reasonable opportunity of being heard to all the concerned parties.

23. Open membership.—

- (1) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefore under the provisions of this Act and its bye-laws.
- (1-A) Where a society refuses to accept the application from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any so paid, to the society concerned within thirty days from the date of receipt of such application and the amount; and thereupon if the society fails to communicate any decision to the applicant within sixty days from the date of receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such society. If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.
- (2) Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar. Every such appeal, as far as possible, be disposed of by the Registrar within a period of three months from the date of its receipt:

Provided that, where such appeal is not so disposed of within the said period of three months, the Registrar shall record the reasons for the delay.
- (3) The decision of the Registrar in appeal, shall be final and the Registrar shall communicate his decision to the parties within fifteen days from the date thereof:
- (4) Without prejudice to the foregoing provisions of this section, in the case of agro-processing societies or any other society for which a definite zone or an area of operation is allotted by the State Government or the Registrar, it shall be obligatory on the part of such society to admit, on an application made to it, every eligible person from that zone or the area of operation, as the case may be, as a member of such society, unless such person is already registered as a member of any other such society, into the same zone or the area of operation.

24. Nominal, associate and sympathizer member.—

- (1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate or sympathizer member.
- (2) A nominal member or sympathizer member shall not be entitled to any share in any form whatsoever in the profits or assets of the society as such member. A nominal or sympathizer member shall ordinarily not have any of the privileges and rights of a member, but such a member, or an associate member, may, subject to the provisions of sub-section (8) of section 27, have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the bye-laws of the society.

25. Cessation of membership—

A person shall cease to be a member of a society on his resignation from the membership thereof being accepted, or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society, or where a firm, company, any other corporate body, society or trust is a member on its dissolution or ceasing to exist.

25-A. Removal of names of members from Membership registers—

The committee of a society shall remove from the register of its members the name of a person who has ceased to be a member or who stands disqualified by or under the provisions of this Act for being the member or continuing to be the member of a society:

Provided that, if the society does not comply with the requirement of this section, the Registrar shall direct such society to remove the name of such person, and the society shall be bound to comply with such direction.

26. No rights of membership to be exercised till due payments are made.—

No person shall exercise the right of a member of a society, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed by the rules or the bye-laws of such society.

27. Voting powers of members.-

- (1) Save as otherwise provided in subsections (2) to (7), both inclusive, no member of any society shall have more than one vote in its affairs; and every right to vote shall be exercised personally, and not by proxy :

Provided that, in the case of an equality of votes the Chairman shall have a casting vote.

- (2) Where a share of a society is held jointly by more than one person, the person, whose name stands first in the share certificate, if present, shall have the right to vote. But in his absence the person whose name stands second, and in the absence of both, the person whose name stands next, and likewise, in the absence of the preceding persons the person whose name is next on the share certificate, who is present and who is not a minor, shall have the right to vote.

- (3) A society, which has invested any part of its funds in the shares of any federal society, may appoint one of its members to vote on its behalf in the affairs of that federal society; and accordingly such member shall have the right to vote on behalf of the society:

Provided that, any new member society of a federal society shall be eligible to vote in the affairs of that federal society only after the completion of the period of three years from the date of its investing any part of its fund in the shares of such federal society:

Provided further that, where the election is to elect a member or members of the committee of a District Central Co-operative Bank including the reserved seats on such committee, as provided under this Act, all the elected members of such Primary Agricultural Credit Societies which have invested any part of their funds in the shares of such District Central Co-operative Bank, shall have a right to vote on behalf of that societies; so however that the Registrar shall, as provided in sub-section (2) of section 73, by general or special order published in the Official Gazette, fix the maximum number of members on the committee of such society or class of such societies:

Provided also that, for contesting the election for the members of the committee of a District Central Co-operative Bank, all the elected, co-opted and appointed members on the committees of such Primary Agricultural Credit Societies, which have invested any part of their funds in the shares of such District Central Co-operative Bank, shall be eligible from their respective constituencies as specified in the bye-laws:

Provided also that, except in the election to the committee of a District Central Co-operative Bank, in case of any other society where the election is as provided under this Act, no person shall have more than one vote.

- (3-A) An individual member of a society shall not be eligible for voting in the affairs of that society for a period of two years from the date of his enrollment as a member of such society.

- (4) A company or any other body corporate, constituted under any law for the time being in force, which has invested any part of its funds in the share of a society, may appoint any of its directors or officers to vote on its behalf in the affairs of such society; and accordingly, such director or officer shall have the right to vote on behalf of the company or body corporate.
- (5) Where a firm has invested any part of its funds in the shares of a society, any one of its partners appointed by the firm shall be entitled to vote in the affairs of the society on behalf of the firm.
- (6) A local authority or public trust which has invested any part of its fund in the shares of a society, may appoint any of its members or trustees, to vote on its behalf in the affairs of that society; and accordingly such person shall have the right to vote on behalf of the local authority or the public trust, as the case may be.
- (7) In the case of a federal society, the voting rights of individual members thereof shall be such as may be regulated by the rules made under this Act and by the bye-laws of the society.
- (8) No nominal or sympathizer member shall have the right to vote and no such member shall be eligible to be a member of a committee or for appointment as a representative of the society on any other society.
- (9) No nominee of the Government or any financing bank on the committee of any society shall be entitled to vote at any election of officers of such committee such as, the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer by whatsoever designation called, who holds the office by virtue of his election to that office.
- (10) In the case of an agricultural credit society, if a member has taken a loan from the society, such member shall, whenever he is a defaulter in paying two or more consecutive installments towards repayment of the loan on the due dates, have no right to vote in the affairs of the society :

Provided that, a member shall not be deemed to be a defaulter, if 'he has discharged his obligation to deliver his marketable produce to the marketing or processing society and the value of such produce is not less than the amount Of his dues, even if the actual settlement of his dues, either in whole or in part, takes place at a later stage.
- (11) The agricultural credit society may, issue suitable orders for the purpose of carrying out the provisions of sub-section (10).

28. Restrictions on holding of shares –

In any society, no member other than the Government, or any other society, or with the previous sanction of the State Government, a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall

- (a) Hold more than such portion of the total share capital of the society (in no case exceeding one-fifth thereof) as may be prescribed; or
- (b) have or claim any interest in the shares of the society exceeding twenty thousand rupees:

Provided that, the State Government may, by notification in the Official Gazette, specify in respect of any class of societies a higher or lower maximum than one fifth of the share capital or, as the case may be, a higher or lower amount than 2twenty thousand rupees.

29. Restrictions on transfer or charge on share or interest.—

- (1) Subject to the provisions of the last preceding section as to the maximum holding of shares and to any rules made in this behalf, a transfer of, or charge on, the share or interest of a member in the share capital of a society shall be subject to such conditions as may be prescribed.
- (2) A member shall not transfer any share held by him or his interest in the capital or property of any society, or any part thereof, unless-
 - (a) he has held such share or interest for not less than one year;
 - (b) The transfer is made to a member of the society or to a person whose application for membership has been accepted 3by the society, or to a person whose appeal under

section 23 of the Act has been allowed by the Registrar or to a person who is deemed to be a member under sub-section (1A) of Section 23.

- (3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Act, or by the rules made there under or by the bye-laws of the society, the society may acquire the share of interest of such member in the share capital by paying for it at the value determined in the manner prescribed, provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten percent of the paid-up share capital of the society on the last day of the financial year immediately preceding.

Explanation I - The right to forfeit the share or interest of any expelled member in the share capital by virtue of any bye-laws of the society, shall not be affected by the aforesaid provision.

Explanation II - In this section, the expression "financial year" means the year ending on the 31st day of March or in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day; the year ending on such day.

- (4) Where the State Government is a member of a society, the restrictions contained in this section shall not apply to any transfer made by it of its share or interest in the capital of the society; and that Government may, notwithstanding anything in this Act, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

30. Transfer of interest on death of member.

- (1) On the death of a member of a society, the society shall transfer the share or interest of the deceased member to a person or persons nominated in accordance with the rules or, if no person has been so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member:

Provided that, such nominee, heir or legal representative, as the case may be, is duly admitted as a member of the society;

Provided further that, nothing in this sub section or in section 22 shall prevent a minor or person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member in a society

- (2) Notwithstanding anything contained in sub section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member, ascertained in accordance with the rules.
- (3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.
- (4) All transfers and payments duly made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

31. Share or interest not liable to attachment.—

The share or interest of a member in the capital of a society, or in the loan stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposit, shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member; and accordingly, neither the Official Assignee under the Presidency towns Insolvency Act, 1909, nor a Receiver under the Provincial Insolvency Act, 1920, nor any such person or authority under any corresponding law for the time being in force, shall be entitled to, or have any claim on, such share or interest.

32. Rights of members to see books, etc.—

- (1) Every member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, a copy of the Act, the rules and the bye-laws, the last audited annual balance sheet, the profit and loss account, a

list of the members of the committee, a register of members, the minutes of general meetings, minutes of committee meetings and those portions of the books and records in which his transactions with the society have been recorded.

- (2) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefore, a copy of any of the documents mentioned in the foregoing sub-section within one month from the date of payment of such fees.

32-A. certain societies to give pass books to members and entries in such book evidence of amount due.—

- (1) A society which gives loans to its members, or a society or class of societies which the State Government may notify in the Official Gazette, from time to time, shall furnish each member with a pass book, which shall contain an account of the transactions with the member, such as, the date of the transaction, the amount of loan advanced, the rate of interest, the repayment made by the member, the amount of the principal and interest due and such other particulars as may be prescribed. The necessary entries shall be made in the pass book, from time to time, which shall be counter-signed by such office-bearer of the society as may be authorised in this behalf by the committee. For this purpose, the member shall be bound to present the pass book to such office-bearer and if the pass book is required to be kept for some time, for making the necessary entries, the member shall be granted a receipt therefore, by such office-bearer.
- (2) The entries in the pass book duly made shall, until the contrary be proved, be prima facie evidence of the account of transactions of the society with the member.

33. Liability of past member and estate of deceased member.—

- (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member, of a society for the debts of the society as they stood;
 - (a) in the case of a past member, on the date on which he ceased to be a member; and
 - (b) in the case of a deceased member, on the date of his death, shall, continue for a period of two years from such date
- (2) Where a society is ordered to be wound up under any provisions of this Act, the liability of a past member or of the estate of a deceased member, who ceased to be a member or died, within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed; but such liability shall extend only to the debts of the society as they stood on the date of his ceasing to be a member or death, as the case may be.

34. Insolvency of members.—

Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceeding against him, shall rank in order of priority next to the dues payable by him to Government or to a local authority.

35. Expulsion of members.—

- (1) A society may, by resolution passed by a majority of not less than three-fourths of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society :

Provided that, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body and no resolution shall be effective unless it is approved by the Registrar.
- (2) No member of a society who has been expelled under the foregoing sub-section, shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of one year from the date of such expulsion :

Provided that, the Registrar may, on an application by the society and in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

CHAPTER IV

INCORPORATION DUTIES AND PRIVILEGES OF SOCIETIES



36. Societies to be bodies corporate.—

The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal and with power to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all such things as are necessary for the purpose for which it is constituted.

37. Address of societies.—

Every society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent; and the society shall, send notice in writing to the Registrar, of any change in the said addresses, within thirty days thereof.

38. Register of members.—

- (1) Every society shall keep a register of its members and enter therein the following particulars, that is to say,—

- (a) the name, address and occupation of each member ;
- (b) in the case of a society having share capital, the share held by each member,
- (c) the date on which each person was admitted a member;
- (d) the date on which any person ceased to be a member; and
- (e) such other particulars as may be prescribed :

Provided that, where a society has by or under this Act, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member, and the date on which the nomination was recorded.

- (2) The register shall be prima facie evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

39. Copy of Act, etc., to be open to inspection.—

Every society shall keep at the registered address of the society, a copy of this Act and the rules and of its bye-laws and a list of members, open to inspection to the public, free of charge, during office hours or any hours fixed by the society therefore.

40. Admissibility of copy of entry of evidence.-

- (1) A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society, shall, if duly certified in such manner as may be prescribed, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.
- (2) In the case of such societies, as the State Government may by general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under the foregoing sub-section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

41. Exemption from compulsory registration of instruments relating to shares and debentures of society.—

Nothing in clauses (b) and (c) of sub-section (1), of section 17, of the Indian Registration Act, 1908, shall apply-

- (a) to any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property ; or
- (b) to any debentures issued by any society and not creating, declaring, assigning,

limiting or extinguishing any right, title or interest to or in immovable property, except insofar as it entitles the holder to the security afforded by a registered instrument whereby, the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property, or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

- (c) to any endorsement upon, or transfer of, any debentures issued by any society

42. Power to exempt from taxation; Power to refund—

- (1) The State Government, by notification in the Official Gazette may, in the case of any society or class of societies reduce or remit whether prospectively or retrospectively, in the whole of the State or any part thereof;
- (a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or award of the Registrar or Co-operative Courts under this Act, are respectively chargeable.
- (b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to Court fees, for the time being in force, and
- (c) any other tax or fee or duty (or any portion thereof), payable by or on behalf of a society under any law for the time being in force, which the State Government is competent to levy
- (2) The State Government may, refund the amount of any tax, fee or duty paid in pursuance of any law referred to in sub-section (1) in such circumstances, to such extent and subject to such terms and conditions, if any, as the State Government may by order determine.

43. Restrictions on borrowings.—

- (1) A society shall receive deposits and loans from members and other persons, only to such extent and under such conditions, as may be prescribed, or specified by the bye-laws of the society.
- (2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1), for proper utilization of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limit as laid down in the rules and bye-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.

44. Regulation of loan making policy.—

- (1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member:
- Provided that, with the special sanction of the Registrar, a society may make loan to another society
- (2) Notwithstanding anything contained in the foregoing subsection, a society may make a loan to a depositor on the security of his deposit.
- (3) If in the opinion of the State Government, it is necessary in the interest of the society or societies concerned to do so, the State Government may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property :

Provided that, the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules, and bye-laws, with the approval of the Apex Bank, by general, or special order, regulate further the extent, conditions and manner of making loans by any society or class of societies to its members or other societies.

44-(A) Limit on interest in certain cases.—

Notwithstanding anything contained in any agreement or any law for the time being in force, a society (including a Co-operative Bank but excluding an Agriculture and Rural Development Bank), shall not for any loan (including rehabilitation loan but excluding long term loan for irrigation or agricultural development purposes or loan exceeding rupees three thousand for non-agricultural or commercial purposes) given by it to any member (including a member-society) for a period not exceeding 15 years, whether the loan was given before or is given after the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985, recover, in any manner whatsoever, on account of interest, a sum greater than the amount of the principal of the loan.

45. Restrictions on other transactions with non-members.—

Save as is provided in this Act, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

46. Charge and set-off in respect of share or interest of members.—

A society shall have a charge upon the share or interest in the capital and on the deposits, of a member or past member or deceased member and upon any dividend, bonus or profits payable to such member, respect of any debt due from such member or his estate to the society; and the society may set-off any sum credited or payable to such member in or towards payment of any such debt:

Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 71, or its reserve fund; and no co-operative bank shall be entitled to set-off any such sum towards any debts due from the society.

47. Prior claim of society.—

(1) Notwithstanding anything in any other law for the time being in force, but subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue and to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908.

- (a) Any debt or outstanding demand, owing to a society by any member or past member or deceased member, shall be a first charge;
 - (i) upon the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by such member or past member or deceased member
 - (ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or work-shop, Godown or place of business supplied to or purchased by such member or past member or deceased member, in whole or in part, from any loan whether in money or goods made to him by the society; and
 - (iii) upon any movable property which may have been hypothecated, pledged or otherwise mortgaged by a member with the society and remaining in his custody;
- (b) Any outstanding demands or dues payable to a society by any member or past member or deceased member, in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society

Explanation -The prior claim of Government in respect of dues other than land revenue shall be restricted for the purpose of subsection (1) to the assets created by a member out of the funds in respect of which, the Government has a claim.

- (2) No property or interest in property, which is subject to a charge under the foregoing subsection, shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may impose.
- (3) Any transfer made in contravention of sub-section (2) shall be void.

- (4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has one of its objects, the disposal of the produce of its members, may provide in its bye-laws, or may, otherwise contract with its members, —
- (a) That every such members shall dispose of his produce through the society, and
 - (b) That any member, who is found guilty of a breach of the bye-laws or of any such contract, shall reimburse the society for any loss, determined in such manner as may be specified in the bye-laws.

48. Charge on immovable property of members, borrowing from certain societies.—

Notwithstanding anything contained in this Act or in any other law for the time being in force;

- (a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the form prescribed. Such declaration shall state that the applicant thereby, creates, charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances (if any), required by him which the society may make to him as such member, subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances;
- (b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a); and no such person shall, unless and until he has made such declaration, be entitled to exercise any right, as a member of the society;
- (c) a declaration made under clause (a) or (b) may be varied at any time by a member, with the consent of the society in favor of which such charge is created;
- (d) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (a) or (b) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that, it shall be lawful to a member to execute a mortgage / bond in respect of such land or any part thereof in favor of an Agriculture and Rural Development Bank or of the State Government under the Bombay Canal Rules made under the Bombay Irrigation Act, 1879 or under any corresponding law for the time being in force for the supply of water from a canal to such land, or to any part thereof:

Provided further that, if a part of the amount borrowed by a member is paid the society with the approval of the Central Bank to which it may be indebted may, on an application from the member, release from the charge created under the declaration made under clause (a) or (b), such part of the movable or immovable property specified in the said declaration, as it may deem proper, with due regard to the security of the balance of the amount remaining outstanding from the member:

- (e) any alienation made in contravention of the provisions of clause (d) shall be void
- (f) subject to all claims of the Government in respect of land revenue or any money recoverable as land revenue, and all claims of the Agriculture and Rural Development Bank in respect of its dues, in either case whether prior in time or subsequent, and to the charge (if any) created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 or any corresponding law for the time being in force in any part of the State, there shall be a first charge in favour of the society on the land or interest specified in the declaration made under clause (a) or (b), for and to the extent of the dues owing by the member on account of the loan;
- (g) and in particular, notwithstanding anything contained in Chapter X of the Maharashtra Land Revenue Code, 1966, the Record of Rights maintained there under shall also include the particulars of every charge on land or interest created under a declaration under clause (a) or (b), and also the particulars of extinction of such charge

Explanation - For the purposes of this section the expression "society" means;

- (i) any resource society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members, or
- (ii) Any society, or any society of the class of societies, specified in this behalf by him State Government, by a general or special order.

48A. Deduction from sale price of certain agricultural produce to meet society's dues.—

- (1) Where a loan has been advanced by any society in accordance with the last preceding section for the growing of any agricultural produce, or has been advanced by any other society which is an Agricultural and Rural Development Bank for any of the purposes enumerated in clause (a) of section 111 and if in either case any agricultural produce is tendered by the person who has taken any such loan for sale at a collection centre under section 30A of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, on any day then the price agreed to be paid therefore shall be paid by the purchaser to the tenderer after deducting the dues of the societies mentioned aforesaid and the amount so deducted shall be paid to the Market Committee constituted under that Act as provided in that section. On making payment to the tenderer and the Market Committee in the manner provided in the aforementioned section 30A the purchaser shall be discharged of his liability to pay the price to the tenderer.

The amount of the deduction on account of loans advanced by societies shall be made at such rate as may be notified by the State Government in this behalf by general or special order, so, however, that such rate shall not in the aggregate exceed the following percentage of the total amount to be paid by the purchaser as the price, namely:-

- | | | |
|-------|---|------|
| (i) | if the produce tendered for sale is sugarcane | 100% |
| (ii) | if the produce tendered for sale is cotton | 60% |
| (iii) | in any other case | 40% |

- (2) The Market Committee on receiving the amount from the purchaser shall arrange to pay to societies concerned the amount of dues due from the tenderer within a reasonable time to be prescribed for the purpose. If the Market Committee does not pay such dues within 8 days, after the realisation of the Cheque, the Market Committee shall be liable to pay interest on such dues to the societies concerned at a rate prescribed in this behalf, such rate not being in excess of the maximum rate of interest fixed for unsecured loans under the Bombay Money-lenders Act, 1946.
- (3) Where any such purchaser is the State Government or an agent or officer appointed by that Government, or is a processing factory notified by the State Government in this behalf by general or special order or an agent or officer appointed by such factory, the purchaser shall pay the price to the tenderer after deducting the dues of the societies mentioned aforesaid and pay the amount so deducted on behalf of the tenderer to the concerned societies direct:

Provided that, where loans have been taken by the tenderer from more than one society, the purchaser may, keeping in view the extent of the dues, on account of financing of crop or seasonal finance or finance for other agricultural purposes, repayable during a period of not less than eighteen months and not more than five years and the extent of the dues of any Agricultural and Rural Development Bank and subject to such directions (if any) as may be issued by the State Government from time to time, determine the proportion in which the amount of deduction made shall be apportioned between the different lending societies.

Explanation - For the purposes of this section, "purchaser" shall include any person who pays the purchase price of any agricultural produce tendered for sale, or by whom payment of such price is made, whether on his own account or as an agent or on behalf of another person.

49. Deduction from salary to meet society's claims in certain cases.—

- (1) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such total amount payable to the society and in such installments as may be specified in the agreement and to pay to the society the amounts so deducted in satisfaction

of any debt or other demand of the society against the member. A copy of such agreement duly attested by an officer of the society shall be forwarded by the society to the employer.

- (2) On receipt of a copy of such agreement, the employer shall, if so required by the society by a requisition in writing, and so long as the total amount shown in the copy of the agreement as payable to the society has been deducted and paid to the society, make the deduction in accordance with the agreement and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the Payment of Wages Act, 1936 on the day on which he makes payment.
- (3) If after the receipt of a requisition made under the foregoing subsection, the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment of such amount or where the employer has made deductions but the amount so deducted is not remitted to the society, then such amount together with interest thereon at one and half times the rate of interest charged by the society to the member for the period commencing on the date on which the amount was due to be paid to the society and ending on the date of actually remitting it to the society; and such amount together with the interest thereon, if any, shall, on a certificate issued by the Registrar, be recoverable from him as an arrear of land revenue, and the amount and interest so due shall rank in priority in respect of such liability of the employer as wages in arrears.
- (4) Nothing contained in this section shall apply to persons employed in any railways (within the meaning of the Constitution) and in mines and oil fields.

CHAPTER V
STATE AID TO SOCIETIES



50. Direct partnership of State Government in societies.—

The State Government may subscribe directly to the share capital of a society with limited liability, upon such terms and conditions as may be agreed ' upon.

51. Indirect partnership of State Government in societies.—

The State Government may, under appropriation made by law, provide moneys to a society for the purchase directly or indirectly of shares in other societies with limited liability. (A society to which money are so provided for the aforesaid purpose is hereinafter in this Chapter referred to as an "Apex Society").

52. Principal State Partnership Fund.—

- (1) An Apex society which is provided with moneys as aforesaid shall, with such moneys, establish a Fund to be called the "Principal State Partnership Fund".
- (2) An Apex society shall utilize the Principal State Partnership Fund for the purpose of
 - (a) directly purchasing shares in other societies with limited liability;
 - (b) providing money to a society to enable that society (hereinafter in this Chapter referred to as a "Central Society") to purchase shares in other societies with limited liability the latter societies being hereinafter in this Chapter referred to as "Primary societies";
 - (c) Making payments to the State Government in accordance with the provisions of this chapter; and for no other purpose.

53. Subsidiary State Partnership Fund.—

- (1) A Central Society which is provided with moneys by an Apex Society from the Principal State Partnership Fund shall with such moneys, establish a fund to be called the "Subsidiary State Partnership Fund".
- (2) A Central society shall utilize the Subsidiary State Partnership Fund for the purpose of
 - (a) Purchasing shares in Primary Societies;
 - (b) Making payments to the Apex Society in accordance with the provisions of this Chapter and for no other purpose.

54. Approval of State Government for purchase of shares.—

Shares shall not be purchased in a society from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund, except with the previous approval of the State Government.

55. Liability to be limited in respect of certain shares.—

Where any shares are purchased in a society by-

- (a) the State Government; or
- (b) an Apex society from the Principal State Partnership Fund, or a Central society from the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society of which the shares are purchased being wound up, be limited to the amount paid in respect of such shares

56. Restriction on amount of dividend.—

An Apex society which has purchased shares in other societies from the moneys in the Principal State Partnership Fund, and a Central society which has purchased shares in Primary societies from the moneys in the Subsidiary State Partnership Fund, shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.

57. Indemnity of Apex and Central societies.—

- (1) If a society in which shares are purchased from the Principal State Partnership Fund is wound up, or is dissolved, the State Government shall not have any claim against the Apex society which purchased the shares in respect of any loss arising from such purchase; but the State Government shall be entitled to any moneys received by the Apex society in liquidation proceedings or on dissolution, as the case may be.
- (2) If a society in which shares are purchased from the Subsidiary State Partnership Fund is, wound up or dissolved, neither the State Government nor the Apex society shall have any claim against the Central society which purchased the shares in respect of any loss arising from such purchase; but the Apex society shall be entitled to any moneys received by the Central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

58. Disposal of share capital and dividend, etc.-

- (1) All moneys received by an Apex society in respect of shares of other societies, purchased from the moneys in the Principal State Partnership Fund on redemption of such shares, or by way of dividends or otherwise, shall be credited to that Fund.
- (2) All moneys received by a Central society, in respect of shares of Primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares, or by way of dividends or otherwise, shall in the first instance be credited to that Fund, and then transferred to the Apex society, which shall credit them to the Principal State Partnership fund.
- (3) All moneys and dividends referred to in sub-sections (1) and (2) shall, notwithstanding that the shares stand in the name of the Apex society or the Central society, as the case may be, paid to the State Government.
- (4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an Apex society under Section 51.

59. Disposal of Principal or Subsidiary State Partnership Fund on winding up of Apex or Central society.—

- (1) If an Apex society which has established a Principal State Partnership Fund is wound up or dissolved, all money, to the credit of, or payable to that Fund, shall be paid to the State Government.
- (2) If a Central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 52.

60. Principal or Subsidiary State Partnership Fund not to form part of assets.—

Any amount to the credit of a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the Apex society or the Central Society, as the case may be.

61. Agreement by State Government and Apex societies.-Subject to the foregoing provisions of this Chapter

- (a) the State Government may enter into an agreement with an Apex society setting out the terms and conditions on which it shall provide moneys to the Apex society for the purpose specified in section 51;
- (b) an Apex society may, with the previous approval of the State Government, enter into an agreement with a Central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 52

62. Other forms of State aid to societies.-

Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the State Government by general or special order may specify in this behalf, the State Government may,-

- (a) give loans to a society;
- (b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the State Government;
- (c) guarantee the repayment of loans given by a Co-operative Bank to a society;
- (d) guarantee the repayment of the principal of, and payment of interest on, loans and advances given by the Reserve Bank of India, or the Industrial Finance Corporation of India or any other authority constituted under any law for the time being in force; or
- (e) Provide financial assistance, in any other form (including subsidies), to a society.

63. Provisions of this Chapter to override other laws.—

The provisions of sections 51 to 61 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VI
PROPERTY AND FUNDS OF SOCIETIES



64. Funds not to be divided.—

No part of the funds, other than the dividend equalization or bonus equalization funds as may be prescribed or the net profits of a society, shall be paid by way of bonus or dividend, or otherwise distributed among its members:

Provided that, a member may be paid remuneration on such scale as may be laid down by the bye-laws, for any services rendered by him to the society.

65. Ascertainment and appropriation of profits.—

- (1) A Society shall construct its relevant annual financial statements and arrive at its consequent net profit or loss in the manner prescribed.-
- (2) A society may appropriate its net profits to the reserve fund or any other fund to payment of dividends to members on their shares to the payment of bonus on the basis of support received from members and persons who are not members to its business, to payment of honoraria and towards any other purpose which may be specified in the rules or bye-laws :

Provided that no part of the profits shall be appropriated except with the approval of the annual general meeting and in conformity with the Act, rules and bye-laws.

66. Reserve Fund—

- (1) Every society which does, or can, derive a profit from its transactions shall maintain a reserve fund.
- (2) Every society shall carry at least one-fourth of the net profits each year to the reserve fund; and such reserve fund may, subject to the rules made in this behalf, if any, be used in the business of the society or may, subject to the provisions of section 70, be invested, as the State Government may by general or special order direct, or may, with the previous sanction of the State Government, be used in part for some public purpose likely to promote the objects of this Act, or for some such purpose of the State, or local interest:

Provided that, the Registrar may, having regard to the financial position of any society or class of societies, fix the contribution to be made to the reserve fund under this sub-section at a lower rate, but not lower than one-tenth of the net profits of the society or societies concerned.

67. Restriction on dividend.—

No society shall pay dividend to its members at a rate exceeding 15 per cent except with the prior sanction of the Registrar.



68. Contribution to education fund of the State federal society,—

- (1) Every society shall contribute annually towards the education fund of the State federal society which may be notified in this behalf by the State Government at such rate as may be prescribed, and different rates may be prescribed for different societies or classes of societies depending on their financial condition.
- (2) Every society shall pay its contribution to the said fund within three months after the close of the co-operative year. Any officer willfully failing to comply with the requirement of this section, shall be personally liable for making good the amount to the federal society notified as aforesaid.
- (3) Where any society fails to pay the contribution within the period specified in sub-section (2), the amount of contribution due shall be recoverable as an arrear of land revenue and on the State Federal Society making a report of such failure to the Registrar, the Registrar shall, after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue.

69. Contribution to public purposes.-

After providing for the reserve fund as provided in Section 66, and for the educational funds as provided in Section 68 a society may set aside a sum not exceeding twenty per cent of its net profits, and utilise, with the approval of such federal society as may be notified by the State Government in this behalf from time to time, the whole or part of such sum in contributing to any co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

69-A Constitution of Co-operative State Cadre of Secretaries of certain societies and establishment of Employment Fund for such Cadre —

- (1) There shall be constituted a Co-operative State Cadre of Secretaries of primary agricultural credit societies, multipurpose cooperative societies and service co-operatives and such other classes of societies as may be prescribed in this behalf thereafter in this section referred to as "the Co-operative State Cadre", consisting of persons recruited for this purpose by the Central Societies notified in this behalf by the State Government. The number of persons to be recruited and their conditions of service shall be determined by the Central Societies in accordance with such general or special guidelines, if any, as may be issued by the State Government, from time to time.
- (2) A Central Society may, from time to time, depute any person appointed by it to that Cadre to work under any society referred to in subsection (1), as it may consider necessary. Where any such person is posted to work under any society, his services shall be taken over by the society on such post for such period and on such other terms and conditions, as the Central Society may determine, but the person so posted shall draw his salary and allowances from the Fund established under sub-section (3).
- (2-A) The immediate initial supervisory control on the person appointed to the cadre and deputed or posted to work as secretary under each of the societies referred to in sub-section (1) shall be with the Taluka Supervision Society consisting of the societies, in each respective Taluka to which such persons are deputed, as members thereof and registered for the purpose. The Taluka Supervision Society shall exercise such powers and discharge such functions or perform such duties as may be conferred or imposed on it by the bye-laws of such society.
- (3) An Apex society notified in this behalf by the State Government shall establish a Fund to be called "the Co-operative State Cadre Employment Fund, which, when established, shall be deemed to have been established with effect from the 1st day of July, 1973. It shall be utilised for meeting the expenses on the salaries, allowances and other emoluments to be paid to the persons appointed to the Co-operative State Cadre and the other expenditure relating to the Cadre.

- (4) (a) Every society or class or classes of societies, which in the opinion of the State Government, derive any benefit, directly or indirectly, from the service of any Secretary belonging to the Co-operative State Cadre of Secretaries, and
- (b) Every other body corporate carrying on any trade, business or industry or class or classes of such corporate bodies, which in the opinion of the State Government derive such benefit as aforesaid and which are notified by the State Government in this behalf, from time to time, by general or special order, shall, with effect from the 1st day of July, 1977, contribute annually to the said Fund, at such rate and in such manner as may be prescribed, and different rates may be prescribed for different societies or other corporate bodies or class or classes of societies or class or classes of other corporate bodies. In determining the rate or rates of contribution, the State Government shall take into consideration the expenditure referred to in sub-section (3), the services likely to be rendered and the financial condition of the societies or other bodies concerned.
- Explanation.-Notwithstanding anything contained in any law for the time being in force, for the purposes of levy and collection of the contribution to the said Fund by any other corporate body to which this section applies, such corporate body shall be deemed to be a society governed by this Act.
- (5) Where there is a failure to comply with the requirements of the last preceding sub-section, the Registrar may serve a demand notice on the society concerned to pay the contribution within two months from the date of demand. Such demand shall be a charge on the income of the society. If the contribution is not paid within the period aforesaid, the Registrar may direct any Bank or person having custody of the funds of the society to pay the amount of the contribution immediately, and such Bank or person shall comply with the orders of the Registrar. Every payment made pursuant to such direction shall be a sufficient discharge to such Bank or person from all liability to the society in respect of any sum so paid by it or him out of the moneys of the society in his custody.
- (6) The State Government may make rules regulating all matters connected with or ancillary to the custody and maintenance of, the payment of moneys into and the expenditure and withdrawal of moneys from, the said Fund.

70. Investment of funds.—

A society shall invest or deposit its funds in one or more of the following:

- (a) in a Central Bank or the State Co-operative Bank;
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882;
- (c) in the shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs :

Provided that, no society shall invest more than such proportion of its paid up share capital as may be prescribed;

Provided further that, the provisions of this clause shall not apply to any investment made by any agricultural credit society in any processing society based on agricultural produce)

- (d) in any co-operative bank (other than those referred to in clause (a) of this section) or banking Company, approved for this purpose by the Registrar, and on such conditions as the Registrar may from time to time impose;
- (e) in any other mode permitted by the rules, or by general or special order of the State Government

71. Employees Provident Fund.—

- (1) Any society may establish for its employees a provident fund, into which shall be paid the contributions made but its employees and by the society. Such provident fund shall not be used in the business of the society, nor shall it form part of the assets of the society; but shall be invested under the provisions of, the last preceding section, and shall be administered in the manner prescribed.

- (2) Notwithstanding anything contained in the foregoing subsection, a provident fund established by a society to which the Employees' Provident Funds Act, 1952 is applicable, shall be governed by that Act.

71-A. Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities.—

- (1) No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under sections 78, 96 or 144-T. If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.
- (2) If any person incurs expenditure in violation of sub-section (1), the Registrar shall direct the person to repay the amount to the society within one month and where such person fails to repay the amount as directed, such amount shall, on a certificate issued by the Registrar, be recoverable as arrears of land revenue.
- (3) The person against whom action is taken by the Registrar under sub-section (2) shall be disqualified to continue to be the officer of any society or to be officer of any society at any next election including any next by-election held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (2).

CHAPTER VII

MANAGEMENT OF SOCIETIES



72. Final authority of society.—

Subject to the provisions in this Act and the rules, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the bye-laws.

Where the bye-laws of a society so provide, the general meeting shall be attended by delegates appointed by the members, and such meeting shall be deemed to be the meeting of the general body, for the purpose of exercising all the powers of the general body.

73. Committee, its powers and functions.—

- (1) The management of every society shall vest in a committee, constituted in accordance with this Act, the rules and bye-laws which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the bye-laws.
- (1AB) the members of the committee shall be jointly and severally responsible for all the decisions taken by the committee during its term relating to the business of the society. The members of the committee shall be jointly and severally responsible for all the acts and omissions detrimental to the interest of the society. Every such member shall execute a bond to the effect within fifteen days of his assuming the office, in the form as specified by the State Government by general or special order. The member who fails to execute such bond within the specified period shall be deemed to have vacated his office as a member of the Committee:

Provided that, before fixing any responsibility mentioned above, the Registrar shall inspect the record of the society and decide as to whether the losses incurred by the society are on account of acts or omissions on the part of the members of the committee or on account of any natural calamities, accident or any circumstances beyond the control of such members:

Provided further that, any member of the committee, who does not agree with any of the resolution or decision of the committee, may express his dissenting opinion which shall be recorded in the proceedings of the meeting and such member shall not be held responsible for the decision embodied in the said resolution or such acts or omissions committed by the committee of that society as per the said resolution. Such dissenting member, if he so desires, may also communicate in writing, his dissenting note to the Registrar within seven days from the date of the said resolution or decision. Any member, who is not present for the meeting in which the business of the society is transacted, and who has not subsequently confirmed the proceedings of that meeting, such member shall also not be held responsible for any of the business transacted in that meeting of the society.

- (1-A) Notwithstanding anything contained in this Act, the rules made there under or in the bye-laws of any society or class of societies,—
- (a) The first general meeting of a society shall be convened within three months from the date of its registration to appoint a provisional committee and to transact other business as may be prescribed. The term of the members of such provisional committee shall be for a period of one year from the date on which it has been first appointed or till the date on which a regular committee is duly constituted in accordance with the provisions of the rules or bye-laws made under this Act, whichever is earlier; and all the members of such provisional committee shall vacate office on the date of expiry of such period or such constitution of the committee:
- (b) notwithstanding anything contained in clause (a), the provisional committees for the Co-operative Sugar Factories and Co-operative Spinning Mills and such other class of societies, as the State Government may, by special or general order, in the Official Gazette, specify in this behalf, shall be appointed by the State Government; and the members thereof shall hold office for a period of three years, which period may be extended by one year, at a time, so however that, the total period shall not exceed five years, in the aggregate;

Provided that, the State Government shall have the power to change or reconstitute such committee or, any or all members thereof at its discretion even before the expiry of the period for which a member or members were nominated thereon:

Provided further that, the member or members assuming office on such change or re-constitution of the committee shall hold office for the period for which the provisional committee has been appointed under this clause.

- (c) pending the first constitution of the committee of a society, the provisional committee of the society shall exercise the powers and perform the duties of the committee of such society as provided in this Act, the rules and bye-laws and make necessary arrangements for holding election of the committee, before the expiry of its term.
- (2) Notwithstanding anything contained in any bye-laws of a society or class of societies, the Registrar may, having regard to the area of operation, subscribed share capital or turnover of a society or class of societies, by general or special order, published in the Official Gazette, prescribed the maximum number of members on the committee of such society or class of societies, as may be specified in such order.
- (3) (a) Notwithstanding anything contained in this Act or the rules made there under or in the bye-laws of any society or any other law for the time being in force, in a general election of members of the committee of a society, on the election of two-thirds or more number of members, the returning officer or any other officer or authority conducting such election shall within seven days after the declaration of results of the election of such members or where such election is held before the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1986, and such number of members have been elected but the committee has, for whatever reason, not been so far constituted, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office; and upon such publication the committee of the society shall be deemed to be duly constituted. In determining two-Thirds of the number of members, fraction shall be ignored:

Provided that, such publication shall not be deemed-

- (i) to preclude the completion of elections of the remaining members and the publication of their names and the permanent addresses of the elected members likewise as and when they are available; or
- (ii) to affect the term of the office of members of the Committee under the Act;
- (b) The names of the remaining members after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar)

73-IA Election to more than one seat on committee of society including specified society.—

If a person is elected to more than one seat on the committee of a society including a society belonging to any of the categories specified in section 73-G, then, unless within a period of fifteen days from the date of declaration of the result of the election he resigns all but one of the seats by writing under his hand address to the Election Officer, or as the case may be, the Collector, all the seats shall become vacant. On receipt of such resignation or on the seats becoming vacant as aforesaid, the Election Officer, or as the case may be, the Collector shall declare the candidate from the constituency or constituencies concerned securing the next higher number of votes as duly elected.

73-IB. Powers of State Government to postpone election.—

Where due to scarcity, drought, flood, fire, or any other natural calamity or rainy season or any election program, of the State Legislative Assembly or Council or the House of the People or a local authority, coinciding with the election program of any society or class of societies or such other reasons as, in the opinion of the State Government, are exceptional, it is not in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act, or in any rules, or bye-laws made there under, or any other law for the time being in force, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time which period may further be extended so,

however, that the total period shall not exceed one year in the aggregate.

73-IC Election to notified societies.—

- (1) Where the State Government is satisfied that, having regard to the objects of the society or class of societies (other than the societies specified by or under section 73-G), or composition of membership thereof, or proper management and the interest of the members, it is necessary in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act, or in any rules, or bye-laws made there under, or in any other law for the time being in force, by general or special order, notify in the Official Gazette, such society or class of societies and the election to such society or class of societies shall be held by the Registrar in the prescribed manner.
- (2) The Registrar shall recover the expenses of holding election to any such society or class of societies as is referred to in sub-section (1), in the prescribed manner.

73-ID Motion of no-confidence against officers of societies —

- (1) A President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer by whatever designation called who holds office by virtue of his election to that office shall cease to be such President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer, as the case may be, if a motion of no-confidence is passed at a meeting of the committee by two-third majority of the total number of committee members who are entitled to vote at the election of such President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer and the office of such President, vice-President, Chairman, Vice-chairman, Secretary, Treasurer or any other officer, as the case may be, shall thereupon be deemed to be vacant.
- (2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are entitled to elect the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer, as the case may be, of the committee and shall be delivered to the Registrar. The requisition shall be made in such form and in such manner as may be prescribed:

Provided that, no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office.

- (3) The Registrar shall, within seven days from the date of receipt of the requisition under sub-section (2), convene a special meeting of the committee. The meeting shall be held on a date not later than fifteen days from the date of issue of the notice of the meeting.
- (4) The meeting shall be presided over by the Registrar or such officer not below the rank of an Assistant Registrar of Co-operative Societies authorised by him in his behalf. The Registrar or such officer shall, when presiding over such meeting, have the same powers as the President or Chairman when presiding over a committee meeting has, but shall not have the right to vote.
- (5) The meeting called under this section shall not, for any reason, be adjourned.
- (6) The names of the committee members voting for and against the motion shall be read in the meeting and recorded in the minute book of committee meetings.
- (7) If the motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought before the committee within a period of one year from the date of such rejection of the motion.

73-A. Disqualification for being designated officer simultaneously of certain categories of societies or for being designated officer of the same society for more than ten years.—

- (1) In this section and in sections 73C, 73D and 73E, "a designated officer" means the Chairman and the President, and includes any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated officer, but does not include any officer appointed or nominated by the State Government or by the Registrar.

- (2) No person shall, at the same time, be or continue to be a designated officer of more than one society falling in Category I or Category II or Category III of the Categories mentioned below; and shall not be or continue to be a designated officer in more than two societies in the aggregate in the three Categories :-

Category I - Societies, the area of operation of which extends to the whole of the State,

Category II - Societies, the area of operation of which does not extend to the whole of the State,

- (a) But extends to at least one whole district irrespective of their authorised share capital; or
- (b) But extends to areas comprised in part or parts in one or more districts and the authorised share capital of which is more than Rs.10 Lakh.

Category III - Societies, the area of operation of which does not extend to the whole of a district but extends to one whole Taluka, or the authorised share capital of which is not more than Rs.10 Lakh but is not less than Rs. 5 Lakh.

Explanation - For the purposes of this sub-section, the expression "society" shall not include a society with no share capital and a society not engaged in commercial activities.

- (2A) If any question arises whether or not a society falls under any of the categories referred to in sub-section (2), such question shall be referred to and decided by the Registrar and his decision shall be final.

- (3) Subsection (3) deleted

- (4) If any person becomes, at the same time a designated officer of societies, in excess of the number prescribed under sub-section (2), unless he resigns his office in the society or societies in excess of the said number within a period of ten days from the date on which he is elected or appointed a designated officer of more than the permissible number of society or societies, or if the elections or appointments are held or made simultaneously, from the date on which the result of last of such elections or appointments is declared, he shall, at the expiration of the said period of ten days, cease to be a designated officer of all such societies, and thereupon, notwithstanding anything contained in any other provisions of this Act, a person so resigning or ceasing to be a designated officer of any or all such societies shall not be eligible for being re-elected or re-appointed as a designated officer of such society or societies during the remainder of the term of office for which he was so elected or appointed; and at no point of time such person shall be a designated officer of societies in excess of the number prescribed under sub-section (2).

- (5) No person shall be, or shall continue to be, a designated officer of any society of any of the categories referred to in sub-section (2), for a period of more than ten years in the aggregate and at the expiration of that period any such person shall cease to be a designated officer of that society, and shall not be eligible for being re-elected or re-appointed as a designated officer, until a period of one term of the committee has elapsed after completion of the aforesaid period of ten years.

Explanation.-For the purposes of this sub-section;

- (a) in calculating the aggregate period of ten years in office, any period for which the person concerned may have been such officer, before the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1969, shall be ignored;
- (b) if any person resigns his office as a designated officer at any time within twelve months of the date on which the aggregate, period of ten years would, but for his resignation, have been completed, he shall be deemed to have completed the period ten years on his resignation.

- (6) No member of the Council of Ministers shall be, or continue to be, a designated officer of any society of any of the categories referred to in sub-section (2):

Provided that, nothing in this sub-section shall affect any member of the Council of Ministers who is a designated officer of any such society on the date of commencement of the

Maharashtra Co-operative Societies (Second Amendment) Act, 1985, and he shall continue to hold office till completion of his term, unless he resigns or vacates the office of such designated officer for any reason whatsoever before the expiry of his term as such designated officer.

73AA Designated officer who is associate Councilor to cease to be designated officer on ceasing to be such Councilor —

Where, after the commencement of the Maharashtra Zillah Parishads and Panchayat Samitis (Fourth Amendment) Act, 1974, designated officer of any society of any of the categories referred to in sub-section (2) of Section 73 A who is also an associate Councilor of any Zillah Parishad, ceases to be the associate Councilor of such Zillah Parishad by operation of the provisions of Section 82 of the Maharashtra Zillah Parishads and Panchayat Samitis Act, 1961, he shall also cease to be a designated officer of the said society from the date on which he so ceases to be an associate Councilor of the Zillah Parishad.

73AB. Cessation of membership of committee held by virtue of office under Government etc.--

Where a person is elected, co-opted, appointed or nominated as a member of committee of any society by virtue of his holding office under the Central Government or the State Government or in any local authority in any body corporate or in any organisation, he shall cease to be such member on the date on which he ceases to hold such office.

73-B. Reservation of seats on committees of certain societies for Scheduled Castes, Scheduled tribes, Other Backward Classes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Classes and for members of weaker section and election thereto.—

- (1) Notwithstanding anything contained in this Act or in the rules made there under or in any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, four seats shall be reserved,—
 - (a) One for the members belonging to the Scheduled Castes or Scheduled Tribes;
 - (a -1) One for the members belonging to the Other Backward Classes;
 - (a -2) One for the members belonging to the De-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes; and
 - (b) One for the members belonging to the weaker section.
- (2) The four reserved seats referred to in sub-section (1), shall unless where the bye-laws of the society already provide for the reserved seats, be in addition to the strength of the members of the committee of such a society or class of societies.
- (3) Any individual member of the society, or any elected member of the committee of a member-society, or any member of the committee of a member-society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes, or Other Backward Classes or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Special Backward Classes or as the case may be, weaker section, shall be eligible to contest the election to reserved seat and every person who is entitled to vote at the election to the committee shall be entitled to vote at the election to any such reserved seat.
- (4) Where no person is elected to any of the four reserved seats, then;
 - (a) In the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer such as the Chairman. Secretary or Manager or any other Officer by whatever designation called;
 - (b) In the case of a society notified under Section 73-IC, the Registrar; and
 - (c) In the case of a society specified under Section 73-G, the Collector; shall call a meeting of the elected members of the committee to co-opt a member or, as the case may be, members on the committee from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Collector or any other officer authorised by him, if it is a specified society, or by the Registrar or any other officer authorised by him, if it is a notified society. If no member is co-opted at such meeting, the Chairman or the Collector or, where the meeting is presided over by an

officer authorised by the Registrar, such officer, as the case may be, shall, within a period of seven days from the date of such meeting, report the fact to the Registrar, and thereupon the Registrar shall, within a period of seven days from the date of receipt of such report by him or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting, appoint on the committee a person or persons, as the case may be, from amongst the persons entitled to contest the election to the reserved seats under sub-section (3).

Explanation: For the purposes of this section;

- (a) a general or special order, if any, issued by the State Government under Section 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983 shall be deemed to have been issued under sub-section (1) of this section and shall continue to be in force until duly repealed or amended;
- (b) the expression "Scheduled Castes" includes "Nav-Boudhas"
- (b-1) the expression "Other Backward Classes, De-notified Tribes (Vimukta Jatis) and Nomadic Tribes and Special Backward Classes" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes, De-notified Tribes (Vimukta Jatis) and Nomadic Tribes and Special Backward Classes;
- (c) the expression "members belonging to weaker section" means a member or such class of members as the State Government may, by general or special order from time to time, declare

73BB. Reservation of seats for employees on committees of certain societies.-

- (1) On the committee of such society or class of societies as the State Government may, by general or special order, direct where the number of permanent salaried employees of the society is 25 or more;
 - (a) if the number of members of the committee thereof is 11 or less-one seat; and
 - (b) if the number of such members is 12 or more - one additional seat for every 10 members over and above the first 11 members

shall be reserved for such employees. The seat so reserved shall be filled by selection made by the recognized union or unions and where there is no union at all or where there is a dispute in relation to such issues including whether a union is recognized or not, then the seats so reserved shall be filled by an election by such employees from amongst themselves in the prescribed manner. Any person selected or elected as a member of the committee to any reserved seat shall not be entitled to be elected as an officer of such society, or to vote at any election of officers

Explanation - for the purposes of this section the members of the committee shall mean and include elected, appointed, nominated, co-opted as well as ex-officio members of the committee but it shall not include the representatives of the employees

- (2) No employee who is under suspension shall be eligible for being selected or elected or for being constituted as a member under subsection (1).
- (3) Subject to the provisions of sub-section (2), the term of a member representing the employees shall be co-terminus with the term of the committee as provided under the bye-laws of the society and after every fresh election of the members of the committee a fresh selection or election, as the case may be, of a member under sub-section (1), shall be necessary.

73BBB. Reservation of seats on committees of societies for women members and elections thereto.—



- (1) Notwithstanding anything contained in this Act, or in the rules made there under, or in the bye-laws of any society, there shall be reserved seats for women on the committee of each society to represent the women members in the following manner, namely:—
 - (a) One seat on the committee consisting of not more than 9 committee members;
 - (b) Two seats on the committee consisting of 10 or more, but not exceeding 19 committee members; and
 - (c) Three seats on the committee consisting of 20 or more committee members.

Explanation - For the purpose of determining the number of committee members under this sub-section, committee members who are elected, co-opted, nominated, appointed or otherwise occupying the position on the committee under section 73B, 73BB and under this sub-section shall not be included.

