

**[Maharashtra Act No. XXIV OF 1961]**

**The Maharashtra Co-Operative Societies Act 1960.**

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 context 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) \* \* \* \* \* *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

labour 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) "by-laws" means by-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 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's 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 the by-laws of the society, of the profits accruing from such procurement, production or processing, and distribution;

(10) "co-operative bank" means a society, which is doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949 and includes any society which is functioning or is to function as [an Agriculture and Rural Development Bank] under Chapter XI ;

(10-ai) "Co-operative Appellate Court" means 'the Maharashtra State 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 the Act;

(10-aiii) "co-operative year" means a year ending on the 31<sup>st</sup> 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 ;

(10-A) '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 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 utilisation of resources, lands are brought together and jointly cultivated by all the members, such lands (a) being owned by or leased to the members (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 members 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;

(16-A) " 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. 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 society after registration, and includes a nominal, associate or sympathiser 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 by-laws;

(d) " sympathiser member " means a person who sympathises 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 by-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 by-laws, to give directions in regard to the business of such society;

[(20-A) " Official Assignee " means a person or body of persons appointed by the Registrar under sub-section (2) of Section, 21A;];

(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 by-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;

[ \* \* \* \* \* ]

\* CLAUSE (30) DELETED\*

(31) "working capital" means funds at the disposal of a society inclusive of paid-up share capital, funds built out of profits, and money raised 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 Conditions 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 liability 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 mad 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 lands as shown in the map or maps of the village or villages 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 a 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 may by general or special order, exempt any society or class of societies from any requirements of this Act as to registration, subject to such conditions (if any) as it may impose.

## **8. APPLICATION FOR REGISTRATION**

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 by-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, should 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 an 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 authorised by the committee; by resolution to sign on its behalf the application for registration of the society and its by-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, [or any other law for the time being in force, or policy directive's issued by the State Government under section 4,] and that its proposed by-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 by-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 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 society and its bye-laws shall be deemed to have been registered and 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 thereon.

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under this Act.

## **10. EVIDENCE OF REGISTRATION**

A certificate of registration signed by the Registrar, shall be conclusive evidence that the 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, [or whether a person is or is not engaged certain in or carrying on any profession, business or' employment, or whether a person belongs or docs not belong to such class of persons as declared under sub-section (1A) of section 22 and has not incurred a disqualification under that sub-section.] 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 BY-LAWS OF SOCIETY.**

(1) No amendment of the by-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the by-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 by-laws shall, be disposed of by the Registrar within a period of two months from the date of its receipt.

[ \* \* DELETED \* \* ]

(IA) 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.

(IB) 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 by-laws of a society for where an amendment of the by-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 by-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 BY-LAWS**

(1) If it appears to the Registrar that an amendment of the by-laws of a society direct 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 by-laws shall be deemed to have been duly amended accordingly; and the by-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 Change of 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 by-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 by-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 by-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, or 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 of 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 REORGANISATION 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 reorganised then notwithstanding anything contained in the last proceeding section but public

subject to the provisions of this section, the Registrar may, after consulting such interest, etc. federal society as may be notified by the State Government by order notified in the *Official Gazette*, provide for the amalgamation, division or reorganisation 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 reorganisation.

(4) Every member or creditor of [or other person interested in,] each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation 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 (1). the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised 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].]

## **[18A. 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 sub-section (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 bank.
- (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.]

## **18B. AMALGAMATION OF PRIMARY AGRICULTURAL CREDIT SOCIETIES.**

Where the Registrar is satisfied that it is essential—

- (a) for ensuring economic viability of one or more primary agricultural credit agricultural 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.]

### **18C. REORGANISATION 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 alteration of is satisfied that in the public interest, or in the interest of the co-operative movement, limits of or in the interest of the society or societies, or for the purpose of proper demarcation local areas 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 operate. *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 the area of its operation;

(c) the dissolution of any existing society;

(d) the reorganisation 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 or 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 year 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 or 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 member societies as members 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-employments of any employees 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 favourable 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 by-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 as otherwise provided by this section or by any order issued thereunder, the provisions of this Act and the rules and orders issued thereunder, 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. Partnership 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 day's written notice of the resolution, and the date of the meeting.

(2) Nothing in the Indian Partnership Act, 1932, shall apply to such partnership.

## **20A. COLLABORATION BY SOCIETIES.**

[20A. (1) Any society or societies may, with the prior approval of the State Government, [and 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 (/), 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 co-operative 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 societies 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 of 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 21A] [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.

## **21A. DE-REGISTRATION OF SOCIETIES.**

(1) If the Registrar is satisfied that any society is registered on mis-representation 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 on 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 sub-section (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 LIABILITIES.**

### **22. PERSON WHO MAY BECOME A MEMBER**

(1) Subject to the provisions of section 24, no person shall be admitted member, as a member of a 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 may be laid down by the State Government by general or special order, a firm or company may be admitted as a member only of a 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 purposes 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.

[(1A) 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 is 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 person 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.]

[(1B) Notwithstanding anything contained in sub-section (7), where the Registrar has decided under section 11 that a person has incurred a disqualification under sub-section (1A), the Registrar or the person not below the rank of District Deputy Registrar of Co-operative Societies, authorised by him in this behalf, may, by order, remove such person from the 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 a 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 by-laws.