- (2) The reserved seats referred to in sub-section (1) shall be in addition to the strength of the members of the committee of a society :

Provided that, where the bye-laws of a society already provide for reservation of seats for women on the committee thereof, the total number of seats to be so reserved for women shall be equal to the number of seats specified in sub-section (1).
- (3) Any individual woman member of the society, or any woman member of the committee of a member society, whether elected, co-opted or appointed, shall be eligible to contest the election to a reserved seat on a committee of society; and every person who is entitled to vote at the election of the committee shall be entitled to vote at the election to any such reserved seat.
- (4) Where no woman member or, as the case may be, women members are elected to the reserved seats, then,—
 - (a) in the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer such as the Chairman, Secretary or Manager or any other Officer, by whatever designation called (hereinafter in this section collectively referred to as "the Chairman");
 - (b) in the case of a society notified under section 73-IC, the Registrar; and
 - (c) in the case of a society specified under section 73G, the Collector shall call a meeting of the elected members of the committee to co-opt a woman member or, as the case may be, women members on the committee from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Registrar or any other officer authorised by him, if it is a notified society or by the Collector or any other officer authorised by him, if it is a specified society. If no woman member is co-opted at such meeting, the Chairman or the Collector or, where the meeting is presided over by an officer authorised by the Registrar or the Collector, such officer, as the case may be, shall, within a period of seven days from the date of such meeting, report the fact to the Registrar, and thereupon the Registrar shall, within a period of seven days from the date of receipt of such report by him, or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting, appoint on the committee a woman member or women members, as the case may be, from amongst the women members entitled to contest the election to the reserved seats under sub-section (3).
- (5) Nothing in this section shall apply to a committee of any society which exclusively of men members, or as the case may be, of women members.
- (6) Where election to the committee of any society has been held without holding election to such additional reserved seats or where election to such additional reserved seat could not be held on or before the 30th September, 1992 on account of any directions issued under section 157, then unless the process for election to the committee including such additional reserved seats for women members has already commenced, or election to the committee is or will be due and will be held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1992, such additional reserved seats of the committee shall be filled in by co-option of women members by the committee of the society.
- (7) Notwithstanding anything contained in sub-section (6), no election to such additional reserved seats shall be held where the term of the committee of a society is to expire within six months from the date of the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1991.
- (8) The term of office of such women members elected, co-opted or as the case may be, appointed on a committee, shall be co-terminus with the term of the committee as provided under the bye-laws of the society and at the time of every fresh election thereafter, election

shall be held to the additional reserved seats for women members in accordance with the provisions of this section.

73-C. Restrictions on representation of certain class of members on committees of certain societies and for being designated officers.—

- (1) In the case of a district Central Co-operative Bank or an Apex Cooperative Bank of the District Central Co-operative Banks, there shall not be more than one representative to be elected by individual members from amongst themselves, on the committee of such Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.
- (2) In the case of an Agricultural and Rural Development Bank or an Apex Agriculture and Rural Development Bank there shall not be more than one representative on the committee of such Bank, of members, who have not taken any loans from the Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.
- (3) In the case of an Agricultural Credit Society which gives loans to individuals for the raising of crops, there shall not be more than one representative on the committee of such society; of members who have not taken any loans from the society; and that representative shall be elected only from amongst members, who have not taken loans. Such representative shall not be eligible for being elected as a designated officer.

73-D Society's nominee on other society not eligible to be designated officer except in federal society

No member of a society, who is nominated to represent it on any other society, shall be eligible for being elected or appointed as a designated officer of the other society, unless the other society is its federal society.

73-E In specified societies members not having minimum number of transactions of certain monetary limits not entitled to be designated officers.—

In the case of such class or classes of societies as may be specified by the State Government, by notification in the Official Gazette, no member shall be eligible for being elected or appointed as a designated officer, if he does not fulfill the minimum qualification relating to his transactions with the society of such monetary limits as may be laid down, from time to time, in such notification.

73-F. Member who or whose near relation in dealing in goods for purchase of which loans are given by a society not eligible to be on its committee.—

In the case of a society, which gives loans to members for purchasing machinery, implements, equipments, commodities or other goods, or which deals in such goods, no member, who or whose near relation is a dealer in such goods or is director of a company or a partner in a firm carrying on business in such goods, shall be eligible for being elected or appointed as a member of the committee of such society.

Explanation - For the purposes of this section, the expression "near relation" means a wife, husband, father, mother, son, daughter son-in-law, or daughter-in-law.

73-FF. Disqualification for membership of committee.—

- (1) Without prejudice to the other provisions of this Act or the rules made there under, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of committee, if he-

- (i) is a defaulter of any society;

Explanation — for the purposes of this clause, the term "defaulter" includes—

- (a) in the case of a primary agricultural credit society, a member who defaults the repayment of the crop loan on the due date;
- (b) in the case of term lending society; a member who defaults the payment of any installment of the loan granted to him;
- (c) in the case of any society;
 - (i) A member who has taken anamat or advance; or,

- (ii) A member who has purchased any goods or commodities on credit or availed himself of any services from the society for which charges are payable; and fails to repay the full amount of such anamat or advance or pay the price of such goods or commodities or charges for such service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of withdrawal of anamat or advance by him or from the date of delivery of goods to him or availing of services by him, whichever is earlier;
- (d) in the case of non-agricultural credit societies, a member who defaults the payment of any installment of the loan granted;
- (e) in the case of housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues;
- (ii) Has, in the opinion of the Registrar, deliberately committed breach of co-operative discipline with reference to linking up of credit with co-operative marketing or co-operative processing; or
- (iii) Has been held responsible under section 79 or 88 or has been held responsible for payment of costs of inquiry under section 85; or
- (iv) Has incurred any disqualification under this Act or the rules made there under; or
- (v) carries on business of the kind carried on by the society either in his name or in the name of any member of his family or he or any member of his family as a partner in a firm or a director in a company which carries on business of the kind carried on by the society; or

Explanation.- for the purposes of this clause, the expression "family" means a wife, husband, father, mother, brother, sister, son, daughter, son-in-law, or daughter-in-law.

- (vi) is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is selected or elected to any reserved seat on the committee of a society under section 73-BB.
- (2) A member, who has incurred any disqualification under subsection (1), shall cease to be a member of the committee and his seat shall thereupon be deemed to be vacant.

73-FFF Eligibility for re-appointment or re-election as member of committee.—

- (1) A member of a committee, who has ceased to be a member thereof, on account of having incurred disqualification under clause (ii) of sub-section (1) of section 73-FF shall be eligible to be re-appointed, re-nominated, re-co-opted or re-elected as a member of the committee after the expiry of the period of two years from the date on which he has so ceased to be a member of the committee.
- (2) A member of a committee, who has ceased to be a member thereof, on account of having incurred disqualification under clause (iii) of sub-section (1) of section 73-FF, shall be eligible to be re-appointed, re-nominated, re-co-opted, or re-elected as a member of the committee after the expiry of the period of five years from the date on which he has so ceased to be a member of the committee.
- (3) A member of a committee, who has ceased to be a member thereof on account of having incurred any disqualification other than disqualifications referred to in sub-sections (1) and (2), shall, unless otherwise specifically provided in this Act, be eligible to be re-nominated, re-co-opted, re-appointed or re-elected as a member of the committee, as soon as such disqualification ceases to exist.

73-G. Provision for conduct of elections to committees and of officers of certain societies and term of office of member of such committees.—

- (1) The election of the members of the committees and the officers by the committees, of the societies of the categories mentioned below, shall be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter:—
 - (i) such Apex societies, which the State Government may, by general or special order published in Official Gazette, from time to time, specify in this behalf, regard being had to the financial position and share capital of such societies ;
 - (ii) all District Central Co-operative Banks;
 - (iii) all Primary Agriculture and Rural Development Banks;
 - (iv) (a) All District Co-operative Sale and Purchase Organizations;
(b) All Taluka Co-operative Sale and Purchase Organizations;
 - (v) all Co-operative Sugar Factories;
 - (vi) all Co-operative Spinning Mills;
 - (vii) any other societies or class of societies, which the State Government may, by general or special order published in the Official Gazette from time to time, specify in this behalf, regard being had to the financial position and share capital of such societies or class of societies.
- (2) When the election of all the members of the committee of any such society is held at the same time, the members elected on the committee at such general election shall hold office for period of five years from the date on which the first meeting is held, unless the period is extended by the State Government, for reasons to be recorded in writing, for a period not exceeding one year so however that the total period does not exceed six years in the aggregate.
- (2A) the term of office of the members who are appointed or nominated or co-opted or selected or elected on the committee including to fill the vacancy shall be co-terminus with the terms of office of the elected members under sub-section (1), notwithstanding the date of their appointment, nomination, co-option, selection or election including to fill the vacancy.
- (2B) Where, for any reason whatsoever, the election of the members of the committee was not held or could not be held before the expiry of the term or the extended term, as the case may be, of the existing committee, the members including the officers of the committee shall cease to hold office on the expiry of its term or extended term, as the case may be, and they shall be deemed to have vacated their offices:
Provided that where the Collector fails to hold election to the committee of any such society, the term of office of the members of the committee of that society shall be deemed to have been extended till the date immediately preceding the date of the first meeting of the newly constituted committee.
- (3) Notwithstanding anything in the bye-laws of any such society, only the committee of management shall be elected by a general body of members of the society; and all other committees authorised by or under the bye-laws may be constituted only by electing or appointing persons from among the persons who are members of the committee of management, and all such committees shall be sub-committees of the committee of management, and shall be subordinate to it.

73-H. Responsibility of committee to hold election before expiry of term.—

- (1) It shall be the duty of the committee of every society to arrange for holding the election of its members before the expiry of its term.
- (2) Where there is a willful failure on the part of the committee to hold election to the committee before the expiration of its term, the committee shall cease to function on the expiration of its term and the members thereof shall cease to hold office and the Registrar may himself take over the management of the society or appoint an Administrator (who shall not be from amongst the members of the committee the term of which has so expired) and the Registrar or Administrator shall hold election within a period of six months and the committee shall be

constituted before the expiration of that period.

74. Qualification and appointment of Manager, Secretary and other officers of societies and Chief Executives Officer and Financial Officer for certain societies.—



- (1) The qualifications for appointment of the Chief Executive Officer, Finance Officer, Manager, Secretary, Accountant or any other officer of a society or a class of societies and his emoluments and perquisites shall be such as may be determined by the Registrar, from time to time.
- (2) In the society or class of societies, as the State Government may, from time to time, notify in the Official Gazette, there shall be a Chief Executive Officer and a Finance Officer, who shall be appointed by the society from a panel of persons selected by a body of such persons not exceeding five as may be prescribed.
- (3) The Chief Executive Officer so appointed shall be ex-officio member of the committee but he shall have no right to vote at the meeting of the committee.

75. Annual General Meeting.—

- (1) Every society, shall within a period of three months next after the date fixed for making up its accounts for the year under the rules for the time being in force, call a general meeting of its members:

Provided that, he Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months however, in the case of the specified societies and urban co-operative banks such extension shall be granted only after recording the reasons in writing and after obtaining the previous approval of the Government for granting such extension:

Provided further that, if in the opinion of the Registrar, no such extension is necessary, or such meeting is not called by the society within the extended period (if any) granted by him, the Registrar or any person authorised by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society, and the Registrar may order that the expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the general meeting.

- (2) At every annual general meeting of a society, the committee shall lay before the society a statement showing the details of the loans (if any) given to any of the members of the committee or any member of the family (as defined in the Explanation to clause (v) of sub-section (1) of section 73FF of any committee-member (including a society or firm or company of which such member or members of his family is a member, partner or director, as the case may be), and the details of repayment of loan made, during the last preceding year and the amount outstanding at the end of that year, and a balance sheet and profit and loss account for the year in the manner, prescribed by the Registrar by general or special order for any class or classes of societies.

Explanation.-In the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account, and all references to profit and loss account, and to "profit" or "loss" in this Act, shall be construed in relation to such society as references respectively to the "excess of income over expenditure", and "excess of expenditure over income".

- (3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its committee, with respect to (a) the state of the society's affairs; (b) the amounts, if any, which, it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and (c) the amounts, if any, which it recommends, should be paid by way of dividend, bonus or honoraria to honorary workers. The committee's report shall also deal with any changes, which have occurred during the year for which the accounts are made up, in the nature of the society's business. The committee's report shall be signed by its Chairman, or any other member authorised to sign on behalf of the committee.
- (4) At every annual general meeting the balance sheet, the profit and loss account the audit memorandum submitted by the auditor appointed under section 81 and the committee's report, shall be placed for adoption, and such other business will be transacted as may be laid

down in the bye-laws and of which due notice has been given.

- (5) If default is made, in calling a general meeting within the period or, as the case may be, extended period, prescribed under sub-section (1), or in complying with sub-section (2), (3) or (4), the Registrar may by order, declare any officer or member of the committee whose duty it was to call such a meeting or comply with sub-section (2), (3) or (4) and who without reasonable excuse failed to comply with any of the aforesaid sub-sections disqualified for being elected and for being any officer or member of the committee for such period not exceeding three years, as he may specify in such an order and, if the officer is a servant of the society, impose a penalty on him to pay an amount not exceeding one hundred rupees. Before making an order under this subsection, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.
- (6) Any penalty imposed under sub-section (5) or under section 76, may be recovered in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Magistrate, as if such fine was imposed by the Magistrate himself.

76. Special general meeting.-

- (1) A special general meeting may be called at any time by the Chairman or by a majority of the committee and shall be called within one month-
 - (i) on requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the bye-laws for the purpose, whichever is lower, or
 - (ii) at the instance of the Registrar, or
 - (iii) in the case of a society, which is a member of a federal society at the instance of the committee of such federal society
- (2) Where any officer or a member of the committee, whose duty it was to call such meeting without reasonable excuse, fails to call such meeting, the Registrar may, by order declare such officer or member disqualified for being a member of the committee for such period not exceeding three years, as he may specify in such order and if the officer is a servant of the society, he may impose on him a penalty not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.
- (3) If a special general meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf, shall have power to call such meeting, and that meeting shall be deemed to be a meeting duly called by the committee.
- (4) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (3) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the meeting.

77. Acts of societies etc., not to be invalidated by certain defects.—

- (1) No act of a society or a committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society, or in the constitution of the committee, or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office.
- (2) No act done in good faith by any person appointed under this Act, the rules and the bye-laws shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently passed under this Act, rules and the bye-laws.
- (3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society; and his decision thereon, shall be final.

77A. Appointment of member of committee, new committee or Administrator, where there is failure to elect member, to constitute committee or where committee does not enter upon office —

- (1) Where the Registrar is satisfied that,—
- (1a) a provisional committee has failed to make necessary arrangements for holding election for the constitution of the first committee, before the expiry of its term as specified in sub-section (1A) of section 73
- (a) at the first constitution of the committee of any society there is a failure to elect all or any of the members of the committee;
 - (b) the term or extended term, as the case may be, of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies;
 - (c) any committee is prevented from entering upon office;
 - (d) a new committee has failed to enter upon office on the date on which the term of office of the existing committee expired; or
 - (e) a new committee cannot for any reason be constituted before the expiry of their term of the existing committee;
 - (f) where more than one group of persons in a society is claiming to be elected as the committee members and proceedings in respect thereof have been filed in the Co-operative Court;

The Registrar may, either, suo-motu or on the application of any officer of the society, by order appoint-

- (i) any member or members of the society to be the member or members of the committee to fill the vacancies;
- (ii) a committee, consisting of not more than three members of the society, or one or more administrators, who need not be members of the society, to manage the affairs of the society till a new committee enters upon office :

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period;

Provided further that, it shall not be necessary to publish such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

- (2) The Committee or Administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have power to discharge all or any of the functions of the committee or of any officer of the society and take all such actions as may be required to be taken in the interests of the society.
- (3) The Committee or Administrator so appointed shall hold office for a period of six months from the date of assuming the management of the society and shall make necessary arrangements for constituting a new committee within the said period and for enabling the new Committee including any new Committee referred to in sub-clause (f) of sub-section (1), which is determined by the Court to have been legally elected, to enter upon office.

Provided that, if a new committee is not, or cannot be constituted at the expiry or termination of the term of office of the committee or Administrator, for any reason beyond the control of the committee or Administrator, the term of office of the committee or Administrator, as the case may be, shall be deemed to be extended, until the new committee is duly constituted.

- (4) The Registrar shall have the power to change the committee or any or all members thereof or any or all the administrators appointed under sub-section (1) at his discretion even before the expiry of the period specified in the order made under sub-section (1).

- (5) The provisions of sub-section (2A) of Section 78 shall apply mutatis mutandis for fixation of remuneration to be paid to the members or administrators appointed under sub-section (1).

78. Power of removal of committee or member thereof.—

- (1) If, in the opinion of the Registrar, the committee of any society or any member of such committee makes default, or is negligent in the performance of the duties imposed on it or him by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members, or willfully disobeys directions issued by the State Government, or by the Registrar for the purposes of securing proper implementation of Co-operative policy and development program approved or undertaken by the State Government or is otherwise not discharging its or his functions properly and diligently or where a situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions and the business of the society has or is likely to come to a stand still, or where any member of such committee stands disqualified by or under this Act for being a member, the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections, if any, within 15 days from the date of receipt of notice, and after consultation with the federal society to which the society is affiliated by order—
- (a) (i) remove the committee, and
- (ii) appoint a committee consisting of three or more members (who shall not be the members of the committees so removed) of the society in its place, or appoint one or more Administrators who need not be members of the society, but who shall not be the members of the committee so removed to manage the affairs of the society for a period not exceeding six months, which period, at the discretion of the Registrar, be extended by a further period not exceeding three months so, however, that the total period does not exceed nine months in the aggregate:

Provided that, the Registrar shall have the power to change the committee or any member thereof or the administrator or administrators appointed under paragraph (ii) at his discretion even before the expiry of the period specified in the order made under this sub-section;

- (b) Remove the member and appoint any person as member of such committee in his place, or direct the society to elect or appoint a member in his place, for the remainder of the term of office of the member so removed.

Provided that, the member who has been so removed, shall not be eligible to be re-elected, re-appointed, re-nominated, or re-co-opted, as a member of any committee till the expiry of the period of next one full term of the committee from the date on which he has been so removed or till such lesser period as may be laid down under the provisions of section 73FFF or 144E, as the case may be.

- (1A) When a notice is issued against any committee or member under sub-section (1), if resignation from any office is tendered by the committee or member, it shall not be valid or effective until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier.
- (2) The committee or administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee of any officer of the society and take all such actions as may be required in the interests of the society.

The committee or administrator appointed as aforesaid shall, notwithstanding anything contained in the bye-laws, have power to call a special general meeting of the society to review or to reconsider the decision of the resolution taken or passed at the general meetings called by the previous committee or to endorse action taken by it.

- (2A) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payments (except land revenue, any arrears of land revenue, or any sum

recoverable from the society as arrears of land revenue) and he shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar.

- (3) If at any time during any period, or extended period referred to in sub-section (1), it appears to the Registrar, that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, the Registrar may, by an order direct that the management shall terminate; and on such order being made, the management of the society shall be handed over to a new committee duly constituted.
- (4) The committee or administrator shall, at the expiry or termination of its or his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society
Provided that, if a new committee is not, or cannot be constituted at the expiry or termination of the term of office of the committee or administrator, for any reason beyond the control of the committee or administrator, the term of office of the committee or the administrator, as the case may be, shall be deemed to be extended, until the new committee is duly constituted.
- (5) All acts done or purported to be done by the committee or administrator during the period the affairs of the society are carried on by the committee or administrator appointed under sub-section (1), shall be binding on the new committee.

79. Registrar's power to enforce performance of obligations.—

- (1) The Registrar may direct any society or class of societies, to keep proper books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and to produce such records as he may require from time to time; and the officer or officers of the society shall be bound to comply with his order within the period specified therein.
- (2) Where any society is required to take any action under this Act, [the rules or the bye-laws, or to comply with an order made under the Foregoing sub-section, and such action is not taken-
 - (a) within the time provided in this Act, the rules or the bye-laws, or the order as the case may be, or
 - (b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing, the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrears of land revenue.
- (3) Where the Registrar takes action under sub-section (2), the Registrar may call upon the officer or officers of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the bye-laws, or the order made under sub-section (1) and after giving such officer or officers an opportunity of being heard, may require him or them to pay to the society the expenses paid or payable by it to the State Government as a result of their failure to take action and to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

79- A. Government's powers to give directions in the public interest, etc.-

- (1) If the State Government, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programs approved or undertaken by Government, or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the State Government may issue directions to them from time to time, and all societies or the societies concerned, as the case may be, shall be bound to comply with such directions.
- (2) The State Government may modify or cancel any directions issued under sub-section (1), and in modifying or canceling such directions may impose such conditions as it may deem fit.

- (3) Where the Registrar is satisfied that any person was responsible for complying with any directions or modified directions issued to a society under sub-sections (1) and (2) and he has failed without any good reason or justification, to comply with the directions, the Registrar may by order —
- (a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order,
 - (b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order, remove the members, appoint other persons as members and declare them disqualified as provided in clause (a) above:

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated,

Any order made by the Registrar under this section shall be final.

79AA. Registrar's powers to give directions to frame regulations.—

- (1) If the Registrar or an officer not below the rank of District Deputy Registrar is of the opinion that having regard to the financial condition of the society and financial interest of Government therein, it is necessary to regulate the manner of carrying on its trade or business, he may, subject to any rules made in this behalf, direct such society to make regulations in that behalf and forward them to him for approval.
- (2) On receipt of the regulations made by the society, the Registrar or such officer may approve them with or without modifications. On approval of such regulations, the society shall carry on its business in accordance with such regulations.
- (3) If any society fails to forward such regulations to the Registrar or such officer when directed by him under sub-section (1) within a period of three months from the date on which the direction is given, the Registrar or such officer shall himself make or cause to be made such regulations and require the society to carry on its business in accordance with such regulations and thereupon the society shall be bound to comply with such requirement.

79-B. Registrar's power to remove member for failure to supply his agricultural produce to processing society.—

- (1) Where any producer-member of a processing society fails to supply his agricultural produce to the society in accordance with the provisions of the bye-laws of the society, the Registrar may, on the complaint made by the society or suo motto, issue a notice to the member to show cause, within a period specified in the notice, why for such failure he should not be removed from the membership of the society.
- (2) After holding such inquiry as he thinks fit and giving a reasonable opportunity of being heard to the member, if the Registrar is satisfied that the member has failed, without any good reason or justification; to supply his agricultural produce to the society in accordance with the provisions of the bye-laws, the Registrar may by order remove the person concerned as a member of the society with effect from such date as may be specified in the order, and thereupon the person shall cease to be a member of the society on and from that date. Any order made by the Registrar under this section shall be final .

80. Registrar's power to seize records etc.—

- (1) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar or the person authorised by him may apply to the Executive Magistrate within whose jurisdiction the society is functioning for seizing and taking possession of the records and property of the society.
- (2) On receipt of an application under sub-section (1) the Magistrate shall forthwith consider such application and, if satisfied that immediate action is required, shall authorize any police officer,

not below the rank of a sub-inspector, to enter and search any place where the records and property are kept or likely to be kept, and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

- (3) Where the Registrar or an officer not below the rank of District Deputy Registrar (hereinafter referred to in this section as "the said officer") is satisfied that immediate action is required to be taken or that the Executive Magistrate having jurisdiction is not likely to be available at the head quarters for a consecutive period of three days or the books and records of a co-operative society are in the immediate danger of being tampered with or funds and property of a society are in the immediate danger of being misappropriated or misapplied, the Registrar or the said officer may, notwithstanding anything contained in subsections (1) and (2), make an order to seize such books, records or funds of the society either himself or through an officer authorised by him in this behalf, and for that purpose the Registrar or the said officer or the officer so authorised may after reasonable notice at any reasonable time enter and search without warrant any premises where he believes such books, records or funds to be and inspect and seize such books, records or funds, and the officer or officers of the society responsible for the custody of such books, records and funds shall deliver such books, records or funds forthwith to the Registrar, the said officer or the officer so authorised, who shall acknowledge receipt of the books, records or funds of the society so seized. The Registrar, the said officer or the officer so authorised, may, for the purpose of execution of the said order, request the officer in-charge of the nearest police station to give him necessary assistance and such police officer shall thereupon give him such assistance.

CHAPTER VIII
AUDIT, INQUIRY, INSPECTION AND SUPERVISION



81. Audit.—

- (1) (a) The Registrar shall audit, or cause to be audited, at least once in each co-operative year, by a person authorised by him by general or special order in writing in this behalf the accounts of every society which has been given financial assistance including guarantee by the State Government, or Government undertakings, from time to time, and the accounts of the apex societies, State and District Level Federal Societies, District Central Co-operative Banks, Co-operative Sugar factories, Urban Co-operative Banks, Co-operative Spinning Mills, District and Taluka Co-operative Sale and Purchase Organizations, and any such society or class of Societies which the State Government may, from time to time, by notification in the Official Gazette, specify.
- (b) The societies other than the societies referred to in clause (a) shall arrange to get their accounts audited, at least once in each co-operative year by an auditor from the panel of auditors maintained by the Registrar, or by a chartered accountant holding a certificate in co-operative audit issued by the institute of Chartered Accountants of India :
- Provided that, the Registrar may, for reasons to be recorded in writing, audit or cause to be audited accounts of any such societies of any year and at any time.
- (2) The audit under sub-section (1) shall include examination or verification of the following items, namely
- (i) over dues of debts, if any;
 - (ii) cash balance and securities and a valuation of the assets and liabilities of the society
 - (iii) whether loan and advances and debts made by the society on the basis of security have been properly secured and the terms on which such loans and advances are made or debts are incurred are not pre-judicial to the interest of the society and its members;
 - (iv) whether transactions of the society which are presented merely by book entries are not prejudicial to the interest of the society;
 - (v) whether loans and advances made by the society have been shown as deposits;
 - (vi) whether personal expenses have been charged to revenue account;
 - (vii) whether the society has incurred any expenditure in furtherance of its objects;
 - (viii) whether the society has properly utilised the financial assistance granted by government or Government undertakings or financial institutions, for the purpose for which such assistance was granted;
 - (ix) whether the society is properly carrying out its objects and obligations towards members
- (2A) Where, in the opinion of the State Government, it is necessary in the public interest to do so in relation to any society or class of societies for ensuring management thereof in accordance with sound business principles or prudent commercial practices, the State Government may, by order, direct that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time to time and that cost audit or performance audit or both, of such society or class of societies, as may be specified in the order, shall be conducted.
- (2B) where any order is issued under sub-section (2A), the Registrar shall cause such audit of such society or class of societies to be conducted by a cost accountant who is a member of the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959.

- (3) (a) The Registrar or the person authorised shall, for the purpose of audit, at all times have access to all the books, accounts, documents papers, securities cash and other properties belonging to, or in the custody of, the society, and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.
 (b) The Registrar shall be competent to depute Flying Squad to a society or societies for examination of books, records, accounts, and such other papers and for verification of cash balance. The report of the Flying Squad shall be deemed to be an audit report for the purpose of taking further action, if necessary.
 (c) The Registrar or the person authorised by him in this behalf may carry out or cause to be carried out the test audit of the accounts of any society. The test audit shall include the examination of such items as may be prescribed.
- (4) Every person who is, or has at any time been, an officer or employee of the society, and every member and past member of the society, shall furnish such information in regard to the transactions and working of the society as the Registrar, or the person authorised by him, may require
- (5) The auditor appointed under sub-section (1) shall have the right to receive all notices and ever communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.
- (5A) If, during the course of audit of any society, the auditor is satisfied that some books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society the auditor shall immediately report the matter to the Registrar and, with previous permission of the Registrar, may impound the books or documents and give a receipt thereof to the society.
- (5B) The auditor shall submit an audit memorandum duly signed by him to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him by the society the said accounts give all information required by or under this Act and present the true and fair view of the financial transactions of the society.
- (6) If it appears to the Registrar, on an application by a society or otherwise, that it is necessary or expedient to re-audit any accounts of the society, the Registrar may by order provide for such re-audit and the provisions of this Act, applicable to audit of accounts of the society shall apply to such re-audit.

82. Rectification of defects in accounts.—

If the result of the audit held under the last preceding section discloses any defects in the working of a society the society shall within three months from the date of audit report, explain to the Registrar the defects, or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action, as may be specified in the order to remedy the defects within the time specified therein. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.

83. Inquiry by Registrar

- (1) The Registrar may of his own motion, and shall on the application of one third of the members of a society, himself or by a person duly authorized by him in writing, in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

- (2) Before holding any such inquiry on an application the Registrar may having regard to the nature of allegations and the inquiry involved, require the applicant to deposit with him such sum of money as he may determine towards the cost of the inquiry. If the allegations made in the application are substantially proved at the enquiry, the deposit shall be refunded to the applicant, and the Registrar may under section 85, after following, the procedure laid down in that section, direct from whom and to what extent the cost of the inquiry should be recovered. If it is proved that the allegations were false, vexatious or malicious, the Registrar may likewise direct that such cost shall be recovered from the applicant. Where the result of the inquiry shows that the allegations were not false, vexatious or malicious, but could not be proved, such cost may be borne by the State Government.
- (3) (a) All officers, members and past members of the society in respect of which an inquiry is held, and any other person who, in the opinion of the officer holding the inquiry is in possession of information, of books and papers relating to the society, shall furnish such information as in their possession, and produce all books and papers relating to the society which are in their custody or power, and otherwise give to the officer holding an inquiry all assistance in connection with the inquiry which they can reasonably give.
 (b) If any such person refuses to produce to the Registrar or any person authorised by him under sub section (1), any book or papers which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar after hearing any statement which may be offered in defense, punish the defaulter with a penalty not exceeding five hundred rupees. Any sum imposed as penalty under this section shall, on the application by the Registrar or the person authorised by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by him.
- (4) The result of an enquiry under this section shall be communicated to the society whose affairs have been investigated.
- (5) It shall be competent for the Registrar to withdraw any inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.

84. Inspection of books of indebted society.—

- (1) On the application of a creditor of a society who;
 - (a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within reasonable time, and
 - (b) deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society the Registrar may, if he thinks it necessary, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society.
- (2) The Registrar shall communicate the result of any inspection to the applicant, and to the society whose books have been inspected.
- (3) It shall be competent for the Registrar to withdraw any order of inspection from the officer, to whom it is entrusted, and to inspect himself or entrust it to any other person as he deems, fit.
- (4) The powers of inspection conferred on the Registrar by this section may be exercised by him of his own motion in respect of any society, which is indebted to Government or for which share capital (wholly or partly) is provided by Government or where any financial interest of Government is otherwise involved.

85. Costs of inquiry and inspection.-

- (1) Where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs as he may think just between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society :

Provided that;

- (a) no order of apportionment of the costs shall be made under this section unless the

society or person or the legal representative of the deceased person liable to pay the costs there under, has or have been heard, or has or have had a reasonable opportunity of being heard;

- (b) the Registrar shall state in writing the grounds on which the costs are apportioned
- (2) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under the foregoing sub-section.

86. Recovery of costs.—

Any sum awarded by way of costs under the last preceding section, may be recovered, on an application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides or carries on business, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

87. Registrar to bring defects disclosed in inquiry or inspection to notice of society.—

- (1) If the result of any inquiry held under section 83 or an inspection made under section 84 discloses any defects in the constitution, working or financial condition or the books of society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.
- (2) The society concerned may, within sixty days from the date of any order made by the Registrar under the foregoing sub-section, appeal against it to the State Government.
- (3) The State Government may, in deciding the appeal, annul, reverse, modify or confirm the order of the Registrar.
- (4) If a society fails to rectify the defects disclosed in the course of or as a result of an audit under section 81 or fails to rectify the defects as directed by the Registrar, and where no appeal has been made to the State Government within the time specified in the order, or where on the appeal so made the State Government has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the cost from the officer or officers of the society, who in his opinion, has or have failed to rectify the defects.

88. Power of Registrar to assess damages against delinquent promoters, etc.—

- (1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 83 or the person authorised to inspect the books under section 84 or the Liquidator under section 105 or otherwise that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of such audit or date of order for inquiry, inspection or winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or persons and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rates as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

- (2) The Registrar or the person authorised under sub-section (1) in making any order under this section, may provide therein for the payment of the cost or any part thereof, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.
- (3) This section shall apply, notwithstanding that the act is one for which the person concerned may criminally responsible.

88A. Deposit towards fees of inquiry.—

Where the Registrar on his own motion decides and orders an inquiry under section 83 or proceeds or authorizes to make inquiry under section 88, he may, having regard to the nature of allegations and the inquiry involved, require the society concerned to deposit with him such sum of money as he may determine, towards the cost of inquiry. If the sum so determined is not deposited with the Registrar within 15 days from the date of receipt of the order requiring the society to deposit the sum, it shall on a certificate issued by the Registrar, be recoverable as an arrears of land revenue,

89. Power to enforce, attendance etc.—

The Registrar or the person authorised by him, when acting under section 83, 84 or 88 shall have the power to summon and enforce the attendance of any person and examining him on oath or affirmation or by affidavit or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

89A. Power to inspect working of society.—

- (1) It shall be competent for the Registrar to inspect or cause to be inspected the working of any society to ensure that-
 - (a) the provisions of the Act, rules and bye-laws of the society are being properly followed by the society;
 - (b) the records and books of accounts are kept in proper forms;
 - (c) the business of the society is being run on sound business principles;
 - (d) the society is following the co-operative principles and the directives or directions given by the State Government in accordance with the provisions of this Act and the rules made there under :

Provided that, inspection of the societies specified under Section 73-G shall be undertaken by the Registrar or by the officer not below the rank of Deputy Registrar of Co-operative Societies authorised by him in this behalf.

- (2) For the purpose of supervision over the societies, the Registrar shall have the power-
 - (a) to inspect the records and books of accounts of the society and for that purpose he shall have, at all times, access to all the records and books of accounts of the society; and
 - (b) to summon any officer or employee who has the custody of the records or books of accounts of the society to produce them before him
- (3) The State Government may levy supervision fees on any society or class of societies at such rates, as the State Government may, having regard to the area of operation, the nature of business and the objects of the society, by notification in the Official Gazette, fix from time to time.
- (4) Every society liable to pay the fees levied under sub-section (3) shall pay such fees by such date and in such manner as the State Government may specify in the notification issued under sub-section (3).

- (5) The State Government may, having regard to the financial position of any society or class of societies, by general or special order published in the Official Gazette, exempt such society or class of societies from payment of such fees for such period as may be specified in such order, or reduce or remit in whole or in part such fees.

90. Constitution or recognition of federal authority to supervise working of societies.—

- (1) The State Government may constitute or recognize one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government may impose, for the supervision of a society or a class of societies and may frame rules for making grants to such an authority.
- (2) The State Government may, by general or special order, require a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the reimbursement of expenditure which the State Government or any person authorised in that behalf has incurred or is likely to incur, in respect of supervision of societies:
- (3) A society to which sub-section (2) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and, if it fails to pay such fee within a reasonable time, the authority may recover it as if it were arrears of land revenue.

CHAPTER IX

SETTLEMENT OF DISPUTES



91. Disputes.-

- (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, elections of the committee or its officers other than elections of committees of the specified societies including its officer, conduct of general meetings, management or business of society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated or by a creditor of the society, to the Co-operative Court if both the parties thereto are one or other of the following :
- (a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or Liquidator of the society; or the Official Assignee of a de-registered society;
 - (b) a member, past member or a person claiming through a member, past member or a deceased member of society, or a society which is a member of the society or a person who claims to be a member of the society;
 - (c) a person other than a member of the society, with whom the society has any transactions in respect of which any restrictions or regulations have been imposed, made or prescribed under section 43, 44 or 45, and any person claiming through such person;
 - (d) a surety of a member, past member or deceased member, or surety of a person other than a member with whom the society has any transactions in respect of which restrictions have been prescribed under section 45, whether such surety or person is or is not a member of the society;
 - (e) Any other society or the Liquidator of such a society or de-registered society or the Official Assignee of such a de-registered society.

Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947, or rejection of nomination paper at the election to a committee of any society other than a notified society under section 73-IC or a society specified by or under section 73-G, or refusal of admission to membership by a society to any person qualified there for or any proceeding for the recovery of the amount as arrears of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or sub-section (1) of Section 137 or the recovery proceeding of the Registrar or any officer subordinate to him or an officer of society notified by the State Government, who is empowered by the Registrar under sub-section (1) of section 156 shall not be deemed to be a dispute for the purposes of this section.

- (2) Sub section (2) deleted
- (3) Save as otherwise provided under sub-section (2) of section 93, no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

Explanation 1- A dispute between the Liquidator of a society 6or Official Assignee of a de-registered society and 7the members (including past members, or nominees, heirs or legal representative or deceased members) of the same society shall not be referred to the Co-operative Court under provisions of sub-section (1).

Explanation 2 - for the purposes of this sub-section a dispute shall include-

- (i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member, or servant or employee whether such a debt or demand be admitted or not;
- (ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not;

- (iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer; or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its committee, past or present, whether such loss be admitted or not;
- (iv) a refusal or failure by a member, past member or a nominee, heir or legal representative of a deceased member, to deliver, possession to a society of land or any other asset resumed by it for breach of condition as the assignment.

91 A. Constitution of Co-operative Courts.—

- (1) The State Government may, by notification in the Official Gazette, constitute one or more Co-operative Courts for the adjudication of dispute preferred to them under section 91 or section 105 or other provisions of this Act.
- (2) A Co-operative Court shall consist of one member appointed by the State Government possessing such qualifications as may be prescribed.
- (3) A Co-operative Court shall have jurisdiction over the whole State or any part thereof as may be specified in the notification under sub-section (1).
- (4) All disputes and other proceedings pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, before any nominee or board of nominees appointed by the Registrar, shall be transferred by him, by general or special order, to any Co-operative Court specified by him in that behalf and shall be heard and disposed of by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing de novo.
- (5) All disputes and other proceedings pending, immediately before the commencement of the Maharashtra Co-operative Societies, (Amendment and Validation) Act, 1982, before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made there under, have been delegated shall be transferred by him, by general or special order, to any Co-operative Court specified by him and shall be heard and disposed of by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose off such proceeding from the stage reached before such transfer or may commence the hearing de novo.

92. Limitation.-

- (1) Notwithstanding anything contained in the Limitation Act, 1963, but subject to the specific provisions made in this Act, the period of limitation in the case of dispute referred to the Co-operative Court under the last preceding section shall-
 - (a) when the dispute relates to the recovery of any sum, including interest thereon, due to as society by a member thereof be computed from the date on which such member dies or ceases to be a member of the society;
 - (b) when the dispute is between a society or its committee, and any past committee, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;
 - (c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated committee or an administrator has been appointed under section 77A or 78, be six years from the date of the order issued under section 102, or section 77A or 78 as the case may be;

- (d) When the dispute is in respect of an election of a committee or officers of the society, be two months from the date of the declaration of the result of the election.
- (2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to the Co-operative Court under the last preceding section shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute were a suit and the Co-operative Court a Civil Court.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), 5 the Co-operative Court may admit a dispute after the expiry of the limitation period, if the applicant satisfies the Co-operative Court that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

93. Transfer of disputes from one Co-operative Court to another and suspension of proceedings in certain cases

- (1) Where any dispute is referred to any Co-operative Court, the President of the Co-operative Appellate Court may, at any time, for reasons to be recorded in writing, withdraw such dispute from that Court and may refer it for decision to any other Co-operative Court as he deems fit.
- (2) Notwithstanding anything contained in this Act, the Co-operative Court, on an application made to it by any of the parties to the dispute, may, if it thinks fit suspend any proceedings in respect of any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted in a Civil Court within two months from the date of the order of the Co-operative Court, that Court shall continue the proceedings and decide the dispute.

94. Procedure for settlement of disputes and power of Co-operative Court.—

- (1) The Co-operative Court, hearing a dispute under the last preceding section shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by Code of Civil Procedure, 1908.
- (1A) Save as otherwise provided in this Act, every dispute in relation to any election shall be heard and decided by the Co-operative Court as expeditiously as possible and endeavor shall be made to conclude the hearing and decision within six months from the date on which the dispute is filed before it.
- (2) Except with the permission of the Co-operative Court no party shall be represented at the hearing of a dispute by a legal practitioner.
- (3)
 - (a) If the Co-operative Court is satisfied that a person whether he be a member of the society or not has acquired any interest in the property of a person who is a party to a dispute it may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Co-operative Court shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.
 - (b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Cooperative Court may, at any stage of the hearing of the dispute, if satisfied that the mistake was bona fide order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as it thinks just
 - (c) The Co-operative Court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Co-operative Court, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Cooperative Court, may be necessary in order 4to enable the Co-operative Court effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.
 - (d) Any person who is a party to the dispute and entitled to more than one relief in

respect of the same cause of action may claim all or any of such relief; but if he omits to claim for all such relief he shall not forward a claim for any relief so omitted, except with the leave of the Co-operative Court.

- (3A) in any case in which a dispute is decided by the Co-operative Court ex-parte against any person, he may apply to the Court, within thirty days from the date of the decision, to set it aside. If he satisfies the Court that there was sufficient cause for his failure to appear when the dispute was called and heard, the Court shall make an order setting aside the decision as against him, upon such terms as to costs, payment into Court or otherwise, as it thinks fit, and appoint a day for hearing and deciding the dispute so far as it relates to him.;
- (4) Save as otherwise directed by the State Government in any case or class of cases, every dispute shall be decided in such summary manner as may be prescribed and as expeditiously as possible.

95. Attachment before award or order and interlocutory order.—

- (1) Where a dispute has been referred to the Co-operative Court under section 93 or 105 or whether the Registrar or the person authorised under section 88 (hereinafter in this section referred to as "the authorised person") hears a person against whom charges are framed under that section and the Co-operative Court or the Registrar or the authorised person, as the case may be, is satisfied on inquiry or otherwise that a party to such dispute or the person against whom proceedings are pending under section 88, with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made;
 - (a) is about to dispose of the whole or any part of his property, or
 - (b) is about to remove the whole or any part of his property from its or his jurisdiction,
 The Court or the Registrar or the authorised person, as the case may be, may, unless adequate security is furnished, direct conditional attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.
- (2) Where attachment of property is directed under sub-section (1), the Co-operative Court or the Registrar or the authorised person, as the case may be, shall issue a notice calling upon the person whose property is so attached to furnish security as it or he thinks adequate within a specified period. If the person fails to provide the security so demanded, the authority issuing the notice may confirm the order and, after the decision in the dispute or the completion of the proceedings under section 88, may direct the disposal of the property so attached towards the claim, if awarded.
- (3) Attachment under this section shall not affect the rights subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is attached from applying for the sale of the property under attachment in execution of such decree.
- (4) The Co-operative Court, the Registrar or the authorised person, as the case may be, may in order to prevent the ends of justice being defeated make such interlocutory orders pending the decision in a dispute referred to in sub-section (1) as may appear to be just and convenient.

96. Decision of Co-operative Court.—

When a dispute is referred to arbitration, the Co-operative Court may, after giving reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and fees and expenses payable to the Co-operative Court. In case of money claim preferred by society against a member, the amount of award representing the interest shall not be less than the amount of interest accrued thereon, in accordance with the contractual rate of interest, but where such money claim relates to any loan referred to in section 44A, the provisions of that section shall apply to such money claim as they apply to loan under section 44A.

97. Appeal against decision under section 96 and order under Section 95.—

Any party aggrieved by any decision of the Co-operative Court under the last preceding section, or order passed by the Cooperative Court or the Registrar or the authorised person under section 95 may, within two months from the date of the decision or order, appeal to for the Co-operative Appellate Court.

98. Money how recovered.—

Every order passed by the Official Assignee of a de-registered society under sub-section (3) of section 21A or every order passed by the Registrar or a person authorised by him under Section 88 or by the Registrar or the Co-operative Court under section 95 or by the Co-operative Court under section 96, every order passed in appeal under the last preceding section, every order passed by a Liquidator under section 105, every order passed by the State Government in appeal against orders passed under section 105 and every order passed in revision under section 154 shall, if not carried out;

- (a) on a certificate signed by the Official Assignee or the Registrar or the Co-operative Court or a Liquidator, be deemed to be a decree or a Civil Court, and shall be executed in the same manner as a decree of such Court, or
- (b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

Provided that, any application for the recovery in such manner of any such sum shall be made by the Collector, and shall be accompanied by a certificate signed by the Registrar. Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

99. Private transfer of property made after issue of certificate void against society.—

Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Co-operative Court, Liquidator or Assistant Registrar, as the case may be, under section 98 shall be null and void as against the society on whose application the said certificate was issued.

100. Transfer of property which cannot be sold.—

- (1) When in any execution of an order sought to be executed under section 98 or in the recovery of any amount under section 101 or section 137, any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Court, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 98, or under section 101 or 137, the Court or the Collector or the Registrar as the case may be, may, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof, shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.
- (2) Where property is transferred to the society under the foregoing sub-section or where property is sold under section 98, 101 or 137, the Court, the Collector, or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.
- (3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof, shall be held under subsection (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Collector or the Registrar, as the case may be, and the said society. Subject to the general or special orders of the State Government, the Collector or the Registrar may delegate to an officer, not below the rank of an Assistant or the Deputy Collector or the Assistant Registrar, powers exercisable by the Collector or the Registrar under this section.

101. Recovery of arrears due to certain societies as arrears of recovery of land revenue.



- (1) Notwithstanding anything contained in section 91, 93 and 98, on an application made by a resource society undertaking the financing of crop and seasonal finance as defined under the Bombay Agricultural Debtors Relief Act, 1947 or advancing loans for other agricultural purposes repayable during a period of not less than eighteen months and not more than five years for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crop or seasonal finance or for other agricultural purposes as aforesaid or by a crop-protection society for the recovery of the arrears of the initial cost or of any contribution for obtaining services required for crop-protection which may be due from its members or other owners of lands included in the proposal (who may have refused to become members) or by a lift irrigation society for the recovery of arrears of any subscription due from its members for obtaining services required for providing water supply to them, or by a Taluka or Block level village artisans multi-purpose society advancing loans and arranging for cash credit facilities for artisans for the recovery of arrears of its dues, or by a co-operative housing society for the recovery of arrears of its dues, or by a co-operative dairy society advancing loans for the recovery of arrears of any sum advanced by it to any of its members or by an urban co-operative bank for the recovery of arrears of its dues, or by salary-earners co-operative society for the recovery of arrears of its dues, or by a fisheries co-operative society for the recovery of arrears of its dues), or by any such society or class of societies, as the State Government may, from time to time, notify in the Official Gazette, for the recovery of any sum advanced to, or any subscription or any other amount due from, the members of the society or class of societies so notified; and on the society concerned furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears:

Explanation.-For the purposes of this sub-section, the expression "other agricultural purposes" includes dairy, fisheries and poultry.

- (2) Where the Registrar is satisfied that the concerned society has failed to take action under the foregoing sub-section in respect of any amount due as arrears, the Registrar may, of his motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears and such a certificate shall be deemed to have been issued as if on an application made by the society Concerned.
- (3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force, for the recovery of land revenue.
- (4) It shall be lawful for the Collector and the Registrar to take precautionary measures authorised by Sections 140 to 144 of the Bombay Land Revenue Code, 1879 or any law or provisions corresponding thereto for the time being in force, until the arrears due to the concerned society, together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar.

CHAPTER X LIQUIDATION



102. Winding up.—

- (1) If the Registrar;
 - (a) after an inquiry has been held under section 83 or an inspection has been made under section 84 or on the report of the auditor auditing the accounts of the society, or
 - (b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special general meeting called for the purpose, or
 - (c) of his own motion, in the case of a society which-
 - (i) Has not commenced working, or
 - (ii) Has ceased working, or
 - (iii) Possesses shares or members deposits not exceeding five hundred rupees, or
 - (iv) Has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws, is of the opinion that a society ought to be wound up, he may issue an interim order directing it to be wound up.
- (2) A copy of such order made under sub-section (1) shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or conforming the interim order.

103. Appointment of Liquidator.—

- (1) When an interim order is passed under the last preceding section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules appoint a person to be Liquidator of the society, and fix his remuneration.
- (2) On issue of the interim order, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, of all books records and other documents pertaining to the business of the society and, shall have no access to any of them.
- (3) When a final order is passed confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force the general body of the society shall not exercise any powers.
- (4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 105. The Registrar may remove such person and appoint another in his place, without assigning any reason.
- (5) The whole of the assets of the society shall on the appointment of Liquidator under this Section vest in such Liquidator, and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by a Liquidator on behalf of the society, the title over the land shall be complete as soon as, the mutation of the name of his office is effected, and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.
- (6) In the event of the interim order being vacated, the person appointed as Liquidator shall hand over the property, effects and actionable claims and books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been cancelled under the preceding section, be continued by the officers of the society.

104. Appeal against order of winding up.—

- (1) The committee, or any member, of the society, ordered to be wound up may prefer an appeal against the final order of winding up within two months from the date of the issue of the order made under section 102, --
 - (a) If made by the Registrar, or the Special or Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the State Government;
 - (b) If made by any person other than the Registrar, or the Special or Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the Registrar

Provided that no appeal shall lie against an order, issued under sub-clause (i), (ii) or (iii) of clause (c) of sub-section (l) of section 102
- (2) No appeal from a member under this section shall be entertained unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

105. Powers of Liquidator.—

- (1) The Liquidator appointed under section 103 shall have powers, subject to the rules and the general supervision, control and direction of the Registrar;
 - (a) to institute and defend any suit and other legal proceedings, civil or criminal, on behalf of the society in the name of his office;
 - (b) to carry on the business of the society, so far as may be necessary for the beneficial winding up of the same;
 - (c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof, to any person or body corporate, or sell the same in parcels;
 - (c-i) to transfer by sale assets valued at market price to a society registered with similar objects or to Government undertaking which carries on the same business as of the society under liquidation;
 - (c-ii) to lease to other societies or to Government undertaking, with prior approval of the Registrar, the property of the society to run the same business as that of the society under liquidation;
 - (d) to raise, on the security of the assets of the society, any money required;
 - (e) to investigate all claims against the society and, subject to the provisions of the Act, to decide questions of priority arising out of such claims, and to pay any class or classes of creditors in full or ratable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates;
 - (f) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claims, present or future, whereby, the society may be rendered liable;
 - (g) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society, and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;
 - (h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estates, nominees, heirs or legal representatives of deceased member, or by any officer, past officer or the estate or nominees, heirs or legal representatives of deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;
 - (i) to issue requisition under section 98;

- (j) to refer or to get referred any dispute to the Co-operative Court for decision;
 - (k) to determine by what persons and in what proportion the costs of the liquidation shall be borne;
 - (l) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;
 - (m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure, 1908;
 - (n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents as may be necessary to such winding up;
 - (o) To take such action as may be necessary under section 19 with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.
- (2) Notwithstanding anything contained in sub section (1) the liquidator shall not have the right to vote on behalf of the society in liquidation, at the election of the member of the committee or of officers of any other society.

106. Effect of order of winding up.—

After expiry of the period for appeal against the order made under sub-section (1) of section 102 or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society, as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the Liquidator shall proceed to realize the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society except by leave of the Registrar and subject to such terms as the Registrar may impose. The Registrar, may of his own motion however, entertain or dispose of any dispute by or against the society.

107. Bar of suit in winding up and dissolution matters.—

Save as expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act; and when a winding up order has been made no suit or other legal proceedings shall lie or be proceeded with against the society or the Liquidator, except by leave of the Registrar, and subject to such terms as he may impose:

Provided that, where the winding up order is cancelled the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as Liquidator.

108. Audit of Liquidators accounts.—

- (1) The Liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than twice each year, present to the Registrar an account in the prescribed form of his receipts and payments as Liquidator. The Registrar shall cause the accounts to be audited in such manner as he thinks fit; and for the purpose of audit, the Liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.
- (2) The Liquidator shall cause a summary of audited accounts to be prepared, and shall send a copy of such summary to every contributory.
- (3) The Liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts and books kept by him in the manner prescribed.
- (4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result, of audit in respect of transactions subsequent to his taking over the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 88 :

Provided that, no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or want or omission, in carrying out the duties and functions.

109. Termination of liquidation proceedings.—

- (1) The winding up proceedings of a society shall be ceased as soon as practicable within six years from the date the Liquidator takes over the custody or control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society, under sub-section (2) of section 103, unless the period is extended by the Registrar:

Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall, immediately after the expiry of ten years from the date aforesaid, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

Explanation.—In the case of a society which is under liquidation at the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985 the period of six years shall be deemed to have commenced from the date on which the Liquidator took over the custody or control as aforesaid.

- (2) Notwithstanding anything contained in the foregoing subsection, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property of, and the claims of the society have been disposed of, and shall include a statement showing summary of the account of the winding up including the cost of liquidation, the amount (if any), standing to the credit of the society in liquidation, after paying of its liabilities including the share or interest of members and suggest how the surplus should be utilised.
- (3) The Registrar, on receipt of the final report from the Liquidator, shall direct the Liquidator to convene a general meeting of the members of the society for recording his final report.

110. Disposal of surplus assets.—

The surplus assets, as shown in the Final Report of the Liquidator of a society which has been wound up, may either be divided by the Registrar, with the previous sanction of the State Government, amongst its members in such manner as may be prescribed or be devoted to any object or objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose or may be utilised for both the purposes. Where the surplus is not so divided amongst the members and the society has no such bye-laws, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to reserve fund of a new society registered with a similar object, and serving more or less an area which the society, to which the surplus belonged was serving

Provided that, where no such society exists or is registered within three years of the cancellation of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus, in the manner he thinks best, amongst any or all of the following :-

- (a) an object of public utility and of local interest may be recommended by the members in general meeting held under the preceding section;
- (b) a Federal Society with similar objects to which the cancelled society was eligible for affiliation or, where no Federal Society exists, the State federal society which may be notified in this behalf by the State Government; and
- (c) Any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

CHAPTER X-A

INSURED CO-OPERATIVE BANK



110-A Order for winding up, reconstruction, super session of committee, etc., of insured Co-operative Bank, not to be made without sanction or requisition of Reserve Bank of India.—

Notwithstanding anything contained in this Act, in the case of an insured co-operative bank-

- (i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement, or of amalgamation, or reconstruction (including division or re-organisation), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;
- (ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13-D of the Deposit Insurance Corporation Act, 1961;
- (iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made by the Registrar for the super session (removal) of the committee and the appointment of an Administrator therefore for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and Administrator so appointed shall after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;
- (iv) an order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or re-organisation) or an order for the super session (removal) of the committee and the appointment of an Administrator therefore made with the previous sanction in writing or on the requisition of the Reserve Bank of India shall not be liable to be called in question in any manner; and
- (v) The Liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation: In this section;

- (a) The expression "an insured co-operative bank" means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961;
- (b) The expression "the transferee bank" has the same meaning as assigned to it in that Act.

CHAPTER XI

AGRICULTURE AND RURAL DEVELOPMENT BANKS



111. Application of Chapter XI of Agriculture and Rural Development Banks.—

This Chapter shall apply to-

- (a) any co-operative bank or banks advancing loans other than short term loans, to or through the Agriculture and Rural Development Bank for the purposes herein enumerated (hereinafter referred to as the Agriculture and Rural Development)", namely:--
 - (i) Agricultural or rural development;
 - (ii) Purchase of, or acquisition of title to, agricultural lands by tenants, occupants and assignees under any law for the time being in force;
 - (iii) Liquidation of Government, Institutional and other secured debts to agriculturists;
 - (iv) Acquisition, construction, rebuilding or repairing of dwelling houses in rural area.
- (b) Any other society permitted by the Registrar under Section 142 to function as An Agriculture and Rural Development Bank.

Explanation: For the purpose of this section,

- I. the expression "short term loan" means a loan for a duration of less than 18 months; and
- II. The expression "agricultural or rural development" means any work, construction or activity pertaining to agricultural and rural development which includes the following, that is to say: -
 - (i) construction and repairs of wells (including tube wells), tanks and other works for storage, supply or distribution of water for the purpose of agriculture, or for the consumption of human beings and cattle employed in agriculture,
 - (ii) Making agricultural lands fit for cultivation, improvement of lands including development of sources of irrigation.
 - (iii) renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto,
 - (iv) preparation of lands for irrigation including command area development,
 - (v) drainage to, and reclamation from, rivers or other waters, or protection from floods or erosion or other damage by water, or land,
 - (vi) Bonding and similar improvements.
 - (vii) reclamation clearance and enclosure or permanent improvement of land for agricultural purposes,
 - (viii) horticulture,
 - (ix) purchase of tools, implements, machinery including oil engines, pumping sets, electric motors for any of the purposes mentioned herein,
 - (x) purchase of tractors or power tillers or any other agricultural machinery,
 - (xi) increase in productive capacity of agricultural lands,

- (xii) construction, rebuilding or repairing of farm houses, cattle-sheds and sheds for processing or repairing agricultural or cottage or village industrial products,
- (xiii) purchase of machinery for processing of agricultural produce,
- (xiv) purchase of lands for consolidation of holding under the relevant law for the time being in force,
- (xv) animal husbandry, and dairy farming such as purchase of the milky cattle, rearing of crossbreed female calves, cattle breeding, sheep and goat rearing, piggery, poultry farming and purchase of bullocks,
- (xvi) plantation including free crops,
- (xvii) forestry;
- (xviii) pisciculture including development of inland and marine fisheries, catching of fish and all activities connected therewith or incidental thereto,
- (xix) sericulture or apiculture,
- (xx) marketing, storage including rural warehouses, Godowns and cold storage and transport of agriculture, cottage and industrial products, acquisition of implements and machineries in connection with such activities including animal-driven carts,
- (xxi) market yards for agricultural produce,
- (xxii) bio-gas plants,
- (xxiii) working capital or production credit to borrowers or investment credit,
- (xxiv) setting up of cottage and village industries,
- (xxv) purchase of shares in co-operative sugar factories or in any processing industry of agricultural produce,
- (xxvi) social forestry,
- (xxvii) such other purposes as the State Government may, from time to time, by notification in the Official Gazette, declare to be agricultural or rural development purposes, or
- (xxviii) All activities incidental to, or ancillary to, the abovementioned purposes.

112. State and other Agriculture and Rural Development banks.—

- (1) There shall be State Agriculture and Rural Development Bank for the State of Maharashtra. If considered necessary by the State Government, in the public interest or in the interest of the co-operative movement, there may be one or more Primary Agriculture and Rural Development Banks, but nothing in this sub-section shall be taken to require the establishment or continuance of any Primary Agriculture and Rural Development Banks.
- (2) A reference to Land Mortgage Bank or to a Land Development Bank in any law, or instrument, for the time being in force in the State, shall with effect from the commencement of this Act, be construed as a reference to a Agriculture and Rural Development Bank within the meaning of this Chapter.
- (3) With effect from the commencement of this Act, and until such time as the names of the Land Mortgage Banks or of the Land Development Banks and societies functioning in the State at the commencement of this Act are changed into Agriculture and Rural Development Banks, all acts done by them or mortgages and other documents executed by them or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Agriculture and Rural Development Banks.

112-A. District Loan Committee, its constitution, term of office of delegates, casual vacancies, powers of such Committee etc.—

- (1) Notwithstanding anything contained in this Act, or in the rule made there under, or in the bye-laws of the State Agriculture and Rural Development Bank.
- (a) There shall be a District Loan Committee for each District excluding the City of Bombay District and Bombay Suburban District.
- (b) Every District Loan Committee shall consist of the following members, that is to say;
- (i) Delegates, to be elected one each from every Taluka in a district
- (i-a) Two members, one from the persons belonging to the Schedule Castes or Schedule Tribes and one from the persons belonging to the weaker section, who shall be elected from the District:

Provided that, in district, where there are more than seven Taluka and before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, the elections to elect seven delegates on the District Loan Committee as provided by sub-clause (i) as it existed then, have already been held, the State Government shall nominate on such Committee, such additional number of delegates as may be necessary from the Taluka from which no delegates are elected, so as to bring the total number of the delegates equal to the number of Taluka in such district:

Provided further that, after having held the election as aforesaid, the two members to be nominated by the Registrar under sub-clause (i-a), as it existed then, have not yet been nominated by the Registrar, then the Registrar shall nominate such two members:

Provided also that, term of office of all such nominated members shall be co-terminus with the term of office of the seven such delegates so elected:

Provided also that, at any election held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, any member of the State Agriculture and Rural Development Bank in the District belonging to the Scheduled Castes or Scheduled Tribes, or as the case may be, weaker section, shall be eligible to contest such election;

- (ii) The District Deputy Registrar of Co-operative Societies of the concerned district, ex-officio;
- (iii) The Divisional Officer of the State Agriculture and Rural Development Bank of the concerned division, ex-officio,
- (iv) the District Branch Manager of the State Agriculture and Rural Development Bank of the concerned district, ex-officio, who shall also act as the Secretary of the District Loan Committee.

Explanation.—For the purpose of sub-clause (i-a), the provisions of clauses (b) and (c) of, and any order issued under clause (c) of the Explanation to Section 73-B shall apply in relation to the members to be elected there under;

- (c) The delegates or members to be elected under sub-clause (i) and (i-a) of clause (b) shall be elected by direct election, by the members of the State Agriculture and Rural Development Bank.
- (d) Save as otherwise provided in this section, every election to elect delegates and members shall be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter:

Provided that, a reference to an election of a member or members of the Committee of a specified society in that Chapter or the rules made there under shall be deemed to be a reference to an election of delegates or members referred to in clause (b)

- (2) Every District Loan Committee shall have a Chairman, who shall be elected by the elected delegates and the members thereof, from amongst themselves.
- (3) Within fifteen days from the date of election of the delegates and the members under sub-section (1) an officer authorised by the Collector in that behalf shall convene the first meeting of the delegates and the members for election of a Chairman. The officer so authorised shall

preside over such meeting, but shall not have the right to vote.

- (4) The term of office of members other than ex-officio members of a District Loan Committee shall be for a period of five years and shall be deemed to commence on the date of the first meeting referred to in sub-section (3) and the term of office of the Chairman shall be co-terminus with the term of such members and on expiry of their term they shall be deemed to have vacated their offices.
- (5) A casual vacancy of an elected member, delegate member or Chairman occurring in the District Loan Committee due to any reason whatsoever shall be filled by election or nomination as the case may be as soon as may be practicable after the occurrence of the vacancy :

Provided that, if the vacancy occurs within four months preceding the date on which the term of such delegate, as the case may be, member expires, the vacancy shall not, unless the Registrar otherwise directs, be filled :

Provided further that, the delegate, member or Chairman elected to fill a vacancy shall held, office so long as the delegate, member or Chairman in whose place he is elected would have held office; if the vacancy had not occurred.
- (6) The District Loan Committee shall have the power to sanction by itself or to recommend for sanction by the committee of the State Agriculture and Rural Development Bank, as the case may be, loans to such extent and for such purposes as the committee of the State Agriculture and Rural Development Bank may, from time to time, specify, and shall also perform such other functions as that committee may, from time to time, entrust to it.
- (7) The provisions of sections 73-ID, 73A, 73-FF, 77 A, 78, clauses (j) and (k) of section 146, clauses (j) and (k) of section 147, sections 160A and 160B shall apply mutatis mutandis to the District Loan Committee as they apply in relation to a committee of a society.

112. AA election of delegate as member of Agriculture and Rural Development Bank from City of Bombay District and Bombay Suburban District.—

- (1) Notwithstanding anything contained in this Act or the rules made there under, the members of the Agriculture and Rural Development Bank from the City of Bombay District and Bombay Suburban District shall elect one delegate from amongst themselves for every general body meeting of the members of the Bank.
- (2) Subject to the provisions of section 14, the Agriculture and Rural Development Bank shall make bye-laws for the purpose of the election of a delegate under sub-section (1).
- (3) The power to make bye-laws conferred by sub-section (2) is subject to the condition of the bye-laws being made after previous approval of the Registrar.

112. B General Body and committee of State Agriculture and Rural Development Bank.—

- (1) Notwithstanding anything contained in this Act, or in the rules made there under, or in the bye-laws of the State Agriculture and Rural Development Bank:
 - (a) The delegates and members elected in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 112-A and sub-section (1) of section 112-AA shall, for the purpose of section 72, constitute the general body of members of the State Agriculture and Rural Development Bank.
 - (b) the Committee of the State Agriculture and Rural Development Bank shall consist of the following members, namely :-
 - (i) the Chairman of all the District Loan Committees;
 - (ii) (A) Two members, one each belonging to the Scheduled Castes or Scheduled Tribes and the weaker section, and
(B) Three women members—

From amongst the members of the State Agriculture and Rural Development Bank, who shall be co-opted by the committee in its first meeting to be convened by the Collector or an officer authorised by him in that behalf but the Collector or such officer shall not, while presiding over such meeting, have a right of vote; and where there is

failure of the committee to so co-opt such member or members, the Collector or the Officer authorised by him shall report such failure to the Registrar within a period of seven days from the date of such meeting and thereupon the Registrar shall, within a period of seven days from receipt of such report, appoint on the committee such member or members, as the case may be from amongst persons entitled to be so Co-opted.

Explanation – For the purposes of this sub-clause, the provisions of clauses (b) and (c) of, and any other issued under clause (c) of the explanation to section 73-B shall apply in relation to the members to be co-opted or appointed under this clause.

- (iii) the Chairman of the Maharashtra State Co-operative Bank (or his representative), ex-officio;
 - (iv) two representatives of the employees of the State Agriculture and Rural Development Bank to be selected by the recognized union or unions of employees, from amongst such where there is no union at all, the employees shall be held by the collector in the manner laid down in Chapter XI-A of this Act.
 - (v) The Commissioner for Co-operative and Registrar of Co-operative societies, Maharashtra State (or his representative), ex-officio;
 - (vi) An Officer from the Agriculture and Co-operation Department, who is holding the post of Officer on Special Duty or any other post not lower than that of a Deputy Secretary to Government to be nominated by State Government, ex-officio;
 - (vii) the Managing Director of the State Agricultural and Rural Development Bank ex-officio, who shall also act as Secretary of the Committee.
- (2) The members referred to in sub-clause (i) of clause (b) of subsection (1) shall cease to be members of the committee on the date of expiry of their terms as Chairman of the District Loan Committees and they shall be deemed to have vacated their offices and the term of offices of the members referred to in sub-clauses (ii) and (iv) of clause (b) of sub-section (1) shall be co-terminus with the term of office of the members referred to in sub-clause (i) of clause (b) of sub-section (1) and they shall likewise on expiry of their term of office ceased to be members of the committee and shall be deemed to have vacated their offices.
- (3) (a) The Committee shall have a Chairman and a Vice-Chairman. Within 15 days after the two members referred to in sub-clause (ii) of clause (b) of sub-section (1) are co-opted or appointed as the case may be, the Collector or an Officer authorised by him in that behalf shall convene a meeting of the members of the Committee for election of a Chairman and a Vice-Chairman who shall be from the members, referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised officer, but such presiding officer and the members referred to in sub-clauses (iii), (iv), (v), (vi) and (vii) of clause (b) of sub-section (1) shall not have a right to vote at such meeting.
- (b) Notwithstanding anything contained in clause (a), within 15 days from the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1988, the Collector or an Officer authorised by him in that behalf shall convene a meeting of the members of the Committee for the election of a Vice-Chairman who shall be from the members referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised Officer, but such presiding officer and the members referred to in sub-clauses (iii) to (vii) of clause (b) of sub-section (1) shall not have a right to vote at such meeting. The Vice-Chairman so elected shall hold office as such Vice-Chairman subject to the provisions of subsection (4).

Explanation.—For the purposes of this sub-section, the expression "Collector" shall have the same meaning as in clause (a) of sub-section (2) of section 144-A:

- (4) Without prejudice to the provisions of sub-section (3), the Chairman and Vice-Chairman shall be elected every year in the first meeting of the Committee convened within one month after the close of the co-operative year by the Collector or an Officer authorised by him in that

behalf and where the Chairman or Vice-Chairman is to be elected to fill the vacancy occurred due to any reason whatsoever the Collector or an Officer authorised by him in that behalf shall convene the meeting of the Committee within one month from the date of occurrence of the vacancy and the provisions of sub-section (3) shall mutatis mutandis apply to such meetings.

The Chairman and Vice-Chairman elected under sub-section (3) or sub-section, (4) shall cease to be the Chairman and Vice-Chairman on the date preceding the date of meeting held for election of the Chairman and Vice-Chairman after the close of the co-operative year and shall vacate his office.

- (5) A casual vacancy of a member referred to in sub-clauses (ii) and (iv) of clause (b) of sub-section (1) due to any reason whatsoever shall be filled in by co-option by the committee or by selection by the recognized union or unions of the employees, as the case may be, within two months from the occurrence of such vacancy; and where there is failure on the part of the committee or such union or unions, as the case may be, to do so, then appointment by the Registrar :

Provided that, if the vacancy occurs within four months preceding the date on which the term of such member expires, the vacancy shall not, unless the Registrar otherwise directs, be filled :

Provided further that, the member so co-opted, selected or appointed to fill a vacancy shall hold office so long only as the member in whose place he is co-opted, selected or appointed would have held office, if the vacancy had not occurred.

- (6) Where a person becomes a member by virtue of holding any office or being an employee, he shall cease to be a member of the committee, as soon as he ceases to be holder of that office or ceases to be such employee, as the case may be.
- (7) The committee shall exercise such powers and perform such functions as may be conferred or entrusted to it by this Act or by the rules made there under or by the bye-laws of the State Agriculture and Rural Development Bank.
- (8) Without prejudice to the other provisions relating to the procedure at the meeting of the committee as may be laid down by rules or bye-laws made in that behalf, one-third of the total number of members of the committee shall form the quorum at any meeting of the committee.

112-C. deleted

113. Appointment, powers and functions of Trustee.—

- (1) The Registrar, or any other person appointed by the State Government in this behalf, shall be Trustee for the purpose of securing the fulfillment of the obligations of the State Agriculture and Rural Development Bank to the holders of debentures issued by it.
- (2) The Trustee shall be a corporation sole by the name of the Trustee for the debentures in respect of which he is appointed, and shall have perpetual succession and a common seal, and in his corporate name may sue and be sued.

- (3) The powers and functions of the Trustee shall be governed by the provisions of this Act, and the instrument of trust executed between the State Agriculture and Rural Development Bank and the Trustee, as modified from time to time by mutual agreement between the State Agriculture and Rural Development Bank and the Trustee.

114. Issue of debentures.—

- (1) With the previous sanction of the State Government and the Trustee, and subject to such terms and conditions as the State Government may impose, the State Agriculture and Rural Development Bank in the discharge of its function as an Agriculture and Rural Development Bank may issue debentures of such denominations, for such period, and at such rates of interest, as it may deem expedient on the security of mortgages, instruments of hypothecation, guarantee, pledge or charge created in favour of the Bank, or mortgages, instruments of hypothecation, guarantee, pledge or charge to be acquired or partly on mortgages or on any of the aforesaid instruments held and partly to be acquired, and properties and other assets of the State Agriculture and Rural Development Banks.
- (2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem at any time in advance of the date fixed for debenture not less than three months notice in writing.
- (3) The total amount due on debentures issued by the State Agriculture and Rural Development Bank and outstanding at any time, shall not exceed-
- (a) where debentures are issued against mortgages instruments of hypothecation, guarantee pledge or charge held, the aggregate of
 - (i) the amounts due on the mortgages and any or all of the aforesaid instruments;
 - (ii) the value of the properties and other assets transferred or deemed to have been transferred under section 121 by the Primary Agriculture and Rural Development Banks to the State Agriculture and Rural Development Bank and subsisting as such time; and
 - (iii) The amounts paid under the mortgages and the other instruments aforesaid and the unsecured amounts remaining in the hands of the State Agriculture and Development Bank or the Trustee at the time;
 - (b) Where debentures are issued otherwise than on mortgages or the instrument aforesaid held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage instrument of hypothecation, guarantee, pledge or charge.

115. Guarantee by State Government.—

The principal of, and interest on the debentures issued under the preceding section, or any specified portion thereof, may carry the guarantee of the State Government, subject to such maximum amounts as may be fixed by the State Government, and to such conditions as the State Government may think fit to impose.

116. Vesting of property in Trustee and Debenture holders, charge on assets.—

Upon the issue of debentures, under the provisions of Section 114, the mortgage properties and other assets including the properties covered by the instruments referred to in subsection (3) of that section held by the State Agriculture and Rural Development Bank, shall vest in the Trustee, and the holders of debentures shall have a floating charge on all such mortgages, instruments and assets and on the amount paid under such mortgages, and such instruments and remaining in the hands of the State Agriculture and Rural Development Bank or of the Trustee.

117. Powers of Agriculture and Rural Development Banks to advance loans and to hold lands.—

Subject to the provisions of this Act and the rules made there under, it shall be competent for the Agriculture and Rural Development Banks to advance loans for the purposes referred to in section 111, and to hold lands or dwelling houses in rural area the possession of which is transferred to them under the provisions of this Chapter.

118. Section 118 deleted

119. Order granting loan conclusive of certain matters.—

A written order by the Agriculture and Rural Development Bank, or persons or committee authorised under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 111, granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose or for the purpose of dwelling house in rural area specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say:-

- (a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose or productive purpose or for the purpose of dwelling house in rural area, as the case may be, within the meaning of section 111;
- (b) that the person had at the date of the order a right to make such an improvement or incur expenditure for productive purposes or for the purpose of dwelling house in rural area as the case may be and;
- (c) that the improvement in one benefiting the land or such dwelling house specified and productive purpose or for the purpose of dwelling house in rural area concerns the land or such dwelling house offered in security, or any part thereof, as may be relevant

120. Priority of mortgage.—

- (1) A mortgage executed in favour of an Agriculture and Rural Development Bank, shall have priority over any claim of the Government arising from a loan granted after the, execution of the mortgage under the Land Improvement Loans Act, 1883 (XI of 1883) or the Agriculturists Loans Act, 1884 (XI of 1884) or under any other law for the time being in force.
- (2) Notwithstanding anything contained in the Bombay Tenancy and Agricultural Lands Act, 1948, (BOM. LXVII of 1948) or any other corresponding law for the time being in force, where a mortgage in favour of an Agriculture and Rural Development Bank is in respect of land in which a tenant purchaser or tenant has an interest, the mortgage may be against the security of such interest, and the rights of the mortgage shall not be affected by the failure of the tenant purchaser or tenant to comply with the requirements of such law, and the sale of the land and his interest therein, under such law shall be subject to the prior charges of an Agriculture and Rural Development Bank.

121. Mortgages and other instruments executed in favour of an Agriculture and Rural Development Bank to stand vested in State Agriculture and Rural Development Bank.—

The mortgages instruments of hypothecation guarantee, pledge or charge executed in favour of, and all other assets transferred to, an Agriculture and Rural Development Bank, by the members thereof, before or after the commencement of the Act, shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such an Agriculture and Rural Development Bank to the State Agriculture and Rural Development Bank, and shall vest in the State Agriculture and Rural Development Bank.

122. Registration of Mortgage, Lease, etc., executed in favour of Agriculture and Rural Development Banks.—



Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary to register a mortgage, lease, hypothecation deed, loan bond, surety bond, guarantee deed, promissory note or loan agreement executed in favour of the Agriculture and Rural Development Bank, provided the bank sends, within such time and in such manner as may be prescribed a copy of such instrument to the concerned registering authority; and on receipt of the copy of the registering authority shall file the same in the relevant books prescribed under the Registration Act, 1908 :

Provided that, any such instrument executed in favour of the bank before the date of publication of the Maharashtra Co-operative Societies (Amendment) Act, 1989 in the Official Gazette may be sent to the concerned registering authority within the period of three months from such date.

123. Mortgages and other instruments not to be questioned on insolvency of mortgagors or executants.—

Notwithstanding anything contained in the Presidency-Towns Insolvency Act, 1909, or the provincial Insolvency Act, 1920 or any corresponding law for the time being in force, a mortgage or any other instrument supporting the loan executed in favour of an Agriculture, and Rural Development Bank, shall not be called in question in any insolvency proceedings on the ground that it was not executed in good faith or valuable consideration, or on the ground that it was executed in order to give the Bank a preference over other creditors of the mortgagor or of the executants of the instrument.

124. Section 124 deleted

125. Mortgages and other instruments executed by managers of joint Hindu families.—

- (1) Mortgages and other instruments in respect of loans by Agriculture and Rural Development Bank or the State Agriculture and Rural Development Bank either before or after the commencement of this Act, by the manager of Hindu joint family for the improvement of agricultural land or of the methods of cultivation or for financing any other means to raise the productivity of the land, or for the purchase of land, or for creation of new movable or immovable assets or for the purpose of acquisition, construction, rebuilding or repairing of a dwelling house in rural area shall be binding on every member of such joint Hindu family notwithstanding any law to the contrary.
- (2) In other cases, where a mortgage or other instruments executed in favour of Agriculture and Rural Development Bank or State Agriculture and Rural Development Bank either before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a Hindu joint family for purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

126. Section 8 of the Act XXXII of 1956 to apply to mortgages and other instruments to an Agriculture and Rural Development Bank, subject to certain modifications. —

Section 8 of the Hindu Minority and Guardianship Act, 1956 (XXXII of 1956) shall apply to mortgages and other instruments in favour of an Agriculture and Rural Development Bank, subject to the modification or that reference to the Court therein shall be construed as reference to the Collector or his nominee, and the appeal against the order of the Collector or his nominee shall lie to the Commissioner.

127. Restrictions on lease. —

- (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) or any other law for the time being in force, no mortgagor of property mortgaged to an Agriculture and Rural Development Bank, shall except with the prior consent in writing of the bank, and subject to such terms and conditions as the bank may impose, lease or create any tenancy rights or any such property:

Provided that, the rights of an Agriculture and Rural Development Bank shall be enforceable against the tenant purchaser, the lessee or the tenant, as the case may be, as if he himself

were a mortgagor.

- (2) Where land, mortgaged with possession to an Agriculture and Rural Development Bank, is in actual possession of a tenant, the mortgagor or an Agriculture and Rural Development Bank shall give notice to the tenant to pay rent to an Agriculture and Rural Development Bank during the currency of the lease and the mortgagee, and on such notice being given, the tenant shall be deemed to have adorned to the an Agriculture and Rural Development Bank.

128. Agriculture and Rural Development Bank to receive money and give discharge.—

Notwithstanding anything contained in section 121, all monies due under the mortgage shall unless otherwise directed by the State Agriculture and Rural Development Bank or the Trustee, and communicated to the mortgagor, be payable by the mortgagor to the Agriculture and Rural Development Bank, and such payments shall be as valid as if the mortgage had not been so transferred and the Agriculture and Rural Development Bank shall in the absence of specific directions to the contrary, issued by the State Agriculture and Rural Development Bank of Trustee and communicated to the bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the monies due under mortgage.

129. Powers of Agriculture and Rural Development Bank where mortgaged or encumbered property is destroyed or security becomes insufficient.—

Where any immovable or movable property mortgaged or encumbered in any other manner to an Agriculture and Rural Development Bank is wholly or partially destroyed, or for any reasons the security or surety is rendered insufficient and the debtor, having been given a reasonable opportunity by the bank to provide further security or surety enough to render the whole security or surety sufficient or to repay such portion of the loan as may be determined, by the bank, has failed to provide such security or surety or to repay such portion of the loan, then the whole of the loan shall be deemed to fall due at once; and the bank shall be entitled to take action against such debtor under section 132 or section 133 for the recovery thereof.

Explanation: Security shall be deemed insufficient within the meaning of this section, unless the value of the mortgaged or encumbered property (including improvements made thereon) exceeds the amount for the time being due on the mortgage or encumbrance by such proportion as may be specified in the rules, regulations or the bye-laws of the Agriculture and Rural Development Bank.

130. Right of Agriculture and Rural Development Bank to buy mortgaged property.—

- (1) Property purchased under section 133(3) by, and property transferred under section 100 to the Agriculture and Rural Development Banks, may be disposed of by such banks by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists eligible to hold land under the Bombay Tenancy and Agricultural Lands Act, 1948, or any corresponding law for the time being in force, or in favour of Tribal, if such property belongs to a Tribal or may be leased out by them on such terms and conditions as may be laid down by the State Government from time to time.

Explanation — for the purposes of this sub-section and section 133A, "Tribal" means a person belonging to a Scheduled Tribe within the meaning of the Explanation to Section 36 of the Maharashtra Land Revenue Code, 1966, and includes his successor in interest.

- (2) Nothing contained in any law for the time being in force fixing the maximum limit of agricultural holdings shall apply to the acquisition or holding of land by the Agriculture and Rural Development Bank under this section.

131. Recovery of loans by Development Banks.—

All loans granted by the Agriculture and Rural Development Banks, all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when they become due, be recoverable by the Agriculture and Rural Development Bank concerned.

132. Powers to distrain.—

- (1) If any installment payable under a mortgage, hypothecation deed, loan bond, surety bond or other instruments executed in favour of the Agriculture and Rural Development Bank, or any part of such installment, has remained unpaid for more than one month from the date on which it fell due, the bank shall, in addition to any other remedy available to the bank, apply to the Registrar for recovery of such installments or part thereof, by distraint and sale of the produce of the mortgaged or otherwise encumbered land and properties of and on such land including the standing crops thereon, or the movable property encumbered under hypothecation deed or loan bond. The installments due or any part thereof, shall also be recoverable by distraint and sale of the new property created by the debtor by converting the original movable property for which the loan was granted by the bank.
- (2) On receipt of such application, the Registrar, shall notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner prescribed for the purpose of distaining and selling of the produce or the properties referred to in sub-section (1)

Provided that, no distraint shall be made after the expiry of twelve months from the date on which the installment fell due.

133. Sale of mortgaged or encumbered property.—

- (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the Agriculture and Rural Development Bank or any person authorised by it in this behalf shall, in case of default of payment of mortgage money or loan amount or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged or otherwise encumbered property to sale by public auction in the village in which such property is situated or at the nearest place of public resort, without the intervention of the Court :

Provided that, no action shall be taken under this sub-section and no such power shall be exercised, unless and until—

- (a) the Agriculture and Rural Development Bank has been previously authorised to exercise the power conferred under this sub-section after hearing the objections, if any, of the debtor or debtors;
 - (b) notice in writing requiring payment of such debt or loan money or part thereof has been served upon,
 - (i) the debtor or each of the debtors;
 - (ii) any person who has any interest in or charge upon such property or upon the right to redeem the same as far as is known to the bank;
 - (iii) any surety for the payment off the debt or loan or any part thereof; and
 - (iv) any creditor of the debtor who has in a suit for administration of his estate obtained a decree for sale of the concerned property; and
 - (c) Default has been made in payment of such debt or loan or part thereof, for three months after service of the notice.
- (2) Where the Agricultural and Rural Development Bank fails to take action against the defaulter under section 129 or 132 or under this section, the Trustee may take such action. If such action is taken by the Trustee, the provisions of this chapter and of any rules prescribed shall apply in respect thereto, as if all references to the Agriculture and Rural Development Bank in the said provision were references to the Trustees.
 - (3) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Agriculture and Rural Development Bank to purchase any mortgaged or encumbered property sold under this Chapter.

133A. mortgaged or encumbered property of tribal not to be sold to non-tribal at public auction under section 133 —



Notwithstanding anything contained in this Act or in any other law for the time being in force, where the mortgaged or encumbered property belongs to a Tribal, it shall not be sold to any non-Tribal bidder at public auction under section 133 or otherwise transferred to a non-tribal under the provisions of this Act.

134. Confirmation of sale.—

- (1) On effecting the sale by an Agriculture and Rural Development Bank under section 133, the bank shall, in the prescribed manner, submit to the State Agriculture and Rural Development Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Agriculture and Rural Development Bank may, with the approval of the Registrar confirm the sale or cancel it.
- (2) Where the sale is effected by the State Agriculture and Rural Development Bank or the Trustee under section 133 the State Agriculture and Rural Development Bank or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and result of the sale, and the Registrar may confirm or cancel the sale.

135. Disposal of sale-proceeds.—

The proceeds of every sale effected under section 133, and confirmed under the preceding section shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage or encumbrance in consequences whereof, the mortgaged or otherwise encumbered property was sold, and thirdly in payment of the principal due on account of the mortgage or encumbrance including costs and charges incidental to the recovery.

If there remains any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold or if there are more such persons than one, then to such persons up on their joint receipt or according to their respective interest therein, as may be determined by the Agriculture and Rural Development Bank:

Provided that, before any such payments are made the unsecured dues owing;

- (a) from the mortgagor or the debtor to the Agriculture and Rural Development Bank may be adjusted, and
- (b) from any member or past member to whom the mortgagor or the debtor is indebted may also be adjusted under the written authority given by such member and past member, and after holding such inquiry as may be deemed necessary.

136. Certificate to purchase, delivery of property and title of purchaser.—

- (1) Where a sale of mortgaged property has become absolute under section 134 and the sale-proceeds have been received in full by the Agriculture and Rural Development Bank, the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale-price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian Registration Act, 1908 (XVI of 1908), within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.
- (2)
 - (a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the State Agriculture and Rural Development Bank or an Agriculture and Rural Development Bank and a certificate in respect thereof, has been granted under the foregoing sub-section, the Collector shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.
 - (b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy

the same, and a certificate in respect thereof, has been granted under the foregoing sub-section, the Collector shall on the application of the purchaser and after notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the right, title and interest of the mortgagor have been transferred to the purchaser.

- (3) Where any property is sold in the exercise or purported exercise of a power of sale under section 133, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorizing the sale had not arisen or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised:

Provided that, any person who suffers damage on account of unauthorized, improper or irregular exercise of such power shall have a remedy in damages against the Agriculture and Rural Development Bank.

137. Recovery of loans on certificate by Registrar.—

- (1) Notwithstanding anything contained in sections 91 and 98, on an application made by an Agriculture and Rural Development Bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears.
- (2) A certificate by the Registrar under sub-section (1) shall be final and conclusive as to arrears due. The arrears stated to be due therein, shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.
- (3) It shall be lawful to the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879 (BOM. V of 1879) or any law or provision corresponding thereto, for the time being in force until the arrears due to the Agriculture and Rural Development Bank together with interest and any incidental charges incurred in recovery of such arrears, are paid or security of such arrears is furnished to the satisfaction of the Registrar.
- (4) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the Agriculture and Rural Development Bank together with interest and any incidental charges incurred in recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 95 shall apply mutatis mutandis to conditional attachment of any property made or to be made under his section.

138. Mode of recovery by Collector.

- (1) Subsection (1) deleted.
- (2) Any amount due to an Agriculture and Rural Development Bank (including cost of recovery thereof) shall on an application by it in this behalf be recoverable by the Collector, or any officer including an Officer of the Agriculture and Rural Development Bank specially authorised by the Collector in this behalf, in all or any of the following modes, namely :-
 - (a) from the borrower-as if they were arrears of land revenue due by him;
 - (b) out of the land for benefit of which the loan has been granted as if they were arrears of land revenue due in respect of that land;
 - (c) from a surety (if any) as if they were arrears of land revenue due by him;
 - (d) Out of the property comprised in the collateral security (if any) according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due.

139. Officers or members of family not to bid at auction sale.-

At any sale of moveable or immovable property, held under the provisions of this Chapter, no officer or employee or any member of the family of such officer or employee of an Agriculture and Rural Development Bank, except on behalf of the bank of which he is an officer or any employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

Explanation - For the purposes of this section, the expression "member of the family" means wife, husband, father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law.

140. Section 40 of Bombay XXVIII of 1947 not to apply to alienation in favour of Agriculture and Rural Development Banks.—

Nothing contained in section 40 of the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour the Agriculture and Rural Development Banks.

141. Provision for Guarantee Funds to meet certain losses.—

- (1) It shall be competent for the State Government to constitute one or mo Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the Agriculture and Rural Development Banks on titles of immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the State Government it is necessary to provide for or create a separate Guarantee Fund.
- (2) The State Agriculture and Rural Development Bank and Agriculture and Rural Development Bank shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such funds shall be governed by such rules, as may made by the State Government in this behalf.

142. Registrars power to permit any society or a class of Societies to function as an Agriculture and Rural Development Bank.—

It shall be competent for the Registrar to permit any society or Class of Societies to function as an Agriculture and Rural Development Bank under such terms and conditions and for such period as he may deem fit.

143. Service of notice.—

The provisions of section 102 and 103 of the Transfer of Property Act, 1882, and of any rules made under section 104 thereof, shall apply, so far as may be in respect of all notices to be served under this Chapter.

143A. Transfer of rights and liabilities of Government in respect of schemes sanctioned under BOM. XXVIII of 1942—

- (1) Where any works, included in a land improvement scheme which has come into force under the Bombay Land Improvement Schemes Act, 1942, are carried out at the cost or part cost of the State Government, and such cost is to be recovered from the owners of lands (other than Government) included in the scheme as shown in the statement prepared under section 13 or in the interim or final statement prepared under section 13 A of that Act; then notwithstanding anything contained in this Act, all the rights and liabilities of the State Government for the recovery of the cost or part cost from the owners of land shall stand transferred to an Agriculture and Rural Development Bank, in relation to such owners of lands and subject to such terms and conditions (including any condition regarding giving of any guarantee by the State Government) as may be agreed upon between the State Government and such Agriculture and Rural Development Bank; and for arriving at such agreement, every owner of land shall produce before the Bank all such documents, and other evidence relating to his land included in such scheme as the Bank may require.

- (2) On such transfer of rights and liabilities of the State Government, the Agriculture and Rural Development Bank, shall pay to the State Government an amount equal to the extent of the liability accepted by it under such agreement, and the State Government shall inform the owners of lands concerned of such transfer; and thereupon, the provisions of this Act and rules there under in so far as they provide for advancing of loans (including provision for mortgaging of property) and recovery thereof shall apply in relation to the amount of cost to be recovered from each owner of land as they apply in relation to advancing of loans and recovery thereof (including interest) as if such owner was a member of the Agriculture and Rural Development Bank. The transfer of the rights and liabilities and payment made in accordance therewith shall discharge the owners of lands of their ability to make payment to the State Government under the Bombay Land Improvement Schemes Act, 1942, but to the extent only of their respective liability accepted by the Bank.

144. Power of Committee of State Agriculture and Rural Development Bank to supervise Agriculture and Rural Development Bank and make regulation.—

The Committee of the State Agriculture and Rural Development Bank shall have a general power of supervision over Agriculture and Rural Development Banks and may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act or the rules made there under, for all or any of the following matters, namely :-

- (a) for the inspection of the account books, and proceedings of Agriculture and Rural Development Banks;
- (b) for the submission of returns and reports by such banks in respect of their transactions;
- (c) for the periodical settlement of accounts between such banks and the State Agriculture and Rural Development Bank being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the State Agriculture and Rural Development Bank;
- (d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans;
- (e) for the investment of moneys realized from the mortgagors;
- (f) the conditions of service of employees of such banks;
- (g) the program and policy to be followed by such banks for making loans;
- (h) the types and extent of security to be obtained by such banks for advancing loans;
- (i) Generally, for the purpose of safeguarding the interest of the parties; furtherance of activities of such banks, and carrying out the purposes of this Chapter.

144-1A. Reorganization, amalgamation or division of Agriculture and Rural Development Banks, in public interest, etc.-

- (1) Notwithstanding anything in the Act or in any rules, or bye-laws made there under, it shall be lawful for the State Government to provide from time to time, by an order made under and in accordance with the provisions of section 18, for the reorganization of the State Agriculture and Rural Development Banks, either by amalgamating with it all or of any of the Primary Agriculture and Rural Development Banks or otherwise; or for the division of the State Agricultural and Rural Development Bank into a State Agriculture and Rural Development Bank and one or more Primary Agriculture and Rural Development Banks as may be considered necessary; or for the amalgamation or division of all or any of the Primary Agriculture and Rural Development Banks among themselves. Accordingly, for the purposes of this section, in section 18 and in any rules made there under, for the word "Registrar", wherever it occurs, the words "State Government" shall be deemed to be substituted.

- (2) Where there is no Primary Agriculture and Rural Development Bank in the State or in any part thereof, or Primary Agriculture and Rural Development Banks are merged with the State Agriculture and Rural Development Bank, the State Agriculture and Rural Development Bank may establish and maintain as many branches as may be deemed necessary; and shall function also as a Primary Agriculture and Rural Development Bank through the State or in the area concerned, as the case may be. Any reference of a Primary Agriculture and Rural Development Bank in this Act, or any other law for the time being in force or in any instrument, shall then, as the context may require, be construed as a reference of the State Agriculture and Rural Development Bank or its branches concerned, or be read subject to such modifications as may be necessary due to absence of any Primary Agriculture and Rural Development Bank due to merger of the Primary Agriculture and Rural Development Bank or Banks in the State Agriculture and Rural Development Bank.

CHAPTER XI- A

ELECTIONS OF COMMITTEES AND OFFICERS OF CERTAIN SOCIETIES



144-A. Application of this Chapter and definitions.—

- (1) This Chapter shall apply only to elections to committees of societies belonging to the categories specified in section 73-G.
- (2) In this Chapter, unless the context otherwise, requires:—
 - (a) "Collector" means the Collector having jurisdiction over the local areas in which the registered office of the society concerned is situated; and includes the Additional Collector, and also any officer not below the rank of Deputy Collector, appointed by the State Government to exercise the powers and to perform the duties of the Collector under this Chapter;
 - (b) "election" means an election of a member or members of the committees (or of officer or officers) of a specified society ;
 - (c) "Specified society" means a society belonging to any of the categories specified in section 73-G.

144-B. When elections to be held.—

Every election shall be held as far as possible sometime prior to the date on which the term of office of the retiring member or members is due to expire. If a vacancy occurs due to any other reason, it shall be filled as early as practicable.

144-C. Conduct of elections.—

- (1) Save as otherwise provided, every election shall be held on such date or dates as the Collector may fix, and shall be conducted under his control by such Returning Officer and other officers, as may be appointed by the Collector in this behalf.
- (2) In all cases, where a society has to send a nominee as a member of the committee of any specified society, the election of such nominee shall be conducted under the control of the Collector of the district in which the registered office of the society sending the nominee is situated.
- (3) In all cases where the bye-laws of a specified society authorize the Government nominee or the nominee of a Financing Agency to be a member of the committee of the society, no election need be held for such purpose.
- (4) The voting at every election shall be by secret ballot.

144-D. Cost of conducting election.—

- (1) The expenses of the holding of any election, including the payment of traveling allowances daily allowance and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be borne by the specified society concerned.
- (2) For this purpose, the Collector may call upon a specified society to deposit with him such amount as he considers necessary for the conduct of the election. Within eight days from the receipt of such direction from the Collector, the society shall deposit the specified amount with the Collector.
- (3) The Collector shall maintain an account of the expenses incurred in connection with the election and within six months from the declaration of results of the election, render the same to the society concerned, and shall refund to the society the balance, if any, remaining unspent. If the expenditure exceeds the amount of deposit, the Collector shall call upon the society to pay the excess amount as specified by him within eight days from the receipt of the direction from him, and the society shall comply with such direction.
- (4) On failure of a specified society to pay as aforesaid the deposit amount or to pay the excess amount, the Collector may recover the sums due, together with interest thereon at the rate of 12 per cent per annum, from the society as arrears of land revenue.

144-E. Disqualifications for membership.—

- (1) A person shall be disqualified for being elected as, and for being a member, of the committee of any specified society, -
 - (a) if he is salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is elected, appointed or co-opted to any reserved seat on the committee of a society under section 73-BB;
 - (b) if he has been convicted of an offence punishable under section 153A or section 171-E or section 171-F or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code, or under section 144Q or clause (a) of sub-section (2) of section 144R of this Act, unless a period of six years has elapsed since the date of his conviction;
 - (c) if he has been convicted by a Court in India for any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release;
 - (d) if he is found guilty of a corrupt practice by the Commissioner of the Division, unless a period of six years has elapsed since the date on which the decision of the Commissioner takes effect;
 - (e) If he is so disqualified by or under any other provision of this Act.
- (2) For the purposes of clause (a) of sub-section (1), a person shall not be deemed to hold an office of profit under a society, if he does not receive any remuneration other than compensatory allowance; or honorarium payable under sub-section (2) of section 65 not exceeding rupees six thousand per year.
 Explanation.—In this sub-section, "compensatory allowance" mean the traveling allowance, the daily allowance or such other allowance which is paid to the holder of the office for the purpose of meeting the personal expenditure, in performing the functions as holder of that office.
- (3) Notwithstanding anything contained in clause (b) or (c) of subsection (1) a disqualification under either clause shall not, in the case of a person who on the date of the conviction is a member of any specified society, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence until, that appeal or application is disposed of by the Court.

144-F. Account of election expenses, maximum thereof and lodging of account.—

- (1) Every candidate at an election shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him.
- (2) The account shall contain such particulars as may be prescribed.
- (3) The total of the said expenditure shall not exceed such amount as may be specified by the State Government, by general or special order, published in the Official Gazette.
- (4) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the Collector an account of his election expenses which shall be a true copy of the account kept by him under sub-section (1).

144-G. Disqualification for failure of lodge account of election expenses.—

If the Collector is satisfied that a person,-

- (a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and

- (b) has no good reason or justification for the failure, the Collector shall, by order published, in the Official Gazette, declare him to be disqualified for being elected as, and for being, a member of the committee of any specified society, and any such person shall be disqualified for a period of three years from the date of the order.

144-H. Removal or reduction of period of disqualification.—

The State Government may, on reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

144-I. Corrupt practices.—

The following shall be deemed to be corrupt practices for the purpose of this Chapter:-

- (1) "Bribery", that is to say.—
- (A) Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing;—
- (a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election,
- (b) an elector to vote or refrain from voting at an election, or as a reward to -
- (i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or
- (ii) an elector for having voted or refrained from voting;
- (B) The receipt of or agreement to receive, any gratification, whether as a motive or reward -
- (a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or
- (b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation.—For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 144-F.

- (2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that -

- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who-
- (i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested with injury of any kind including social ostracism and excommunication or expulsion from any caste or community, or
- (ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause

- (b) A declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.
- (3) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station :

 Provided that, the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any polling station shall not be deemed to be a corrupt practice under this clause:

 Provided further that, the use of any public transport vehicle or vessel or railway carriage by any elector at own cost for the purpose of going to or coming from any polling station shall not be deemed to be a corrupt practice.

 Explanation.—In this clause and in the next succeeding clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport; whether propelled by mechanical power or otherwise and whether used for drawing after vehicles or otherwise.
- (4) The use of vehicles belonging to a specified society for the purposes of any election.
- (5) The incurring or authorizing of expenditure in contravention of section 144-F.
- (6) Making special advances of loans or otherwise favoring any elector or group of electors between the date of declaration of program for an election and the date of declaration of the result thereof.

144-J. Maintenance of secrecy of voting.—

- (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

144-K. Officers, etc., at elections not to act for candidates or to influence voting.—

- (1) No person who is a Returning Officer or an Assistant Returning Officer or a Presiding or Polling Officer at an election, or an officer or clerk appointed by the Returning Officer or the Presiding Officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.
- (2) No such person as aforesaid, and no member of a Police Force, shall endeavor -
 - (a) to persuade any person to give his vote at an election, or
 - (b) to dissuade any person from giving his vote at an election, or
 - (c) to influence the voting of any person at an election in any manner
- (3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment which may extend to six months, or with fine, or with both:
- (4) An offence punishable under sub-section (3) shall be cognizable.

144-L. Prohibition of canvassing in or near polling station.—

- (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely :
 - (a) canvassing for votes; or
 - (b) soliciting the vote of any elector; or
 - (c) persuading any elector not to vote for any particular candidate; or
 - (d) persuading any elector not to vote at the election; or
 - (e) Exhibiting any notice or sign (other than an official notice) relating to the election.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (3) An offence punishable under sub-section (2) shall be cognizable.

144-M. Penalty for disorderly conduct in or near polling stations.—

- (1) No person shall, on the date or dates on which a poll is taken at any polling station,-
 - (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighborhood thereof, any apparatus for amplifying or reproducing the human voice, such as megaphone or a loud-speaker, or
 - (b) shout, or otherwise act in a disorderly manner, within or at entrance of the polling station or in any public or private place in the neighborhood thereof:

so as to cause, annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.
- (2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of sub-section (1) shall, on conviction, be punished with imprisonment which may extend to three months, or with fine, or with both.
- (3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person and thereupon the police officer shall arrest him.
- (4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

144-N. Penalty for misconduct at the polling station.—

- (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorised in this behalf by such Presiding Officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

144-O. Penalty for illegal hiring or procuring of conveyances at elections.—

If any person is guilty of any such corrupt practice as is specified in clause (3) or (4) of section 144-1 at or in connection with an election, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

144-P. Breaches of official duty in connection with election.—

- (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.
- (2) An offence punishable under sub-section (1) shall be cognizable.
- (3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.
- (4) The persons to whom this section applies are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling officers and any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

144-Q. Removal of ballot papers from polling station to be an offence.—

- (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or willfully aids or abets the doing any such act, shall, on conviction be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.
- (2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such Officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that, when it is necessary to cause a woman to be searched, search shall be made by another woman with strict regard to decency.
- (3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.
- (4) An offence punishable under sub-section (1) shall be cognizable.

144-R other offences and penalties therefore.—

- (1) A person shall be guilty of an electoral offence, if at any election he -
 - (a) fraudulently defaces or fraudulently destroys any nomination paper; or
 - (b) fraudulently defaces; destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or
 - (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or
 - (d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or
 - (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purpose of the election; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.
- (2) Any person guilty of an electoral offence under this section shall

- (a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, or conviction, be punished with imprisonment for a term which may extend to two years, or with fine or with both.
- (b) If he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.
- (3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.
- (4) An offence punishable under sub-section (2) shall be cognizable.

144-S. Application of section 148 to offences under this Chapter subject to certain modifications.—

The provisions of section 148 shall apply to the offences under this Chapter, subject to the modification that no prosecution for an offence punishable under this Chapter shall be lodged, except with the previous sanction of the Collector.

144-T. Disputes relating to elections to be submitted to the Commissioner or other specified officer.—

- (1) Notwithstanding anything contained in section 91 or any other provisions of this Act, any dispute relating to an election shall be referred to the Commissioner of the Division in which such election is held or to an officer not below the rank of Additional Commissioner of a Division authorised by the State Government in this behalf (hereinafter in this section either of them as the context may require is referred to as "the specified officer").
- (2) Such reference may be made by an aggrieved party by presenting an election petition to the specified officer, within a period of two months from the date of declaration of the result of the election:

Provided that, the specified officer may admit any petition after the expiry of that period, if the petitioner satisfies the specified officer that he had sufficient cause for not preferring the petition within the said period.

- (3) In exercising the functions conferred on him by or under this Chapter, the specified officer shall have the same powers as are vested in a Court in respect of,-
 - (a) proof of facts by affidavit;
 - (b) summoning and enforcing the attendance of any person and examining him on oath;
 - (c) compelling discovery or the production of documents; and
 - (d) Issuing commissions for the examination of witnesses.

In the case of any such affidavit, an officer appointed by the specified officer in this behalf may administer the oath to the deponent.

- (4) Subject to any rules made by the State Government in this behalf, any such petition shall be heard and disposed of by the specified officer as expeditiously as possible. An order made by the specified officer on such petition shall be final and conclusive and shall not be called in question in any Court.

144-U. Deposit towards costs for hearing and power to award costs.—

A petitioner presenting an election petition under the last preceding section shall pay a deposit not exceeding Rs. 500 as the Commissioner may direct towards the costs for hearing the petition. Unless the petitioner deposits the same as aforesaid, the petition shall be summarily dismissed. Subject to such conditions as may be prescribed, at the time of deciding the petition; the Commissioner shall assess the costs of the hearing of the petition and shall require the petitioner or the respondents, or both as the case may be; to defray the whole or in such proportion as he thinks fit, the costs of the petition, including the deposit so made. The Commissioner shall credit to Government such sum as he assesses as the cost to Government of hearing the petition (but not exceeding Rs. 500 in any case).

144-V. Contents of petition.—

- (1) An election petition shall-
 - (a) contain a concise statement of the material facts on which the petitioner relies;
 - (b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
 - (c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings;

Provided that, where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

144- W. Relief that may be claimed by the petitioner.—

A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

144-X Power to make rules for purposes of this chapter.-

Without prejudice to any other power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to provide for and to regulate all or any of the other matters relating to the various stages of the elections including preparation of list of voters,

144-Y. Special provisions to election of officers of specified societies.—

- (1) This section shall apply only to election of officers by members of committees of societies belonging to the categories specified in section 73-G.
- (2) After the election of the members of the committee and, where necessary, co-option or appointment, as the case may be, of members to the reserved seats under section 73-B or whenever such election is due, the election of the officer or officers of any such society shall be held as provided in its by-laws but any meeting of the committee for this purpose shall be presided over by the Collector or an officer nominated by him in this behalf.

CHAPTER XII
OFFENCES AND PENALTIES



145. Prohibition of use of the word "Co-operative".—

- (1) No person, other than a society registered, or deemed to be registered, under this Act and a person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into force, shall without the sanction of the State Government, function, trade or carry on business under any name or title of which the word "co-operative", or its equivalent in any Indian language, forms part.
- (2) Every person contravening the provisions of the foregoing sub-section shall, on conviction, be punished with fine which may extend to five hundred rupees.

146. Offences.—

It shall be an offence under this Act, if-

- (a) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 47 or any person knowingly acquires, or abets in the acquisition of, such property;
- (b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer who, without sufficient cause, fails to comply with sub-section (2) of section 49; or
- (c) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 70; or
- (d) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or an Urban Co-operative Bank, or a Postal Savings Bank; or
- (e) any person, collecting the share money for a society in formation, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise; or
- (e-1) any person, who collects share money or any other sum by misrepresentation to the members or prospective members in the name of the society to be registered, or after registration of a society by such misrepresentation, or otherwise; or
- (e-2) any person knowingly gives a false certificate in whatever form showing that a person is or is not a "defaulter" within the meaning of that expression in the Explanation to clause (i) of sub-section (1) of section 73-FF; or
- (f) a committee of a society or an officer or member thereof, fails to comply with the provisions of sub-sections (2), (3) or (4) of section 75, or
- (g) any officer or member of a society who is in possession of information books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the State Government or the Registrar under-sections 78, 81, 84, 94 or 103; or
- (h) any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under section 78 or 103: or
- (i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof, fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders made under section 79; or
- (j) a committee of a society or an officer or member thereof willfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the Registrar, or other person duly authorised by him in writing in this behalf; or
- (k) a committee of a society, or an officer or member thereof, willfully makes a false

- return, or furnishes false information, or fails to maintain proper accounts; or
- (l) any officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 81; or
 - (m) any officer or a member of a society willfully fails to comply with any decision, award or order passed under section 96; or
 - (n) A member of a society fraudulently disposes off property over which the society has a prior claim, or a member or officer or employee or any person disposes off his property by sale transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society; or
 - (o) any officer of a society willfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested, a loan in the name of any other person ; or
 - (p) any officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society; or
 - (q) Any officer or member of a society or any person does any act declared by the rules to be an offence.

Explanation.—For the purpose of this section, an officer or a member referred to in the section shall include past officer and past member, as the case may be.

147. Punishments for Offences under section 146.—

Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under section 146 shall, on conviction, be punished,—

- (a) if it is an offence under clause (a) of that section, with imprisonment for a term which may extend to six month, or with fine which may extend to five hundred rupees, or with both;
- (b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;
- (c) if it is an offence under clause (c) of that section, with fine which may extend to five hundred rupees;
- (d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees;
- (e) if it is an offence under clause (e) of that section, with imprisonment for a term which may extend to one year or with fine, or with both;
- (e-1) if it is an offence under clause (e-1) of that section, with imprisonment of a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;
- (e-2) if it is an offence under clause (e-2) of that section, with imprisonment of a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;
- (f) if it is an offence under clause (f) of that section, with fine which may extend to two hundred and fifty rupees;
- (g) if it is an offence under clause (g) of that section, with fine which may extend to five hundred rupees
- (h) if it is an offence under clause (h) of that section; with fine which may extend to five hundred rupees;
- (i) if it is an offence under clause (i) of that section, with fine which may extend to five

hundred rupees;

- (j) if it is an offence under clause (j) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;
- (k) if it is an offence under clause (k) of that section, with imprisonment for a term which may extend to one year; or with fine which may extend to two thousand rupees, or with both;
- (l) if it is, an offence under clause (l) of that section; with fine which may extend to one hundred rupees;
- (m) if it is an offence under clause (m) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;
- (n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;
- (o) if it is an offence under clause (o) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both;
- (p) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to three years, or with fine, or with both;
- (q) if it is an offence under clause (q) of that section, with fine which may extend to two hundred and fifty rupees.

148. Cognizance of offences.—

- (1) No Court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence under this Act.
- (2) Sub-section 2 deleted.
- (3) No prosecution under this Act shall be lodged, except with the previous sanction of the Registrar.

148A. Contempt of Co-operative Courts and of Co-operative Appellate Court.—

- (1) If any person-
 - (a) when ordered by a Co-operative Court or the Co-operative Appellate Court to produce or deliver up any document or to furnish information, being legally bound so to do intentionally omits to do so; or
 - (b) when required by any such Court to bind himself by an oath or affirmation to state the truth, refuses to do so;
 - (c) being legally bound to state the truth on any subject to any such Court, refuses to answer any question demanded of him touching such subject by the Court; or
 - (d) intentionally offers any insult or causes any interruption to any such Court at any stage of its judicial proceeding, he shall on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
- (2) If any person refuses to sign any statement made by him, when required to do so by a Co-operative Court or the Co-operative Appellate Court, he shall on conviction be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.
- (3) If any offence under sub-section (1) or (2) is committed in the view or presence of a Court concerned, the said court may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same, and may require security to be, given for the appearance of the accused person before such Magistrate or, if sufficient security is not given, shall forward such person in custody to such Magistrate. The Magistrate to whom

any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the Code of Criminal Procedure, 1973.

- (4) If any person commits any act or publishes any writing which is calculated to improperly influence a Co-operative Court or the Cooperative Appellate Court to bring any such Court or a member thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.
- (5) In the case of contempt of itself, the Co-operative Appellate Court shall record the facts constituting such contempt, and make a report in that behalf to the High Court:
- (6) In the case of contempt of a Co-operative Court, the co-operative Court shall record the facts constituting such contempt, and make a report in that behalf to the Co-operative Appellate Court, and thereupon, that Court may, if it considers it expedient to do so, forward the report to the High Court.
- (7) When any intimation or report in respect of any contempt is received by the High Court under sub-section (5) or (6) the High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.

CHAPTER XIII
APPEALS, REVIEW AND REVISION



149. Maharashtra State Co-operative Appellate Court.—

- (1) A Court to be called the Maharashtra State Co-operative Appellate Court is hereby constituted to exercise the powers and to discharge the functions conferred on it by or under this Act.
- (2) The Co-operative Appellate Court shall consist of the President, and such number of other members as the State Government may from time to time consider necessary, who possess such qualifications as may be prescribed. The President and other members shall hold office for such period or such different periods as may be prescribed.
- (3) Any vacancy in the membership of the Co-operative Appellate Court shall be filled by the State Government.
- (4) All or any of the powers and functions of the Co-operative Appellate Court may be exercised and discharged by any of its members sitting singly or in Benches, as may be determined by the President.
- (5) Such Benches shall consist of two or more members.
- (6) Where a matter is heard by an odd number of members constituting a Bench the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members the opinion of the President shall prevail; and in other cases the matter shall be referred for hearing to the President, and shall be decided in accordance with his decision.
- (7) Subject to the previous sanction of the State Government, the Co-operative Appellate Court shall frame regulations consistent with the provisions of this Act and rules made there under, for regulating its procedure and the disposal of its business.
- (8) The regulation made under sub-section (7), shall be published in the Official Gazette.
- (9) The Co-operative Appellate Court may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Co-operative Appellate Court that any such decision or order should be modified, annulled or reversed, the Co-operative Appellate Court may pass such order thereon as it may deem just.
- (10) Where an appeal or application is made to the Co-operative Appellate Court under this Act, it may, in order to prevent the ends of justice being defeated, make such interlocutory order pending the decision of the appeal or application as the case may be, may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Co-operative Appellate Court.
- (11) An order passed in appeal, or in revision under sub-section (9), or in review under section 150 by the Co-operative Appellate Court shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.
- (12) (a) The President and other members of the Maharashtra State Co-operative Tribunal functioning immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, shall be deemed, respectively to be the President and other members of the Maharashtra State Co-operative Appellate Court constituted for the purpose of this Act; and all appeals and other proceedings pending before the said Tribunal shall be heard and disposed of by the said Court from the stage they reached before such commencement.

(b) Anything done or any action taken (including any orders passed or regulations made) by the said Tribunal, shall be deemed to have been done or taken by the said Court and shall continue in operation until duly modified or annulled.

(c) Any reference to the said Tribunal in any, law or instrument, for the time being in force, shall, with effect from the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, be construed as a reference to the said Court.

Explanation.--The Co-operative Appellate Court hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and Order XLI in the First Schedule of the Code of civil Procedure, 1908

150. Review of orders of Co-operative Appellate Court.—

- (1) The Co-operative Appellate Court may, either on the application of the Registrar, or on the application of any party interested, review its own order in any case, and pass in reference thereto such order as it thinks just:

Provided that, no such application made by the party interested shall be entertained, unless the Co-operative Appellate Court is satisfied that there has been the discovery of and important matter of evidence, which after the exercise of the diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error, apparent on the face of the record, or for any other sufficient reason.

Provided further that, no such order shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

- (2) An application for review under the foregoing sub-section by any party, shall be made within ninety days from date of the communication of the order of the Co-operative Appellate Court.

151. Co-operative Appellate Court to have power of Civil Court—

- (1) In exercising, the functions conferred on it by or under this Act, the Co-operative Appellate Court shall have the same powers as are vested in a Court in respect of,
 - (a) proof of facts by affidavit,
 - (b) summoning and enforcing the attendance of any person and examining him on oath,
 - (c) compelling discovery or the production of documents, and
 - (d) Issuing commissions for the examination of witnesses.
- (2) In the case of any such affidavit, any officer appointed by the Co-operative Appellate Court in this behalf may administer the oath to the deponent.

152. Appeals.—

- (1) An appeal against an order or decision under sections 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 21A, 29, 35, 77A, 78, 79, 85, 88 and 105 including against an order for paying compensation to a society shall lie,—
 - (a) If made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government.
 - (b) If made or sanctioned by any person other than the Registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred to the Registrar.
- (2) Where an appeal against any order or decision to the Cooperative Appellate Court has been provided under this Act, it shall lie to the Co-operative Appellate Court.
- (3) An appeal under sub-section (1) or (2) shall be filed within two months of the date of the communication of the order or decision.
- (4) Save as expressly provided, no appeal shall lie against any order, decision or award passed in accordance with the provisions of this Act; and every such order, decision or award shall, whether expressly provided or not, be final, but shall always be subject to the provisions for revision in this Act; and where an appeal has been provided for, any order passed on appeal shall likewise be final, but be subject to such revision provisions.

152-A. Appeal against rejection of nomination paper at election.-

- (1) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under a person aggrieved by the rejection of nomination of a candidate at the election of a committee of any society, other than a society specified by or under section 73G, may file an appeal to the Registrar within three days of the date of rejection of the nomination. The Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal

and the decision of the Registrar in appeal shall be final and no further appeal or revision shall lie against the decision of the Registrar in such appeal. In the case of a society specified by or under section 73G, an appeal shall lie to the Divisional Commissioner who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the Commissioner in appeal, shall be final and no further appeal or revision shall lie against the decision of the Divisional Commissioner in such appeal.

- (2) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under, the list of validly nominated candidates shall be subject to the decision of any appeal filed under sub-section (1), and the period between the date of scrutiny of nomination papers and the last date of the withdrawal of candidatures shall not be less than fifteen days.

153. Extension of period of limitation by appellate authority in certain cases.—

In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

154. Revisionary powers of State Government and Registrar—

- (1) The State Government or the Registrar, suo-motu or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings, if in any case, it appears to the State Government, or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.
- (2) Under this section, the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.
- (2-A) No application for revision shall be entertained against the recovery certificate issued by the Registrar under section 101 unless the applicant deposits with the concerned society, fifty percent, amount of the total amount of recoverable dues.
- (3) No application for revision shall be entertained, if made after two months of the date of communication of the decision or order. The revisional authority may entertain any such application made after such period, if the applicant satisfies it that he had sufficient cause for not making the application within such period.
- (4) The State Government may, by order, direct that the powers conferred on it by this section shall, in such circumstances and under such conditions if any, as may be specified in the direction, be exercised also by an officer of the rank of Secretary to Government.

CHAPTER XIII-A

MAHARASHTRA STATE CO-OPERATIVE COUNCIL



154A. Constitution of State Co-operative Council, its functions, etc.—

- (1) There shall be a Council to be called the Maharashtra State Cooperative Council constituting of such member or members, including the Chairman and the Vice-Chairman, as the State Government may determine and nominate from time to time.
- (2) The State Government shall appoint a Secretary of the Council.
- (3) The functions of the Council constituted under sub-section (1) shall be as follows, namely :—
 - (a) to advise the State Government on all matters relating to cooperative movement;
 - (b) to review the co-operative movement and to suggest way of coordinating the activities of co-operative societies in the State
 - (c) to suggest ways and means to remove the difficulties experienced by the co-operative societies ;
 - (d) to report to the State Government on such matters as may be referred to it by the State Government;
 - (e) to recommend the plans and policies for the development of co-operative movement in the State ;
 - (f) to evaluate existing schemes and suggest new schemes for cooperative development especially for the development of backward classes and economically weaker section of the society ;
 - (g) to advise the State Government for the implementation of special scheme of economic development through co-operative methods ; and
 - (h) to undertake studies for any of the purposes aforesaid either through department of specified bodies.
- (4) The State Government may, by general or special order, provide for—
 - (a) the calling of the meetings of the Council and the procedure at such meetings,
 - (b) duties of the Secretary to the Council,
 - (c) sub-committee or committees of the Council
 - (d) The term of office of members of the Council and traveling and daily allowances admissible to the members of the Council.

CHAPTER XIV
MISCELLANEOUS



155. Recovery of sums due to Government—

- (1) Unless otherwise provided by this Act, all sums due from a society or from an officer or member and a past member or deceased member of a society as such to the Government, may be recovered according to the law and under the rules for the time in force or the recovery of arrears of land revenue.
- (2) Sums due from a society to the Government and recoverable under the foregoing sub-section may be recovered, firstly from the property of the society, secondly in the case of a society of which the liability of the members is limited, from the members or past members or the estate of deceased members subject to the limit of their liability, and, thirdly, in the case of societies with unlimited liability, from the members or past members or estate of deceased members.
- (3) The liability of past members or estate of deceased members shall in all cases be subject to the provisions of section 33.

156. Registrars powers to recover certain sums by attachment and sale of property.—

- (1) The Registrar or any officer subordinate to him and empowered by him in this behalf or an officer of such society as may be notified by the State Government, who is empowered by the Registrar in this behalf may, subject to such rules as may be made by the State Government, but without prejudice, to any other mode of recovery provided by or under this Act, recover—
 - (a) any amount due under a decree or order of a Civil Court obtained by a society;
 - (b) any amount due under a decision, award or order of the Registrar, Co-operative Court or Liquidator or Co-operative Appellate Court;
 - (c) any sum awarded by way of costs under this Act;
 - (d) any sum ordered to be paid under this Act as a contribution to the assets of the Society;
 - (e) any amount due under a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or under subsection (1) of section 137; together with interest, if any, due on such amount or sum and the costs of process according to the scales of fees laid down by the Registrar from time to time, by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.
- (2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section, or when passing any orders on any application made to him for such recovery, to be Civil Court for the purposes of Article 136 in the Schedule to the Indian Limitation Act, 1963.

157. Power to exempt societies from provisions of Act.—

The State Government may, by general or special order, exempt any society or class of societies from any of the provisions of this Act, or of the rules made there under, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order.

Provided that, no order to the prejudice of any society shall be passed without an opportunity being given to such society to represent its case

158. Delegation of Power of Registrar to certain authorities and officers –

The State Government may, by notification in the Official Gazette, and subject to such conditions (if any) as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal authority or to an officer thereof or any other authority or to any officer of the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and such authorities and officer of the Zilla Parishad shall work under the general guidance, superintendence and control of the Registrar specified in the notification.

159. Branches, etc. of societies outside the State.—

- (1) No society shall open a branch or a place of business outside the State of Maharashtra, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the State of Maharashtra, without the permission of the Registrar.
- (2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the Maharashtra State under the foregoing sub-section, or which has a branch or a place of business in the Maharashtra State at the commencement of this Act, shall, within three months from the opening of such branch or place of business or from the commencement of this Act, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these are not written in English language, a certified translation thereof in English or Hindi, and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State where such society is registered.

160. Handing over records and property to new Chairman on election.—

- (1) On the election of a new Committee and its Chairman, the retiring Chairman, in whose place the new Chairman is elected, shall hand over charge of the office of the Committee and all papers and property, if any, of the society in possession of the committee or any officer thereof, to the new Chairman of the Committee.
- (2) If the retiring Chairman fails or refuses to hand over charge, or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property.
- (3) If the retiring Chairman to whom direction has been issued as aforesaid, does not comply with such direction, he shall on conviction be punished with simple imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both; and the Registrar may, on the retiring Chairman's failure to comply with such direction, take order for seizing the records and property and handing it over to the new Chairman, in the manner provided in section 80.

160A. Members of State Legislature and certain local authorities not to be remunerated while holding certain offices in societies.—

Notwithstanding anything contained in this Act or the rules or by-laws made there under, a member of the State Legislature or of a committee under the Hyderabad District Municipalities Act, 1956, or a member of a Zilla Parishad or Panchayat Samiti under the Maharashtra Zilla Parishad and Panchayat Samitis Act 1961, while holding the office of chairman or members of the Committee of a society to which appointment is made by the State Government, or the office of liquidator or the office of nominee of the Registrar whether appointed individually or to aboard of nominees, shall not be entitled to receive any remuneration other than traveling allowance, the daily allowance or such other allowance which is paid to the holder of any such office for the purpose of meeting the personal expenditure incurred in attending the meeting of the committee or body, or in performing any other functions as the holder of such office.

160B. Members of committees not entitled to traveling allowance, daily allowance, etc., at a rate higher than maximum prescribed.—

Subject to the provisions of section 160A, no member of the committee of any society shall be entitled to receive from the society the traveling allowance, the daily allowance or such other allowances of fees which are paid to the members for attending meetings of its committee, or for performing any other functions as such members, at a rate higher than the maximum rate prescribed in this behalf and different maximum rates may be prescribed for different societies or class of societies or for different purposes.

161. Registrar and other officers to be public servants.—

The Registrar, a person exercising the powers of the Registrar, an officer as defined in clause (20) of section 2, or a person appointed as an Official Assignee under sub-section (2) of section 21 A, or as an Administrator under section 77A or 78, or a person authorised to seize books, records or funds of a society under sub-section (3) of section 80, or to audit the accounts of a society under section 81 or to hold an inquiry under section 83, or to make an inspection under section 84, or 89A or to make an order under section 88, or a person

appointed as a member constituting a Cooperative Court under section 91A or the Co-operative Appellate Court under section 149 or a Liquidator under section 103, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

162. Indemnity for acts done, in good faith.—

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority, in respect of anything in good faith done, or purported to be done by him by or under this Act.

163. Bar of jurisdiction of Courts.—

- (1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of—
 - (a) the registration of a society or its by-laws, or the amendments of its by-laws, or the dissolution of the committee of a society, or the management of the society on dissolution thereof; or
 - (b) any dispute required to be referred to the Co-operative Court, for decision;
 - (c) Any matter concerned with the winding up and dissolution of a society.
- (2) While a society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the society or any member thereof, or any matter touching the affairs of the society, except by leave of the Registrar, and subject to such terms as he may impose.
- (3) All orders, decisions or awards passed in accordance with this Act or the rules shall, subject to the provisions for appeal or revision in this Act be final; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits or upon any other ground whatsoever.

164. Notice necessary in suits.—

No suit shall be instituted against a society, or any of its officers, in respect of any act touching the business of the society, until the expiration of two months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

165. Rules.—

- (1) The State Government may, for the whole or any part of the State and for any society or class of societies, make rules for the conduct and regulation of the business of such society or class of societies, and for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may—
 - (i) subject to the provisions of section, prescribe the designation of officers who shall exercise powers vested in the Registrar;
 - (ii) Prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 8 and the procedure in the matter of such application;
 - (iii) Prescribe the matters in respect of which a society may make, or the Registrar may direct a society to make, bye-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;
 - (iv) Prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion, or reconstruction of society;

- (v) Prescribe the form of and procedure for an application under section 19 and the procedure for reconstruction of a society under that section;
- (v-a) Prescribe the conditions subject to which the Official Assignee shall realize the assets and liquidate the liabilities, under section 21-A(3);
- (v-b) Prescribe the manner of giving public notice and the remuneration and allowances to be paid to the Official Assignee, under section 21-A(1) and 21-A(4);
- (v-c) Prescribe the form of application, under section 23-(1A);
- (v-d) Prescribe the manner for entering into collaboration by any society or societies with any Government undertaking or any undertaking approved by Government for carrying on any business.
- (vi) Prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership.
- (vii) Prescribe in the case of a federal society or class of federal societies the proportion of individual members to society members in such society or class of societies and the proportion of individual members to society members in the committee of such society or class of societies;
- (viii) Subject to the provision of section 28, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- (ix) Prescribe the procedure for the admission of joint members, members of a joint Hindu undivided family, and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;
- (x) Provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members;
- (xi) Prescribe the conditions and procedure for the transfer of share or interest;
- (xii) Provide for the nomination of a person to whom the share or the interest of a deceased member may be paid or transferred;
- (xiii) Provide for ascertaining the value of a share or interest of a past member or deceased member;
- (xiv) Prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;
- (xv) Provide for the inspection of documents in the Registrars office and the levy of fee for granting certified copies of the same;
- (xvi) Provide for the procedure for registering the address of a society and the change of its address;
- (xvii) Provide for the formation and maintenance of a register of members, and where the liability of members is limited by shares, or register of shares and a list of members;
- (xviii) Provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;
- (xix) Provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;
- (xx) Prescribe the period for and terms upon which Government aid may be given to societies and terms under which the State Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies;
- (xxi) Regulate the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;

- (xxii) Prescribe the limits for loans to be granted by a society or class of societies against different class of securities or without security and the procedure for granting loans;
- (xxiii) Prescribe the manner of recalling a loan;
- (xxiv) Prescribe the limits for granting credit by a non-credit society or a class of non-credit societies;
- (xxv) Prescribe the prohibitions and restrictions subject to which societies may trade or transact business with persons who are not members;
- (xxvi) Prescribe the conditions on which any charge in favour of a society shall be satisfied and the extent to which and the order in which property to the charge shall be used in its satisfaction;
- (xxvii) Provide for giving reasonable notice of the charge under section 48;
- (xxviii) Prescribe the procedure by which a society shall calculate and write off bad debts;
- (xxix) The manner in which a society shall construct its annual financial statements and the other purposes for which a society may appropriate its net profits, under section 65;
- (xxx) Provide for the formation and maintenance of reserve fund, and the objects to which such fund may be applied and for the investment and use of any fund including reserve fund under the control of a society;
- (xxxi) Prescribe the conditions under which profits may be distributed as dividend and bonus among the members and non-members of a society;
- (xxxii) Prescribe the rate at which a society shall contribute towards the education fund of the State federal society under section 68
- (xxxii-a) Prescribe the rate or rates at which, and the manner in which, the societies (including other corporate bodies) shall contribute towards the Co-operative State Cadre Employment Fund under section 69A;
- (xxxiii) Define the co-operative purpose for which a society shall, under section 69, utilise its fund;
- (xxxiv) Prescribe the mode of investment of funds of a society under section 70 and the proportion of investment in any security or class of securities;
- (xxxv) Provide for the payment of contribution to any provident fund which may be established by a society for the benefit of officers and servants employed by it and for the administration of such provident fund;
- (xxxv-a) Prescribe the procedure for the election to notified societies, Under section 73-IC(1);
- (xxxv-b) Prescribe the manner of recovery of the expenses of holding elections to notified Societies by the Registrar, under sub-section 73-IC(2);
- (xxxv-c) Prescribe the requisition form and the manner in which the motion of no-confidence Can be brought under section 73-ID;
- (xxxv-d) Prescribe the manner to fill in the seat reserved for the employees by selection, or by Election by employees under section 73-BB (1);
- (xxxv-e) Prescribe the body of persons for selection of persons on a panel for appointment, Under section 74(2),
- (xxxvi) Prescribe the procedure and conditions for the exercise by a federal society of the powers conferred by this Act;
- (xxxvii) Provide for general meetings of the members, for the procedure at such meetings and the powers to be exercised by such meetings;
- (xxxviii) Prescribe the conditions in which a member of a society may be disqualified from voting;
- (xxxix) Provide for the removal and appointment of the committee or its members and other officers and for the appointment of administrator under section 78 and prescribe

procedure at meeting of the committee and for the powers to be exercised and the duties to be performed by the committee, administrator and other officers;

- (xl) Prescribe qualifications for members of the committee and employees of a society or class of societies duties to be performed by, and several and joint liabilities therefore, of such members and the conditions of service subject to which person may be employed by societies;
- (xl-a) Prescribe the amount and nature of the security to be furnished by any officers or employees of any society or class of societies, who are required to handle cash, securities or property belonging to the society, the maximum amount of cash which may be handled or kept at a time by any officer or employee, and the amount, in excess of which, all payments shall be made by or on behalf of the society by means of a Cheque.
- (xli) Prescribe the returns to be submitted by a society to the Registrar and provide for the person by whom and the form in which such returns shall be submitted;
- (xlii) Provide for the persons by whom and the form in which copies of documents and entries in books of societies may be certified and the charges to be levied for the supply of copies thereof;
- (xlili) Provide for the procedure to be adopted by the Registrar in the cases where the taking of possession of books, documents, securities, cash and other properties of a society or of a society the affairs of which have been ordered to be wound up, by the Registrar or by a person entitled to the same is resisted or obstructed;
- (xliv) Provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 81, 83 and 84 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tampered with or destroyed or removed.
- (xlv) Prescribe the accounts and books to be kept by a society or class of societies;
- (xlvi) Prescribe the procedure for conduction an audit, the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of society, the form of audit memorandum and report and the charges, if any, to be paid by a society for audit;
- (xlvii) Prescribe the procedure for appointment of auditors under section 81;
- (xlviii) Prescribe the form for the rectification of defects discovered in the course of audit, inspection or inquiry;
- (xlix) Prescribe the procedure and principles for the conduct of inquiry under section 83 and inspection under section 84;
- (l) Prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 88 and for recovery of cost and damages;
- (li) Prescribe the manner in which appointment shall be made and control exercised by, and the number of persons comprising, and functions to be performed by, the authority constituted under section 90, the manner of election and nomination of such persons, the fees to be paid to such authority and the manner of such payment and the procedure for and the method of calculating any cost, charges or expenses required to be levied under this Act or the rules;
- (lii) Prescribe the qualifications of the members constituting the Co-operative Courts, provide for the terms and conditions of their appointment, prescribe the procedure to be followed in proceedings, before the Co-operative Courts for fixing, levying and collecting appropriate fees and expenses for determining the disputes (including expenses incurred by the parties to the proceedings), having regard to the services rendered or to be rendered or any expenditure incurred or likely to be incurred for the

machinery set up therefore, provide for delegation of the power of fixing the scale of any such fees and expenses to the Registrar, (and all such fees and expenses being applicable to any disputes and other proceedings which may be pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, or which may be referred to or instituted thereafter), provide for the mode of payment of these fees and expenses whether in the form of court-fee stamps, in cash or in any other manner; and provide, for enforcing the decisions, awards or orders in such proceedings;

- (liii) Prescribe the form in which a dispute shall be referred to the Court;
- (liv) Provide for, the issue and service of processes and for providing of service thereof;
- (lv) Provide for the investigation of claims and objections that may be preferred against any attachment effected under section 95;
- (lvi) Prescribe the procedure for and the method of recovery of any sums due under this Act or the rules;
- (lvii) Prescribe the procedure to be followed for the custody of property attached under section 95 ;
- (lviii) Prescribe the procedure to be followed in the execution of awards;
- (lix) Prescribe die manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by a society under section 100;
- (lx) Prescribe the procedure for attachment and sale of property for the realisation of any security given by a person in the course of execution proceedings;
- (lxi) Prescribe the procedure and conditions for the exercise of the powers conferred under section 105 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets;
- (lxii) Prescribe the matters in which an appeal shall lie from the order of Liquidator appointed under section 103;
- (lxiii) Prescribe the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which Chapter XI is applicable;
- (lxiv) Prescribe the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XI is applicable.
- (lxv) Prescribe the qualifications and methods of appointment of an officer to effect sale under section 133 and the powers and functions which such an officer may exercise;
- (lxvi) Prescribe for the appointment of a receiver of the produce and income of the mortgaged property for sale under section 133, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive.
- (lxvii) Prescribe the circumstances in which action may be taken by an Agricultural and Rural Development Bank against a mortgagor under section 133(2):
- (lxviii) Prescribe, in the case of sale of immovable property under Chapter XI-
 - (a) the procedure for proclamation and conduct of the sale and the conditions which an attempt of sale may be abandoned;
 - (b) the method of calculating the expenses incidental to the sale or attempted sale;
 - (c) the procedure for the receipt of deposit and disposal of the proceeds of sale;
 - (d) the procedure for a resale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money;

- (e) The form and method of disposal of money by an Agricultural and Rural Development Bank under section. 135.
- (f) the form of sale certificate under section 136;
- (g) the procedure for the delivery by the court of the property purchased to the purchaser under section 136;
- (h) the form of the notice referred to in section 143; and
- (i) the fee payable for the service of such notices and the manner of serving such notices on, and of the transmitting landlords fee to, the landlord named in such notices;
- (lix) prescribe the time within which and the procedure according to which property purchased by an Agriculture and Rural Development Bank at a sale of immovable property under Chapter XI shall be disposed by the bank;
- (lxx) Prescribe the procedure to be followed in presenting and disposing of appeals;
- (lxxi) prescribe the qualifications and the period of office of members of the Co-operative Appellate Court;
- (lxxii) prescribe hi the case of appeals lying to the State Government the authority to which power of hearing appeal may be delegated;
- (lxxiii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules;
- (lxxiv) provide that the contravention of any of the rules shall be an offence under the Act;
- (lxxv) Provide for all other matters expressly required or allowed by this Act, to be prescribed by rules.
- (3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
- (4) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

166. Repeal, saving and construction.—

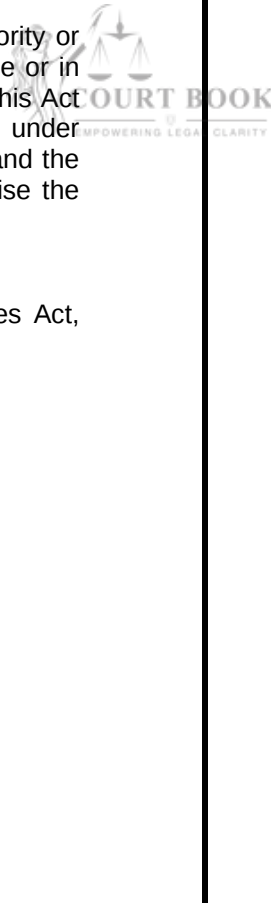
- (1) The Bombay Cooperative Societies Act, 1925, in its application to the State of Maharashtra is hereby repealed :

Provided that, the repeal shall not affect the previous operation of the Act so repealed and anything done or action taken or deemed to have been done or taken (including any appointment or delegation made, application or other document filed, certificate of registration granted, agreements executed, notification, order, direction or notice issued, regulation, form or bye-law framed, rule made or deemed to be made or proceedings instituted before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person) by or under the provisions of that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act,
- (2) Accordingly, all societies registered or deemed to be registered under the Act repealed the registration of which is in force at the commencement of his Act, shall on such commencement be deemed to be registered under this Act; and all proceedings pending immediately before such commencement before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person under the provisions of the repealed. Act shall stand transferred, where necessary, to the Registrar, arbitrator, liquidator or tribunal or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if officer, authority or person as the State Government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

- (3) Any reference to the Act repealed or to any provisions thereof or to any officer, authority, or person entrusted with any functions there under, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this Act or its relevant provisions or the corresponding officer, authority or person functioning under this Act and the corresponding officer, authority or person as the case may be, shall have the exercise the functions under the repealed Act or under the instrument or document.

167. Companies Act not to apply.—

For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956, shall not apply to societies registered or deemed to be registered; under this Act.



THE MAHARASHTRA CO-OPERATIVE SOCIETIES RULES, 1961



In exercise of the powers conferred by sub-sections (1) and (2) of Section 165 of the Maharashtra Co-operative Societies Act, 1960 (MAH.XXIV of 1961), the Government of Maharashtra hereby, after previous publication as required by sub-section (3) of that section read with Section 22 of the Bombay General Clauses Act, 1904 (BOM.1 of 1904), makes the following Rules, namely :-

CHAPTER I

PRELIMINARY

1. Short title and extent.—

- (1) These rules may be called the Maharashtra Co-operative Societies Rules, 1961.
- (2) They extend to the whole of the State of Maharashtra.

2. Definitions.—

In these rules, unless the context otherwise requires,—

- (a) "Act" means the Maharashtra Co-operative Societies Act, 1960;
- (b) "Apex co-operative bank means a federal co-operative bank having jurisdiction over the whole of the Maharashtra State and recognized as such by the State Government for the purpose;
- (c) "Co-operative year" means the year ending on the 30th day of June or in the case of any society or class of societies, the accounts of which are with the previous sanction of the Registrar, balanced on any other day, the year ending on such day;
- (d) "decree" means any decree of a Civil Court, and includes any order, decision or award referred to in sub-section (1) section 156;
- (e) "decree holder" means any person holding a decree;
- (f) "form" means a form appended to these rules;
- (g) "Record of Rights" means;
 - (i) as respects the Bombay area of the State, the record of rights maintained under the Bombay Land Revenue Code, 1879;
 - (ii) as respects the Vidarbha region of the State, the record of rights maintained under the Madhya Pradesh Land Revenue Code, 1954;
 - (iii) as respects the Hyderabad area of the State, the Settlement register maintained under section 86 of the Hyderabad Land revenue Act, 1317-F
- (h) "Recovery officer" means any person empowered to exercise, in any district, the powers of the Registrar under section 156.
- (i) "registered society " means society registered or deemed to be registered under the Act;
- (j) "sale officer" means an officer empowered by the Registrar, by general or special order to attach and sell the property of defaulters or to execute any decree by attachment and sale of property;
- (k) "section" means a section of the Act,

CHAPTER II REGISTRATION



(3) Clause (3) Deleted

4. (1) Application for Registration and Registration fee.—

(1) Every application for registration of a society under section 8 shall be made in Form A in Marathi, Hindi or English, and shall, subject to the provisions of sub-section (2) of section 8 and sub-rules (2) and (3), be signed by the applicants and shall, in addition to four copies of the proposed bye-laws of the society, be accompanied by-

- (a) a list of persons who have contributed to the share capital, together with the amount contributed by each of them, and the entrance fee paid by them;
- (b) a certificate from the Bank or Banks stating the credit balance therein in favour of the proposed society;
- (c) a scheme showing the details explaining how the working of the society will be economically sound and where the scheme envisages the holding of immovable property by the society, the description of such property proposed to be purchased, acquired or transferred to the society;
- (d) such other documents as may be specified in the model bye-laws, if any, framed by the Registrar;
- (e) the registration fees at the following rates, namely :-

			Rs.
(i)	Agricultural Societies	(a)	Marketing Societies 1250
		(b)	Other Agricultural Societies 150
(ii)	Crop Protection		250
(iii)	Lift Irrigation societies		250
(iv)	Consumers societies	(a)	Canteens 500
		(b)	Primary Consumer Stores in
		(i)	Rural Area 150
		(ii)	Urban area 250
		(c)	Wholesale consumer stores 2500
		(d)	Departmental Consumer Stores 1600
(v)	Co-operative Banks	(a)	Central Bank 5000
		(b)	Other Banks (excluding Salary Earners Co-operative Societies 2500
(c)	Salary Earners Co-operative Societies		500
(vi)	Farming societies	(a)	Collective-Farming Societies 150
		(b)	Joint Farming Societies 150
		(c)	Dairy Farming Societies 150
(vii)	Housing Societies	(a)	Tenant ownership Housing societies 2500
	Excluding societies		
	Of Backward Class	(b)	Tenant Co-partnership Housing societies 2500
	Person)	(c)	Other housing societies 2500
(viii)	Housing societies of backward class person		50
(ix)	Processing societies	(a)	Agricultural Processing Societies (excluding sugar Factories and spinning mills) 1250
		(b)	Industrial processing societies 500
(x)	Co-operative sugar factories		25000
(xi)	Co-operative spinning mills		15000
(xii)	producers societies	(a)	industrial producers societies 150

(xiii)	Resource Societies	(a)	Credit Resource Societies (Excluding salary earners soc)	150
		(i)	Agriculture	150
		(ii)	Urban credit societies	250
		(b)	Non-credit resource societies	150
		(c)	Service resource societies	150
(xiv)	General societies	(a)	Social	250
		(b)	Commercial	1250
(xv)	Societies not falling under any of the above entries			500



- (2) Where any member of a society to be registered is a registered society, a member of the committee of such registered society shall be authorized by that committee by a resolution to sign the application for registration and bye-laws on its behalf and a copy of such resolution shall be appended to the application.
- (3) Where any member of society to be registered is a firm, company, other co-operative body society registered under the Societies Registration Act, 1860, or local authority or public trust registered under any law for the time being in force for the registration of such trust then firm, company, corporate body, society, local authority or public trust as the case may be shall duly authorize any person to sign the application for registration and the bye-laws on its behalf, and a copy of the resolution giving such authority shall be appended to the application.
- (4) The application shall be sent to the Registrar by registered post or delivery by hand.

5. Registration -

- (1) On receipt of an application under Rule 4 the Registrar shall enter particulars of the application in the register of applications to be maintained in Form B give a serial number to the application and issue a receipt in acknowledgment thereof.
- (2) The Registrar may give wherever necessary opportunity to the promoters to modify the proposed bye-laws before finally registering the society or rejecting the application for registration of the society.
- (3) On registering a society and its bye-laws under sub-section (1) of section 9 the Registrar shall as soon as may be, notify the registration of the society in the Official Gazette and grant to the society a certificate of registration signed by him and bearing his official seal and containing the Registration number of the society, and the date of its registration. The Registrar shall also furnish the society with a certified copy of the bye-laws approved and registered by him.

6. Form of report under section 9(2).—

The report to be made by the Registrar to the State Government under sub-section (2) of Section 9 shall be in Form C.

7. Refusal of Registration.—

Where any society does not furnish the information in regard to the society as required by the Registrar or fulfill any of the conditions laid down in the Act or these Rules, the Registrar may refuse to register that society.

8. Matters in respect of which Registrar may direct society to make bye-laws or society may make bye-laws.—

- (1) The Registrar may require a society to make bye-laws in respect of all or any of the following matters; mat is to say—
 - (a) The name of the society and address of the society and its branches;
 - (b) the area of operation;
 - (c) the objects of the society;
 - (d) the manner in which and the limit up to which the funds of the society may be raised, the maximum share capital which any one member may hold and the purpose to which the funds would be made applicable;
 - (e) the terms and qualifications for admission to membership;

- (f) the privileges, rights, duties and liabilities of members including nominal, associate and sympathizer members;
- (g) the consequences of default in payment of any sum due by a member;
- (h) conditions regarding sale or disposal of produce of members wherever applicable;
- (i) in the case of credit societies-
 - (i) the maximum loan admissible to members
 - (ii) the maximum rate of interest on loans to member;
 - (iii) the conditions on which to lands may be granted to members and penalties for misapplication of loans so advanced;
 - (iv) the procedure for granting extension of time for the repayment of loans and advances;
 - (v) the consequences of default in payment of any sum due;
 - (vi) the circumstances under which a loan may be recalled;
- (j) in the case of non-credit societies, the mode of conducting business such as manufacture, purchase, sale, stock taking and other like matters;
- (k) in the case of a composite society, that is to say, society having both credit and non-credit functions, matters referred to in clauses (i) and (j);
- (l) the mode of holding meetings of the general body and of the committee;
- (m) the procedure for expulsion of members;
- (n) the manner of making, altering, abrogating bye-laws;
- (o) the mode of appointment either by election or otherwise and removal of members of the committee and other officer, if any, their duties and powers;
- (p) the Chairman s powers, duties and functions and his removal on his losing support of the majority;
- (q) the method of recruitment, the conditions of service and the authority competent to fix, revise or regulate the scale of pay and allowances of salaried officers and servants of the society and the procedure to be followed in the disposal of disciplinary cases against them;
- (r) the mode of custody and investment of funds and mode of keeping the accounts and records;
- (s) the disposal of net profits;
- (t) the manner in which penalty should be levied on a member who is found to be guilty of breach of bye-laws;
- (u) appointment of a provisional committee where necessary;
- (v) the mode of appointment and removal of committee and its powers and duties;
- (w) the mode of convening annual and special general meetings, issue of notices, and the business which may be transacted thereat;
- (x) in the event of winding up of the society, the purpose for which surplus assets, if any, shall be utilised;
- (y) the conduct of elections to the committee and other bodies of the society as provided in the bye-laws, including the number of members to be elected by different constituencies and appointment of Returning Officer;
- (z) Any other matters incidental to the management of its business.

(2) A society may make bye-laws for all or any of the following matters, that is to say—

- (a) The circumstances under which withdrawal from membership may be permitted;
- (b) The procedure to be followed in cases of withdrawal, ineligibility and death of members;
- (c) The conditions, if any, under which the transfer of share or interest of a member may be permitted;
- (d) The method of appropriating payments made by members from whom moneys are due;
- (e) The authorization of an officer or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society;
- (f) The constitution and maintenance of various funds as required to be maintained under the provisions of the Act, rules and bye-laws;
- (g) Constitution of representative body consisting of delegates of members of the society and the mode of election of such delegates to exercise the powers of the general body of members and to specify the powers which may be exercised by such smaller body.

9. First bye-laws of society.—

When a society has been registered the bye-laws of the society as approved and registered by the Registrar shall be the bye-laws of the society.

10. Classification and sub-classification of societies.—

- (1) After registration of a society, the Registrar shall classify the society into one or other of the following classes and sub-classes of societies prescribed below according to the principal object provided in the bye-laws –

Class	Sub-class	Examples of societies falling in the class of sub-class, as the case may be.
1	2	3
1 Agriculture society	(a) Marketing Society	All purchase and sale Union and Marketing societies of Agricultural Product.
	(b) Other Agricultural Societies	Dairy and cattle Breeding Societies.
1A Crop protection society		
1B Lift Irrigation society		
2 Consumers society		Stores and canteens
3 Co-operative Bank	(a) Central Bank	District Central Banks
3A		Land Development Banks having in their bye-laws to Advance loans to Co-operative Societies.
4 Farming Society	(a) Collective Farming Society	Farming societies where major Area of lands is acquired from Outside agency for cultivation By members.
	(b) Joint Farming Society	Societies where the major area of land brought together for cultivation is held by members.
	(c) Dairy Farming Society	Farming Societies undertaking Dairy activities compliantly to their able farming activities or vice versa.
5 Housing society	(a) Tenant Ownership Housing Housing Society.	Housing Societies where land is Held either on lease hold or free-Hold basis by societies and houses are owned or are to be owned by members
	(b) Tenant Co-partnership Housing Society.	Housing societies which hold Both land and building either on Lease hold or free-hold basis And allot them to their members.
	(c) Other Housing Society	Housing Mortgage societies and House Construction societies.
6 Processing Societies	(a) Agricultural Processing Society.	Societies which process agricultural produce like Co-operative Sugar Factories and Oil Mills.
	(b) Industrial Processing Society	Wool processing and Tanners Societies.

7 Producers Society.	(a) Industrial Producers Society (b) Laborers Industrial Society	Weavers and carpenters soc. Forest Laborers Societies and Labour Contract Societies.
8 Resource Society	(a) Credit Resource society. (b) Non-Credit Resource Soc. (c) Service Resource Societies	Agricultural Credit thrift, Urban Credit and Salary earners Soc. Seeds and implements and Agricultural Requisites Societies.
9 General Society	(a) Social (b) Commercial (c) Other	Service Co-operative and Multi- Purpose Co-operative societies. Better Living Societies and Education societies. Insurance and Motor Transport Societies. Not falling in either of the above Sub-classes.

- (2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue to the society a copy of his order as in the case of an amendment of the bye-laws.

11. Maintenance of register.—

- (1) The register to be maintained by the Registrar under sub-section (4) of Section 9 shall be in Form D.
- (2) The Registrar shall divide the register into parts, one for each district in the State. A society shall be registered in that part for a district in which its head office is situated.
- (3) The Registrar shall assign for each district and each class or sub-class of societies, a code symbol, for giving registration numbers to the societies and the societies shall be registered from the dates specified by him.

12. Amendment of bye-laws.—

- (1) Subject to the provisions of this rule, bye-laws of a society may be amended by passing a resolution at a general meeting of the society held for that purpose.
- (2) The society shall give due notice in accordance with its bye-laws to all the members for considering any amendment thereof.
- (3) An amendment shall be deemed to have been duly passed, if a resolution in that behalf is passed in a general meeting by not less than two-thirds of the members present thereat, and voting.
- (4) After the resolution is passed, a copy thereof shall, within a period of two months from the date of the meeting at which the resolution was passed be furnished to the Registrar along with-
 - (a) A copy of the relevant bye-laws in force with amendments proposed to be made in pursuance of the resolution, together with reasons justifying such amendments;
 - (b) four copies of the text of the bye-laws as it would stand after amendment, signed by the officers duly authorised in this behalf by the committee of the society;
 - (c) a copy of the notice given to the members of the society of the proposal to amend the bye-laws;
 - (d) Such other information as may be required by the Registrar.

On receipt of a copy of the resolution and other particulars referred to in sub-rule (4), the Registrar shall examine the amendment proposed by the society and if he is satisfied that the amendment is not contrary to the Act or the Rules and is in the interest of the society and co-operative movements, he may register the amendment and issue to the society a copy of the amendment certified by him under sub-section (2) of Section 13. Where the Registrar is of opinion that proposed amendment may be accepted subject to any modification, he may indicate to the society such modification after explaining in writing reasons therefore.

13. Manner of calling upon society to make amendment to bye-laws—

- (1) Subject to the provisions of this rule, the Registrar may by serving a notice in Form E call upon a society to make such amendment to the bye-laws of the society as he considers to be necessary or desirable in its interest, within a period not exceeding two months from the date of service of notice. The notice shall state the exact amendment which the society should make.
- (2) For the purposes of sub-section (2) of Section 14, the Registrar shall send a copy of the notice to the State Federal Society duly notified under that subsection with a request to offer its comments on the amendment within such time as may be specified by him. If the State Federal Society fails to offer its comments within the specified time, it may be presumed by the Registrar that the said society has no objection to the amendment.
- (3) If after considering the comments of the State Federal Society, if any, the Registrar considers that there is no objection to registering the amendment, he shall send a written notice in Form F by registered post to the registered address of the society calling upon it to show cause in writing or through a properly authorised representative to appear before the Registrar on the date specified in the notice, as to why the proposed amendment should not be registered within the same specified in the notice in Form E.
- (4) After the expiry of the period specified in the notice in Form E and after considering the reply, if any, of the society and the views, if any, of the State federal society on such reply, the Registrar may, after duly considering the objections of the society (if any) to the proposed amendment, register the amendment.

14. Change in name of society.—

- (1) The name of a society may be changed under Section 15 so however that it does not refer to any caste or religious denomination and is not inconsistent with the objects of society.
- (2) Every change in the name of a society shall be made by an amendment of its bye-laws and shall be notified in the Official Gazette,
- (3) After the change in the name is approved by the Registrar, the society shall send the original registration certificate for amendment to the Registrar, who shall return the same to the society duly amended.
- (4) The registrar shall enter the new name in the register of societies maintained by him.

15. Change of liability.—

- (1) The change of liability of a society from unlimited to limited, and vice versa or in terms of multiple of share capital, shall be secured by passing a resolution in that behalf at a general meeting of the society indicating in clear terms the manner of changing the liability. The society shall give thirty days notice in writing of such meeting to all its members and creditors and shall furnish them with copies of the resolution proposed to be moved at the meeting. After the resolution is duly moved and passed a copy thereof shall be sent to the Registrar within thirty days of its passing.
- (2) Every notice to be given by the society under sub-section (2) of section 16 shall be sent by post under certificate of posting or otherwise to the address of each of its members and creditors as recorded in the books of the society. A copy of such notice shall be exhibited on the notice-board of the society and a copy shall also be sent to the Registrar for exhibition on the notice-board in his office; and thereupon, notice of the resolution to change the form or extent of its liability shall be deemed to have been duly given to all members and creditors, notice not being sent to their correct address or notice not being received by them, notwithstanding.
- (3) For the purpose of determining the claims of a member under clause (b) of sub-section (4) of section 16 the value of a share of a member in a society shall be ascertained as follows:-
 - (a) In the case of a society with unlimited liability the value of a share shall be the actual amount received by the society in respect of such share.
 - (b) In the case of a society with limited liability, the value of a share shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet, provided that it shall not exceed the actual amount received by the society in respect of such share.
- (4) Any member or creditor desiring to exercise his option under sub-section (2) of section 16 shall inform the society accordingly in writing, and when he does not propose to withdraw his entire shares or deposits, the member or creditor shall clearly indicate in writing the extent of his withdrawal. The society shall examine and draw up a scheme for orderly payment of all claims in an equitable manner including shares, the value of which shall be ascertained in accordance with the provisions of sub-rule (3). The scheme may also provide for settlement of claims by mutual agreement. Where the Registrar does not approve the scheme on the ground of impracticability or undesirability, the resolutions passed by the society under sub-rule (1) shall be ineffective, and the form and extent of liability of a society shall not be deemed to be changed in accordance with resolution passed aforesaid.
- (5) After the Registrar approves the scheme, the society shall make payments to members and creditors as provided in clause (b) of sub-section (4) of section 16, make a report to that effect to the Registrar and furnish the Registrar with a proposal to amend the bye-laws of the society duly passed in that behalf. On receipt of the proposal, the Registrar shall register the amendment in accordance with the provisions of section 13.

16. Amalgamation, transfer of assets and liabilities division or conversion of Societies.-

- (1) Every society desiring to effect amalgamation, transfer of assets and liabilities, division or conversion shall make an application to the Registrar in that behalf, giving full details about such amalgamation, transfer, division or as the case may be, conversion.
- (2) On receipt of such application, the Registrar may, after examining the details furnished in the application and other particulars which he may call upon the society to furnish, give his approval to the amalgamation, transfer, division, or conversion, if he considers such amalgamation, transfer, division or conversion, as the case may be, to be in the interest of the society.
- (3) After the receipt of Registrars approval under sub-rule (2) the society shall convene a special general meeting by giving notice of at least 15 clear days to all its members and creditors and pass a resolution for amalgamation, transfer of assets and liabilities, division or conversion, as the case may be, by two-third majority of the members present and voting at the meeting. The resolution so passed shall contain the purpose and the full scheme indicating how the proposed amalgamation, transfer or division or conversion would be useful to the society and

be given effect to. Where the scheme does not involve transfer of liabilities of the society to another society a statement to that effect shall be made in the application to be made under sub-rule (1). Where the scheme involves transfer of liabilities of the society, the society shall give written notice in Form G to all its members, creditors and other persons whose interests are likely to be affected by such transfer. The notice shall also be published in at least one newspaper in circulation in the district in which the society's office is situated and copy thereof shall be exhibited on the notice-board in the society and Registrars office:

Provided that the State Government may in the case of any society, dispense with the giving of such notice, regard being had to the extent of liabilities, the financial position of the society and its members and other relevant factors pertaining to such society.

- (4) Within one month from the date of notice referred to in sub-rule (3), the members, creditors and other persons whose interests are likely to be effected by the transfer of the society's liabilities may exercise their option as required by clause (i) of the proviso to sub-section (1) of section 17 falling which they shall be deemed to have assented to the transfer of liabilities of the society to another society.
- (5) The Society shall meet in full or otherwise satisfy all claims of members and creditors and other interested persons who exercise the, option.
- (6) The society shall submit a report to the Registrar of the action taken by it and request him to give effect to its decision for amalgamation, transfer, division or conversion by registering the amalgamated or converted society or the new society as the case may be, and canceling the registration of the societies which have been amalgamated, divided or converted.
- (7) On receipt of the report from the society under sub-rule (6), the Registrar shall after satisfying himself that the procedure has been properly followed, register the amalgamated, divided or converted societies and cancel the registration of the societies which have been amalgamated, divided or converted.

17. Direction by Registrar for amalgamation, division and reorganization of societies.—

- (1) Before issuing any order under sub-section (1) of section 18 providing for the amalgamation, division or reorganization of any society or societies, the Registrar shall prepare a draft scheme in respect of such amalgamation, division or reorganization stating in particular the manner in which the new committee or committees of the society or societies resulting from such amalgamation, conversion or reorganization shall be constituted and the bye-laws which such society or societies shall follow. The Registrar shall then consult such federal society, as may be notified by the State Government in the Official Gazette, and after considering the suggestions, if any, that will be made by such federal society, shall send a copy of the draft of the order proposed to be issued by him under sub-section (1) of section 18, to the society or each of the societies concerned calling upon it or them to invite objections or suggestions from any member or class of members thereof or from any creditor or class of creditors and to submit such objections and suggestions together with its own or their own suggestions and objections within a period of not less than two months from the date on which the copy of the draft aforesaid was received by it or them.
- (2) The Registrar shall consider all such suggestions and objections and make such modifications in the draft order as may seem to him desirable in the light of those suggestions or objections and then issue a final order under sub-section (1) of section 18.
- (3) Any member or creditor of each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganization within the period specified in sub-rule (1), may apply to the Registrar for payment of his share or interest, if he be a member, and the amount in satisfaction of his dues, if he be a creditor. Such application shall be, separate and distinct from the objection or suggestion which he may have submitted to the society or the Registrar under clause (b) of sub-section (2) of section 18. It shall be competent for the Registrar to nominate an officer not below the rank of a Deputy Registrar to investigate such applications and to determine the payments required to be made to the members or creditors, as the case may be.

- (4) Subject to the provisions of the Act, the rule and the bye-laws, the Registrar may by order require the society concerned to meet in full or satisfy otherwise all due claims of the members and creditors and thereupon the society shall be bound to meet in full or satisfy otherwise all due claims of the members and creditors within such time as may be specified by the Registrar in the order.

18. Reconstruction of a society.—

- (1) An application for reconstruction of a society under section 19 may be made in Form H. On receipt of such application the Registrar may, taking into consideration the compromise or arrangement for reconstruction of the society, if he thinks fit, prepare a draft order indicating:—
- (i) the manner in which the amounts payable by the society to its creditors should be paid and the amounts recoverable from its debtor-members should be recovered,
 - (ii) the manner in which the share capital, if any, of such members should be reduced,
 - (iii) the manner in which the scheme of reconstruction should be implemented, and
 - (iv) The manner in which the bye-laws of the society will stand amended in order to give effect to the scheme of reconstruction.

A copy of the draft order shall be exhibited on the notice-board of the society and a copy thereof shall be exhibited on the notice-board of the Registrar's office inviting objections and suggestions from all those interested within a specified time, which shall not exceed one month.

- (2) After taking into consideration the objections and suggestions (if any) received, the Registrar may issue an order approving such reconstruction or staying further proceedings in respect of such reconstruction. On issue of an order approving the reconstruction, the society shall stand reconstructed and the bye-laws of the society shall be modified to that effect and to that extent.

18. A. Conditions for realizing the assets of the de-registered society by the Official Assignee.—

- (1) The Official Assignee shall work under the general control, superintendence and directions of the Registrar.
- (2) He shall have the following powers for the purposes of realizing the assets and for liquidating the liabilities of society which is de-registered under the provisions of sub-section (1) of section 21 A, namely:—
- (a) he shall have powers to institute and defend any suit and other legal proceedings, civil and criminal, on behalf of the de-registered society in the name of his office;
 - (b) to carry on the business of the society, so far as may be necessary for the beneficial completion of the de-registration proceedings,
 - (c) to sell such immovable property and actionable claims of the de-registered society generally by public auction or in exceptional cases by private contract, with prior approval of the Registrar,
 - (d) to investigate all the claims against the de-registered society and subject to the provisions of the Act, to decide questions of priority arising out of such claims and to pay any class or classes of creditors in full or retable according to the amount of such debts. However, the Official Assignee shall pay all the liabilities in the following priority, namely :-
 - (i) his salaries, remuneration, allowances and other claims;
 - (ii) wages and other payments to be made to the employees of the de-registered society including arrears;
 - (iii) expenses required for beneficial completion of de-registration proceedings;

- (iv) taxes, charges, tees and revenues etc., payable under any other law for the time being in force and such other dues which are recoverable as arrears of land revenue;
 - (v) any dues payable under the decree of any Court;
 - (vi) deposits;
 - (vii) loans payable to Government of India;
 - (viii) loans payable to the State Government;
 - (ix) any other dues payable to the Government of India;
 - (x) any other dues payable to the State Government;
 - (xi) loans guaranteed by the Government of India;
 - (xii) loans guaranteed by the State Government;
 - (xiii) secured loans;
 - (xiv) unsecured loan;
 - (xv) shares of Government of India;
 - (xvi) shares of State Government;
 - (xvii) shares of any financial institution;
 - (xviii) shares of Co-operative Societies;
 - (xix) shares of other body corporate;
 - (xx) shares of members;
 - (e) to make any compromise or arrangement, with creditors or persons claiming to be the creditors of having or alleging themselves to have any claims, present or future, whereby he may be rendered liable;
 - (f) to compromise all calls, or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist between him and apprehending liability to him and all questions in any way relating to or affecting the assets of de-registration proceedings on such terms as may be agreed, and to take any security for the discharge of any such calls, liability, debt or claim and give a complete discharge in respect thereof;
 - (g) to determine from time to time, after giving an opportunity to answer the claims, the contribution to be made, or remaining to be made by the members or past members of the de-registered society or by the estates, nominees, heirs or legal representatives of the deceased members of de-registered society, or by the officer, post officer of the estate or nominee, heirs or legal representatives of deceased officer to the assets of de-registered society, such contribution being inclusive of debts and dues from such members or officers of the de-registered society;
 - (h) to determine from whom and in what proportions the cost of de-registration and that of the proceedings of de-registration shall be borne;
 - (i) to fix the time or times within which the creditors shall prove their debts and claims;
 - (j) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to the society de-registered which have vested in him but are in the possession of any person or body corporate by same means and in the same manner as provided in the case of civil case under the Code of Civil Procedure, 1908;
 - (k) to do all acts and to execute in his name on behalf of the society de-registered all deeds, receipts and other documents as may be necessary for finalization of proceedings of de-registration.
- (3) Immediately on his appointment, the Official Assignee shall proceed to realize the assets of the society de-registered by sale or otherwise and liquidate the liabilities.

- (4) The Official Assignee, during the tenure of office, present accounts of his receipts, not less than twice in each year to the Registrar. The Registrar shall cause the accounts to be audited in such manner as he thinks fit and for the purpose of audit, the Official Assignee, shall furnish to the Registrar with such accounts and information as he, or the person appointed by him, may require.
- (5) The Official Assignee shall on demand and on payment of such fee as he may determine, supply a copy of audited account to contributory.
- (6) The Official Assignee shall pay such fees as the Registrar may direct for the audit of accounts and books kept by him or by the society de-registered.
- (7) He shall be held liable for any irregularities which might be discovered in the course or as a result of audit or otherwise in respect of transaction subsequent to his taking over the charge of Official Assignee and may be proceeded against as if it were an act against which action should be taken under section 88:

Provided that, no such action shall be taken unless the irregularities have caused or likely to cause the loss, damage and have occurred due to gross negligence or an act of omission or commission in carrying out duties and functions assigned to him.
- (8) He shall, after settling assets and liabilities of the society de-registered as they stood on the date of his appointment, proceed to determine the contribution to be made or remaining to be made to the assets of the society de-registered by any person and the property of such person and call upon each of them by order, to pay the amount specified in such order as contribution and as cost of the proceedings after de-registration as determined under this rule after approval of the Registrar. Every such order shall be submitted for approval to the Registrar who may modify it or refer to it back to the Official Assignee for further enquiry or further action.
- (9) If the sum assessed against any person is not recovered, the Official Assignee may issue subsidiary order or orders against any other person or persons to the extent of the liability of each for the debts the society de-registered until the whole amount due from each person is recovered. The provision of foregoing rule shall mutatis mutandis apply to such order.
- (10) He shall submit the progress report and such other reports and statements to the Registrar, as the Registrar may require.
- (11) He may empower one or more persons by general or special order in writing to make collection and to grant valid receipts on his behalf.
- (12) He shall have power to call meetings of creditors and contributories and it shall be obligatory on all such persons to attend such meetings.
- (13) The Official Assignee may, at any time, be removed by the Registrar and he shall on such removal hand over all the property and documents to such persons as the Registrar may direct.
- (14) The Official Assignee shall exercise only those powers under the Act and these rules, as may be determined by the Registrar by general or specified order from time to time and in the manner and subject to the conditions he may impose.
- (15) He shall maintain such books and accounts as the Registrar may require him to keep.
- (16) He shall submit a final report to the Registrar. On acceptance of such report by the Registrar, the Official Assignee shall, within 30 days, arrange to transfer the entire surplus to the Registrar.
- (17) On the day of acceptance of final report of the Official Assignee by the Registrar, all the assets of the society de-registered, shall stand vested in the Registrar and the liabilities, if any, remained to have been liquidated, shall stand liquidated.

18. B. Purposes for investment of surplus by the Registrar.—

- (1) The Registrar shall dispose of the surplus vested in him under rule 18A in any manner, at his discretion for the following purposes, namely:
 - (i) any object of public utility, welfare activity, education, relief to poor, medical relief and for any other charitable purpose defined in section 2 of the Charitable Endowment Act, 1890;
 - (ii) any society registered with similar object which the society de-registered had.
- (2) After the Registrar accepts final report and the surplus is transferred to him, he may terminate the appointment of the Official Assignee, and from the date of such order the person appointed as Official Assignee shall cease to function.

18C. Manner of issue of public notice of the proceedings of de-registration of society.—

- (1) Where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records of the office of the Registrar, and in the opinion of the registrar it is not practicable to serve notice of hearing on each such individual member as contemplated under the proviso to sub-section (1) of section 21 A, a public notice of the proceedings of the de-registration of society shall be published in two local newspapers having wide circulation in that locality in which the registered office of the society proposed for de-registration instituted, and of which at least one shall be in the Marathi language. A copy of the said public notice shall be sent to the registered address of the society by registered post acknowledgment due together with the directives to display it in the office of the society. Such copy of the notice shall also be displayed in the office of the society. Such copy of the notice shall also be displayed on the notice-board in the office of the Registering Authority. If the notice sent by such registered post is returned undelivered, the notice shall be treated as having been duly served, but a copy of the said notice shall be displayed on the notice-board in the office of the society.
- (2) Such public notice shall contain amongst others, the following items, namely
 - (a) the reasons for initiating the proceedings for de-registration of the society;
 - (b) the date by which any aggrieved person may submit his written statements as to why the proposed action should not be taken;
 - (c) the date on which and the place where the Registrar shall give an opportunity of being heard to any aggrieved persons;
 - (d) The proposed action contemplated under the provisions of sub-section (2) and (3) of section 21 A.

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES



19. Condition to be complied with for admission for membership etc.-

No person shall be admitted as a member of a society unless;

- (i) he has applied in writing in the form laid down by the society or in the form specified by the Registrar, if any,
- (ii) his application is approved by the committee of the society in pursuance of the powers conferred on it in that behalf and subject to such resolution as the general body of members may in pursuance of the powers conferred on it in that behalf from time to time pass, and in the case of nominal, associate or sympathizer member, by an officer of the society authorised in that behalf by the committee;
- (iii) He has fulfilled all other conditions laid down in the Act, and the rules and the bye-laws.
- (iv) in case of firm, company or body corporate, society registered under the Societies Registration Act, 1860, a public trust registered under any law for the time being in force relating to registration of public trusts or a local authority, the application for membership is accompanied by a resolution authorizing it to apply for such membership

19. A Procedure for tendering application to the Registrar for membership under section 23(1A).-

- (1) Where a society has refused to accept the application for membership from eligible person, such person shall tender an application to the Registrar in Form H-I together with requisite share money and entrance fee
- (2) The Registrar, on receipt of such application, shall forward the same to the society concerned together with requisite share money and entrance fee within thirty days from the date of its receipt.
- (3) The Society shall take the decision and communicate the same to the applicant within sixty days from the date of receipt of such application as provided in sub-rule (2) and if no decision is communicated to the applicant within the said period of sixty days, the applicant shall be deemed to have been admitted as a member of such society.
- (4) In case the society refuses to admit the applicant as its member, it shall communicate the decision within the period of sixty days mentioned in sub-rule (3) with reasons therefore and refund the share money and entrance fee with such communication. If the society fails to refund the said amount, it shall be liable to pay interest at 15% per annum on the said amount from the date of such communication and the said amount if not paid, shall be recovered as an arrears of land revenue.

20. Procedure for admission of joint members and minors and persons of unsound mind inheriting the share or interest of deceased member.—

- (1) A society may admit joint members provided they make a declaration in writing that the person whose name stands first in the share certificate shall have the right to vote and all the liabilities will be borne jointly and severally by them as provided in the Act, Rules and Bye-laws.
- (2) In accordance with the procedure laid down in its bye-laws and these rules for admission of any member, a society may minors and persons of unsound mind inheriting share or interest of deceased members as its members through their legal representatives or guardians, respectively. The members so admitted will enjoy such rights and liabilities through such legal representatives or guardians as are laid down in the bye-laws of the society that are consistent with the Act and Rules.

21. Withdrawal of Membership.-

- (1) Subject to the provisions of the Act, the rules and the bye-laws of the society, a member may withdraw from the society after giving three months notice to the Secretary of the society of his intention to resign his membership of the society.
- (2) No resignation of a membership shall be accepted by the surety unless the member has paid in full, his duties, if any, to the society and has also cleared his liability, if any, as surety to any other member or otherwise.
- (3) The withdrawal from membership shall also be subject to such restrictions regarding the maximum amount of share capital that can be refunded in a year or as may have been provided for in the Act, this rules or bye-laws of the society.
- (4) Any member, whose resignation has been accepted by the society, or any heir or legal representative of deceased member, may demand refund of the share capital held by such member or deceased member and the society shall, subject to the provisions of sub-section (3) of section 29 and subject to the provisions of the bye-laws refund the amount within six months from the acceptance of the resignation or, as the case may be, the date of demand made by the heir or legal representative of the deceased member.
- (5) In all cases where share capital is to be refunded, valuation of the shares to be refunded shall be made in accordance with the provisions contained in rule 23.

22. Voting rights of individual members in a Federal Society.-

- (1) In the case of federal societies, the voting rights of individual members (which term shall include firm, company or body corporate, society registered under Societies Registration Act, 1860, State Government, local authority, and public trust registered under any law for the time being in force relating to registration of public trusts but shall not include a society may be regulated as follows:-
 - (a) immediately after the 30th June of every year and as soon as possible before the annual general meeting, individual members admitted to membership up to the 30th June of the preceding year (hereinafter referred to as "the relevant date"), shall elect delegates equal to one-fourth of the number of societies admitted to membership up to relevant date or one delegate for every twenty-five individual members (fraction being neglected) whichever is less. The delegates so elected will continue in office till their successors are elected after 30th June next week.
 - (b) Every society through its properly authorised representative and every delegate referred to in clause (a) above shall have one vote in the general meeting.
 - (c) The quorum for the meeting shall be one fifth of the total number of delegates and representatives of the societies or 25 whichever is less:

Provided that the delegates shall not at any time in the meeting exceed one-fourth of the number of representatives of the societies.
 - (d) The election of delegates shall be held in accordance with the provisions of the bye-laws.
 - (e) Any vacancy of a delegate caused on account of cessation of membership shall be filled by the delegates by co-opting one of the individual members.
- (2) Unless, otherwise provided by the Registrar in respect: of any particular society, the delegates on the committee or the Board of Directors, as the case may be, shall not at any time exceed one third of the number of representatives of societies (fraction being neglected).

23. Valuation of Shares.—

- (1) Where a member of society ceases to be a member thereof, the sum representing the value of his share or interest in the share capital of the society to be paid to him or his nominee, heir, or legal representative, as the case may be, shall be ascertained in the following manner namely:-

- (i) in the case of a society with unlimited liability, it shall be the actual amount received by the Society in respect of such share or interest;
- (ii) In the case of a society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet preceding the cessation of membership:

Provided that the amount so ascertained shall not exceed the actual amount received by the society in respect of such share or interest

- (2) Where a person is allotted a share by a society, the payment required to be made therefore shall not exceed the face value of the share notwithstanding anything contained in the bye-laws of the society.
- (3) When a share is transferred by a member to another member duly admitted as a member of a society, the transferee shall not be required to pay anything in excess of the value of the share determined in accordance with sub-rule (1).

24. Procedure for transfer of shares.—

- (1) No transfer of share shall be effective unless,-
 - (a) it is made in accordance with the provisions of the bye-laws;
 - (b) a clear fifteen days notice in writing is given to the society indicating therein the name of the proposed transferee, his consent, his application for membership, where necessary, and the value proposed to be paid by the transferee;
 - (c) All liabilities of the transferor due to the society are discharged; and
 - (d) The transfer is registered in the books of the society.
- (2) Any charge in favour of the society on the share so transferred will continue unless discharged otherwise.

25. Nomination of persons.-

- (1) For the purpose of transfer of his share or interest under sub-section (1) of section 30, a member of a society may, by a document signed by him or by making a statement in any book kept for the purpose by the society nominate any person or persons. Where the nomination is made by a document, such document shall be deposited with the society during the members life time and where the nomination is made by a statement, such statement shall be signed by the member and attested by one witness.
- (2) The nomination made under sub-rule (1) may be revoked or varied by any other nomination made in accordance with that sub-rule.
- (3) (i) Where a member of a society has not made any nomination, the society shall on the member's death, by a public notice exhibited at the office of the society, invite claims or objections for the proposed transfer of the share or interest of the deceased within the time specified in the notice.
 (ii) After making into consideration the claim or objections received in reply to the notice or otherwise, and after making such inquiries as the committee considers proper in the circumstances prevailing, the committee shall decide as to the person who in its opinion is the heir or the legal representative of the deceased member and proceed to take action under section 30.

26. Registration of nominations.—

The name and address of every person nominated for the purposes of sub-section (1) of section 30 and any revocation or variation of such nomination shall be entered in the register kept under rule 32.

27. Supply of copies of documents by societies and fees therefore.—

- (1) A member of a society requiring a copy of any of the documents mentioned in subsection (1), of section 32, may apply to the society for the same. Every such application shall be accompanied by a deposit of such amount as may be decided by the committee, for recovering the cost of preparing the copies according to the following scale, namely :-

For every 200 words or less

English 40 Paisa

Regional Language 50 paisa

On receipt of the deposit, the society shall issue a receipt for the same.

- (2) Where the copies are prepared, the amount due from the member according to the scale laid down in sub-rule (1), shall be retained by the society as copying fees and the surplus amount, if any, remaining out of the deposit shall be refunded to the member at the time of supplying copies. Where the amount deposited by the member is found to be insufficient to cover the copying fees, the member shall be called upon to pay the deficit before taking delivery of the copies.
- (3) The copies shall be certified and signed as true copies by any person duly authorised in this behalf by the committee or under the bye-laws of the society.

28. Expulsion of Members.—

Any member who has been persistently defaulting payment of his dues or has been failing to comply with the provisions of the bye-laws regarding sales of his produce through the society or, other matters in connection with his dealings with the society or who, in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interest or proper working of the society may in accordance with the provisions of sub-section (1) of section 35, be expelled from the society. Expulsion from membership may involve forfeiture of shares held by the member.

29. Procedure for Expulsion of Member.—

- (1) Where any member of a society proposes to bring resolution for expulsion of any other member he shall give a written notice thereof, to the Chairman of the society. On receipt of notice or when the committee itself decides to bring in such resolution, the consideration of such resolution shall be included in the agenda for the next general meeting and a notice thereof shall be given to the member against whom such resolution is proposed to be brought, calling upon him to be present at the general meeting to be held not earlier than a period of one month from the date of such notice and to show cause against expulsion to the general body of members. After hearing the member, if present, or after taking into consideration any written representation which he might have sent, the general body of members shall proceed to consider the resolution.
- (2) When a resolution passed in accordance with sub-rule (1) is sent to the Registrar or otherwise, brought to his notice, the Registrar may consider the resolution and after making such inquiries as he may deem fit, give his approval and communicate the same to the society and the member concerned. The resolution shall be effective from the date of such approval.

30. Inspection of documents in the Registrars office by members of societies and the scale of fees for supply of copies of documents.—

A member of a society or any member of the public may inspect the following documents in the office of the Registrar free of charge, and may obtain certified copies thereof, on payment of the following fees :-

Documents	Fees
(i) Application for Registration of a society	40 paisa for every 200 words of/less in English and 50 paisa for every 200 words or less in Marathi
(ii) Certificate of registration	do
(iii) Bye-laws of societies..	do
(iv) Amendment of bye-laws of a society..	do
(v) Order of cancellation of the registration of a society	do
(vi) Audit memorandum of a society	do
(vii) Annual balance sheet	do
(viii) Order under section 88	do
(ix) Order of super session of a committee or removal of any Member thereof..	do
(x) Order referring a dispute for decision	do
(xi) Any other order against which an appeal is provided.	do

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES



31. Procedure for change of address of societies.—

- (1) Every society shall communicate in writing to the Registrar its postal address as indicated in its bye-laws registered under the Act and wherever applicable mention the name of the district, Taluka, Tahsil, town or village, municipal ward or Mohalla, street, house number and postal circle. While communicating the postal address of the society, the committee of the society shall also send a copy of a resolution passed by it for adoption of the address communicated to the Registrar.
- (2) On receipt of the communication from the society under sub-rule (1), the Registrar shall register the address communicated by the society in a register to be maintained for that purpose and inform the society of such registration.
- (3) Every change in its registered address shall be communicated by the society to the Registrar in the manner laid down in sub-rule (1). Any such change shall not be treated as registered unless,-
 - (i) it is indicated in the bye-laws by amending them and the amendment so made is registered under the Act, and
 - (ii) the change is registered in the manner laid down in sub-rule (2)
- (4) The registered address of a society or such change therein as may be registered, from time to time, shall be exhibited on the notice board of the society, immediately after registration.

32. Register of Members.—

The register of members to be kept by every society under sub-section (1) of section 38 shall be Form T.

33. List of Members.-

The list of members to be kept by every society under section 39 shall be form J

34. Certified copies of entries in books of societies.-

For the purposes of section 40, copies of any entries referred to in that section may be certified by any officer of the society duly authorised in that behalf by the committee under the seal of the society.

35. Conditions for harrowing by societies with limited liability.—

- (1) No society other than those referred to in rule 36 and 37 with limited liability shall, without the previous sanction of the Registrar, incur liability exceeding in total ten times the total amount of its paid up share capital, accumulated reserve fund and building fund minus accumulated losses:

Provided that central banks, urban banks and producers societies shall not, except with the previous sanction of the Registrar, incur liabilities exceeding twelve times the total of their paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

Explanation.-In calculating the total amount of liability for the purposes of this sub-rule, in the case of any society or class of societies, the bye-laws of which permit borrowing or granting credit facilities on the pledge of agricultural produce or other goods, specified in that behalf by the Registrar, by general or special order, a sum equal to the amount borrowed by such society or class of societies, on the security of agricultural produce or other goods of such society or its members, shall be excluded from the amount of the actual liability under this rule.
- (2) Any society may incur liabilities in excess of the limit specified in sub-rule (1) by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or borrowed as loans in excess of the said limit shall not be utilised in the business of the society but shall be invested in Government securities which, in the case of Central Banks, shall be deposited with the Maharashtra State Co-operative Bank and, in case of other Co-operative banks, with the Central Banks. No society shall borrow against such securities.

36. Conditions for borrowing of Maharashtra State Co-operative Bank.—

Except with the previous sanction of the Registrar, the Maharashtra State Cooperative Bank Limited shall not incur liabilities exceeding in total fifteen times the total amount of its paid up share capital and all reserves minus accumulated losses, actual bad debts, if any, and overdue interest:

Provided that, the Bank may incur liabilities in excess of the aforesaid limit by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or borrowed as loans in excess of the said limit shall not be utilised in the business of the Bank but shall be invested in Government securities which shall be deposited, with the Reserve Bank of India. The Bank shall not borrow against such securities.

Explanation.-In calculating the total amount of liability for the purposes of this rule, a sum equal to the amount borrowed by the Bank on the security of agricultural produce or other goods of the members of the Bank shall be excluded from the amount of the actual liability under this rule.

37. Conditions for borrowing of Land Development Banks.-

Land Development Banks may incur liabilities not exceeding in total twenty times the total amount of their paid-up share capital, accumulated reserve and building funds minus accumulated losses.

38. Loans and deposits from non-members in unlimited liability Societies.-

Every Society with unlimited liability shall, from time to time, fix in a general meeting the maximum liability, which it may incur in loans and in deposits from non-members. The maximum so fixed shall be subject to the sanction of the Registrar, who may at any time reduce it, for reasons to be communicated by him to the society in writing, and may specify a period not being less than four months, within which the society shall comply with his orders. No such society shall receive any loan or deposit from a non-member, which will make its liability to non-members exceed the limit sanctioned by the Registrar.

39. Raising funds by societies.-

- (1) Every society, which has a share capital, shall provide in the bye-laws the maximum amount of such share capital, the number of shares into which it is divided, the class of shares, the face value of each share of each class and the rights and liabilities attaching to each class of shares and where the full amount of the share is not payable on allotment the amount and the number of installments in which it is required to be paid and such other incidental matters.
- (2) Any society, which is authorised under its bye-laws to raise funds by the issue of debentures and bonds may, with the prior sanction of the Registrar, frame regulations regarding the maximum amount to be raised by the issue of debentures and bonds, the class or classes of debentures and bonds, the face value of each debenture or bond, the date on which the debentures or bonds are to be redeemed, the rate at which interest is payable, the terms and conditions regarding transfer of debentures and bonds and other incidental matters.
- (3) The total amount of debentures and bonds issued at any time together with the other liabilities incurred by the society shall not exceed the maximum amount which the society can borrow under the provisions of rule 35, 36, 37 or 38, as the case may be and its bye-laws.

40 Additional conditions for raising funds by societies -

The Registrar may, by general or special order, lay down such additional conditions as he deems fit, subject to which and the extent up to which any society or class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.

41. Maintenance of liquid resource and distribution of assets.-

Every society which obtains any portion of its working capital by deposits shall;

- (1) maintain such liquid resources and in such form as may be specified from time to time by the Registrar, and
- (2) Utilise only such portion of its working capital in lending business and distribute its assets in accordance with such standards as may be specified from time to time by the Registrar.

42. Regulation of loans to be granted by societies.—

- (1) In case of grant of loans against security of movable and immovable property, the lending society shall maintain such margin as the Registrar may, with the approval of the Apex Bank, by general or special order, direct from time to time with reference to different commodities, securities or classes of societies.
- (2) In case of cash credit, the amount of loan shall not exceed such multiple of owned funds of the borrowing society as may be laid down by the Registrar with the approval of concerned financing agency from time to time.
- (3) It shall be lawful for a society to grant loans without taking security of movable or immovable property if the purpose for which the loan given is considered production worthy or creditworthy and it is reasonably expected that the loans will be repaid by the loanee. The Registrar may, with the approval of the Apex Bank, issue directions to societies to ensure that creditworthy purposes indicated above receive finance from the societies without any difficulties, on the one hand and without being detrimental to the financial interest of the societies on the other.
- (4) The Registrar may recognize a Central Bank as the Central Financing Agency which shall be primarily responsible for financing credit requirements of all creditworthy purposes through the concerned societies in its jurisdiction. On such recognition, such Bank shall be responsible for making all possible efforts to mobilize local resources for making loans available to the societies in its area. Such loans may be granted for creditworthy purposes, giving due importance to the production plans and requirements of various start as of the producers and cooperative discipline with reference to linking up of credit with co-operative processing or co-operative marketing.
- (5) Except with the general or special permission of the Registrar, the loan advanced to a member by a society, or to a society by a Bank, shall be subject to such conditions as may be laid down by the Registrar, with the approval of the Apex Bank, including the maximum amount to be advanced and the period of repayment, both in regard to total advances to members and societies as also against different types of securities.
- (6) No Society shall carry on transactions on credit or sanction trade credit to its members or to non-members except in accordance with the general directions that may be issued by the Registrar in that behalf.
- (7) In the matter of grant of loans to societies by Central Banks or to members by Primary societies, the Registrar may lay down with the approval of the Central Banks, the procedure regarding receiving applications assessing credit needs, making inquiries in respect of the production program for which such loan is required and the procedure for finally sanctioning the loan as also the rates of finance to be followed from year to year and the nature of inquiries to be made for the purpose of financing of different crops and imposition of certain conditions regarding proper utilisation of loan and sale of agricultural produce through specified co-operative organisation, before such finance is granted.
- (8) The Registrar may with the approval of the Apex Bank by general or special order prohibit or regulate grant of loans by a Central Bank or a society where such grant is considered neither in the interest of the society nor in the interest of the development of co-operative movement on sound lines.

43. Conditions to be complied with by members applying for Loans.-

- (1) Every member of a society applying for a loan from the society shall be required to hold shares in such manner and in such proportion to the amount of loan applied for by him as may be specified in the bye-laws of the society.
- (2) Subject to the maximum limit specified in the bye-laws, a loan to be granted to a member of a resource society and the period of its repayment shall be in accordance with the standard laid down by the Registrar in consultation with the Central Bank and the federal society. A ban in excess of the maximum amount may be granted to a member with the previous sanction of the Central Bank and federal society to which the society is affiliated:

Provided that, where the amount of the loan exceeds twice the maximum limit contained in the bye-laws, prior sanction of the Registrar shall also be obtained.

44. Credit limits by non-credit societies.-

- (1) No society whose objects do not include grant of loan or financial accommodation to its members shall grant loans or sanction credit to any member without the sanction of the Registrar:

Provided that, any society, which has, as one of its objects, supply of goods or services required by members for production purposes, may supply goods or provide services on credit against sufficient security on condition that the cost of the goods supplied or services provided shall be recoverable from the amount of the sale proceeds of the agricultural produce or other goods produced by the member.

- (2) A consumer society may sell goods on credit to its members and other customers up to the extent of deposits received from them.

45. Restrictions on borrowing from more than one credit society.—

- (1) Every person who is a member of more than one resource society (other than a Land Development Bank or a Central Bank or a marketing society) dispensing credit shall, if he has not already made, make a declaration in Form K that he will borrow only from one such society to be mentioned in the declaration and shall send a copy of such declaration duly attested to all societies of which he is or has become a member.

- (2) Any person who continues to be a member of more than one such society without complying with the provision of this rule shall be liable to be removed from the membership of any or all such societies upon receiving a written requisition from the Registrar to that effect:

Provided that, the society from which a person has borrowed may permit him to borrow from any other society of which he is a member to such extent and subject to such conditions as may be laid down by it.

- (3) The Registrar may, for reasons to be recorded in writing, exempt any person or persons from the operation of this rule or prohibit any person or persons from borrowing from more than one society, notwithstanding that permission of the society under proviso to sub-rule (2) has been obtained by him.

45-A. Limits on loans against fixed deposits.-

- (1) When a society makes a loan to a depositor on the security of his fixed deposit with the society, the amount of loan shall not exceed 90 per cent of the deposit amount and the period for which the loan is granted shall not extend beyond the date of maturity of the fixed deposit.
- (2) If the depositor does not pay the loan within the period for which it is granted, the fixed deposit amount may be adjusted towards the repayment of the loan amount and the interest thereon, and only the balance, if any, shall be paid by the society to the depositor on the date of maturity.

46. Manner of recalling of loan.-

- (1) Notwithstanding anything contained in the agreement entered into with the borrowing member, the committee of a society shall be entitled, after giving a week's notice to such member, to recall the entire loan amount immediately, when it is satisfied that the loan given has not been applied for the purpose for which it was given or there has been breach of any of the conditions for grant of such loan.
- (2) Nothing in this rule shall be deemed to preclude the Registrar from directing the society to recall a loan of his own motion, when it is brought to his notice that the loan given by the society has been misapplied or conditions thereof have not been followed. The Registrar may make in the matter, such inquiries as he may deem necessary and after giving a show cause notice to the society issue with the prior approval of the co-operative bank financing the society, necessary directions to the society. The directions issued by the Registrar in this respect shall be complied with by the society.

46A. Restrictions on borrowings from non-members.—

No society shall receive or raise loans from non-members (including any banking company other than the Central Bank), unless specially authorised by the Registrar and such non-members from whom any loan is received or, raised, gives an undertaking to the Society that

any dispute arising out of the transaction shall be referred to the Registrar for decision under section 99.

46-B. Restrictions on credit sales to non-members.-

Where the bye-laws of a society permit credit sales, such sales may be made to traders and other non-members, provided that the person to whom such sales are made gives an undertaking to the society that any dispute arising out of the transactions shall be referred to the Registrar or decision under section 91.

47. Restrictions on transactions with non-members.-

On the application of a member of any society or of his own motion, when it appears to the Registrar that it is necessary in the interest of the working of any particular society, to regulate or restrict transactions of such society with any non-member, the Registrar shall after giving an opportunity to the society of being heard, issue such directions as he may consider necessary regulating or restricting such transactions.

48. Form of declaration be made by members borrowing loans from certain societies and conditions on which any charge in favour of a society shall be satisfied.—

- (1) A declaration to be made under clauses (a) and (b) of (section 48 shall be in Form L.
- (2) A register of such declarations shall be kept by the society in Form M.
- (3) A charge on any immovable property created by a member in favour of a society for amounts borrowed likely to be borrowed by him, from time to time shall, subject to the provisions of clauses (c) and (d) of section 48 continue in force till the person creating the charge ceases to be a member of the society.
- (4) Where a member of a society creates a charge on his land or on his interest in any land as a tenant by declaration under section 48, the society may, if compelled to make use of such property for the recovery of the loan granted to such member against the security of such property or interest in the property, utilise the whole or any portion of such property which may be sufficient to satisfy the amount due with interest and any incidental expenses incurred in that connection.
- (5) Where a charge is created by a member on his land or on his interest in any as a tenant by declaration under section 48, the society shall record or cause to record such particulars of charge in the Record of Rights maintained by the village officers of the village where such property is situated. Such recording of the charge in the Record of Rights of the village shall be treated as a reasonable notice of such charge created under section 48.

CHAPTER V
PROPERTY AND FUNDS OF SOCIETIES



49. Writing off of bad debts and losses.—

All loans including interest thereon and recovery charges in respect thereof which are found irrecoverable and are certified as bad debts, by the auditor appointed under section 81, shall first be written off against the Bad Debt Fund and the balance, if any, may be written off against the Reserve Fund and the Share Capital of the society.

All other dues and accumulated losses or any other loss sustained by the society which cannot be recovered and have been certified as irrecoverable by the auditor may be written off against the Reserve Fund or share capital of the society:

Provided that—

- (1) No bad debts or losses shall be written off without the sanction of the general body;
- (2) Before any such bad debts or losses are so written off, the society, if it is affiliated and indebted to a Central Bank, shall first obtain the approval of that Bank in writing and also the approval of the Registrar. If the society is affiliated but not indebted to the Central Bank and in all other cases, it shall obtain the approval of the Registrar in writing. If the society itself is a Central Bank, approval of the State Cooperative Bank and the approval of the Registrar shall first be obtained:

Provided that, in case of societies classified as A or B at the time of last audit, no such permission need be taken if the bad debts are to be written off against the Bad Debt Fund specially created, for the purpose:

Provided further that, the Registrar may while giving the approval impose such conditions as to the recoupment of the Bad Debt Fund and restoration of part or whole of the amount written off against the Reserve Fund, from out of future profits as he deems fit.

49A. Calculation of net profits.-

- (1) A society shall calculate the net profits by deducting the following from the gross profits for the year—
 - (i) All interest accrued and accruing on amounts of over due loans (excepting overdue amounts of loans against fixed deposit, gold, etc.);
 - (ii) Interest payable on loans and deposit;
 - (iii) establishment charges;
 - (iv) audit fees or supervision fees;
 - (v) working expenses including repairs, rent and taxes;
 - (vi) depreciation;
 - (vii) bonus payable to employee under the Payment of Bonus Act, 1965;
 - (viii) provision for payment of Income Tax;
 - (ix) amount to be paid for contribution to the Education Fund at the State Federal Society which may be notified by the State Government, in this behalf;
 - (x) amount to be paid for contribution to the Co-operative Cadre Employment Fund;
 - (xi) provision for bad and doubtful debts;
 - (xii) provision for share capital Redemption Fund;
 - (xiii) provision for Investment Fluctuations Fund;
 - (xiv) provision for retirement benefits to the employees;
 - (xv) provisions for any other claims admissible under any other law;
 - (xvi) Provision for bad debts and revenue losses not adjusted against any fund created out of profits.

- (2) In addition to the sums referred to in sub-rule (1) of this rule, the following sums shall be deducted by a society from its profits:—
 - (i) contribution, if any, to be made, to any sinking fund or guarantee fund, constituted under the provisions of the Act, these rules or bye-laws of the society for ensuring due fulfillment of guarantee given by Government in respect of loans raised by the society.
 - (ii) Provision considered necessary for depreciation in the value of any Security Bonds or Shares held by the society as part of its investments.
- (3) The net profit thus arrived at together with the amount of profits brought forward from the previous year, shall be available for appropriation.

50. Appropriations of profits.—

- (1) The other purposes for which a society may, appropriate its profits shall be education and enlightenment of the members of the society as also any co-operative or charitable purpose including relief to the poor, education, medical relief and advancement of any other general public utility, provided that the expenditure on such items does not exceed 10 percent of the net profits.
- (2) The net profits calculated in accordance with the provisions of rule 49A, shall be appropriated for the creation of—
 - (a) Development Fund,
 - (b) Divided Equalization Fund, or
 - (c) any other fund created under bye-laws

51. Amounts to be deducted by a society from its profits before arriving at its net profits.—

In addition to the sums referred to in sub-section (1) of section 65, the following sums shall be deducted by a society from its profits before arriving at its profits for the purposes of sub-section (2) of section 65:-

- (i) Contributions, if any, to be made to any sinking fund or guarantee fund, constituted under the provisions of the Act, the rules or bye-laws of the society for ensuring due fulfillment of guarantee given by Government in respect of loans raised by the society.
- (ii) Provision considered necessary for depreciation in the value of any security bonds or shares held by the society as part of its investment.
- (iii) Any provision required to be made for the redemption and share capital contributed by Government or by a federal society.

52. Bonus and Dividend Equalization Fund.-

- (1) A society may create out of its profits a fund to be called the Bonus Equalization Fund for payment of bonus to persons other than its paid employees who are not its members.
- (2) Except otherwise specially authorised by the Registrar, the fund, so created shall be utilised in accordance with the provisions of the bye-laws of the society only for payment of such bonus.
- (3) A society may create the Dividend Equalization Fund and credit to it a sum not exceeding 2 percent of the paid up share capital in any year, until the total amount in such Funds amounts to 9 percent of the paid up share capital. The society may draw upon this Fund in any year only when it is unable to maintain a uniform rate of dividend it has been paying during the last preceding five years or more.
- (4) No society shall declare a dividend at a rate exceeding that recommended by its committee.

53. Rate of annual contribution to education fund of State Federal Society.-

The rate at which the classes of societies specified under column (2) of the Table below, shall contribute annually under section 68 towards the education fund of the State Federal Society, which may be notified in this behalf by the State Government, shall be those which are respectively specified against them in column (3) of the said Table.

TABLE

Sr. No.	Class of Society	Rate of Contribution per year per society.
1	2	3
1	Maharashtra State Co-operative Bank.	2 paise per Rs.100 of working capital subject to a maximum of Rs.500000
2	Maharashtra State Co-operative Agricultural and Rural Development Bank	Rs.1/10 percent of working capital subject to a maximum of Rs.100000
3	Maharashtra State Co-operative Marketing Federation	Rs.1/10 percent of working capital subject to a Maximum of Rs. 150000
4	Maharashtra State Co-operative Housing Finance corporation.	Rs.1/10 percent of working capital subject to a Maximum of Rs. 100000
5	Maharashtra State Co-operative Consumer's societies Federation.	2 paise per Rs.100 of working capital subject to a maximum of Rs.200000
6	Maharashtra State Co-operative Sugar factories Federation	Rs.5000
7	Maharashtra State Co-operative Fisheries Federation	Rs.1000
8	Maharashtra State Co-operative Cotton Grower Marketing Fed.	Rs.150000
9	Maharashtra State Co-operative Diaries Societies Federation	Rs.5000
10	Maharashtra State Co-operative Mills Federation.	Rs.5000
11	Maharashtra State Co-operative Power-looms societies Fed.	Rs.2500
12	Maharashtra State Co-operative Textile corporation	Rs.1000
13	Maharashtra State Co-operative Handloom societies federation	Rs.2500
14	Maharashtra State Agricultural Produce Market committees Fed.	Rs.1000
15	Maharashtra State Co-operative Cotton Growers Processing Societies Federation	Rs.2500
16	Maharashtra State Co-operative Tribal Development Corporation.	Rs.1000
18	Maharashtra State Co-operative Labour society's federation.	Rs.1000
19	Maharashtra State Co-operative Banks Association	Rs.5000
20	Maharashtra State Co-operative Oil Seed Processing Federation.	Rs.5000
21	Maharashtra State Sugar Ind. Development Co-operative Soc.	Rs.1000
22	Maharashtra State Co-operative Engineering Societies	Rs.5000
23	Maharashtra State Co-operative Jungle Kamgar Federation.	Rs.1000
24	Co-operative Sugar Factories	20 Paise per ton of the last year Sugar cane crushed subject to maximum of Rs.75000

25	District Central Co-operative Banks	(a)	District Central Co-operative Banks of Raigad, Ratnagiri Sindhudurg, Chandanpur and Gadchiroli, Rs.10000
		(b)	The revitalized District Central Co-operative Banks in the State Rs.15000
		(c)	Other District Central Co-operative Banks in the State Rs.30000
26	Solapur District Industrial Co-op. Banks.		Rs.15000
27	Urban Co-operative Banks	(a)	Working capital up to Rs.5 Crores - Rs.5000.
		(b)	Working capital of Rs.5 Crores to Rs.50 Crores Rs.10000.
		(c)	Working capital above Rs.50 Crores Rs.30000.
28	Urban Co-operative Credit Societies		1/10 percent of working capital subject to Minimum Rs.100 and Maximum Rs.5000
29	Salary Earners, Factory workers, Mills Workers, Thrift Fund and Credit societies. District Agro Industrial Sarv Seva		1/10 percent of working capital subject to Maximum Rs.1000
30	Co-operative Societies and purchase and Sale societies having jurisdiction in one or More districts.		1/10 percent of working capital subject to Maximum Rs.20000
31	Primary Marketing societies.		1/10 percent of working capital subject to Maximum Rs.2000
32	Whole-sale Co-operative Consumer Stores		1/10 percent of working capital subject to Maximum Rs.20000
33	Primary Co-operative Consumer Stores		2 Paise per Rs.100 of working capital subject to Minimum of Rs.100 and Maximum Rs.200000
34	Co-operative spinning Mills	(a)	Which have not gone in production of Rs.1000
		(b)	Which have gone in production of Rs.10000 Rs.100
35	Co-operative Ginning and pressing societies		
36	Primary Seva Sahakari Sanstha	(a)	Rs.10 in respect of those which have suffered Loss during the previous Co-operative year.
		(b)	1/10 percent of the working capital in respect of those which have earned profit during previous year subject to maximum of Rs.1000
37	Milk Co-operative Unions Taluka & District	(a)	Having collection of 3 Lakh liters Milk of previous Year Rs.500
		(b)	Having collection of 3 to 4 Lakh liters Milk of Previous year Rs.1000
		(c)	Having collection of 4 to 5 Lakh liters Milk Rs.1500
		(d)	Above 5 Lakh liters Rs.2000
38	Primary Co-operative Dairy societies		Rs.100
39	Co-operative Poultry Societies Fed.		Rs.100
40	Co-operative lift irrigation societies		Rs.100
41	Agricultural processing Co-operative Societies		Rs.100
42	Grain Banks		Rs.100
43	Piggery and live stock Co-operative soc. (Including breeding)		Rs.100
44	Sugarcane Supply Co-operative Soc.		Rs.500
45	Industrial Co-operative estate		Rs.100
46	Labour contract Co-operative societies		Rs.100
47	Forest laborers Co-operative societies		Rs.100
48	Agricultural non-credit Co-operative soc.		Rs.100
49	Non-agricultural non-credit societies		Rs.100
50	Co-operative farming societies		Rs.100
51	Co-operative fisheries		Rs.100

52	Primary Co-operative poultry.		Rs.100
53	Vidarbha premier Co-operative Housing Soc		Rs.5000
54	Co-operative Housing society.	(a)	Having jurisdiction of corporation, Nagarpalika & Cantonment Board – Per Member Rs.3/-
		(b)	Having Jurisdiction of Gram Panchayat – Per Member Rs.2/-
55	Vidarbha Co-operative Marketing Societies		1/10 of the working capital, subject to to maximum of Rs.20000
56	Co-operative Distillery Societies		Rs.5000
57	Mula Pravara Co-operative Electrical Soc. Ltd; Shrirampur, Dist. Ahmednagar.		Rs.1000
58	Other societies.	(a)	Village & Taluka jurisdiction – Rs.100
		(b)	District jurisdiction – Rs.500
		(c)	State jurisdiction – Rs.1000

53 A. Rates of annual contribution to Co-operative State Cadre Employment Fund –

The rates at which the class or classes of societies or other body corporate specified under column (2) of the Table below shall contribute annually under sub-section (4) of section 69-A towards the Co-operative State Cadre Employment Fund, which may be notified in this behalf by the State Government, shall be those which are respectively specified against them in column 3 of the said table.

Sr.	Society class or Classes of society And other body corporate	Rate of contribution per year per society or body corporate
1	2	3
1	Maharashtra State Co-operative Bank Ltd; (incorporating the Vidarbha Co-operative Bank Ltd ;) Bombay	Rs.20 Lakh Per year
2	The Maharashtra State Co-operative Marketing Federation Ltd;	At 10 Paise per Rs.100 of the annual turnover of the Previous Co-operative year.
3	The Maharashtra State Co-operative Land Development Bank Ltd; Bombay	Rs.5 Lakh per year
4	All Co-operative Sugar Factories	At 25 Paise per ton of sugarcane crushed by the Sugar Factory during the previous Co-operative year
5	All sugar Factories other than Co-operative Sugar Factories located in the State of Maharashtra	At 25 Paise per ton of sugar cane of the members of Primary Agricultural Credit Societies crushed by The factory during the previous Co-operative year.
6	All District Central Co-operative Banks excluding Bombay District Central Co-op. Bank Ltd; and Ahmednagar Urban District Central Co-operative Bank Ltd; Ahmednagar, having Outstanding of Agricultural Credit business of more than Rs.5 Crores as at the end of the previous Co-operative year.	10 Paise per Rs.100 of the outstanding Agricultural Credit business as at the end of the previous Co-operative year.
7	All District Central Co-operative Banks Excluding Bombay District Central Co-op. Bank Ltd; Bombay and Ahmednagar Urban District Central Co-operative Bank Ltd; Ahmednagar, having outstanding of Agricultural Credit business of more than Rs.5 Crores as at the end of the previous Co-operative year.	5 Paise per Rs.100 of outstanding Agricultural credit business as at the end of the previous Co-operative year.
8	All primary Co-operative Marketing	5 Paise per Rs.100 on the annual turnover of the

	societies Dealing in fertilizers, seeds, agricultural Implements and sale of agricultural produce. All primary agricultural credit societies Multi purpose Co-operative Societies and Service Co-operative societies including Farmers Service societies and Adivasi Co-operative societies	Previous Co-operative year.
9		
i	Having outstanding agricultural credit Business up to Rs.50000 as at the end of The previous Co-operative year.	1.5 percent of the outstanding agricultural credit business as at the end of previous Co-operative year
ii	Having outstanding agricultural credit Business exceeding Rs.50000 but not exceeding Rs.75000 as at the end of the Previous Co-operative year.	1.75 percent of the outstanding agricultural credit business as at the end of previous Co-operative year
iii	Having outstanding agricultural credit Business exceeding Rs.75000 but not exceeding Rs.3 Lakh as at the end of the Previous Co-operative year.	2 percent of the outstanding agricultural credit business as at the end of previous Co-operative year
iv	Having outstanding agricultural credit Business exceeding Rs.3 Lakh as at the End of the previous Co-operative year.	1.25 percent of the actual expenditure on the total expenditure on the total emoluments paid to the secretary during the previous Co-operative year or 2 percent of the outstanding of the agricultural credit business as at the end of the previous Co-operative year, whichever is less.

53-B. Manner of contributions to be made under the rule 53 – A

- (1) The Apex Society which has been notified by the State Government under subsection (3) of section 69-A shall open an account in the name of the "Co-operative State Cadre Employment Fund" established by it in the Maharashtra State Cooperative Bank Ltd., Bombay and also in every District Co-operative Bank, excluding the Bombay District Central Co-operative Bank.
- (2) The amount of annual contribution payable under rule 53A by the Maharashtra State Co-operative Bank Limited, Bombay, and the Maharashtra State Co-operative Land Development Bank Limited, Bombay for every Cooperative Year shall be paid by them before the 30th day of September of the next following Co-operative Year by crediting the amount of contribution in to the "Cooperative State Cadre Employment Fund" account opened under sub-rule (1) in the Maharashtra State Co-operative Bank Limited, Bombay.
- (3) The Auditor of-
 - (a) the Maharashtra State Co-operative Marketing Federation Limited, Bombay,
 - (b) Every District Central Co-operative Bank (other than the Bombay District Central Co-operative Bank Limited and the Ahmednagar Urban District Central Co-operative Bank Limited, Ahmednagar.
 - (c) every Co-operative Sugar Factory, and
 - (d) every Primary Co-operative Marketing Society dealing in fertilizers, seeds, agricultural implements or sale of agricultural produce, shall certify the amount of the annual contribution payable by them under rule 53-A and send the certificate, in the case of the Maharashtra State Co-operative Marketing Federation, to the State Level Caderisation Committee and in any other case, to the relevant Central Society. The certificate in respect of every co-operative year shall be sent before the 15th day of August of the next following Co-operative year.
- (4) The Director of Sugar, Maharashtra State, shall rectify the amount of annual contribution payable under rule 53-A by every sugar factory (other than a co-operative sugar factory) and send the certificate to the relevant Central Society. The certificate in respect of every co-operative year shall be sent, before the 15th day of August of the next following co-operative year.

- (5) Within fifteen days from the date of receipt of a certificate sent under sub-rule (3) or (4), the State Level Caderisation Committee or, as the case may be, the relevant Central Society, shall serve a notice of demand for payment of the contribution mentioned in the certificate on the Maharashtra State Co-operative Marketing Federation or, as the case may be, a society or a sugar factory (other than a Co-operative sugar factory) by which it is payable.
- (6) On receipt of the notice of demand under sub-rule (5), the Maharashtra state Co-operative Marketing Federation, every society and every sugar factory (other than a co-operative sugar factory) shall pay the amount of contribution payable by them for any co-operative year before the 30th day of September, of the next following co-operative year. Such contribution shall, in the case of the Maharashtra State Co-operative Marketing Federation Limited, Bombay, be paid into the "Co-operative State Cadre Employment Fund" account in the Maharashtra State Co-operative Bank Ltd., Bombay and in other cases, into the "Co-operative State Cadre Employment Fund" account in the District Central Co-operative Bank in the District in which the society making the contribution operates or the sugar factory (other than a co-operative sugar factory) making such contribution is situated.
- (7) Before the 15th day of August next following the end of each co-operative year, every Primary Agricultural Credit Society shall furnish to the relevant Central Society such information as may be necessary for it to assess the amount of contribution payable for that year by the Primary Agricultural Credit Society under Rule 53-A. On receipt of such information, the relevant Central Society shall; scrutinize it, determine the amount of contribution payable by the Primary Agricultural Credit Society and shall, before the 15th day of September, next following the end of the said co-operative year, serve a notice of demand on the Primary Agricultural Credit Society for payment of the amount of contribution so determined. The relevant Central Society shall also, before that date, furnish to the District Central Co-operative Bank of the District in which the Primary Agricultural Credit Societies furnishing the information operate, a statement indicating the name of each Primary Agricultural Credit Society, the rate of annual contribution payable by it under rule 53-A, the amount of contribution determined and the amount of arrears of contribution, if any, which has remained to be paid by each Primary Agricultural Credit Society. On the service of a notice of demand, the Primary Agricultural Credit Society shall, before the 31st day of December next following the end of the aforementioned Co-operative Year, pay the amount of contribution payable by it for the year, into the "Co-operative State Cadre Employment Fund" account in the District Central Co-operative Bank in the District in which such Society operates.
- (8) Where any society (including the Primary Agricultural Credit Society and Co-operative Sugar Factory) which has received any loan from any District Central Co-operative Bank or the Maharashtra State Co-operative Bank pays to that Bank any amount towards payment of interest on such loan, or repayment of such loan, or where any such amount is received by the District Central Cooperative Bank or the Maharashtra State Co-operative Bank on behalf of any such society or Sugar Factory from any other agency, and the District Central Co-operative Bank or the Maharashtra State Co-operative Bank is satisfied after consulting the relevant Central Society that there are any arrears of annual contributions payable by such society or sugar factory as per demand notice served on it, then the District Central Co-operative Bank or the Maharashtra State Co-operative Bank, as the case may be shall in accordance, with the procedure laid down from time to time, by the State Level Caderisation Committee and after obtaining the consent of such society or sugar factory to do so, first credit to the "Co-operative State Cadre Employment Fund" such amount as may be necessary to recover the arrears and adjust the remaining balance, if any, towards payment of interest on such loan, or as the case may be, repayment of such loan. Whenever the District Central Co-operative Bank or the Maharashtra State Co-operative Bank so credits any amount to the said Fund, it shall send advice of such credit to the society or as the case may be, Co-operative Sugar Factory and also the relevant Central Society.
- (9) Notwithstanding any thing contained in sub-rules (2), (3) (4), (6) and (7)-
 - (a) the certificate to be sent by the auditor under sub-rule (3) and the certificate to be sent by the Director of Sugar, Maharashtra State, under sub-rule (4) for the co-operative years 1977-78 and 1978-79 shall be sent by them before the 15th day, of September 1979;
 - (b) the information to be furnished by the Primary Agricultural Credit Society under sub-

rule (7) in respect of the Co-operative Years 1977-78 and 1978-79 shall be furnished by it before the 15th September 1979;

- (c) the notice of demand for payment of the amount of contribution payable by any society (including the Primary Agricultural Credit Society) or Sugar Factory for the, Co-operative years 1977-78 and 1978-79 shall be served on it before the 30th day of September 1979;
 - (d) the amount of contribution payable by any society (including the Primary Agricultural Credit Society) or Sugar Factory for the Cooperative Years 1977-78 and 1978-79 shall be paid by it before the 31st day of October 1979 and the 31st day of December 1979 respectively
- (10) The relevant Central Society shall maintain banks of accounts of the annual contributions due from each society which operates in the area of its operation and each Sugar Factory situated in that area. The State Level Caderisation Committee shall maintain books of accounts of the annual contributions due from the Maharashtra State Co-operative Bank Ltd. (incorporating the Vidarbha Cooperative Bank Ltd). Bombay, the Maharashtra State Co-operative Marketing Federation Ltd., Bombay and the Maharashtra State Co-operative Land Development Bank Ltd., Bombay. Every such book of accounts shall contain the following particulars, namely:-
- (i) the society or the sugar factory from which the annual contribution is due,
 - (ii) the amount of annual contribution collected from such society or sugar factory,
 - (iii) The balance of arrears of the annual contribution payable by such society or sugar factory or the excess amount paid by it.
- (11) A periodical statement of accounts of the moneys credits into the "Cooperative State Cadre Employment Fund" accounts with each District Central Co-operative Bank shall be sent by that Bank to the relevant Central Society at such intervals as may be determined by the State Level Caderisation Committee. The statement so received shall be forwarded by the relevant Central Society to the State Level Caderisation Committee after due scrutiny.
- (12) Where any society or Sugar factory fails to pay the annual contribution as provided in the preceding sub-rules, the State Level Caderisation Committee, in the case of the Maharashtra State Co-operative Bank Limited (incorporating the Vidarbha Co-operative Bank Ltd.), Bombay, the Maharashtra State Cooperative Marketing Federation Limited, Bombay and the Maharashtra State Cooperative Land Development Bank Limited, Bombay and the relevant Central Society in the case of other societies and sugar factories, shall communicate the name of the defaulting society or sugar factory to the Registrar for taking action under sub-section (5) of section 69-A.

Explanation -

For the purpose of this rule,

- (a) "Central Society" means a society notified by the Government of Maharashtra to be a Central Society under section 69-A:
- (b) "relevant Central Society" in relation to any society or sugar factory, means the Central Society in the area of operation of which any such society operates or any sugar factory is situated;
- (c) "State Level Caderisation Committee" means a Committee appointed as such by the Government of Maharashtra".

54. Utilisation and investment of reserve fund.—

- (1) A society shall, in addition to the modes specified in clause (a) to (d) of section 70, invest or deposit reserve fund in any one or more of the following permitted modes, namely:-
 - (i) In the case of Primary Societies in the Central Financing Agencies,
 - (ii) In the case of Central Co-operative Banks and Urban Banks, in the State Co-operative Bank,
 - (iii) In debentures issued by the Apex Land Development Bank or in Government loans, or

- (iv) In any immovable property, specified by the Registrar by a general or special order:

Provided that, in the case of a society whose reserve fund is equal to or more than its paid up share capital, the Registrar may, by general or special order, permit, that society to invest that portion of reserve fund which is in excess of its paid up share capital, or a portion thereof, in its business:

Provided further that, in the case of Central Co-operative Banks and the State Co-operative Bank, the Registrar may, by general or special order, authorize such Banks to invest fifty percent of their reserve fund in their business.

- (2) No society whose reserve fund has been separately invested or deposited shall draw upon, pledge or otherwise employ such fund except with the sanction of the Registrar previously obtained in writing.
- (3) In the case of a society constituted with the object of Co-operative housing on a co-partnership basis, the reserve fund may be utilised for expenditure on the maintenance, repair and renewal of buildings of the society.
- (4) In the case of a processing society the reserve fund may be utilised in the acquisition, purchase or construction of lands, buildings and machinery.

55. Investment of other funds.—

- (1) A society may invest any of its funds (other than the reserve fund) in any of the modes specified in section 70 when such funds are not utilised for the business of the society.

Explanation.-For the purpose of this sub-rule, "business of society" shall include any investment made by the society in immovable property with the prior sanction of the Registrar in the process of recovery of the society's normal dues or for the purpose of construction of building or buildings for its own use

- (2) The Registrar may, in the case of any society or class of societies, specify by a special or general order the maximum amounts to be invested in any class or classes of securities.
- (3) Every society which has invested an amount not less than 10 percent of its working capital in securities shall be required to constitute an investment fluctuation fund. The Registrar may direct that a specified percent of the net profits every year shall be credited to the investment fluctuation-fund until in his opinion amount of the funds is adequate to cover anticipated losses arising out of the disposal of the securities.
- (4) Proportion of paid up share capital of the investing society or a class of society shall be determined by the Registrar by special or general order, from time to time, for investment in the shares or security bonds or debentures by any other society. While determining such proportion, the Registrar may impose such conditions as he may deem fit.
- (5) When any society or societies have been permitted to enter into collaboration as provided under sub-section (1) of section 20A, if it is necessary to invest the funds of the society or societies in such collaboration, the Registrar may, in addition to any general or special order of the State Government as specified in clause (e) of section 70, impose such additional conditions as may be necessary in the interest of the society:

Provided that, the Registrar may for ensuring the safety of the funds of the society or societies invested in such collaboration for beneficial utilisation of the funds in furtherance of the objects may be regulated to the extent and manner of such investment from time to time.

56. Maintenance and administration of provident fund.—

A society which has established a provident fund for its employees under section 71, that with the previous approval of the Registrar, frame regulations for the maintenance and utilisation of the provident fund for its employees. Among other matters, such regulations shall provide for the following:—

- (i) amount (not exceeding ten per cent of the employees salary) of contribution to be deducted from the employees salary;
- (ii) the rate of contribution (not exceeding the annual contribution made by the employee) to be made by the society;
- (iii) advances which may be made against the security of the provident fund;
- (iv) refund of employees contribution and contribution made by the society;
- (v) mode of investment of the provident fund and payment of interest thereon.

CHAPTER V - A

ELECTION TO NOTIFIED SOCIETIES, ETC



56 - A Manner of election to notified Societies.-

- (1) The elections of the societies notified by the State Government under Section 73-IC. shall be held or cause to be held by the Registrar through the machinery created for this purpose in the manner as specified hereunder, namely:—
- (a) The Registrar may appoint any officer, not below the rank of an Additional Registrar of Co-operative Societies, as the Chief Election Officer for the State, who shall be subordinate to the Registrar and accountable to him for the purpose of such elections. He shall work under the general guidance of the Registrar of Co-operative Societies.
 - (b) The Chief Election Officer shall have powers to appoint one or more officers along with their jurisdiction as District Election Officer; who shall not be below the rank of an Assistant Registrar of Co-operative Societies or the Special Auditor, Class-II.
 - (c) The Chief Election Officer shall have powers to appoint such additional staff, as he deems necessary to assist him and the District Election Officer.
 - (d) The Chief Election Officer shall have powers of general guidance, superintendence and control over the District Election Officers and the staff appointed under the foregoing sub-clauses of these rules. The District Election Officer and the staff so appointed shall be subordinate to the Chief Election Officer and shall be accountable to him for the purpose of elections.
 - (e) The District Election Officer shall be responsible for holding the elections of all the notified societies, the headquarters of which are situated in his jurisdiction.
 - (f) For holding the elections of notified societies, the Registrar or the Chief Election Officer or the District Election Officer, as the case may be, shall have the following powers, namely:—
 - (i) To appoint any officer of the State Government, Zilla Parishad, any Local Body, any Co-operative Society or Agricultural Produce Market Committee, having establishment in that district, on any post with such designation and duties for the purpose of holding the elections.
 - (ii) it shall be obligatory on every officer or employee, so appointed to perform the duties assigned on him, failing which, he shall be liable for prosecution for having committed contempt of the lawful authority of the public servant within the meaning of Chapter 10 of the Indian Penal Code.
 - (iii) To requisition any premises, vehicles or any other material required for holding the election, from any co-operative societies as he may deem necessary.
 - (iv) On service of such requisition, it shall be obligatory on the authority to whom such requisition is made, to forthwith hand over the possession of premises, vehicles or any other material, as the case may be, to the requisitioning authority or any person authorised by him in that behalf.
 - (g) (I) The Registrar shall be competent to create a fund called the Notified Co-operative Societies Election Fund, as he deems fit by a special or general order.
 - (ii) The expenses for holding of any elections to the notified society including payment of traveling allowances, daily allowance and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of election, shall be borne by the notified society concerned, For this purpose, the Registrar or the Chief Election Officer or the District Election Officer may call upon a notified society to deposit in the Notified Co-operative Societies Election Fund, such amount as he considers necessary for the conduct of elections, within such period as may be directed by the Registrar:

Provided that, it shall be competent for the Registrar to exempt any notified society or class of

notified societies from depositing in full or in part, having regard to the financial position of such society or class of societies as the case may be,

(iii) If the expenditure exceeds the amount deposited, the Registrar or the Chief Election Officer or the District Election Officer shall call upon the notified society to pay the excess amount as specified by him within eight days from the receipt of directions from him and the society shall comply with such directions,

(iv) on failure of the notified society to deposit the amount or to pay the excess amount as aforesaid, the Registrar, the Chief Election Officer or the District Election Officer may issue a certificate for recovery of amount due, together with interest thereon at the rate of 15% per annum from the society. On issue of such certificate, the amount shall be recoverable as arrears of land revenue.

- (2) The Registrar shall maintain a register in Form M-1, in his office showing the names of the notified societies with details thereof.
- (3) The Chief Executive of the notified society shall deliver a report in Form M-2, to the Registrar on or before 30th September of the preceding calendar year in which the term of office of the Managing Committee of such society expires:

Provided that, if the Chief Executive of the notified society fails to report in time the Registrar shall proceed to enlist the name of such society or societies for the purpose of aforesaid sub-rule on the basis of information available in the register and such enlisting of names shall be prima facie evidence that the election of the society is due to be held in the succeeding co-operative year, unless proved to the contrary.

- (4) On receipt of report or otherwise, the Registrar shall publish, on or before 15th October a list of societies in his office and in the office of the District Election Officer, of which elections of the committee are to be held in the succeeding year.

56B. Provisional list of voters.—

- (1) A provisional list of voters shall be prepared by every notified society in the year in which the election of such society is due to be held. The persons who are members as on the date prior to 180 days on the date, on which the term of the committee of such society expires, shall be included in the provisional list. If different constituencies are provided in the bye-laws, the names of voters shall be arranged constituency-wise as laid down in the bye-laws.
- (2) Four copies of the authenticated provisional lists of votes shall be delivered by the Chief Executive of the society to the Registrar, 120 days before the date of expiry of the term of Committee. Copies of such lists shall be displayed on the notice board of the society. The District Election Officer and the Registrar shall, within 15 days from its receipt, call for inviting claims and objections from the members of the society.
- (3) If any Chief Executive Officer fails to deliver copies of the provisional lists of voters to the Registrar on or before the due date the Registrar shall himself or through any person authorised by him in this behalf, prepare such provisional list of voters and the expenditure incurred therefore shall be recovered from the Chief Executive Officer or other persons responsible therefore, as arrears of land revenue.
- (4) In the event of the Registrar taking action under the last preceding sub-rule, he shall also cause copies of the, provisional list of voters to be displayed on his notice board and on the notices board of the District Election Officer and of the society within ten days from the date of receipt of such list from the society for inviting claims and objections from the member of the society.

56C. Particulars to be included in the provisional list of voters.-

- (1) The provisional list of voters in case of individual share holders, shall contain the name, fathers or husbands name, surname, if any, with address recorded in the register of members in Form M-1 of every person entitled to be registered as voter with such other particulars as may be necessary to identify him.
- (2) Where a society is the member of a notified society, the notified society shall call for the name of representative duly authorised to vote at the election on behalf of the affiliated society, so as to reach it by 150 days prior to the date of expiry of term of office of the Committee.

- (3) While communicating the name of the representative to the notified society, the affiliated society shall enclose a copy of the resolution of the society or its committee as provided under the bye-laws, where the representative is so authorised. The notified society shall include in the list of voters the name of all such representatives as have been communicated to it before the date fixed for publication of the provisional list. In addition to the names representatives, the list shall contain the name of the affiliated societies, their registration numbers and addresses with names of the constituency, if any, to which they belong.

56D. Claims and objections to the provisional list of votes, and the final list of voters.—

- (1) When any provisional list of voters is published for inviting claims and objections, any omission or error in respect of name or address or other particulars in the list may be brought to the notice of the Registrar in writing by any member of the society concerned who is a voter or any representative authorised to vote on behalf of such society during office hours within 15 days from the date of publication of the provisional list of voters.
- (2) The Registrar shall, after making such enquiries as deemed necessary in this behalf, consider each claim or objection, and give his decision thereon in writing to the persons concerned within 10 days from the last date prescribed for receiving the claims and objections and the list shall be conclusively final voters list.
- (3) The copies of final list of voters shall be displayed on the notice board of the Registrar and on the notice board of the office of the District Election Officer and that of the society at least seven days before the declaration of the election program and in no case later than fifteen days from the finalization of claims and objections:

56E. Appointment of Returning Officers, Assistant Returning Officers and such other Officers required to conduct the elections.—

The Registrar or the Chief Election Officer or the District Election Officer shall, whenever necessary, appoint the Returning Officer and may also appoint one or more persons to be called as the Assistant Returning Officer to assist the Returning Officer in the performance of his function.

Provided that, in case where no other person is appointed as Returning Officer, the District Election Officer himself shall be deemed to be the Returning Officer and shall perform all the functions of the Returning Officer under these rules. Every Assistant Returning Officer, shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer provided that, no Assistant Returning Officer which relate to the scrutiny of nominations unless the Returning Officer is unavoidably prevented from performing the said function.

56F. General duty of Returning Officer.—

It shall be the general duty of the Returning, Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided in these rules and bye-laws of the notified society or societies:

56G. Polling stations.—

The Returning Officer shall, if necessary, provide a sufficient number of polling stations or any constituency, for which election is to be held and shall publish on the notice board of the society and in such other manner as he deems fit, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

56H. Appointment of Presiding Officer and Polling Officer.-

- (1) The Returning Officer shall appoint a Presiding Officer for each polling station and such polling officer or officers as he thinks necessary, but shall not appoint any person who has been employed by the concerned society or on behalf of, or has been otherwise working for a candidate in or about the election:

Provided that, if a polling officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station, other than a person who has been employed by the concerned society or on behalf of, or who has been otherwise working for a candidate in or about the election, to be the polling officer during the absence of such officer, and shall inform the Returning Officer accordingly.

- (2) A Polling Officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under the Act or these rules and bye-laws made there under.
- (3) If the Presiding Officer, owing to illness or otherwise or are to unavoidable cause, is absent from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Presiding Officer, to perform such functions during his absence.

56I. General duty of Presiding Officer and Polling Officer.—

- (1) It shall be the general duty of the Presiding Officer at a polling station to keep law and order and to see that the poll is fairly taken.
- (2) It shall be the duty of the Polling Officers at a polling station to assist the presiding officer for such station in the performance of his functions.
- (3) The Presiding Officer, Polling Officer, Returning Officer, Assistant Returning Officers and other persons appointed for any of the purposes of these rules shall work under the general guidance, superintendence and control of the District Election Officer or the Chief Election Officer.

56J. Appointment of dates etc., for various stages of an election.—

- (1) The Returning Officer, with prior approval of the Registrar or, the District Election Officer, as the case may be, shall draw and declare a program of various stages of election, as indicated here in below, not earlier then seven days and not later than fifteen days of the date of display of final list of voters of the society:—

i	Last date for making nominations	7 days from the date of declaration of election program.
ii	The date of publication of nominations Received	As and when received till the last date list fixed for Making nominations.
iii	Date of scrutiny of nominations	Next day of the last date for making nominations
iv	Date of publication of list of valid Nominations after scrutiny.	Next day after the date of completion of scrutiny or Where there is an appeal, after the appeal is decided.
v	Date by which candidature may be Withdrawn	2 days from the date of publication of list of valid nominations after scrutiny.
vi	Date of publication of final contesting Candidates	The date next succeeding the last day fixed for Withdrawal of candidature.
vii	Date and time during which and the Place/places at which be taken	Not earlier than 90 days but not later than 15 days from the date of publication the poll shall of final list of contesting candidate (time and place to be fixed by the returning officer).
viii	Not printed in M.G.G. Dt.16-10-1987.	
ix	Date, time and place for counting of Voters	Not later than 3rd day from the date which the poll shall Be taken (time and place to be fixed by the returning Officer
x	Date of declaration of results of voting.	Immediately after the counting of votes.

Explanation: -

- (a) If the last date in reckoning dates as specified in the above cases is a public holiday, the next succeeding working day shall be fixed for the respective events;
- (b) The proportion of polling stations to number of voters at each polling station and the place of polling station shall be fixed in consultation with the notified society concerned. In case the polling stations are spread over either the district, town or villages in the District, the Election officer shall make arrangements to get all the ballot boxes to the office of the Returning Officer or to the registered office of the societies or to such other safe places as he deems fit.

56K. Manner of publication of election program under rule 56 K

- (1) The Returning Officer shall send a copy of the election program declared under rule 56J in Form M-3 to the society either by special messenger or the District Election Officer shall make

arrangement to get all their ballot boxes to the office of the Returning Officer or to the registered office of the societies or to such other safe places as he deems fit.

- (2) The time during which poll shall be taken should be mentioned in the election program. The time of poll should not be earlier than 8-00 a.m. and later than 5-00 p.m.
- (3) Wherever it is necessary to fix time, date and place for any stag in the election program, it shall be fixed by the Returning Offices and shall be mentioned in the election program declared by him.
- (4) Except with the previous approval of the District Election Officer, or the Chief Election Officer, as the case may be, the date fixed under this rule shall not be changed within 7 days or the date fixed for the polls

Provided that, if due to any unavoidable circumstances and in the public interest, it has become imminent to modify the program and there is no sufficient time for obtaining the previous approval of the District Election Officer or the Chief Election Officer, as the case may be, to such modifications, the Returning Officer may, for the reasons to be recorded in writing, modify the program. In every such case the Returning Officer shall forthwith amend, a copy of the modified election program (along with the reasons recorded by him for such modification to the Chief Election Officer or the District Election Officer, as the case may be.

56L Manner of publication of election program under rule 56K.—

- (1) The Returning Officer shall send a copy of the election program declared under rule 56J in Form M-3 to the society either by special messenger or through post under certificate of posting addressed to the society at the registered address with instructions to display the copy of the program on the notice board of the society. In addition, the said election program shall be displayed on the notice board of the office of the Returning Officer, Registrar and the District Election Officer.
- (2) The election program shall also be published at least in one local daily newspaper for a society or class of societies at the discretion of the district election officer.

56M. Nomination of candidates –

- (1) any person may be nominated as the candidate for election to fill a seat, if he is qualified to be chosen to fill that seat under the provisions of the Act, these rules and the bye laws and if his name is entered in the list of voters;

provided that, in case of joint or associate members, only the member whose name stands first in the share certificate shall be eligible to be nominated as candidate for the election. Where the seats are reserved on the committee of any notified society as provided under section 73 B of the Act, any individual belonging to the categories provided under sub section (3) of section 73 B shall be eligible for being nominated as candidate even if his name does not appear in the list of voters.

- (2) every nomination paper presented under rule 56N, shall be completed in Form M-4
Provided that, a failure to complete or defect in completing the declaration as to symbols in a nomination paper shall not be deemed to be a defect of a substantial character within the meaning of these rules.
- (3) any person whose name is entered in the list of voters may be a proposer or seconder for nominating a candidate for election;

Provided that, in the case of election from constituency of societies, the proposer and the seconder shall be from the same constituency.

- (4) A nomination paper shall be supplied by the Returning Officer to any voter on demand and on payment of such fees as determined by the District Election Officer:

Provided that such nomination paper shall be supplied by the Returning Officer to any person desirous of contesting from the constituency under section 73B even if his name does not include in the list of voters.

56N. Presentation of nomination paper and requirements for valid nominations.—

- (1) On or before the date appointed under rule S6J, each candidate shall either in person or by his proposer, deliver to the Returning Officer during the time and at the place specified in the program declared under the said rule, a nomination paper completed as provided by rule 56M and signed by the candidate and by two voters of his constituency one of whom shall be a proposer and the other seconder.
- (2) Any person, who is not subject to any disqualification as a voter under the Act, these rules or bye-laws and whose name is entered in the list of voters for the constituency for which the candidate is nominated, may subscribe as proposer and seconder.
- (3) In the case of a reserved seat under the provisions of section 73B, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular of Scheduled Caste and Scheduled Tribe of which he is a member or the details of his income and land-holding during the year immediately preceding, in the case of members of weaker section.
- (4) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and the numbers of the candidate and his proposer and seconder are as entered in the list of voters excepting in the case of nomination paper presented under the provisions of sub-section (3) of section 73B for reserved constituency. If a nomination paper is rejected under this rule, the Returning Officer shall record thereon his reasons for rejecting the same, and in that case, the candidate may deliver a fresh nomination paper subject, however, to all the provisions of this rule:

Provided that, the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding, entries in the list of voters and where necessary, any clerical or printing error in the said entries shall be overlooked.

56 O. Symbols for elections.—

- (1) The Returning Officer shall specify the symbols that may be chosen by the candidates at the election from among those specified by him, but he shall not allot any symbols which are associated with political parties.
- (2) Where at any such election, more nomination papers than one are delivered by or on behalf of a candidate, the declarations as to symbols made in the nomination paper first delivered and no other declarations, as to symbols, shall be taken into consideration under sub-rule (2) of rule 56M even if that nomination paper has been rejected.

56P. Deposit.—

A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited with the Returning Officer a sum of Rs. 25 in cash and where the candidate is of Scheduled Caste or Scheduled Tribe or of a weaker section, a sum of Rs. 5:

Provided that, where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this rule. However, the Chief Election Officer shall be competent to fix amount, from time to time, towards deposits as per aforesaid rule by a candidate in the case of any society or class of societies in consideration of the financial standing, membership etc. by general or special order.

56Q. Notice of nomination and time and place for the scrutiny.—

The Returning Officer shall on receiving the nomination paper under rule 56N, inform the person or persons delivering the same, of the day, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper, its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him and shall, as soon as may be therefore, cause to be affixed on the notice board in his office, a notice of the nomination containing descriptions similar to those contained in the nomination papers, both the candidate and of the proposer.

56R. Scrutiny of nomination papers.—

- (1) On the date fixed for the scrutiny of nomination papers under rule 56J, the candidates, one proposer of each candidate duly authorised in writing by each candidate, may attend at the time and place appointed in this behalf and the Returning Officer shall give or cause to give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered as required by rule 56N. No other person shall be allowed to attend the scrutiny of nominations.
- (2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary reject any nomination on any of the following grounds, that is to say:—
 - (a) that the candidate is disqualified for being chosen to fill the seat by or under the Act, these rules and the bye-laws;
 - (b) that the proposer is disqualified from subscribing a nomination paper;
 - (c) that there has been a failure to comply with any of the provisions of rule 56N or 56P;
 - (d) That the signature of the candidate or the proposer or the seconder on the nomination paper is not genuine.
- (3) Nothing contained in clause (c) or (d) of sub-rule (2), shall be deemed to authorize the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.
- (4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.
- (5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 56J, and shall not allow any adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

 Provided that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it, not later than the next day, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.
- (6) The Returning Officer shall endorse on each, nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection, and a copy of such statement shall be immediately supplied on demand to the candidate or to the proposer concerned. The copy of such statement shall be sent invariably to the Registrar or to the District Election Officer, as the case may be.

56S. Publication of list of valid nominations.—

Immediately after all the nomination papers have been scrutinized and the decision, accepting or rejecting the same has been recorded, the Returning Officer shall prepare a list of candidates whose nominations have been accepted or rejected. Immediately on the next day after the scrutiny is over, the Returning Officer shall affix the list on his notice board and shall record the date on which and the time at which, the list was so affixed

Provided that the Returning Officer shall be competent to include the names of candidates whose nominations are subsequently held valid, after the period of appeal by the competent authorities

56T. Withdrawal of candidature.—

- (1) Any candidate may withdraw his candidature by application in writing and deliver it personally to the Returning Officer within the stipulated time as specified in the election program.
- (2) No person who has given an application of withdrawal of his candidature shall be allowed to cancel the application.

56U. Preparation of list of contesting candidates.—

- (1) On the day next succeeding the last date fixed for withdrawal of candidature, the Returning Officer shall prepare and publish in Form M-5, a list of contesting candidates which means the candidates whose names have been finally accepted and who have not withdrawn their candidatures within the prescribed time on the notice board of his office.
- (2) The said list shall contain the names in alphabetical order with, reference to the surnames of candidates having surnames and the names proper of other candidates, in the language in which the list of voters is prepared and the addresses of the contesting candidates as given in the nomination papers.
- (3) Where a poll becomes necessary, the Returning Officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall,—
 - (a) allot a different symbol to each contesting candidate in conformity as far as practicable, with his choice; and
 - (b) if more than one contesting candidates have indicated their preference for the same symbol, decide by lot and such allotment shall be final.
- (4) Every candidate shall forthwith be informed of the symbol allotted to him and be supplied with a specimen thereof by the Returning Officer.

56 V. Appointment of Polling Agents and Counting Agents.—

- (1) At an election at which a poll is to be taken, any contesting candidate may appoint one agent and one relief agent to act as Polling Agents of such candidate, at each polling station. Such appointment shall be made by a letter in writing in Form M-6, signed by the candidate.
- (2) The candidate shall deliver the letter of appointment to Polling Agents who shall, on the date fixed for the poll, present it to and sign the declaration contained therein, before the Presiding Officer. The Presiding Officer shall retain a letter presented to him in his custody. Polling agent shall not be allowed to perform any duty at the Polling Station unless he has complied with the provisions of this rule.
- (3) The Polling Agents may work as Counting Agents as per the authority given by the candidate in Form M-7.
- (4) Each contesting candidate may appoint not more than two agents to act as Counting Agents of such candidate by a letter in writing in duplicate in Form M-8, signed by the candidates. Before the commencement of the counting of votes the candidate shall give notice of the appointment of such counting agents to the Returning Officer by forwarding to such Officer the letter of appointment: The candidate shall also deliver the duplicate copy of the letter of appointment to the counting agent who shall, on the date fixed for the counting of votes, present it to, and sign the declaration contained therein before the Returning Officer. The Returning Officer shall retain the duplicate copy presented to him in his custody. No counting agent shall be allowed to perform any duty at the place fixed for the counting of votes, unless he has complied with these provisions.

56W. Death of candidate before poll.—

If a contesting candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of candidate, countermand the poll and where the Returning Officer is not the District Election Officer himself, shall report the fact to the District Election Officer along with the proceedings with reference to the election, and the election shall be commenced in all respect, as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll

Provided further that, no person who has given a notice of withdrawal of his candidature under rule 56T before the countermanding of the poll shall be eligible for being nominated as a candidate for the election after such countermanding

56X. Uncontested elections.—

If after the expiry of the period within which candidatures may be withdrawn under rule 56T, the number of candidates in the constituency whose nominations have been accepted is equal to or less than the number of seats to be filled, the Returning Officer shall forthwith declare such candidate or all such candidates to be duly elected to fill the seat or the relevant number of seats, as the case may be, and shall complete and certify the declaration in Form M-9 and where the Returning Officer is not the District Election Officer himself, he shall send signed copies thereof to the District Election Officer.

56Y. Manner of voting at elections.—

At every election where a poll is taken, votes shall be given by secret ballot in the manner hereinafter provided and no votes shall be allowed by proxy.

56Z. Ballot Box —

Every ballot box shall be of such design as may be approved by the Chief Election Officer.

56A-1. Form of ballot paper.—

Every ballot paper shall be in Form M-10 and the names of candidates shall be arranged in the same order in which they appear in the list of contesting candidates. However, if two or more candidates bear the same name, they shall be distinguished by addition of their occupation or residence or in some other manner which should be determined by the Returning Officer.

56A-2 Arrangement at Polling Stations.—

- (1) Outside each Polling station, there shall be,—
 - (a) a notice specifying the polling area, the voters of which are entitled to vote at the polling station and where the polling station has more than one polling booth, at each of such booth, the description of the voters allotted to such booth; and
 - (b) a copy of the list of contesting candidates;
- (2) At each polling station, there shall be set up, one or more voting compartments in which voters can record their votes screened from observation.
- (3) The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, ballot papers, copies of the list of voters in respect of the polling area or areas the voters of which are entitled to vote at such polling station, instruments for stamping the distinguishing mark on ballot papers and articles necessary for voters to mark the ballot papers. The Returning Officer shall also provide at each polling station such other equipment and accessories as may be required for taking the poll at such polling station.

56A- 3 Admissions to Potting Station.—

The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude there from all persons other than,—

- (a) Polling Officers,
- (b) public servants on duty in connection with the election,
- (c) persons authorised by the Chief Election Officer, District Election Officer or the Returning Officer,
- (d) candidates, their polling agents, and subject to the provisions of rule 56V, one polling agent of each candidate,
- (e) a child in arms accompanying a voter,
- (f) a person accompanying a blind or inform voter who cannot move without help,
- (g) Such other persons as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the voter.

56A-4. the preparation of ballot boxes for poll.—

- (1) Where a paper seal is used for securing a ballot box, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the polling agents

present as are desirous of affixing the same.

- (2) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper remains open.
- (3) The seal used for securing a ballot box shall be affixed in such manner that after the box has been closed; it is not possible to open it without breaking the seals.
- (4) Where it is not necessary to use paper seals for securing the ballot box, the Presiding Officer shall secure and seal the ballot box in such a manner that the slit for the insertion of ballot papers remains open and shall allow the Polling Agents present to affix, if they so desire, their seals.
- (5) Every ballot box used as a polling station shall bear the seal both inside and outside marked with; -
 - (a) the serial number, if any, and the name of constituency;
 - (b) the serial number and name of the polling station;
 - (c) the serial number of the ballot box to be filed in at the end of the poll on the label outside the ballot box only, and
 - (d) The date of poll.
- (6) Immediately before the commencement of the poll the Presiding Officers shall demonstrate to the polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (5) of this rule.
- (7) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the Polling Agents.

56 A 5-identification of Voters.-

- (1) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the voters or to assist him at the time of taking poll.
- (2) As each voter enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf, shall check the voters name and other particulars with the relevant entry in the list of voters and then call out the serial number, name and other particulars of the voter.
- (3) In deciding the right of a person to obtain a ballot paper, the Presiding Officer or the Polling Officer, as the case may be, shall overlook clerical or printing errors in any entry in the list of voters, if he is satisfied that such person is the same voter whom that entry relates.

56A-6. challenging of identity.—

- (1) Any Polling Agent may challenge the identity of a person claiming to be a particular voter by depositing a sum of Rs. 2 in cash with the Presiding Officer for each such challenge.
- (2) On such deposit being made by that person, the Presiding Officer shall,—
 - (a) warn the person challenged of the penalty for personating;
 - (b) read with relevant entry in the list of voters in full and ask him whether he is the person referred to in that entry;
 - (c) enter his name and address in the list of challenged voters in Form M-11; and
 - (d) Require him to affix his signature in the said list.
- (3) The Presiding Officer shall thereafter, hold a summary inquiry into the allegations and may for that purpose,—
 - (a) Require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;
 - (b) put to the person challenged any question necessary for the purpose of establishing his identity and require him to answer them on oath and;

- (c) administer an oath to the person challenged and any other person offering to give evidence
- (d) if, after the enquiry, the Presiding Officer Considers that the challenge has not been established, he shall allow the person challenged to vote, and if he considers that the challenge has been established, he shall debar the person challenged from voting;
- (e) if the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that deposit made under sub-rule (1) be forfeited to the State Election Fund and in the other case, he shall return it to the challenger at the conclusion of the inquiry.

56A-7. Safeguard against personating.—

- (1) With a view to prevent the personating of voters, every voter about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied shall allow his left thumb to be inspected by the Presiding Officer or the Polling Officer and an indelible ink mark to be put on it.
- (2) If any voter refuses to allow his left thumb to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left thumb or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed vote.
- (3) Any reference in this rule to the left thumb of a voter, shall, in the case, where the voter has his left thumb missing, be construed as a reference to any other finger, of his left hand and shall, in the case where all the fingers of his left hand are missing be construed as a reference to the thumb or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing, be construed as reference to such extremity of his left or right arm as he possesses.

56A-8. Issue of ballot paper.—

- (1) No ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll.
- (2) No ballot paper shall be issued to any voter after the hour fixed for the closing of the poll, except to those voters, who are present at the polling station at the time of the closing of the poll. Such voters shall be allowed to record their votes even after the poll hour's close.
- (3) Every ballot paper shall before issue to a voter be; -
 - (a) Stamped with such distinguishing mark as the District Election Officer may direct; and
 - (b) Signed in full in its back by the Presiding Officer.
- (4) At the time of issuing a ballot paper to a voter, the Polling Officer shall record the serial number thereof against the entry relating to the voter in the copy of the list of voters set apart for the purpose.;
- (5) Save as provided in sub-rule (4), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular voters.

56A-9. Voting Procedure --

The voter on receiving, the ballot paper shall forthwith,—

- (a) proceed to one of the polling compartments,
- (b) for the purpose on or near the symbols of the candidate for whom he intends to vote,
- (c) fold the ballot paper, so as to conceal his vote,
- (d) if required, show the Presiding Officer the distinguished mark on the ballot paper,
- (e) insert the folded ballot paper into the ballot box,
- (f) quit the polling station, and
- (g) No voter shall be allowed to enter a polling compartment when another voter is inside it.

56A-10. Procedure for voting where there are no separate constituencies or more than one

seat to be filled in one constituency.—

In cases where there are no constituencies defined in the bye-laws or where more than one seat is authorised in the bye-laws for a constituency, voting in so far as these seats are concerned shall be recorded in accordance with the following provisions, namely,—

- (a) every voter shall be entitled to give as many votes as there are seats for filling, which votes are to be taken but no voter shall give more than one vote to any one candidate
- (b) the voter shall make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbols of the candidate or candidates for whom he intends to vote, so however, that no part of any mark so made shall appear in the space provided for other candidates. The voter shall thereafter fold the marked ballot paper, so as to conceal his vote and, insert the folded ballot paper into the ballot box and without undue delay leave the polling station.

56A-11. Recording of vote of blind or infirm voter.—

- (1) If the Presiding Officer is satisfied that, owing to blindness or other physical infirmity, a voter is unable to recognize the symbols on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than twenty one years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for holding the ballot paper so as to conceal the vote and inserting it into the ballot box:

Provided that, no person shall be permitted to act as the companion of more than one voter at any polling station on the same day:

Provided further that, before any person is permitted to act as the companion of voter on any day under this rule, he shall be required to declare in Form M-12 that he shall keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any polling station on that day.

- (2) The Presiding Officer shall keep a record in Form M-13 of all such cases under this rule.

56A-12. Spoilt and Returned ballot papers.—

- (1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper and the ballot paper so returned shall be marked "Spoilt cancelled" by the Presiding Officer.
- (2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned shall be marked as Returned cancelled by the Presiding Officer.
- (3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

56A-13. Tendered votes.—

- (1) If a person representing himself to be a voter applies for a ballot paper after another person has already voted as such voter, he shall, on satisfactorily answering such question relating to his identity as the Presiding Officer may ask, be entitled to the following provisions of this rule, to mark a ballot paper (hereinafter referred to as a tendered ballot paper) in the same manner as any other voter.
- (2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form M-14.
- (3) A tendered ballot paper shall be then same as the other ballot papers used at the polling station, except that it shall be,—
 - (a) serially the last in the bundle of the ballot papers issued for use at the polling station, and
 - (b) On the back with the words tendered ballot paper by the Presiding Officer in his own handwriting and signed by him.

- (4) The voter, after marking a tendered ballot paper in the polling compartment, and folding it, shall, instead of putting it into the ballot box, give it to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

56A-14. Closing of poll.—

- (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 56K and shall not thereafter admit any voter into the polling station:
Provided that, all voters present at the polling station before it is closed shall be allowed to cast their votes.
- (2) If any question arises whether a voter was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

56A-15. Sealing of ballot boxes after poll.—

- (1) As soon as practicable after closing of the poll, the Presiding Officer shall, in the presence of any candidates or their polling agents, close the slit of the ballot box and where the ballot box does not contain any mechanical device for closing the slit, he shall seal up the slit and also show any polling agents presents, to affix his seal.
- (2) The ballot box shall thereafter be sealed and secured.
- (3) Where it becomes necessary to use a second ballot box by reason of the first box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into the use.

56A-16. Account of ballot papers.—

- (1) The Presiding Officer shall at the close of the poll prepare a ballot paper account in Form M-15 and enclose it in a separate cover with the words Ballot papers account super scribed thereon.
- (2) The Presiding Officer shall permit a polling agent, who so desires to take a true copy of the entries made in the ballot paper account and shall attest it as true copy.

56A-17. Sealing of other jackets.—

- (1) The Presiding Officer shall then make into separate packets,—
 - (a) the marked copy of the list of voters,
 - (b) the unused ballot papers,
 - (c) the cover containing the tendered ballot papers and the list of the tendered ballot papers,
 - (d) the list of challenged votes,
 - (e) any other papers directed by the Returning Officer to be kept in sealed packet.
- (2) Each packet shall be sealed with the seals of the Presiding Officer and those polling agents present, who may desire to affix their seals thereon.

56A-18. Transmission of ballot boxes, packets, etc. to the Returning Officer.—

- (1) The Presiding Officer shall then deliver or cause to be delivered the following to the Returning Officer at such places as the Returning Officer may direct,—
 - (a) the ballot boxes,
 - (b) the ballot paper account,
 - (c) the sealed packets referred to in rule 56A-16 of these rules, and
 - (d) all other papers used at the poll.
- (2) The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of the counting of votes.

56A-19. Fresh poll in case of destruction etc. of ballot boxes.—

- (1) If at any election,—
 - (a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at the polling station cannot be ascertained, or
 - (b) Any such error or irregularity in the procedure as it likely to vitiate poll is committed at a polling station, the Returning Officer (where the District Election Officer, himself is not the Returning Officer) shall forthwith report the matter to the District Election Officer.
- (2) The District Election Officer upon receipt of such report, or of his own motion in the circumstances stated in sub-rule (1) of this rule after taking into consideration all material circumstances, either,—
 - (a) declare the poll at the polling station to be void, appoint a day and fix the hours, for taking a fresh poll at that polling station and notify the day, so appointed and the hours, so fixed in such manner as may deem fit, or
 - (b) if satisfied that, the result fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, then he may issue such directions to the Returning Officer or take such action as he may deem proper for the election.
- (3) The provisions of the Act and the rules or bye-laws made there under, shall apply to every such fresh poll as they apply to the original poll.

56A-20. Counting of votes.—

At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of the Returning Officer and each contesting candidate and his counting agents shall have a right to be present at the time of counting.

56A-21. Admission to the place fixed for counting.—

- (1) The Returning Officer shall exclude from place fixed for counting of votes all persons except,—
 - (a) such persons as he may appoint to assist him in the counting;
 - (b) persons authorised by the District Election Officer;
 - (c) public servants on duty in connection with the election; and
 - (d) Candidate and their counting agents.
- (2) No person, who has employed by the society or has been otherwise working for a candidate in the election, shall be appointed under clause (a) of sub-rule (1).
- (3) The Returning Officer shall decide which Counting Agent or Agents shall watch the counting at any particular counting table or group of counting tables.
- (4) Any person, who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer, may be removed from the place where the votes are being counted by the Returning Officer, or by any police officer on duty or by any person authorised in this behalf by the Returning Officer.

56A-22. Scrutiny and opening of ballot boxes.—

- (1) The Returning Officer may have the ballot boxes used at more than one polling station opened and their contents counted simultaneously.
- (2) Before any ballot box is opened at a counting table the Counting Agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.
- (3) The Returning Officer shall satisfy himself that none of the ballot boxes has in fact been tampered with. He shall not count the ballot papers contained in tempered box and shall follow the procedure laid down in rule 56A-19 in respect of that polling station.

56A-23. Scrutiny and rejection of ballot papers.—

- (1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized.
- (2) The Returning Officer shall reject a ballot paper,—
 - (a) if it bears any mark or writing by which the votes can be identified, or
 - (b) if not vote is recorded thereon, or
 - (c) if votes are given on it in favour of more than one candidate where only one candidate is to be elected, or
 - (d) where more than one candidate is to be elected, if the voter has recorded on the ballot paper-more votes than he is entitled to give, or
 - (e) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given, or
 - (f) if it is a spurious ballot paper, or
 - (g) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or
 - (h) If it bears a serial number, or is of a design different from the serial numbers or, as the case may be, design of the ballot papers authorised for use at the polling station.
 - (i) if it does not bear the mark which it have borne under the provisions of sub-rule (3) of rule 56-A-8:

Provided that,—

- (i) where a Returning Officer is satisfied that any such defects as is mentioned in clauses (g) or (h) of this sub-rule has been caused by any mistake or failure on the part of the Presiding Officer or the Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect;
 - (ii) a ballot paper shall not be rejected merely on the ground that, the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked;
 - (iii) Before rejecting any ballot paper under sub-rule (2) of this rule, the Returning Officer shall allow Counting Agent present a reasonable opportunity to inspect the ballot paper.
- (3) The Returning Officer shall record on every ballot paper which he rejects the letter R and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.
- (4) All ballot papers rejected under this rule shall be bundled together.

56A-24. Procedure for counting of votes.—

- (1) Every ballot paper which is not rejected under rule 56A-23 shall be counted as one valid vote provided that, no cover containing tendered ballot papers shall be opened and no such paper shall be counted.
- (2) After the counting of all ballot papers contained in all the ballot boxes used as a polling station has been completed, the Returning Officer shall make the entries in a result-sheet in Form M-16 and announce the particulars.
- (3) The valid ballot papers shall thereafter be bundled together and kept along with the bundle of rejected ballot papers in a separate packet which shall be sealed and on which the following particulars shall be recorded, namely:—
 - (a) The name of the constituency;
 - (b) The particulars of the polling station, where the ballot papers have been used; and
 - (c) The date of counting

56A-25. Counting to be continuous.—

The Returning Officer shall, as far as practicable proceed continuously with the counting of votes and shall, during any intervals when the counting has to be suspended, keep the ballot papers, packets and other papers relating to the election sealed with his own seal and the seals of such candidates or counting agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody during such intervals.

56A-26. Procedure for counting of votes where there are no separate constituencies or more than one seat to be filled in one constituency.—

In cases where there are no constituencies defined in the bye-laws or where more than one seat is authorised in the bye-laws for a constituency, counting of votes for these seats shall be done in the following manner, namely:—

- (a) The counting of votes shall be done by or under the supervision of the Returning Officer, with the assistance of such persons as he may appoint to assist in counting of votes.
- (b) After each ballot box is opened for counting clearly valid voting papers shall be separated from invalid and doubtful voting papers. The invalid and doubtful voting papers shall be submitted to the Returning Officer for decision. The valid voting papers shall thereafter be taken for counting and the votes recorded in favour of each candidate shall be counted with the aid of persons appointed to assist in the counting of votes.
- (c) The Returning Officer shall allow the candidate and their counting agents, who be present reasonable opportunity to inspect all voting papers which in the opinion of the Returning Officer are liable to be rejected but shall not allow them to handle those or any other voting papers. The Returning Officer shall on every voting paper which is rejected endorse the letter R. If any candidate or his counting agent questions the correctness of the rejection of any voting paper, the Returning Officer shall also record brief on such voting paper the ground for its rejection.
- (d) After the counting of all voting papers contained in all the ballot boxes used has been completed, the Returning Officer shall cause to be sealed up in separate packets with a description endorsed on each such packet of the voting papers counted and that voting papers rejected.
- (e) The Returning Officer shall as far as practicable proceed continuously with the counting of the votes and shall during any intervals when the counting has to be suspended, keep the voting papers packets and other documents relating to the election sealed with his own seal and the seal of such candidate or Counting Agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody.
- (f) After the counting of ballot papers contained in all the ballot boxes used at all the polling stations had been completed, the Returning Officer shall prepare a consolidated statement recording therein the total number of votes polled by each candidate.

56A-27. Recommencing of counting after fresh poll.—

- (1) If a fresh poll is held under rule 56A-19, the Returning Officer shall after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidate.
- (2) The provisions of rules 56A-23 and 56A-24 shall apply so far as may be to such further counting.

56A-28. Recount of votes.—

- (1) After the completion of counting the Returning Officer shall record in the result sheet in Form M-16 the total number of votes polled by each candidate and announce the same:

Provided that, when an equality of votes is found to exist between any candidates either for

the reserved or the unreserved seats and the addition of one vote will entitle any of the candidate to be declared elected, the determination of the person or persons to whom such additional vote shall be deemed to have been given shall be made by lots to be drawn in the presence of the Returning Officer and the candidates who may desire to be present, and in such manner as the Returning Officer may determine.

- (2) After such announcement has been made, a candidate or, in his absence, his Polling Agent may apply in writing to the Returning Officer for a recount of all or any of the ballot papers already counted stating the grounds on which he demands such recount.
- (3) On such application being made, the Returning Officer shall decide the matter and may allow the application in whole or in part or may reject totally, if it appears to him to be frivolous or unreasonable.
- (4) Every decision of the Returning Officer under sub-rule (2) shall be in writing and contain the reasons therefore.
- (5) If the Returning Officer decides under sub-rule (2) to allow an application either in whole or in part, he shall,—
 - (a) count the ballot papers again in accordance with his decision;
 - (b) amend the result sheet in Form M-16 to the extent necessary after such recount; and
 - (c) Announce the amendment so made by him.
- (6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the Returning Officer shall complete and sign the result sheet in Form M-16:

Provided that, no steps under this sub-rule shall be taken on the completion of the counting until the candidates present at the completion thereof have been given a reasonable opportunity to exercise the rights conferred by sub-rule (2).

56A-29. Declaration of result and publication of names of the members of the committee.—

The Returning Officer shall then declare the candidate to whom the highest number of valid votes has been given as having been elected and certify the return of election in Form M-17 and where the District Election Officer himself is not the Returning Officer shall send signed copies thereof to the District Election Officer. On receipt of the declaration, the District Election officer shall publish the names of all elected committee members by causing a list of such names together with their permanent addresses and the names of constituencies from which they are election the notice board of his office and shall send a copy thereof to the registered address of the society concerned for affixing it on the notice board and also for its record. The District Election Officer shall send a list of the elected committee members to the Chief Election Officer.

56A-30. Return or forfeiture of candidates deposit.—

- (1) The deposits made under rule 56P shall either be returned to the person making it or representative heir or to be forfeited to the State Election Fund in accordance with the provisions of sub-rule (3) of rule 56A-6.
- (2) Except in cases hereinafter mentioned in this rule, deposit shall be returned as soon as practicable after result of the election is declared.
- (3) If the candidate is not shown in the list of contesting candidates, or he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.
- (4) Subject to the provisions of sub-rule (3), the deposit shall be forfeited to the State Election Fund, if at an election, where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-tenth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election one-tenth number of valid votes, so polled divided by the number of members to be elected.

56A-31. Custody of papers relating to elections.—

The Returning Officer shall have the custody of packets referred to in rule 56A-17 and all other papers relating to the elections for a period of 3 months from the date of declaration of result and such packet shall be handed over to the Election Officer.

56A-32. Production and inspection of election papers.—

- (1) While in custody of District Election Officer—
 - (a) the packets of unused ballot papers,
 - (b) the packets of used ballot papers whether valid, tendered or rejected,
 - (c) the marked copies of the voters list, shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the order of the court or other competent authority.
- (2) All other papers relating to the election shall be open to public inspection.

56A-33. Disposal of election papers.—

The packet referred to in rule 56A-32 shall be retained for a period of one year and shall thereafter be filled in by destroyed subject to any directions to the contrary given by the Court or other competent authority.

56A-34. Casual vacancies how to be filled in.—

In the event of vacancy occurred on account of death, resignation or otherwise, it shall be filled in by the society, according to the provisions of bye-laws of the society.

56A-35. Election of office bearers.—

As soon as the members of the committee are elected and necessary co-option or appointment, as the case may be, of members to the reserved seats under section 73B or 73BB, as the case may be, or wherever such election is due, the election of the officer or officers of any such notified society shall be held as provided in its bye-laws but any meeting of the committee for this purpose shall be presided over by the Registrar or an officer nominated by him in this behalf.

CHAPTER VI
MANAGEMENT OF SOCIETIES



57. Prohibition against being interested in contracts, etc.,—

- (1) No officer of a society shall have any interest, directly or indirectly otherwise than as such Officer,—
 - (a) In any contract made with or by the society; or
 - (b) In any property sold or purchased by the society; or
 - (c) In any other transaction of the society, except as investment made or as loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.
- (2) No officer of the society shall purchase, directly or indirectly, any property of a member of the society sold for the recovery of his dues to the society.

57A. Motion of no-confidence against the officers of the society.—

- (1) The requisition to call the special meeting of the committee of a society to consider a motion of no-confidence against the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer, or other officer of the society, by whatever designation called, who holds office by virtue of his elections to that office, shall be made in Form M-18, the requisition shall be accompanied by,—
 - (a) The grounds of no-confidence,
 - (b) The text of the motion of no—confidence to be moved.
 - (c) The name of the committee members who shall move the motion of no-confidence,
 - (d) A list of members of committee specifying their full names, and addresses who are, for the time being, entitled to sit and vote at any meeting of the committee,
 - (e) Signatures of the members of committee who are signing die requisition duly attested by the Chief Executive Officer of the society or Special Executive Magistrate or Executive Magistrate or any Gazetted Officer of the Government.
- (2) The requisition referred to in sub-rule (1) shall be delivered in person to the Registrar. Such requisition or requisitions shall be delivered in duplicate in each case. The Registrar on ascertaining that the requisition or requisitions, as the case may be, have been signed by not less than 1/3rd members of the Committee who for the time being are entitled to sit and vote in any meeting of the committee of society—
 - (a) Receive and acknowledge the requisition under his signature with date and time,
 - (b) Issue notice within 7 days from the date of receipt of the requisition, convening the special meeting for that purpose specifying therein place, date, time, name and designation of the officer who shall be presiding over such meeting, to all the members of the Committee, the Presiding Officer and the Managing Director, General Manager, Manager, paid Secretary, Group Secretary or such employee of the society, to whom the Registrar has directed to produce minute book of Committee meetings of the society. This notice of no-confidence, shall also be issued, to the officer or officers against whom the motion of no-confidence is being moved and shall be accompanied by the copy of the requisition along with enclosures and agenda,
 - (c) The Registrar shall direct the Managing Director, General-Manager, and Manager, paid Secretary, Group Secretary or any other employee to deliver in person the minute book of the Committee meetings on the date, time and place of the meeting, to the Presiding Officer.
 - (d) The Registrar shall send notices under certificate of posting, to all the persons concerned. However, he shall serve or cause to be served the notices on the officer or officers against whom the motion of no-confidence is proposed to be moved through the Special messenger or the officer or officers, as the case may be, or in his or their absence on any adult member of his or their families at the place of

residence. If for some reason it is not possible to serve the notice, the authorised person in this behalf, shall in presence of two witnesses, affix such notice on any conspicuous place of the residence.

- (e) Copies of this notice shall be displayed on the Notice Board of the Registrar, the Presiding Officer and the society. Such display of the notice on the notice board of the Registrar and the Presiding Officer shall be the conclusive proof that such notice has been served on all concerned.
- (3) Notwithstanding anything contained in the bye-laws of the society regarding the procedure for convening and holding meeting and recording of minutes, the procedure adopted by the Registrar, the Presiding Officer and the Authorised Officer under sub-rule (2), shall be deemed to be the proper procedure under the provisions of bye-laws of the society.
- (4) If the Registrar deems it necessary, he shall require any officer of the society to furnish any information to him and it shall be obligatory on the part of such officer to furnish such information. On failure of the officer to furnish the information, the Registrar may get it through any person authorizing in that behalf. This failure on part of the officer of the society shall be construed as non-compliance of provisions as contemplated under sub-section (1) of section 79. However, in case of the officer of the society who holds that office by virtue of his election, including the member of the committee of management, it shall be construed as breach of provisions under sub-section (1) of section 79 and negligence of performance of duties imposed by the Registrar as contemplated under sub-section (1) of section 78.
- (5) The time of the meeting shall be between office hours of the authorised officer. The meeting shall be held either in the office of the society or at any other place which may, as far as possible, be public place or any other place specified by the District Deputy Registrar.
- (6) No other subject, except the motion or motions of no-confidence shall be kept on the agenda.
- (7) The Registrar or the officer authorised to preside over the meeting shall,—
 - (a) Announce or cause to be announced the commencement of the meeting,
 - (b) Take possession of the minute book of the committee meetings from the officer of the society. However, for the some reasons, if it is not possible for him to take possession of the minute book of the committee meetings of the society, at the commencement of the meeting, he shall record proceedings in the register kept for that purpose in his office. The text of the minutes of the meeting recorded in the minute book kept in the office of the Registrar shall be incorporated in the minute book of the society,
 - (c) Record the date, time, place, names of members of the committee presents at the commencement of the meeting, in the minute book of the society or kept by him, as the case may be, in his own hand and cause all the members of committee who are present, to sign it and it shall be obligatory on their part to do so. The signature of the members on the minute book shall be the concrete proof of their attendance,
 - (d) Not allow any other person to enter the place of meeting except the person or persons appointed to assist him, the officer of the society who has produced the minute book, the officer or officers against whom the motion of no-confidence is moved, the members of the committee who are for the time being entitled to sit and vote in any meeting of the committee, who are present at the commencement of the meeting and police officer or officers if called by him to maintain the law and order;
 - (e) Record or cause to be recorded, the proceedings of the meeting and thereafter allow those members who desire to sign the proceedings. Signature of the members on the minute book shall be the conclusive proof of their attendance;
 - (f) Not allow the discussions on any other subject than the subject on agenda;

- (g) Declare the motion or motions as rejected and take a note to that effect with reasons in the minute book under the following circumstances,—
 - (i) if no member of the committee present,
 - (ii) none of the members of the committee, who are present refuse to sign the requisition,
 - (iii) 2/3rd members are not present at the commencement of the meeting (if 2/3rd is fraction, it shall be rounded to next higher number);
- (h) (I) Read or cause to be read the text and grounds of no-confidence motion and allow any of the members, who have signed the requisition to move the motion and to speak in support of the motion,
 (II) Allow the member against whom no-confidence motion is moved or any other member on his behalf to defend.
- (i) Put the motion to vote and declare the results as laid down in sub-section (6) of section 73-ID;
- (j) The Presiding Officer shall not speak or give any decision on the merit or otherwise of no-confidence motion;
- (k) Issue certificate in Form M-19 in favour of the society.

58. Disqualification for membership of Committee.—

- (1) No person shall be eligible for appointment, or election or nomination or co-option or being continued as member of the committee or District Loan Committee of State Land Development Bank, if he is in default to any society, in respect of any dues from him either as borrower or is a defaulter within the meaning of section 73-FF or has incurred disqualification under clauses (ii), (iii), (iv), (v) and (vi) of sub-section (1) of section 73-FF.
- (2) When any member incurs disqualification as mentioned in sub-rule (1), the Chief Executive Officer or whatsoever name called, shall communicate the members that he has ceased to be a member of the committee, under certificate of positing. The Chief Executive Officer shall also report along with a copy of communication to the Registrar and also affix a copy thereof on the notice-board of the society. The publication of such copy of the notice or the receipt of such copy of the notice in the office of the Registrar shall be the conclusive proof of the fact that the person has duly received the communication. When any member ceased to be a member of the committee, the seat of such member shall be deemed to have fallen vacant from the date of such communication. The society shall not allow such persons to exercise any powers enjoy any rights and privileges and perform functions as members of the committee, under the Act and the rules and bye-laws made there under. If the Chief Executive Officer fails to take action as contemplated above, the Registrar shall after giving an opportunity to the person disqualified, issue communication of cessation of membership of such person from the committee of the society under certificate of positing and also by publishing a copy on the notice-board of his office.

59. First general meeting.—

- (1) Within three months from the date of registration of a society, the Chief Promoter thereof, shall convene the first general meeting of all persons who had joined in the application for registration of the society. Where the Chief Promoter fails to convene the meeting as aforesaid, it shall be convened by any person authorised in that behalf by the Registrar.
- (2) At the first general body meeting, the following business shall be transacted,—
 - (i) Election of a President for the meeting;
 - (ii) Admission of new members;
 - (iii) Receiving a statement of accounts and reporting all transactions entered into by the promoter up to 14 days before the meeting;

- (iv) Constitution of a provisional committee until regular election is held under bye-laws. The provisional committee shall have the same powers and functions as the committee elected in accordance with the bye-laws;
- (v) Fixing the limit up to which the funds may be borrowed;
- (vi) Any other matter which has been specifically mentioned in the bye-laws.

60. General Meeting.—

- (1) All general meeting of a society excepting the first general meeting shall be convened by the Secretary or any other officer authorised by and under the bye-laws to convene such meetings under intimation to the Registrar, who may attend such meetings or authorize some person to attend such meeting on his behalf. The President of the Society or in his absence the Vice-President or, in the absence of both, a member elected by the members present at the meeting shall preside over the meeting unless the bye-laws specify that the President of the meeting elected by the meeting.
- (2) No general meeting shall be held or proceeded with unless the number of members required to form a quorum as specified in the bye-laws are present.
- (3) The Secretary or any other officer convening the meeting shall read out of the notice convening the meeting and the agenda for the meeting and then the subjects shall be taken up for consideration in the order in which they are mentioned in the agenda unless the members present, with the permission of the President, agree to change the order. Unless otherwise specified in the Act, these rules and the bye-laws, the resolutions will be passed by a majority of the members present. The President will have a casting vote.
- (4) When the members are divided on any resolution, any member may demand a poll, when a poll is demanded; the President shall put the resolution for vote.
- (5) Voting may be by show of hands or by ballot as may be decided by the members present at the meeting, unless otherwise specified in the bye-laws. Notwithstanding any thing contained in the bye-laws, election of office bearers of a society having, members share capital in excess of Rs. 10,000, including Government share capital if any, shall be by ballot.
- (6) When a voting is to be by ballot, the President shall take necessary steps for the issue of ballot papers and counting of votes.
- (7) The result of voting shall be announced by the President.
- (8) If all the business in the agenda cannot be transacted on the date on which the general meeting is held, the meeting may be postponed to any other suitable date not later than 30 days from the date of the meeting as may decided by the members present at the meeting.
- (9) The remaining subject or subjects on the agenda shall be taken up for consideration at the postponed meeting.
- (10) If the general meeting cannot be held for want of quorum, it shall be adjourned to a later hour on the same day as may have been specified in the notice calling the meeting or to a subsequent date not earlier than seven days and at such adjourned meeting the business on the agenda of the original meeting shall be transacted whether there is a quorum or not.
- (11) No resolution regarding expulsion of a member of the society, removal of a member of the committee or amendment of bye-laws shall be brought forward in any general meeting, unless due notice thereof is given in accordance with the provisions of the Act, these rules and the bye-laws of the society.

61. Annual statement of accounts including balance sheet, etc.—

Within forty-five days of the close of every co-operative year, or within such extended period, as may be specified by the Registrar, in the case of any society or class of societies, the committee of every society shall prepare annual statement of accounts showing,—

- (i) Receipts and disbursements during the previous co-operative year;
- (ii) The profit and loss account for the year; and
- (iii) The balance sheet as at the close of the year.

These statements of accounts shall be open to inspection by any member during office hours at the office of the society and a copy thereof shall be submitted within fifteen days from the date of preparation, to the auditor appointed by the Registrar for the audit of that society.

62. Form for the balance sheet and the profit and loss account.—

- (1) The balance sheet and the profit and loss account to be laid before the annual general meeting of a society by the committee shall ordinarily be in Form N:

Provided that, it shall be competent for the Registrar to permit a society or class of societies to adopt such other form as he may deem fit.

- (2) A copy of the balance sheet and profit and loss account to be presented at the annual general meeting under sub-section (2) of section 75 and a copy of the report of the committee under sub-section (3) of section 75 shall be fixed on the notice board of the society at least fourteen days before the date fixed for the annual general meeting.

63. Power to call annual and special general meeting.—

If the annual general meeting of a society is not called in accordance with the provisions of section 75 or if the Chairman or a majority of the committee of a society fail to call a special general meeting in accordance with the provisions of section 76, the Registrar may authorize any person subordinate to him or any officer or employee of federal society to call the annual general meeting or the special general meeting, as the case may be, and such officer or person shall have all the powers and function of the officer of the society authorised to convene such annual or special general meeting, under its bye-laws.

64. Procedure for appointment, suspension and removal of members of the committee and other officers, etc.—

- (1) Notwithstanding anything contained in the bye-laws of a society but subject to the provisions of section 78, the Registrar may by an order stating the reasons therefore
 - (a) Remove the committee of a society and appoint a new committee in its place consisting of three or more members of the society to manage the affairs of the society; or
 - (b) Remove the committee and appoint one or more administration, who need not be members of the society, to manage the affairs of the society; or
 - (c) Remove any member of the committee of a society and appoint in his place such other members as he may deem fit.
- (2) Before making any order under sub-rule (1), the Registrar shall consult the federal society to which the society is affiliated and give an opportunity to the committee or the member concerned to show cause, within fifteen days from the date of issue of notice, why such an order shall not be made.
- (3) The member appointed under clause (c) of sub-rule (1) shall hold office so long as the member in whose place he is appointed would have held office, if the vacancy had not occurred.
- (4) Notwithstanding anything contained in the bye-laws regarding holding of any meeting of the society, the Registrar may, by special or general order specify the procedure for holding meetings of the Committee appointed by him under clause (a) of sub-rule (1).
- (5) Immediately after the appointment of a new committee or an administrator or administrators under sub-rule (1), the committee in whose place such appointment is made and officers of the society shall give the new committee or the administrator or administrators, as the case may be, the charge of property, documents and accounts of the society.

65. Accounts and books to be kept.—

- (1) Every society shall keep the following accounts and books:—
 - (1) A register of members including persons nominated under section 38 in Form I.
 - (2) A register of shares.
 - (3) A register of debentures and bonds (where capital is raised by debentures and bonds).
 - (4) Minute book regarding proceedings of general meeting.
 - (5) Minute book recording proceedings of committee meetings.
 - (6) Cash book.
 - (7) General ledger and personal ledger.
 - (8) Stock register.
 - (9) Property registers.
 - (10) Register of audit objections and their rectifications.
 - (11) Such other accounts and books as from time to time specified by the State Government by special or general order for any society or class of societies.
- (2) Where the State Government directs by order as provided under subsection (2A) of section 81 that the cost audit of any society or class of societies shall be conducted, such society or class of societies shall, in addition to the accounts and books required to be kept under sub-rule (1), also maintain such books, records and accounts in such manner as the State Government may specify by general or special order from time to time for the purposes of cost audit.

66. Copies of monthly returns to be furnished to Registrar.—

All registered co-operative societies classified by the Registrar as Central Banks or as Urban Banks shall, furnish to the Registrar every month, a copy of each of the returns required to be furnished to the Reserve Bank of India under sections 18, 24 and 27 of the Banking Regulation Act, 1949 (10 of 1949).

67. Registrars power to enforce performance of obligations.—

- (1) In addition to the periodical financial statements referred to in rule 66, the Registrar may be special or general order require any society to furnish to him any other returns in such forms as may be specified by him, on such date or dates or at such interval or intervals as may be specified by him, in the order. The salaried officers of the society shall be responsible for the submission of these returns on due dates. If there are no salaried officers of the society or if the executives' functions are attended to by the Chairman or any other member of the committee in an honorary capacity, the returns shall be submitted by the Chairman or such member of the committee.
- (2) On failure of the society to furnish any returns on due dates, the Registrar may, after giving due notice to the person or persons responsible for the submission of the same, depute an employee of the Co-operative Department or of the federal society to which the society is affiliated to prepare the return or returns and submit it or them to him. The members of the committee and other officers of the society shall furnish to the employee of the Co-operative department or of the federal society entrusted with the work, all information necessary for preparing the return or returns. The expenses incurred by the Registrar in getting such return or returns prepared shall be born by the society and shall be recovered from the society under section 79 as if they were an arrears of land revenue.

67A. Directions of Registrar to the society to make regulations on certain matters.—

- (1) Where in the course of, or as a result of audit under section 81, or enquiry under section 83, or inspections under section 84 or section 89A or supervision under section 89A or visit or administrative inspection of any officer of the Co-operative Department or financial institution, or on the report of federal society or financial institution, or in any other way, or suo motu or otherwise, the Registrar is of the opinion that it is necessary, having regard to financial condition of the society or before or after grant of Government financial assistance of any kind directly or indirectly including government guarantee or any other financial interest of Government accrue or likely to be accrued to regulate the manner of carrying on trade or business, the Registrar, after making such further enquiry if he deems necessary and after consulting the committee or any officer of the society and after examining the record of the society shall.—
 - (i) direct the society to make regulations on the items specified by him,
 - (ii) direct the society to make regulations in such manner as he specifies and forward the same to him within three months from the date of such issue of directions to him, for approval.
- (2) The society shall frame the regulations on items specified by the Registrar and also in the manner specified by him, if he has so directed while forwarding regulations and forward die same personally along with copy of resolution within a period of three months from the date of issue of such directives.
- (3) On receipt of regulations, the Registrar or the District Deputy Registrar on examination may issue an order approving them or modify, eliminate, delete or add as he deems fit in the interest of the society. The regulations shall be effective from the date of issue of order of approval by the Registrar and the society shall carry on its business in accordance with such regulations from the date of order of approval of such regulations.
- (4) If any society fails to submit regulations, to the Registrar on any or all the items forwarded by the Registrar or in the manner directed by him, the Registrar shall make the regulations on the items and in the manner if directed by him wider sub-section (1) of section 79 A and issue an order directing the society to carry on its business in accordance with such resolutions from the date of issue of such order. It shall be obligatory on the society to carry on its business and trade in accordance with the regulations so issued.
- (5) If,—
 - (a) the Committee or any officer of the society fails to attend the consultation, to produce record furnishing the information, attend for satisfying the doubts of Registrar or to carry out any other act or to comply with any of the provides of sub-rules (1), (2) and (3);
 - (b) (b) after issue of order in sub-rules (3) and (4) of this rule, if the society is negligent in observance or fails to comply with the regulations, it shall be constructed as non-compliance of direction issued by the Registrar under section 79AA, if it relates to clause (b) and thereupon the provisions of section 79 shall be applicable mutatis mutandis. If the Committee or elected officer of the society is responsible for non-compliance of provisions of clauses (a) and (b) of this sub-rule, it shall, in addition to non-compliance of directives under sub-section (1) of section 79 and section 79AA, also be constructed as negligence in performance of duties imposed on it or upon him by the Act and the rules made there under and willful disobedience of instructions issued by the Registrar as contemplated in sub-section (1) of section 78.

68. Procedure to be adopted for taking possession of books, documents, securities, cash and other properties of society.—

- (1) Where taking possession of books, documents, securities, cash or other properties of a society is considered necessary and where taking of such possession is resisted or obstructed, the Registrar, the Liquidator or any other person entitled to the same may take or cause to be taken order for seizing the books, documents, securities, cash or other properties of the society, as the case may be, in the manner provided in section 80.
- (2) Any person appointed by the Registrar as a Liquidator of a society or any person authorised

by the Registrar to audit the accounts of a society under section 81 or any person authorised by the Registrar to hold an inquiry into the constitution, working and financial conditions of a society under section 83 or any person authorised by the Registrar to inspect the books of a society under section 84 shall, in cases where the misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash or other properties of a society are likely to be tampered with or destroyed or removed, and where taking of possession of such books, documents, securities, cash or other properties is considered necessary, shall follow the same procedure, with the previous permission of the Registrar, as is laid down in section 80 for the purposes of obtaining such possession.

CHAPTER VII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION



69. Procedure for appointment of auditors and for conducting audit.—

- (1) The audit of accounts of societies shall be conducted by Departmental Auditors or by certified auditors appointed by the Registrar from time to time on such terms and conditions as he deems fit:

Provided that, any society or class of societies notified by the Registrar may get their accounts audited by an auditor selected from the panel of certified auditors maintained by the Registrar and published by him in the Official Gazette

Explanation 1.—for purposes of this Chapter, audit shall include annual or periodical audit, continuous or concurrent audit and test or super audit and re-audit

Explanation 2.—for purposes of this rule, "a certified auditor" includes,

- (a) A Chartered Accountant within the meaning of the Chartered Accountants Act, 1949.
- (b) A person who holds a Government diploma in Co-operative Accounts or A Government diploma in co-operation and accountancy, or
- (c) A person who has served as an auditor in the Co-operative Department of the State Government

And whose name has been included by the Registrar in the panel of certified auditors maintained and published by him in the Official Gazette at least once every three years.

- (2) The audit under section 84 shall in all cases extend back to the last date of the previous audit and shall be carried out up to the last date of Co-operative year immediately preceding the audit or where the Registrar so directs in the case of any particular society or class of societies, such other date as may be specified by the Registrar.
- (3) The auditor shall submit an audit memorandum to the society and to the Registrar in the Form specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion, and to the best of his information and according to the explanation given to him, the said accounts give all the information required by the Act in the manner so required and give true and fair view,—
- (i) in the case of the balance sheet of the State of society s affairs as at the end of the financial year or any other subsequent date up to which the accounts are made up and examined by him; and
 - (ii) in the case of the profit and loss account, of the profit or loss for the financial year, or the period covered by the audit, as the case may be.
- (4) The audit memorandum shall state,—
- (i) Whether the auditor had obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
 - (ii) Whether in his opinion proper books of accounts, as required by the Act, the rules and the bye-laws of the society have been kept by the society so far as it appears from the examination of these books; and
 - (iii) Whether the balance sheet and profit loss account examined by him are in agreement with the books of accounts and returns of the society.
- (5) Where any of the matters referred to in sub-rule (4) are answered in the negative or with a qualification, the audit memorandum shall specify the reasons for the answer.
- (6) The audit memorandum shall also contain schedules with full particulars of —
- (i) all transactions which appear to be contrary to he provisions of the Act, the rules or the bye-laws of the society;
 - (ii) all sums which ought to have been but have not been brought into account by the society;

- (iii) any material impropriety or irregularity in the expenditure or in the realization of moneys due to the society;
 - (iv) any money or property belonging to the society which appears to the auditor to be bad or doubtful debt; and
 - (v) any other matters specified by the Registrar in this behalf.
- (7) The summary of audit memorandum as prepared by auditor shall be read out in a general meeting. The audit memorandum together with its accompaniments shall be open to inspection by any member of the society. The Registrar may however, direct, that any portion of the audit memorandum which appears to him to be of objectionable nature or not justified by facts shall be expunged and the portion so expunged shall not form part of the audit memorandum.
- (8) The Registrar may from time to time specify the form or forms in which the statements of accounts and information shall be prepared for audit, by the society.
- (9) On completion of his statutory audit, the auditor shall award an audit classification letter to the society whose accounts he has audited in accordance with the instructions issued by the Registrar from time to time. The list of societies to be published under sub-section (3) of section 12 shall also specify the audit class of the society.

70. Requisition of the federal society for inquiry.—

Any federal society duly authorised by a resolution of its committee, may submit a requisition to the Registrar to hold an inquiry under section 83 in respect of any society affiliated to it, duly setting out the grounds on which the inquiry is sought. A copy of such requisition shall be supplied to the society in respect of which the requisition is made.

71. Procedure and principles for the conduct of inquiry and inspection.—

- (1) An order authorizing inquiry under section 83 or inspection under section 84 shall, among other things, contain the following:—
- (a) the name of the person authorised to conduct the inquiry or inspection;
 - (b) the name of the society whose affairs are to be inquired into or whose books are to be inspected;
 - (c) the specific point or points on which the inquiry or inspection is to be made, the period within which the inquiry or inspection is to be completed and report submitted to the Registrar;
 - (d) cost of inquiry;
 - (e) any other matter relating to the inquiry or inspection
- (2) A copy of every order authorizing inquiry under section 83 or inspection under section 84 shall be supplied to the federal society or societies to which the society in respect of which the order is issued is affiliated.
- (3) If the inquiry or inspection cannot be completed within the time specified In the order referred to in sub-rule (1), the person conducting the inquiry or inspection shall submit an interim report stating the reasons for failure to complete the inquiry or inspection and the Registrar, if he is satisfied, grant such extension of time for the completion of the inquiry or inspection as he may deem necessary or he may withdraw the inquiry or inspection from the officer to whom it is entrusted and hold the inquiry or inspection himself or entrust it to such other person as he deems fit.
- (4) On receipt of the order referred to in sub-rule (1) the person authorised to conduct the inquiry or inspection shall proceed to examine the relevant books of accounts and other documents in possession of the society or any of its officers, members, agents or servants and obtain such information or explanation from any such officers, members, agents or servants of the society in regard to the transactions and working of the society as he deems necessary for the conduct of such inquiry or inspection.

- (5) The person authorised to conduct the inquiry or inspection shall submit his report to the Registrar, on all the points mentioned in the order referred to in sub-rule (1). The report shall contain his findings and the reasons thereof supported by such documentary, or other evidence as recorded by him during the course of his inquiry or inspection. He shall also specify in his report the costs of the inquiry or inspection together with reasons and recommended to the Registrar the manner in which the entire cost or a part thereof may be apportioned, amongst the parties specified in sub-section (1) of section 85. The Registrar shall pass such orders thereon as may be considered just after giving a reasonable opportunity of being heard to the person or persons concerned.
- (6) The costs of the inquiry or inspection apportioned by the Registrar under sub-section (1) of section 85 shall be recovered as provided in section 86. The Registrar may direct that such costs or any part thereof shall be paid in the first instance from the funds of the society or in the case of inspection, from the amount deposited by the creditor under clause (b) of sub-section (1) of section 84 and then recovered and repaid to the society or the creditor, as the case may be.

72. Procedure for assessing damages against delinquent promoters, etc. under section 88 —

- (1) On receipt of a report referred to in section 88 or otherwise the Registrar or any other person authorised by him may make such further inquiries as he may deem accessory regarding the extent to which the person who has taken any part in the organisation or management of a society or any deceased, past or present officer of the society has misapplied or retained, or become liable or accountable for, any money or property of the society, or has committed misfeasance or breach of trust in relation to the society.
- (2) On the completion of the further inquiries under sub-rule (1), where necessary, the Registrar or the person authorised by him shall issue a notice to the person or persons concerned furnishing him or them with particulars of the acts of misapplication, retention, misfeasance or breach of trust and the extent of his or their liability involved therein and calling upon him or them to put in statements in his or their defense within fifteen days of the date of issue of the notice.
- (3) On receipt of the statements referred to in sub-rule (2), the Registrar or the persons authorised by him, if he is satisfied that there are reasonable grounds for holding the person or persons liable, shall frame charges.
- (4) The person or persons concerned shall, after the charges are framed be asked to put in his statement in defense and to indicate the documentary or oral evidence which he would like to produce. The Registrar or the person authorised by him may permit production of other documentary or oral evidence, if considered necessary subsequently.
- (5) The Registrar or the person authorised by him, shall thereafter record the evidence led by the society or the person or persons concerned and take on record the documents proved by them and shall thereafter fix a date for hearing arguments of both the parties.
- (6) On the day fixed for hearing under sub-rule (5), the Registrar or the person authorised by him, shall hear the arguments and may pass his final orders on the same day or on any date fixed by him within sixty days from the date on which the hearing was completed. On the date so fixed, the Registrar or, as the case may be, the person authorised by him shall, make his final order, either ordering repayment of the money or return of the property to the society together with interest at such rate as may be specified by him or to contribute such amount to the assets of the society by way of compensation in regard to misapplication, retention, misfeasance or breach of trust as may be determined or may reject the claim submitted on behalf of the society.
- (7) The Registrar or the person authorised by him, may also provide in his order for the payment of the cost of the proceeding under this rule or any part of such cost as he thinks just.
- (8) The Registrar or the person authorised by him shall furnish a copy of his order, under sub-rule (6) to the party concerned within ten days of the date on which he makes final order.

73. Form of Rectification Report—

On receipt of an order, directing a society or its officers to rectify the defects and remedy the irregularities, issued by the Registrar under section 82 and on receipt of an order issued by the Registrar under section 87, the society shall, subject to the provisions of sub-sections (2) and (3) of section 87, submit to the Registrar a rectification Report in Form "O". The society shall continue to submit such rectification reports to the Registrar till all the defects are rectified or the irregularities are remedied to the satisfaction of the Registrar.

74. Levy of audit charges and supervision charges.—

- (1) The Registrar may levy audit charges and supervision charges payable annually on or before a specified date by all or any class of societies including the societies in liquidation at such rates as may be fixed by him with the approval of the State Government. Such charges, if not paid, by the specified date, shall be recoverable under sub-section (2) of section 155.
- (2) The State Government may authorize the Registrar to grant total or partial exemption from the payment of audit charges and/or supervision charges assessed to any society or class of societies.

CHAPTER VIII
DISPUTES AND ARBITRATION



75. Reference of Dispute.—

A reference of a dispute under section 91 shall be made in writing to the Registrar in Form "P". Wherever necessary, the Registrar may require the party referring the dispute to him to produce a certified copy of the relevant records on which the dispute is based and such other statements or records as may be required by him, before proceeding with the consideration of such reference.

'76. Registrar's satisfaction regarding existence of a dispute.—

Where any reference of a dispute is made to the Registrar or any matter is brought to his notice, the Registrar shall, on the basis of the reference (if any) made to him in form 'P' and the relevant records and statements submitted to him, record his decision together with the reasons therefore, whether he is or is not satisfied about the existence of a dispute within the meaning of section 91. Such recording of decision shall be sufficient proof of the Registrar's satisfaction that the matter is or is not a dispute, as the case may be.

77. Disposal of a dispute or reference to Co-operative Court—

- (1) Where the Registrar is satisfied that there is a dispute, the Registrar may decide the dispute himself or refer it for disposal to a Co-operative Court having jurisdiction.
- (2) Neither the Registrar nor the Co-operative Court shall take up for consideration any dispute, unless the parties concerned comply with the conditions of affixing the necessary Court-fees for determining the disputes.

77A. Qualifications of Judges of Co-operative Courts and their appointments.—

- (1) The member constituting a Co-operative Court shall be called the Judge of that Court.
- (2) All appointments of Judges of the Co-operative Courts shall be made by the State Government.
- (3) No person shall ordinarily be eligible for appointment as a Judge of a Co-operative Court, unless he is holding or has held judicial office not lower in rank than that of Civil Judge (Junior Division).
- (4) Notwithstanding anything contained in sub-rule (3), the State Government may appoint a person to be a Judge of Co-operative Court,—
 - (a) who has practiced as an Advocate, Pleader or Wakil for not less than three years, or
 - (b) who is enrolled as an Advocate or holds a degree or other qualification in law of any University established by law or of any other authority which entitles him to be enrolled as an Advocate, and either (I) has held office not lower in rank than that of Deputy Registrar of Co-operative Societies for not less than three years or (II) possesses good knowledge and experience of co-operative law and practice.

The number of Judges appointed under this sub-rule shall, at no time, as far as possible, exceed two-thirds of the total number of judges of the Co-operative courts.

77-B. Age limits for Judges.—

- (1) No person shall hold, or continue to hold, the office of a Judge of a Co-operative court after he attains the age of sixty-two years.
- (2) Notwithstanding anything contained in sub-rule (1), the State Government may, for such period or periods as it considers necessary, continue all or any of the Officers on Special Duty as Judges of the Co-operative courts, who were holding office as such Officers immediately before this rule comes into force and who are otherwise qualified to be judges of the Co-operative Courts.

77-C. Conditions of Service of Judges.—

If the judge of a Co-operative Court is in Government service at the time of his appointment, his pay, allowance and other conditions of service shall continue to be governed by the service conditions rules applicable to him before such appointment, and if he is direct recruit his pay, allowances and other conditions of service shall be governed by the Bombay Civil Services Rules and other rules made by the State Government, from time to time.

77-D. Holidays and vacations.—

Save as otherwise directed by the State Government the holidays to be observed in the Co-operative Courts shall be the same as are observed in the local Government offices. The period of vacation (if any) for the Co-operative Courts shall be such as the State Government may determine

77E. Procedure for hearing and decision of disputes.—

- (1) The Registrar or the Co-operative Court shall record in English, Marathi, or Hindi the evidence of the parties to a dispute and the witnesses who attend. Upon the evidence so recorded and upon consideration of any documentary evidence produced by the parties, a decision shall be given by him in writing. Such decision shall be pronounced in open Court, either at once or as soon as may be practicable on some future day; of which due notice shall be given to the parties.
- (2) Where neither party appears when the dispute is called on for hearing, the Registrar or the Co-operative court may make an order that it be dismissed for default
- (3) Where the opponent appears and the disputant does not appear when the dispute is called on for hearing the Registrar or the Court may make an order that the dispute be dismissed, unless the opponent admits the claim or a part thereof, in which case the Registrar or the Court, as the case may be, may make an order against the opponent upon such admission, and where, part only of the claim is admitted, may dismiss the dispute so far as it relates to the remainder.
- (4) Where the disputant appears and the opponent does not appear when the dispute is called for hearing then if the Registrar or the court is satisfied from the record and proceedings that the summons was duly serve, the Registrar or the Court may proceed Ex-parte. Where the summons is served by the Officer of the Registrar or the Court, he shall make his report of service on oath.
- (5) The Registrar or the Court may not ordinarily grant more than two adjournments to each party to the dispute at his request. The Registrar or the Court may, however, at his or its discretion grant such further adjournments on payment of such costs to the other side and such fees to the Registrar or the court as the Registrar or the Court as the case may be, may direct.
- (6) Any party to a dispute may apply for and obtain certified copy of any order, Judgment or award made by the Registrar or the Court on payment of copying fees, at the rate of 50 Paise per 100 words in such order, judgment or award, whether in English, Marathi or Hindi.

77-F. Summary procedure for deciding Disputes.—

- (1) Subject to the provisions of sub-section (4) of section 94, the following disputes, if the disputant so desires, shall be decided in the summary manner prescribed under this rule, namely:—
 - (a) any dispute for recovery of a debt upon promissory note, hundi, bill of exchange or bond, with interest whether agreed upon under such instrument or under the byelaws;
 - (b) any dispute for recovery of a fixed sum of money, in the nature of a debt, with or without interest, arising on a written contract, but other than penalty or on guarantee;
 - (c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing;
 - (d) any dispute for recovery of dues payable in respect of a tenement by a member of a housing society towards contribution for construction of the tenements, in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electric charge, repairs, maintenance and upkeep charges for

other services rendered by the society and the interest on such arrears payable under a written agreement or the bye-laws or the tenancy regulations.

- (2) In such cases, the disputer shall, in addition to the normal averments in Form "P", make the following averments, namely:—
- (a) that the claim of the disputant is for recovery of liquidated sum of money only and no other relief beyond the scope of this rule is claimed in this dispute;
 - (b) that the disputant believes that there is no valid or bonafide defense to his claim
- (3) In such cases, the opponent shall not be entitled to defend the claim, unless he obtains leave from the Registrar or the Co-operative Court so to defend as hereafter in this rule provided, and in default of his obtaining such leave or of his appearance and defense in pursuance of such leave, the allegations in the petition shall be deemed to be admitted, and the disputant shall be entitled to the award in his favour as prayed and for such sum of costs as may be awarded by the Registrar or the Court.
- (4) (I) Within ten days from the service of a notice calling upon the opponent to obtain leave from the Registrar or the Court, to appear and defend the claim, the opponent or such of the opponents as are interested in defending the claim shall apply to the Registrar or the Court, as the case may be, by an affidavit or a declaration for the leave, setting out the facts on which he relies and what triable issues are likely to arise. The opponent shall in such application disclose all the documents supporting his contention and as far as possible attach copies of such documents which he considers important from his point of view. A copy of such application shall be served on the disputant and he shall have a right to file a rejoinder in the form of an affidavit or declaration and place before the deciding authority such material as in his opinion supports his contentions.
- (ii) The Registrar or the Court, on reading the affidavits and declarations and on hearing the parties and their pleadings and considering the documents relied on and produced by them, may pass an award or grant leave to defend to such of the opponents, unconditionally or upon such conditions, as the deciding authority may think fit under the circumstances and on facts of the case. The Registrar or the Court granting leave to defend shall also give directions and prescribe time limit for filing the written statement and fix the date for hearing. Leave may be granted to some and may be refused to other opponents. If leave is granted and not complied with by any opponent, the deciding authority may pass an award against him, as if he had not been granted leave.
- (iii) If the conditions on which leave to defend is granted are not complied with by any opponent, the Registrar or the Court may pass an award against him, as if had not been granted leave.
- (iv) the Registrar or the Court may, for sufficient cause, excuse the delay in applying for leave to defend any case.
- (v) The Registrar or the Court may, under special circumstances, set aside the award, and if necessary stay or set aside execution, and may give leave to the opponent to appear and defend the dispute, if it seems reasonable to the deciding authority so to do, and on such terms as it thinks fit.

78. Summonses, notices, and fixing of dates, place, etc. in connection with the disputes.—

- (1) The Registrar, or as the case may be the Co-operative Court may issue summonses or notices at least fifteen days before the date fixed for hearing of the dispute requiring,—
- (i) the attendance of the parties to the dispute and witness if any; and
 - (ii) the production of all books and documents relating to the matter in dispute
- (2) Summonses or notices issued by the Registrar or the Co-operative Court may be served through a Mamlatdar, Mahalkari, Tahsildar or any employee of the Co-operative Department or of a federal society or through the Chairman or Secretary of the society or by registered post with acknowledgment due. Every person or society to whom summonses or notices are sent for service shall be bound to serve them within a reasonable time.

- (3) The Officer serving a summons or notice shall, in all cases in which summons or notice has been served endorse or annex or cause to be endorsed on or annexed to, the original summons or notice, a return stating the time when, and the manner in which, the summons or, as the case may be, notice was served, and the name and address of, the person (if any) identifying the person served and witnessing the delivery or tender of the summons or the notice.
- (4) The Officer issuing the summons or notice may examine the serving Officer on oath or cause him to be so examined by the Mamlatdar or other Officer through whom it is served and may make such further inquiry in the matter as he thinks fit; and shall either declare that the summons or, as the case may be, notice has been duly served or order it to be served in such manner as he thinks fit.
- (5) The mode of serving summonses and notices as laid down in sub-rules (1) to (4) shall mutatis mutandis apply to the service of summonses or notices,—
 - (i) issued by the registrar or the person authorised by him, when acting under section 83, 84 or 88
 - (ii) issued by an auditor, when acting under section 81, or
 - (iii) issued by a Liquidator, when acting under section 105

79. Investigation of claims and objection against any attachment—

Where any claim or objection has been preferred against the attachment of any property under section 95 on the ground that such property is not liable to such attachment, the Registrar, or as the case may be, the Co-operative Court shall investigate into the claim or objection and dispose it of on merits:

Provided that, no such investigation shall be made when the Registrar or the Co-operative Court considers that the claim or objection is frivolous.

80. Procedure for the custody of property attached under section 95.—

- (1) Where the property to be attached is moveable property, other than agricultural produce in the possession of the debtor, the attachment shall be made by actual seizure and the attaching Officer shall keep the property in his own custody or in the custody of one of his subordinates, or of a Receiver, if one is appointed under sub-rule (2) and shall be responsible for the due custody thereof:

Provided that when the property seized is subject to speedy and natural decay or when the expenses of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once

- (2) Where it appears to the officer ordering conditional attachment under section 95 to be just and convenient he may appoint a Receiver for the custody of the moveable property attached under that section and his duties and liabilities shall be identical with those of a Receiver appointed under Order XL in the First Schedule to the Code of Civil Procedure, 1908.
- (3) (i) Where the property to be attached is immovable, the attachment shall be made by an order prohibiting the debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge.
 - (ii) The order shall be proclaimed at some place on, or adjacent to, such property by beat of drums or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and upon a conspicuous part of the village Chavadi, and where the property is land paying revenue to the State Government also in the office of the Collector of the district and in the office of the Mamlatdar or Mahalkari or Tahsildar or any other revenue Officer within whose jurisdiction the property is situated.

81. Procedure for attachment and sale of property for realization of any security given by person in course of execution proceedings.—

The Procedure laid down in rules and 80 and 83 shall mutatis mutandis apply for attachment and sale of property for the realization of any security given by a person in the course of execution proceedings.

82. Issue of proclamation prohibiting private transfer of property.—

The Registrar or Liquidator when acting under clause (a) of section 98 shall, at the time of signing a certificate effecting any property, issue a proclamation in Form 'Q' and in the case of immovable property shall also forward a copy of the proclamation to the Mamlatdar, Mahalkari or Tahsildar or any other revenue officer within whose jurisdiction the property is situated, who shall cause an entry about such certificate to be made in the Record of rights.

83. Procedure of execution of awards.—

- (1) Every order or award passed by the Registrar, or the person authorised by him or the Co-operative court under section 95 and 96 shall be forwarded by the Registrar to the society or to the party concerned with instructions that the society or, as the case may be, the party concerned should initiate execution proceedings forthwith according to the provisions of section 98.
- (2) If the amount due under the award is not forthwith recovered, or the order there under is not carried out, it shall be forwarded to the Registrar with an application for execution along with all information required by the Registrar, for the issue of certificate under section 98. The applicant shall state whether he desires to execute the award by a civil court or through the Collector as provided under section 156.
- (3) On receipt of such application for execution, the Registrar shall forward the same to the proper authority for execution along with a certificate issued by him under section 98 and a proclamation issued under rule 82 in the manner prescribed therein.
- (4) Every order passed in appeal under section 97 shall also be executed in the manner laid down in sub-rules (2) and (3).

84. Execution of awards or orders in special cases.—

Subject to the provision of section 98, the Registrar may, by an order in writing specially authorize any officer of the co-operative Department or any officer of a federal society or a Central Bank, on an application made by it to call for and send awards or orders obtained by any society for Execution. The society or societies in respect of which these powers are to be exercised shall be specified in the order.

85. Transfer of property which cannot be sold.—

- (1) When in execution of an order sought to be executed under section 98 any property cannot be sold for want of buyers, if such property is in the possession of the defaulter or of some person on his behalf, or of some person claiming it under a title created by the defaulter subsequent to the issue of the certificate by the Registrar or Liquidator under clause (a) or (b) of the said section, the Officer conducting the execution shall as soon as practicable report the fact to the Court or the Collector or the Registrar, as the case may be, and the society applying for the execution of the said order.
- (2) On receipt of a report under sub-rule (1), the society may, within six months from the date of the receipt of the report or within such further period as may for sufficient reasons be allowed in any particular case by the Court or the Collector or the Registrar, submit an application in writing to the Court, the Collector or the Registrar, as the case may be, stating whether or not it agrees to take over such property.
- (3) On receipt of an application under sub-rule (2), notices shall be issued to the defaulter and to all persons known to be interested in the property, including those whose names appear in the Record of Rights as persons holding any interest in the property, about the intended transfer.
- (4) On receipt of such a notice, the defaulter, or any person owning such property or holding an interest therein by virtue of a title acquired before the date of the issue of a certificate under section 98, may, within one month from the date of the receipt of such notice, deposit with the Court or the Collector or the Registrar for payment to the society a sum equal to the amount due under the order sought to be executed together with interest thereon and such additional sum for payment of costs and other incidental expenses as may be determined in this behalf by the Court or the Collector or the Registrar, as the case may be.
- (5) On failure of the defaulter, or any person interested, or any person holding any interest in the

property, to deposit the amount under sub-rule (4), the Court or the Collector or the Registrar, as the case may be, shall direct the property to be transferred to the society on the conditions stated in the certificate in Form 'R'.

- (6) The certificate granted under sub-rule (5) shall state whether the property is transferred to the society in full or partial satisfaction of the amount due to it from the defaulter.
- (7) If the property is transferred to the society in partial satisfaction of the amount due to it from the defaulter, the Court or the Collector or the Registrar, as the case may be, shall, on the production by the society of a certificate signed by the Registrar, recover the balance due to the society in the manner laid down in section 98.
- (8) The transfer of the property under sub-rule (5) shall be effected as follows:—
 - (i) In the case of moveable property—
 - (a) Where the property is in the possession of the defaulter himself or has been taken possession of on behalf of the Court or the Collector or the Registrar, it shall be delivered to the society.
 - (b) Where the property is in the possession of some person on behalf of a defaulter, the delivery thereof shall be made by giving notice to the person in possession directing him to give actual peaceful possession to the society, and prohibiting him from delivering possession of the property to any other person.
 - (c) The property shall be delivered to a person authorised by the society to take possession on behalf of the society.
 - (ii) In the case of immovable property—
 - (a) Where the property is growing or standing crop, it may be delivered to the society before it is cut and gathered and the society shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending and cutting and gathering it.
 - (b) Where the property is in the possession of the defaulter or of some person on his behalf or some person claiming under a title created by the defaulter subsequent to the issue of a certificate under section 98 the Court or the Collector or the Registrar, as the case may be, shall order delivery to be made by putting the society or any person whom the society may appoint to receive delivery on its behalf in actual possession of the property and if need be by removing any person who illegally refuses to vacate the same.
 - (c) Where the property is in the possession of a tenant or other person entitled to hold the same by a title acquired before the date of issue of a certificate under section 98, the Court or the Collector or the Registrar as the case may be, shall order delivery to be made by affixing a copy of the on certificate of transfer of the property to the society in some conspicuous place on the property and proclaiming to such person by beat of drum or other customary mode at some convenient place, that the interest of the defaulter has been transferred to the society.
- (9) The society shall be required to pay expenses incidental to sale including the cost of maintenance of live stock, if any, according to such scale as may be fixed by the Registrar from time to time.
- (10) Where land is transferred to the society under sub-clause (a) of clause (ii) of sub-rule (8) before a growing or standing crop is cut and gathered, the society shall be liable to pay the current year's land revenue on the land.
- (11) The society shall forthwith report any transfer of property under sub-clause (b) or (c) of clause (ii) of sub-rule (8) to the village accountant for information and entry in the Record of Rights.

- (12) The Society to which property is transferred under sub-rule (5) shall maintain for each such defaulter a separate account showing all the expenses incurred including payment to outside encumbrances, land revenue and other dues on the property and all the income derived from it.
- (13) The society to which property is transferred under sub-rule (5) shall use its best endeavor to sell the property as soon as practicable to the best advantage of the society as well as that of the defaulter, the first option being always given to the defaulter who originally owned the property. The sale shall be subject to confirmation by the Registrar. The proceeds of the sale shall be applied to defraying the expenses of the sale and other expenses incurred by the society and referred to in sub-rule (9) and (12) and to the payment of the arrears due by the defaulter under the order in execution and the surplus (if any), shall then be paid to the defaulter.
- (14) Until the property is sold, the society to which property is transferred under sub-rule (5) shall use its best endeavors to lease it or to make any other use that can be made of it so as to derive the largest possible income form the property.
- (15) When the society to which property is transferred under sub-rule (5) has realized all its dues, under the order in execution of which the property was transferred, from the proceeds of management of the property, the property, if unsold shall be restored to the defaulter.

86. Payment of fees for decisions of disputes.—

- (1) The Registrar or the Co-operative Court, as the case may be, may take a dispute on file only if the application regarding reference for such dispute in Form 'T' is affixed with the Court Fee Stamps at the following scales, namely,—

i	a	Simple money claims – When the amount of the claim in dispute does not exceed Rs.5000	Rs. 100
	b	When such amount exceeds Rs.5000 but not exceed Rs.100000	one percent of the amount of claim in dispute subject to the maximum of Rs.1000
	c	When such amount exceeds Rs.100000	½ percent of the amount of claim in dispute subject to the maximum of Rs.10000
ii	a	Complicated money claims When the amount of the claim in dispute does not exceed Rs.5000	200
	b	When such amount exceeds Rs.5000 but not exceed Rs.100000	one percent of the amount of claim in dispute subject to the maximum of Rs.2000
	c	When such amount exceeds Rs.100000	1 percent of the amount of claim in dispute subject to the maximum of Rs.15000
iii		All other disputes	1000

Explanation.—For the purposes of this sub-rule, "simple money claim" means the claim of a society the object clauses of which provide for sanction of credit to its members, based on loan bonds, promissory notes, admission or acknowledgments, and "complicated money claims" means all money claims other than simple money claims. The question regarding the classification of a dispute for the purpose of this sub-rule shall be decided by the Registrar or the co-operative Court deciding the dispute and the decision of the Registrar of the Co-operative Court, as the case may be, shall be final.

- (2) No document of any of the kinds specified below shall be filed before the Registrar or the Co-operative Court, unless it is affixed with the proper court fee stamp as specified against it:—

Wakalatnama

Proper Court Fee Rs

2

Application for adjournment

5

Application for interim stay or relief

15



(3) (a) The Registrar or the Co-operative court deciding any dispute may require the party or parties to the dispute to deposit such sum as may, in his or its opinion, be necessary to meet the expenses, including payment of fees to the Registrar or the Court, as the case may be.

(b) The Registrar or the Court shall have power to order the fees and expenses of determining the dispute to be paid by the society out of its funds or by such party, or parties to the dispute, as he or it may think fit, according to the scale laid down by the Registrar, after taking into account the amount deposited as above.

(c) The Registrar may be general or special order, specify the scale of fees and expenses to be paid to him or the Co-operative Court.

CHAPTER IX LIQUIDATION



87. Mode of communication of an interim order under section 102.—

An interim order clause (a) or sub-clause (iv) of clause (c) of sub-section (1) of section 102 shall call upon the society in respect of which the order is made to submit its explanation to the Registrar within one month from the date of issue of such order and shall be communicated by registered post (with acknowledgment due) to the society by the Registrar.

88. Cost of hearing appeal.—

No appeal from a member under section 104 shall be entertained unless it is accompanied by Rs. 25 or such higher amount not exceeding Rs. 500 as may be directed by the appellate authority as security for the costs of hearing the appeal.

89. Appointment of Liquidator and the procedure to be followed and powers to be exercised by him.—

The following procedure shall be adopted for the appointment of the Liquidator and for the exercise of his powers, namely:—

- (1) The appointment of the Liquidator shall be notified by the Registrar in the Official Gazette.
- (2) As soon as may be after the interim order is issued under section 102, the Liquidator shall take over the custody and control of all the property, effects and actionable claims and books, records and other documents pertaining to the business of the society and continue to hold custody and control thereof until the interim order is vacated.
- (3) Where the interim order is vacated, the Liquidator shall take action in accordance with the provisions of sub-section (6) of section 103.
- (4) Where the Liquidator receives the Registrar's final order confirming the interim order, the Liquidator shall publish by such means as he may think proper a notice requiring all claims against the society to be notified to him within two months of the publication of the notice and shall thereafter proceed to take such further action as he is empowered to take under the Act. All liabilities recorded in the account books of the society shall be deemed ipso facto to have been duly notified to the Liquidator under this rule.
- (5) The Liquidator shall, after setting the assets and liabilities of the society as they stood on the date on which the order for winding up is made, proceed to determine the contribution to be made or remaining to be made to the assets of the society by persons and estates referred to in clause (h) of section 105 and by order call upon each of them to pay the amount specified in the order as contribution and as costs of the liquidation determined under clause (k) of section 105. Every such order shall be submitted for approval to the Registrar, who may modify it or refer it back to the Liquidator for further inquiry or other action or may forward it for execution under section 98.
- (6) If the sum assessed against any member is not recovered, the Liquidator may issue subsidiary order or orders against any other member or members to the extent of the liability of each for the debts of the society until the whole amount due from members is recovered. The provisions of sub-rule (5) shall mutatis mutandis apply to such orders.
- (7) The Liquidator shall submit a quarterly progress report and such other returns and statements to the Registrar in such forms as the Registrar may require, showing the progress made in the liquidation of the society.
- (8) The Liquidator may empower any person by general or special order in writing, to make collections and to grant valid receipts on his behalf.
- (9) Unless otherwise permitted by the Registrar, all funds in charge of the Liquidator shall be deposited in the Apex State Co-operative Bank or a Central Co-operative Bank or in the State Bank of India and shall stand in the name of the Liquidator.
- (10) The Registrar shall fix the amount of remuneration, if any, to be paid to the Liquidator. The remuneration shall be included in the cost of liquidation which shall be payable out of the assets of the society in priority to other claims.

- (11) The Liquidator shall have power to call meetings of members of the society in liquidation.
- (12) The Liquidator may submit an application to the Registrar, for the reconstruction of the society under section 19 if he is of opinion that such reconstruction has a reasonable chance of success.
- (13) The Liquidator may, at any time, be removed by the Registrar and he shall on such removal be bound to hand over all the property and documents relating to the society in liquidation to such person or persons as the Registrar may direct.
- (14) (i) The Liquidator, shall not exercise the powers under clause (c), (d), (e), (f), (g), (h) and (k) of section 105 without the prior approval of the Registrar.
(ii) An appeal against the order of the Liquidator under clauses (a), (b), (i), (j), (l), (m) and (n) of section 105 shall lie to the Registrar.
- (15) The Liquidator shall keep such books and accounts as may from time to time be required by the Registrar.
- (16) At the conclusion of the liquidation proceedings, a general meeting of the members of the society shall be called. At such meeting, the Liquidator shall summarise his proceedings, point out causes of the failure of the society, and report what sum, if any, remains in his possession after meeting all the liabilities of the society as determined under the rules and suggest how the surplus, if any, should be utilised.

90. Disposal of surplus assets.—

Where the Registrar has to divide the surplus assets amongst members of the society which has been wound up, he shall divide them in proportion to the share capital held by each of such members or in any other suitable manner sanctioned by the State Government in special cases.

91. Interest on amounts due from a society under liquidation.—

The creditor of a society, which is being wound up, may apply to the Liquidator for payment of interest on any debt due from the society up to the date of the Registrar's order for winding up. The rate at which interest shall be paid shall be in the case of the Maharashtra State Co-operative Bank or a Co-operative Bank permitted by the Registrar to finance societies, the contract rate and in any other case the rate which may be fixed by the Registrar which shall not exceed the contract rate:

Provided that, if any surplus assets remain after all the liabilities, including liabilities on shares, have been paid off, further interest on such debts at a rate to be fixed by the Registrar but not exceeding the contract rate may be allowed to the creditors from the date mentioned above up to the date of the repayment of the principal.

92. Disposal of records of society whose registration is cancelled.—

- (1) When an order directing a society to be wound up is issued under section 102 and no Liquidator is appointed, the Officers of the society is wound up shall, within fifteen days of the publication of the order in the Official Gazette, send by registered post or railway parcel, the records and books of the society to the Assistant Registrar or Deputy Registrar concerned or hand over the same to the departmental local auditor.
- (2) As soon as may be after the affairs of a society for which a Liquidator has been appointed have been wound up and an order canceling the registration is made under section 21, the Liquidator shall forward all the books and records of the wound-up society, and all his own papers and proceedings, by railway parcel to the Assistant Registrar or the Deputy Registrar concerned together with an account of his expenses, showing how the balance has been disposed off and attaching the receipt of the person to whom it was handed over.
- (3) All the books and records of a society, whose registration has been cancelled and the proceedings of liquidation, shall be destroyed by the Assistant Registrar or the Deputy Registrar, as the case may be, after the expiry of two years from the date of the order canceling the registration of the society.

CHAPTER X
LAND DEVELOPMENT BANKS



93. Procedure for submission and consideration of applications for loans from Land Development Banks.—

- (1) All applications for loans from a Land Development Bank shall be made in the form specified by the State Land Development Bank with the approval of the Registrar. The form shall among other things contain a list of documents which are required to be submitted for the purposes of dealing with the application.
- (2) Every Land Development Bank shall keep sufficient stock of printed copies of the forms of loan applications and shall supply them to the intending borrower on payment of a fee of one Rupee per form.
- (3) Every Land Development Bank shall specify from time to time, the name, designation and address of the officer (hereinafter in this chapter referred to as "the Receiving Officer"), who shall receive all loan applications from the intending borrowers.
- (4) The application together with copies of necessary documents, deposit equivalent to value of one share of the Bank and fees specified below, shall be submitted by the applicant to the Receiving Officer:—

Loan Amount	Fees to be paid
Up to Rs. 5,000	Rs. 5
Rs. 5,000 to Rs. 15,000	Rs. 20
Rs. 15,001 to Rs. 30,000	Rs. 30
Rs. 30,001 to Rs. 50,000	Rs. 50
Rs. 50,001 and above	Rs. 100

- (5) On receipt of an application for loan, the Receiving Officer shall put his initials on the applications and mention his designation and the date of receipt of the application.
- (6) After an application for loan has been received, the Receiving Officer shall verify whether it contains all the necessary particulars and is accompanied by the necessary documents. If any details are lacking, he shall get the application completed by the applicant.
- (7) Each application shall be entered in the Chronological order in the Register of application for loans from the Land Development Bank to be maintained by the Receiving Officer and shall be dealt with in the same order.
- (8) Immediately after the application is entered in the register of applications for loans from the Land Development Bank, the Receiving Officer shall forward it to the District Deputy Registrar of Co-operative Societies, or the Assistant Registrar of Co-operative Societies or the Co-operation and Industries Officer or the Block Development Officer of the Assistant Block Development Officer within whose jurisdiction the land in respect of which the application is made is situate (being the person prescribed for the purposes of sub-section (1) of section 118 of the Act hereinafter in this Chapter referred to as the public Enquiry Officer). The Public Enquiry Officer shall give at least eight clear days notice in form 'S' calling upon all persons interested to present their objections to the loan, if any. The notice shall also be given by the beat of drum and shall be affixed at the Chavadi of village or villages where the applicant resides and in the limits of which the land or lands proposed to be improved or offered as security for the loan is or are situated. A copy of the notice shall be exhibited in the head office and relevant branch office, if any, of Land Development Bank concerned and in the Office, if any, of the person giving the notice.
- (9) The Public Enquiry Officer shall consider every objection submitted under sub-section (1) of section 118 in the manner laid down in that section.
- (10) The Public Enquiry Officer shall then forward the applications within two days of their disposal to the Land Development Bank concerned. The Land Development Bank may appoint an enquiry Officer (hereinafter in this Chapter referred to as "the Enquiry Officer") to enquire into the applications. The enquiry Officer shall make inquiry by actually visiting the land in which

the improvement is proposed to be effected and the land and other property offered as security. He shall conduct his enquiry in accordance with the form to be 'specified by the State Land Development Bank, with the approval of the registrar.

In case the Public Enquiry Officer is unable to forward the application within two days, he shall make a report to the Registrar, stating there under the reasons therefore and he shall, thereafter, act in accordance with such directions as may be issued to him by the Registrar.

- (11) The Enquiry Officer may make such other enquiries as may be necessary and shall value the lands according to such formula as may be laid down by the State Land Development Bank, with approval of the Registrar, from time to time, estimate the repaying capacity of the applicant and examine the feasibility and the utility of the proposed improvements. He shall then submit his report stating what amount of loan may be granted to the applicant against what security and for what purpose and the period within which it may be recovered from him. The Enquiry Officer shall complete his enquiry within Fifteen days of the date of the receipt of the application by him.

If the Enquiry Officer is unable to complete his enquiry within fifteen days, he shall make a report to the Registrar stating therein the reasons therefore and he shall thereafter act in accordance with such directions as may issued to him by the Registrar.
- (12) After completion of the enquiry the application together with his report shall be submitted by the Enquiry Officer to the Land Development Bank together with the following certificates:—
 - (a) Certificate regarding outstanding Government dues.
 - (b) Any other relevant certificate.
- (13) On receipt of the report of the Enquiry Officer under sub-rule (12), the Land Development Bank shall satisfy itself that the inquiry has been properly conducted. If there are any deficiencies, the Bank shall get them completed immediately.
- (14) The Land Development Bank may then undertake such further scrutiny as may be necessary and pass final orders within 30 days. Decision shall be communicated to the applicant within 7 days thereafter in case the final orders are not passed within 30 days; the Bank shall make a report to the Registrar stating therein the reasons therefore and shall thereafter act in accordance with such directions as may be issued to it by the Registrar.
- (15) All the applications received by the Land Development Bank shall be disposed of by the Bank within a maximum period of four months. If the Bank is unable to dispose of an application for loan within the period of four months, it shall make a report to the Registrar stating therein the reasons therefore and the Bank shall thereafter act in accordance with such directions as may be issued to it by the Registrar.
- (16) In the case of rejection of applications for loans the reasons therefore shall be communicated by the Bank to the applicant. When the loan sanctioned the Bank shall lay down the terms and conditions regarding grant of the loan, regarding payment of installments, submission of report on then progress of improvement of land and release of subsequent installments. The applicant shall be asked by the Land Development Bank to remain present at the head office or branch office of the Bank on a date to be fixed for execution of the mortgage deed and for receiving loan or the first installment thereof. Such date shall not ordinarily be later than 15 days from the date of communication of sanction of loan to the applicant.
- (17) The applicant, while receiving the amount of the loan or the first installment of the loan, shall purchase shares of the Bank to such extent as may be required under the by-laws of the Bank. The Land Development Bank shall issue a receipt to the applicant giving full particulars of the amounts paid by him from time to time.
- (18) Failure to comply with any time-limits specified in this rule shall not in any manner affect the validity of the sanction of the loans by a Land Development Bank or by the State Land Development Bank.

94. Registration of copies of instruments under section 122.—

Copies of instruments referred to in section 122, duly certified by the Manager of the Land Development Bank, shall be sent by the Land Development Bank to the Registering Officer concerned within a period of three months from the date of execution of the instruments, by

registered post or by hand delivery.

95. Authority to Land Development Bank to exercise power under section 133.—

- (1) The authorization for the purposes of clauses (a) of the proviso to sub-section (1) of section 133 shall be granted to the Land Development Bank by the Registrar after hearing the objections, if any, of the mortgagor or mortgagors concerned.

96. Appointment of Receiver and his powers under section 133.—

- (1) The State Land Development Bank may, on the application of Land Development Bank and under circumstances in which the power of sale-conferred by section 133 can be exercised, appoint any person in writing to be a Receiver of the produce and income of the mortgaged property or any part thereof and such Receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realized by him, his expenses of management including his remuneration, if any, as fixed by the State Land Development Bank and to apply the balance in accordance with provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882.
- (2) A Receiver appointed under sub-rule (1) may, for sufficient cause and on application made by the mortgagor, be removed by the State Land Development Bank.
- (3) A vacancy in the office of the Receiver may be filled up by the State Land Development Bank.
- (4) Nothing in this rule shall empower the State Land Development Bank to appoint a Receiver where the mortgaged property is already in the possession of a Receiver appointed by a Civil Court.

97. Appointment, qualifications and powers and functions of a Sale Office under section 133.—

A Land Development Bank may from time to time, by a resolution of its committee appoint any of its officers or any other person as a Sale Officer, with the approval of the Registrar, for the purpose of effecting sale of mortgaged property under section 133. Such Sale Officer shall exercise the same powers and functions as are conferred upon a Recovery Officer and a sale Officer under these Rules.

98. Procedure for distraint and sale of the produce of the mortgaged land and sale of mortgaged property.—

The procedure laid down in rule 107 shall mutatis mutandis apply for the distraint and sale of the produce of the mortgaged land and the sale of mortgaged property under sections 132 and 133:

Provided that, in the case of sale of mortgaged property, the notice of demand for the payment of the mortgaged money or part thereof as the case may be, as also the notice for the sale of the mortgaged property in the event of the payment not being made within the time allowed, shall be served upon the mortgagor or each of the mortgagors and also upon the following persons, namely:—

- (i) Any person who has any interest in, or charge upon, the property mortgaged, or in or upon the right to redeem the same, so far as is known to the Bank.
- (ii) Any surety for the payment of the mortgaged debt or any part thereof, and
- (iii) Any creditor of the mortgagor who has in a suit for administration of his estate obtained decree for sale of mortgaged property.

The time allowed for payment of the mortgage money or part thereof in the demand notice referred to above, shall not be less than three months after the service of the notice.

99. Circumstances under which the State Land Development Bank or the Trustee may take action under section 133(2).—

- (1) If a Land Development Bank fails to take action against a defaulter under section 129 or 132 or subsection (1) of section 133, the State Land Development Bank may call upon the former to take necessary action within a period of seven days and report compliance. If no report of compliance is received, the State Land Development Bank may itself take necessary action as indicated in the aforesaid section and subsection.

- (2) Where necessary action is not taken against the defaulter by the Land Development Bank or by the State Land Development Bank, the Trustee may call upon them to take necessary action within seven days and report compliance. If no such report of compliance is received, the Trustee may himself take the necessary action.

100. Submission of report for confirmation of sale under section 134.—

- (1) When the sale of the mortgaged property has been affected by a Land Development Bank under section 133 and the purchase amount has been received from the purchaser, the Bank shall submit a report of the sale immediately to the State Land Development Bank and the Registrar as required by sub-section (1) of section 134.
- (2) When the sale of the mortgaged property has been effected by the State Land Development Bank or the Trustee under section 133 and the purchase amount has been received from the purchaser, the State Land Development Bank or the Trustee, as the case may be, shall submit a report of sale immediately to the Registrar as required under sub-section (2) of section 134.
- (3) The report referred to in sub-rules (1) and (2) shall contain, amongst other details, the following specific particulars :—
- (a) brief account of the circumstances which rendered the sale necessary;
 - (b) full details showing how the provisions of clauses (a), (b), (i) to (iv) and (c) of the proviso to sub-section (1) of section 133 have been complied with;
 - (c) full details showing how the procedure laid down in rule 107 for holding the sale of immovable property has been followed;
 - (d) name of the Sale Officer;
 - (e) place of sale;
 - (f) date of sale;
 - (g) description of property sold;
 - (h) name of purchaser and his address;
 - (i) value realized;
 - (j) cost of sale; and
 - (k) date of receipt of purchase money from the purchaser
- (4) The State Land Development Bank or the Registrar may call for any clarification deemed necessary from the Land Development Bank and satisfy itself or himself that the sale has properly been conducted and the Land Development Bank shall furnish the same forthwith. Similarly, the Registrar may call for any clarification from the State Land Development Bank or the Trustee for the same purpose and such clarification shall be furnished forthwith by the State Land Development Bank or the Trustee, as the case may be.

101. Certificate of purchase.—

The Certificate to be granted by a Land Development Bank under sub-section (1) of section 136 shall be in Form T.

102. Sale of immovable property purchased by a Land Development Bank.—

- (1) The Land Development Bank or the State Land Development Bank, which has purchased any immovable property sold under Chapter XI of the Act, shall, unless otherwise directed by the Trustee, use its best endeavor to sell the property as early as possible to the best advantage of the Bank. The sale shall be effected by public auction within a period of six months from the date of purchase or within such further period as may be permitted by the Trustee.
- (2) The date and the place of such public auction shall previously be notified not less than thirty days by—
- (a) Advertising the sale of property with full details in one or more local newspapers.
 - (b) Proclamation of sale by beat of drum in the village where the property is situated.

- (c) publication of sale notice at—
- (i) the village Chavadi,
 - (ii) the office of the Mamlatdar, Tahsildar or Mahalkari concerned,
 - (iii) the office of the Land Development Bank,
 - (iv) the principal office of the Deputy Registrar in the District. The sale shall be subject to confirmation by the Registrar.

103. Certain provisions of rule 107 to apply to sale of immovable property under Chapter XI of the Act.—

- (1) The provisions of clauses (e), (f), (g), (h), (i), (j) and (k) of sub-rule (II) and of sub-rules (12), (13) and (14) of rule 107 shall mutatis mutandis apply to the sale of immovable property under Chapter XI of the Act.
- (2) The expenses incidental to such sale or attempted sale shall be calculated in accordance with the scale laid down in that behalf by the Registrar, from time to time.

CHAPTER XI

APPEALS, REVIEW AND REVISION



104. Qualifications of president and other members of the Maharashtra State Co-operative Appellate Court and their appointment.—

- (1) The State Government shall appoint a person who is qualified to be appointed as a Judge of a High Court, or is holding or has held a judicial office not lower in rank than that of District Judge, to be the President of the Maharashtra State Co-operative Appellate Court.
- (2) Each of the other members of the Appellate Court to be appointed by State Government shall be a person, —
 - (a) who possess any qualification laid down in sub-rule (1), or
 - (b) who has held office not lower in rank than that of Joint Registrar of Cooperative Societies for not less than one year, or
 - (c) who is enrolled as an Advocate or holds a degree or other qualification in law of any University established by law or of any other authority which entitles him to be enrolled as an Advocate, and either has held office not lower than rank than that of Deputy Secretary to Government for not less than three years, or in the opinion of the State Government, possesses good knowledge and experience of Co-operative law and practice or is closely associated with the Co-operative movement. As far as practicable, at least one of the other members of the Appellate Court shall be a person who is holding or has held an office not lower in rank than that of Joint Registrar as aforesaid.
- (3) Appointment of persons, who possess qualifications other than those of holding or having held a judicial or other qualifying office under Government, as the President or other members of the Appellate Court shall be made by the State Government after consultation with the Advocate General of the State.
- (4) No person shall hold or continue to hold the office of the President after he attains the age of sixty-five years and of any other member of the Appellate Court after he attains the age of Sixty two years.
- (5) If the president or any other member of the appellate Court is in Government service at the time of his appointment, his pay, allowances and other conditions of service shall continue to be governed by the service conditions, rules applicable to him before such appointment, and if he is a direct recruit, his pay, allowances and other conditions of service shall be governed by the Bombay Civil Services Rules and other rules made by the Government, from time to time.
- (6) subject to sub rule (4) and save as otherwise specified by the State Government in any case, the president and any other member of the Appellate Court shall hold office for a period of three years in the first instances, and thereafter his term of office may be extended by the State Government, from time to time, for such period as it may deem it.
- (7) In the event of the occurrence of any vacancy in the office of the President of the Appellate Court, the senior most members having judicial experience shall act as President.
- (8) The Headquarters of the Appellate Court shall be at such place as may be notified by the State government in the Official Gazette.

105. Constitution of authority by State Government to hear appeals which lie to that Government.—

The appeals which lie to the State Government under the Act may be heard by the Secretary, the Additional Secretary or any of the Deputy Secretaries to Government, Co-operation and Rural Development Department.

106. Procedure for presentation to and disposal of appeals by State Government and Registrar under section 152.—



- (1) An appeal to the State Government or the Registrar shall be presented by the appellant or by his duly appointed agent to the appellate authority either in person during office hours or sent to it by registered post.
- (2) When such an appeal is presented by an agent, it shall be accompanied by a letter of authority of the appellant appointing him as such.
- (3) Every appeal shall be accompanied by a certified copy of the order against which the appeal is preferred.
- (4) Every appeal shall—
 - (i) be either type written or hand written in ink legibly;
 - (ii) specify the name and the address of the appellant and also the name and address of the opponent, as the case may be;
 - (iii) state by whom the order against which the appeal is preferred was made;
 - (iv) clearly state the grounds on which the appeal is made;
 - (v) state precisely the relief which the appellant claims; and
 - (vi) give the date of the order appealed against
- (5) On receipt of the appeal, the appellate authority shall endorse on it the date of its receipt by it. The appellate authority shall, as soon as possible, examine it and satisfy itself that—
 - (i) the person presenting it has the authority to do so;
 - (ii) that it is made within the prescribed time limit; and
 - (iii) that it conforms to all the provisions of the Act and these rules
- (6) If the appellate authority finds that the appeal presented does not conform to any of the said provisions, it shall make a note on the appeal to that effect and may call upon the appellant or his agent to remedy the defects within a period of seven days of the receipt of the notice to do so or in case the appeal has not been presented within the prescribed time limit to show cause within the said period of seven days why it should not be dismissed as time-barred by the appellate authority.
- (7) If the defect is remedied or the cause shown by the appellant or his agent satisfied the appellate authority, the appellate authority may proceed to consider the appeal.
- (8) If the appellant or his agent fails to remedy the defects or to show cause to the satisfaction of the appellate authority within the said period, the appellate authority may if the appeal is not presented within the time limit dismiss the appeal as time-barred. In case where it is considered necessary to give a hearing, the appellate authority may fix a date for hearing of which due notice shall be given to the appellant or his agent.
- (9) On the date so fixed, the appellate authority shall go through the relevant papers, hear the appellant or his agent if present, and pass suitable order on the appeal.
- (10) The appellate authority may, at its discretion, adjourn to any other day the hearing of any appeal at any stage.
- (11) When the hearing of the appeal is completed, the appellate authority shall announce its judgment forthwith or may fix a date for the same, after giving due notice to the appellant or the other parties to the appeal.
- (12) Every decision or order of the appellate authority shall be in writing and a copy of the same shall be supplied to the appellant and such other parties as in the opinion of the appellate authority are likely to be affected by the decision or the order.

CHAPTER XII
MISCELLANEOUS



107. Procedure for attachment and sale of property under section 156.—

- (1) A creditor holding a decree requiring the provisions of section 156 to be applied or Society to which—
- (a) any amount is due under a decree or order of a Civil Court obtained by the Society;
 - (b) any amount is due under a decision, award or order of the Registrar, Arbitrator, Liquidator or Tribunals;
 - (c) any sum is awarded by way of costs under the Act;
 - (d) any amount is due under a certificate granted by the Registrar to the assets of the society;
 - (e) any amount is due under a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or under sub-section (1) of section 137 together with interest, if any, due on such amount or sum and the costs of process by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed, shall apply to the Recovery Officer within whose jurisdiction the debtor resides or the property of the debtor is situated. In the case of a society, a copy of the resolution of the Committee of the society authorizing any of its members to make and sign the application on its behalf, shall accompany the application.

Provided that, no such application shall be necessary in respect of a certificate given under sub-section (1) and (2) of section 101 of the awards or orders referred to in rule 84.

- (2) Every such application shall be made in the form specified by the Registrar and shall be signed by the applicant and shall be accompanied by deposit of such amounts if any, as may be specified by the Registrar to cover the cost of process. The scales for such cost of process shall be fixed by the Registrar from time to time, by a general or special order under such scales, the fee for issuing any notice shall not exceed Rs. 2 and the bhatta to be paid to any person serving any notice shall not exceed Rs. 5 per day, and the deposit for other costs of process shall not exceed the expenditure likely to be incurred for recovering the amount. The applicant may indicate whether he wishes to proceed against the immovable property mortgaged it the applicant of other immovable property or to secure the attachment of moveable property.
- (3) On receipt of such application, or when the Registrar is proceeding under rule 84, the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar, setting forth the name of the defaulter and the amount due and forward it to the Sale Officer.
- (4) Unless the applicant has expressed a desire that proceedings should be taken in a particular order as laid down in sub-rule (2), execution shall ordinarily be taken in the following manner:—
- (i) moveable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity,
 - (ii) if there is no moveable property, or if the sale proceeds of the moveable property or properties attached and sold are insufficient to meet in full the demand of the applicant, the immovable property mortgaged to the applicant, or other immovable property belonging to the defaulter may be proceeded against.
- (5) In the seizure and sale of moveable property, the following rules shall be observed:—
- (a) The Sale Officer shall, after giving previous notice to the applicant, proceed to the village where the defaulter resides or the property to be distained is situated and serves a demand notice upon the defaulter if he is present. If the amount due together with the expenses be not at once paid, the Sale Officer shall make the

distress and shall immediately deliver to the defaulter a list of inventory of the distained property and an intimation of place and day and hour at which the distained property will be brought to sale if the amounts due are not previously discharged. If the defaulter is absent, the Sale Officer shall serve the demand notice on some adult male member of his family, or on his authorised agent, or when such service cannot be affected shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix the list of the property attached on the usual place of residence of the defaulter endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.

- (b) After the distress is made, the Sale Officer may arrange for the custody of the property attached with the applicant or otherwise. If the Sale Officer requires the applicant to undertake the custody of the property, he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the applicant. If the attached property is livestock, the applicant shall be responsible for providing the necessary food therefore. The Sale Officer may, at the instance of the defaulter or of any person claiming an interest in such property, leave it in the village or place where it was attached, in charge of such defaulter or such person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.
- (c) The distress shall be made after sunrise and before sunset and not at any other time.
- (d) The distress levied shall not be excessive, that is to say, the property distained shall as nearly as possible be proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.
- (e) If crops or ungathered products of the land belonging to a defaulter are attached, the Sale Officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (f) The Sale Officer shall not work the bullocks or cattle, or make use of the goods or effects distained, and he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (g) It shall be lawful for the Sale Officer to force open any stable, cow house, granary, Godown, out-house or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the Sale Officer to break open or enter apartment in such dwelling house appropriated for the Zanana or residence of women except as hereinafter provided.
- (h) Where the Sale Officer may have reason to believe that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women which by custom or usage are considered private, the Sale Officer shall report the fact to the officer in charge of the nearest police station. On such report the officer in charge of the said station shall send a police officer to the spot in the presence of which the Sale Officer may force open the outer door of such dwelling house or break open door of any room within the house except the room appropriated by women. The Sale Officer may also, in the presence of a Police Officer, after due notice given for the removal of women within a zanana and, after furnishing means for their removal in a suitable manner if they be women of rank, who, according to the customs or usage cannot appear in public, enter the zanana apartments for the purpose of distaining the defaulter's property, if any, deposited therein but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.
- (i) The Sale Officer shall on the day previous to, and on the day of sale, cause

proclamation of time and place of the intended sale to be made by beat of drum in the village in which the defaulter resides and in such other place or places as the Sale Officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or affixed in the manner laid down in clause (a):

Provided that, where the property seized is subject to speedy and natural decay, or where the expenses of keeping it in custody is likely to exceed its value, the Sale Officer may sell it, at any time, before the expiry of the said period of fifteen days, unless the amount due is sooner paid.

- (j) At the appointed time, the property shall be put in one or more lots, as the Sale Officer may consider advisable, and shall be disposed of to the highest bidder.

Provided that, if shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other adequate reasons:

Provided further that, the Recovery Officer or the Sale Officer may, in his discretion, adjourn the sale to a specified day and hour recording his reasons for such adjournment, where a sale is so adjourned for a longer period than seven days a fresh proclamation under clause (i) shall be made unless the defaulter consents to waive it.

- (k) The property sold shall be paid for in cash at the time of sale, or as soon thereafter as the Sale Officer shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser fails in the payment of purchase money, the property shall be re-sold.
- (l) Where the proceeds from the sale of the property exceeds the amount due from the debtor, the excess amount, after deducting the interest and the expenses of process and other charges, shall be paid to the defaulter.
- (m) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property attached, pays the full amount due including interest, bhatta and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.
- (n) The moveable properties exempted from attachment by the proviso to section 60 of the Code of Civil Procedure, 1908 shall not be liable to attachment or sale under these rules.
- (6) Where the moveable property to be attached is the salary or allowance or wages of public officer or as railway servant or a servant of a local authority or a firm or a company, the Recovery Officer may, on receiving a report from the Sale Officer, order that the amount shall, subject to the provisions of section 60 of the Code of Civil Procedure, 1908, be withheld from such salary or allowance or wages either in one payment or by monthly installments as the Recovery Officer may direct and upon receipt of the order, the Officer or other person whose duty it is to disburse such salary or allowance or wages shall withhold and remit to the Sale Officer, the amount due under the order or the monthly installment, as the case may be.
- (7) (i) Where the property to be attached consists of the share or interest of the defaulter in moveable property belonging to him and another as co-owner, the attachment shall be made by notice to the defaulter, prohibiting him from transferring the share or interest or charging it in any way.
- (ii) Where the property to be attached is a negotiable instrument not deposited in Court, nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Recovery Officer ordering the attachment and he held subject to his further orders.
- (iii) Where the property to be attached is in the custody of any Court or public officer, the attachment may be made by notice to such Court or officer requesting that such property and any interest or dividend becoming thereon may be held subject to the further demands of the Recovery Officer issuing the notice:

Provided that, where such property is in the custody of a Court or Recovery Officer of another district, any question of title or priority arising between the applicant and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be left to be determined by such court or Recovery Officer.

- (8) (I) Where the property to be attached is a decree either for payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made, if the decree sought to be attached was passed by the Registrar or by person to whom a dispute was transferred by the Registrar under section 93 by a nominee or board of nominees, then by the order of the Registrar.
- (ii) Where the Registrar makes an order under clause (I), he shall, on the application of the applicant who has attached the decree, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.
- (iii) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in clause (I) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner for the holder thereof.
- (iv) Where the property to be attached in execution of a decree is a decree other than a decree of the nature referred in clause (I), the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.
- (v) The holder of a decree attached under this sub-rule shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.
- (vi) On the application of the holder of a decree sought to be executed by the attachment of another decree, the recovery Officer making an order of attachment under this sub-rule shall give notice of such order to the judgment debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment debtor in contravention of such order after receipt of notice thereof, either through the Recovery Officer or otherwise, shall be recognized so long as the attachment remains in force.
- (9) Where the moveable property to be attached is—
- (a) a debt due to the defaulter in question,
 - (b) a share in the capital of a corporation or a deposit invested therein, or
 - (c) other moveable property not in the possession of the defaulter, except property deposited in, or in the custody of, any civil court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting,—
 - (i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof;
 - (ii) in the case of a share or deposit, the person in whose name the share or the deposit may be standing, from transferring the share or deposit or receiving any dividend or interest thereon; and
 - (iii) in the case of any other moveable property, the person in possession of it from giving it over to the defaulter

A copy of such order shall be sent, in the case of the debt, to the debtor, in the case of the share or deposit, to the proper officer of the corporation and in the case of any other moveable property to the person in possession of such property. As soon as the debt referred to clause (a) or the deposit referred to the clause (b) matures, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdraw able, the Recovery Officer shall arrange for its sale through a broker. Where the share is withdraw-able, its value shall be paid to the Recovery Officer or to the party referred to in clause (c). The person concerned shall place in the hands of the Recovery Officer as it becomes deliverable to the debtor.

- (10) Immovable property shall not be sold in execution of a decree unless such property has been previously attached :

Provided that where the decree has been obtained on the basis of a mortgage of such property it shall not be necessary to attach it.

(11) In the attachment and sale or sale without attachment of immovable property, the following rules shall be observed:—

- (a) The application presented under sub-rule (2) shall contain a description of the immovable property to be proceeded against, sufficient for its identification and in the case such property can be identified by boundaries or numbers in a record of settlement of survey, the specification of such boundaries or numbers and the specification of the defaulter's share or interest in such property to the best of the belief of the applicant and so far as he has been able to ascertain it.
- (b) The demand notice issued by the Recovery Officer under sub-rule (3) shall contain the name of the defaulter, the amount due, including the expenses, if any, and the bhatta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment, the particulars of the properties to be attached and sold or to be sold without attachment, as the case may be. After receiving the demand notice, the Sale Officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family at his usual place of residence, or upon his authorised agent or, if such personal service is not possible, shall affix a copy thereof at some conspicuous part of the immovable property about to be attached and sold or sold without attachment, as the case maybe:

Provided that, where the Recovery Officer is satisfied that a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property, the demand notice issued by the Recovery Officer under sub-rule (3) shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

- (c) If the defaulter fails to pay the amount specified in the demand notice within the time allowed, the Sale Officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immoveable property noted in the application for execution in the following manner.
- (d) Where attachment is required before sale, the Sale Officer shall, if possible, cause a notice of attachment to be served on the defaulter personally. Where personal service is not possible, the notice shall be affixed in some conspicuous part of the defaulter's last known residence, if any. The fact of attachment shall also be proclaimed by beat of drum or other customary mode at some place on, or adjacent to, such property and at such other place or places as the Recovery Officer may consider necessary to give due publicity to the Sale. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date therein mentioned, the property will be brought to sale. A copy shall be sent to the applicant. Where the Sale Officers so directs, the attachment shall also be notified by public proclamation in the Official Gazette.
- (e) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the Taluka office at least thirty days before the date fixed for the sale and also by beat of drum in the village (on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale). Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the applicant and the defaulter. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible,—
 - (i) the property to be sold,
 - (ii) any encumbrance to which the property is liable
 - (iii) the amount for the recovery of which sale is ordered, and
 - (iv) every other matter which the Sale Officer considers material for a purchaser to know in order to judge the nature and value of the property

- (f) When any immoveable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The applicant shall when the amount for the realisation of which the sale is held exceeds Rs. 100 furnish to the Sale Officer within such time as may fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (10), prior to the date of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer, as the case may be. The sale shall be by public auction to the highest bidder:

Provided that, it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other adequate reason:

provided further that the Recovery Officer or the Sale Officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the defaulter consents to waive it

The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the Recovery Officer:

Provided that, in case where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village Talathi or corresponding officer in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in place of an encumbrance certificate.

- (g) A sum of money equal to 15 per cent of the price of the immoveable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase, and in default of such deposit, the property shall forthwith be re-sold:

Provided that, where the applicant is the purchaser and is entitled to set off the purchase money under clause (k) the Sale Officer shall dispense with the requirements of this clause

- (h) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within fifteen days from the date of sale:

Provided that, the time for payment of the cost of the stamp may, for good and sufficient reasons, be extended at the discretion of the Recovery Officer up to thirty days from the date of sale:

Provided further that, in calculating the amounts to be paid under this clause, the purchaser shall have the advantage of any set off to which he may be entitled under clause (k).

- (i) In default of payment within the period mentioned in the last proceeding clause, the deposit may, if the Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the State Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.
- (j) Every resale of immoveable property in default of payment of the amounts mentioned in clause (h) within the period allowed for such payment shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

- (k) Where an applicant purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter up satisfaction of the decree in whole or in part accordingly.
- (12) Where prior to the date fixed for a sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, bhatta and other expenses incurred in bringing the property to sale, including the expenses of attachment, if any, the Sale Officer shall forthwith release the property after canceling, where the property has been attached, the order of attachment.
- (13) (I) Where immoveable property has been sold by the Sale Officer, any person either owning such property or holding any interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer,—
- (a) for payment to the purchaser a sum equal to 5 percent of the purchase money, and
 - (b) for payment to the applicant, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount, less amount which may since the date of such proclamation have been received by the applicant.
- (II) If such deposit and application are made within thirty days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser, the purchase money so far as it has been deposited, together with the 5 per cent deposited by the applicant:
- Provided that, if more persons than one have made deposit and application under this sub-rule, the application of the first depositor to the officer authorised to set aside the sale, shall be accepted.
- (III) If a person applies under sub-rule (14) to set aside the sale of immoveable property, he shall not be entitled to make an application under this sub-rule.
- (14) (i) At any time within 30 days from the date of the sale of immovable property, the applicant or any person entitled to share in a ratable distribution of the assets or whose interests are affected by the sale, may apply to that Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it:
- Provided that no sale shall be set aside on the ground of irregularity or fraud unless the Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud
- (ii) if the application be allowed, the Recovery Officer shall set aside the sale and may direct a fresh one,
 - (iii) On the expiration of thirty days from the date of sale, if no application to have the sale set aside is made or if such application has been made and rejected, the Recovery Officer shall make an order confirming the sale:
- Provided that, if he shall have reason to believe that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may after recording his reason in writing, set aside the sale,
- (iv) Whenever the sale of any immoveable property is not so confirmed or is set aside the deposit or the purchase money, as the case may be, shall be returned to the purchaser
 - (v) After the confirmation of any such sale, the Recovery Officer shall grant a certificate of sale bearing his seal and signature of the purchaser, and such certificate shall state the property sold and the name of the purchaser.
- (15) It shall be lawful for the Sale Officer to sell the whole or any portion of the immoveable property of a defaulter in discharge of money due:

Provided that, so far as may be practicable, no larger section or portion of immoveable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment, if any, and sale.

(16) Clause 16 Deleted.

(17) Where the cost and charges incurred in connection with attachment, and sale of moveable property or the attachment and sale or sale without attachment of immoveable property under this rule, exceeds the amount of the cost deposited by the applicant such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by the defaulter, as the case may be, and the balance shall be made available to the applicant.

(18) Every person making a payment towards any money due for the recovery of which application has been made under this rule shall be entitled to a receipt for the amount signed by the Sale Officer or other officer empowered by the Recovery Officer in that behalf; such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made.

(19) (a) Where any claim is preferred to or any objection is made to the attachment of, any property attached under this rule on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claims or objection and dispose it of on merits:

Provided that, no such investigation shall be made when the Sale Officer considers that the claim or objection is frivolous.

(b) Where the property to which the claim or objection relates has been advertised for Sale. The Sale Officer may postpone the sale pending the investigation of the claim or objection.

(c) Where a claim or an objection is preferred to the party against whom an order is made may institute a suit to establish the right, which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be final.

(20) (i) Any deficiency of price which may arise on a re-sale held under clause (j) of sub-rule (11) by reason of the purchaser's default, and all expenses attending such re-sale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the applicant or the defaulter, be recoverable from the defaulting purchaser under the provisions of this rule. The costs, if any, incidental to such recovery shall also be born by the defaulting purchaser.

(ii) Where the property may on the second sale, sell for a higher price than at the first sale, the defaulting purchaser at the first sale, shall have no claim to the difference or increase.

(21) Where any property has been attached in execution of decree but by reason of the applicant's default the Recovery Officer is unable to proceed further with the application for execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

(22) Where assets are held by the Sale Officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decree against the same defaulter have been received from more than one applicant and the applicants have not obtained satisfaction, the assets, after deducting the costs of realisation, shall be ratably distributed by the Sale Officer among all such applicants in the manner provided in section 73 of the Code of Civil Procedure, 1908.

(23) Where a defaulter dies before the decree has been fully satisfied, an application under sub-rule (1) may be made against the legal representative of the deceased and thereupon all the provisions of this rule shall, save as otherwise provided in this sub-rule, apply as if such legal representatives were the defaulter. Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his Bands and has not been duly disposed off; and for the purpose of ascertaining such liability, the Recovery Officer executing the decree may, of his own motion or on the application of the applicant, compel such legal representative to produce such accounts as he thinks fit.

107-A. Maximum rates of traveling allowance and daily allowance and sitting fees etc. for members of Committees —



Subject to the provision of section 160-A, no member of a Committee of any Society shall be entitled to receive from the Society traveling allowance, daily allowance and sitting fees, which are paid to the members for attending meeting of its Committees, or for Class of Society to which the Ordinary Special Rate of For performing any other functions as such members entrusted to them by the Society at the rates higher than the rates specified below:—

(1) Traveling Allowance.—

(a) Journey by Air.—

The Chairman or vice-Chairman of a Society which is an Apex Society or a State Level Society or a Cooperative Sugar Factory or a Co-operative Spinning Mill shall be entitled to travel by air and may claim air fare, by enclosing air ticket to his traveling allowance bill. He shall also be entitled to claim actual taxi fare from the place of his residence to the Airport and vice versa, whenever such journeys are performed in hired taxis.

(b) Journey by railway, steamer or motor transport—

For journeys performed by railway, steamer or motor transport, the member of an Apex Society, State Level Society, Sugar Factory, Spinning Mill, or any other Society, the working capital of which is rupees fifty Crores or above, shall be entitled to claim one and half times the actual fare for the highest class of accommodation admissible for the journey from the place of residence of the member to the nearest railway station or from the place of residence of the member to the place of the meeting or vice-versa. The member of any other Society shall be entitled to claim one and half times the actual fare for journey by the Second Class. No Separate taxi fare, from the place of residence to the place of meeting and vice-versa, shall be allowed.

A member of an Apex Society, State Level Society, Sugar Factory, Spinning Mill or any other Society, the working capital of which is rupees fifty Crores or above, using his own car, Motor-Cycle etc. shall be entitled to claim road kilometerage as admissible to first Grade Officers of the Government of Maharashtra:

Provided that, such member shall mention the number of his/her own car or Motor Cycle by which the journey is undertaken in the traveling allowance bill.

As per provisions of bye-laws of the society a member of the Committee of a Society traveling by a hired vehicle shall be on production of receipt entitled to a traveling allowance equal to the amount given by the Government of Maharashtra to its First Grade Officers for such journeys.

(2) Daily Allowance.—

- (a) (i) Rates of daily allowance admissible while on tour.—

Subject to the provisions of clause (b), a member of a Committee of a class of Society shown in column (1) of the Table hereto shall be entitled to claim daily allowance at the rates shown against it in columns (2), (3), (4), (5), (6) or (7) as the case may be, of the said Table.

TABLE

Sr.	Class of Society to which the member of the committee belongs	Ordinary rate of daily allowance area other than Bombay	Special Rate of Daily Allowance		For Delhi and other State	Daily allowance	
			For corporation/ corporation area	For Bombay Capitals		For staying in hotels charging tariffs, area as per col. 3, 4 & 5	
						Area in Column 3	Area in Column 4 & 5
1	2	3	4	5	6	7	8
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1	All societies the area of operation of which extends to the whole of the State of Maharashtra or working capital of which is Rs.50 Crores or above	50	75	100	120	100	150
2	All societies the area of operation of which extends to a division or a district or working capital of which is above Rs.5 Crores but below Rs.50 Crores	45	65	90	110	90	135
3	All societies the area of operation of which extends to a Tahsil and working capital of which is above Rs.50 Lakh but below Rs.5 Crores	40	55	85	100	75	125
4	All other societies	30	50	75	90	70	100

(ii) A society may allow a member of the committee daily allowance at a special rate mentioned in column (3) of the Table in paragraph (i) for tour a city or town in other State other than the capitals of such State which, in the opinion of its committee, is a big city or town like those mentioned in that column.

- (b) Calculation of daily allowance for the period spent on tour (i) Daily allowance at full rate shall be admissible for every 24 hours of absence, payment for fraction of 24 hours being regulated as under:—

Duration of absence

Up to 6 hours

6 to 12 hours

More than 12 hours

Daily allowances

30 per cent of the admissible rate

50 per cent of the admissible rate

Full daily allowance

No daily allowance shall be admissible during the period of Journey:

Provided that, for journeys performed by road in a car vehicle supplied by the Institution a member shall be entitled to claim daily allowance for the duration of the journey at the rate mentioned above.

(ii) When halts both at place for which ordinary rate and places for which special rate a daily allowance are admissible are involved in one tour the daily allowance at ordinary rate shall first be calculated for the entire period of absence. To this shall be added, the difference of daily allowance between the special rate and the ordinary rate admissible for the actual period of halt at the places specified for special rates. For computing the difference between the two rates for fraction of 24 hours the percentage laid down in paragraph (i) shall be made applicable.

(3) Sitting Fees.—

A member of a Committee of class of Society shown in column (1) of the Table hereto shall be entitled to claim per meeting sitting fee at the rate shown against it in column (2) of the said Table. Such fee shall be payable only after all the subjects on the agenda of the meeting are discussed.

TABLE

Sr.	Class of society to which the member of the committee belongs	Rate of sitting fee
1		2
1	All societies the area of operation of which extends to the whole of the State of Maharashtra or working capital of which is Rs.50 Crores or above	125
2	All societies the area of operation of which extends to a division or a district or working capital of which is above Rs.5 Crores but below Rs.50 Crores	100
3	All societies the area of operation of which extends to a Tahsil and working capital of which is above Rs.50 Lakh but below Rs.5 Crores	75
4	All other societies Rs.50 Lakh or above	30
(2)	All societies the authorized capital of which is Rs.25 Lakh but less than Rs.50 Lakh	25.00
(3)	All other societies	10.00

107-B. Security to be furnished by officers and employees of societies handling cash, etc.—

Every officer or employees of a society who is required to handle cash securities or property belonging to the society, shall furnish security which shall not be less than that shown as under:—

		Amount of security to be furnished by		Nature of security to furnished
		An officer	Any other employee	
		Rs.	Rs.	
1	If the paid up capital of the society to which the security is to be furnished in Rs.1.50 Lakh or less.	1000	500	(a)(i) Cash security on Rs.200 and (ii) for the remaining amount in the form of personal security of fidelity guarantee policy or
2	If the paid up share capital of the society to which the security is to be furnished is above Rs.1.50 Lakh	2000	1000	(b) Full amount in cash or in the form of Government securities or postal savings.

107-C. Maximum amount of cash which may be handled at a time and who may be authorised.—

- (1) In the case of the following societies, only the Secretary or a paid employee of the society, duly authorised in this behalf by a resolution of the Committee shall handle or keep cash on hand to the extent shown below at the case of each working day, the excess being credited within three days in the nearest Branch of the District Central Co-operative bank or any other approved Bank.

(I) Primary Societies	Rs
(1) Agricultural Processing Societies, the paid up share capital of which is More than Rs. 5 Lakh	6000
(2) Spinning Mills, the paid up share capital of which is more than Rs.50 Lakh	6,000
(3) Spinning Mills, the paid up capital of which is Rs. 50 Lakh or less.	5,000
(4) Sugar factories	5,000
(5) Consumers Societies	1,000
(6) Dairy Societies	500
(7) Agricultural Credit Societies	500
(8) Fisheries Societies	500
(9) Industrial Estates	500
(10) Forest Labour Societies	500
(11) Labour Contract Societies	500
(12) Agricultural Process Societies the paid up share capital of which is Capital of which is Rs. 5 Lakh or less.	500
(13) Salary Earners or other Urban Credit Societies	500
(14) Farming Societies	500
(15) Lift Irrigation Societies	500
(16) Industrial Societies	500
(17) Weavers Societies	300
(18) Housing Societies	300
(II) Societies at Taluka level	
(1) Taluka Co-operative Purchase and Sale Societies	1,000
(2) Taluka Co-operative Supervising Inions	100
(III) District Level Federal Societies	
(1) District Marketing Societies	5,000
(2) District Wholesale Consumers Stores	5,000
(3) District Level Federal Societies other than District Central Co-operative Banks and District Land Development Banks	1,000

- (2) Any contravention of this rule shall be an offence under clause (q) of section 146 and the person concerned shall, on conviction, be punished under clause (q) of section 147.

107-D. certain payments to be made by Cheque —

- (1) All payments by or on behalf of a society or class of societies notified by the State government from time to time, shall be made by means of a Cheque.
- (2) The State Government may, general or special order, published in the Official Gazette, from time to time, direct that a society or class of societies specified therein shall, while making any payment exceeding such sum or sums as may be specified to any member or members by way of remuneration, be made by crossed Cheque drawn on a Bank, and different sums may be specified by the state Government in this behalf for different society or class of societies.

108. Contributions, fees and charges to be credited to Government—

All contributions made under sub-section (2) of section 90, all fees paid under subsection (3) of section 108 and all charges levied under rule 74 shall be credited to the State Government.

109. Communication of decision, award, etc.—

Any order, decision or award required to be communicated under the Act or these rules, unless otherwise specifically provided in the Act or the rules, be posted to the last address of the party as given by the party under the certificate of posting and under intimation to the society, with instructions to display a copy thereof on its notice board.

110. Repeal of Bombay Co-operative Societies Rules.—

The Bombay Cooperative Societies Rules, 1927, are hereby repealed, except as respects things done or omitted to be done before the repeal thereof.