(1A) 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, in the same zone or the area of operation.]

### **24. NOMINAL, ASSOCIATE AND SYMPATHISER MEMBER.**

(1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate or sympathiser member.

(2) A nominal member or sympathiser 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 sympathiser 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 by-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.]

## **25A. REMOVAL OF NAMES OF MEMBERS FROM MEMBERSHIP REGISTER**

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

## **27. VOTING OF POWERS OF MEMBERS**

[(1) Save as otherwise provided in sub-sections (2) to (7), both inclusive, no member of any society shall have more than one vote in its affairs; and every powers of 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 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 another society, may appoint one of its members to vote on its behalf in the affairs of that other society; and accordingly such member shall have the right to vote on behalf of the first society;

[Provided that,] where the election is to a reserved seat under section 73-B, no person shall have more than one vote.]

(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 shares of a society may appoint any one of its directors or officer 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 funds 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 persons 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 by-laws of the society.

(8) No nominal, or sympathiser 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 due, 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 TRANSFER OR CHARGE OF SHARES OF INTEREST**

In any society, [no member, other than the Government, or any other holding society, or with the previous sanction of the State Government, a Zilla Parishad of shares, 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 , [twenty thousand rupees.].

## **29. RESTRICTIONS ON TRANSFER OR CHARGE OF SHARE OR INTEREST.**

(1) Subject to the provisions of the last preceding section as to the maximum on transfer holding of shares and to any rules made in this behalf, a transfer of or charge on, or charge of 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 as been accepted [by 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 thereunder or by the by-laws of the society, the society may acquire the share or 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 per cent. 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 by-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 interest on 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 a 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 m of 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 by-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.

### **32A. 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 members and 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 principle 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 countersigned 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 books is required to be kept for some time for making the necessary entries the member shall be granted a receipt therefor, 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, 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 provision 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 proceedings 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 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 maybe..

## **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 communication may be sent and the society shall send notice in writing to the Registrar of any change in the said address within thirty days thereof.

### **38. REGISTER OF MEMBERS**

(1) Every society shall keep a register of its members, and enter therein 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 etc of this Act and the rules and of its by-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 therefor.

### **40. ADMISSIBILITY OF COPY OF NTRY AS 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 India 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

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(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 in so far 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 awards of the Registrar [or Co-operative Court] 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 BORROWING**

[(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 on specified by the by-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 utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and by-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent up to which such 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 Regulation on the security of its own shares, or on the security of any person who is not a member: of loan

Provided that, with the special sanction of the Registrar, a society may make loans to another society.

(2) Notwithstanding anything contained in the foregoing sub-section, 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 by-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.].

#### **[44A. LIMIT ON INTEREST IN CERTAIN CASES**

Notwithstanding anything contained in any agreement or any law for the Limit on time being in force, a society (including a co-operative bank but excluding (an interest in 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 N RESPECT OF SHARE OR INTERST OF MEMBER.**

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 set-off in dividend, bonus or profits payable to any such member, in respect of any debt due respect of 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 section 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 workshop, 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 right 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 sub-section (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 sub-section, 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 as one of its objects the disposal of the produce of its member may provide in its by-laws, or may otherwise contract with its members,--

(a) that every such member shall dispose of his produce through the society, and

(b) that any member, who is found guilty of a breach of the by-law or of any such contract, shall reimburse the society for any loss, determined such manner as may be specified in the by-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, from certain 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 a 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 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 favour 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 favour 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 my 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 arid 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) In particular, notwithstanding anything contained. in [Chapter X of the Maharashtra Land Revenue Code, 1966,] the Record of Rights maintained thereunder 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 specified in this behalf by the State Government by a general or special order.

## **[48A.DEDUCTIONS 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 Agriculture and Rural Development agricultural 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 therefor 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 the 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 [Agriculture and Rural Land 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 CLAIM 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 from 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 claim in society the amounts so deducted in satisfaction of any debt or other demand of the certain cases. 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 receipt of a requisition made under the foregoing sub-section, 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 oilfields.

#### **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 Indirect moneys to a society for the purchase directly or indirectly, pf shares in other societies with limited liability. (A society to which money are so provided for the aforesaid Government purpose is hereinafter in this Chapter referred to as an "Apex Society".)

##### **52. PRINCIPAL STATE PARTNERSHIP FUND.**

An Apex Society which is provided with money as aforesaid shall with such moneys, establish a Fund to be called the " Principal State Partnership Fund ",

(2) An Apex Society shall utilise the Principal State Partnership Fund for the purpose of—

- (a) directly purchasing shares in other societies with limited liability;
- (b) providing moneys 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 provision of this Chapter; and for no other purpose.

### **53. SUBSIDIARY STATE PARTNERSHIP FIRM**

(1) A Central Society which is provided with moneys by an Apex Society from the Principal State Partnership Fund shall, with such money-i, establish a Fund to b3 called the " Subsidiary State Partnership Fund ".

(2) A Central Society shall utilise the Subsidiary State Partnership Fund for the purpose of—

- (a) purchasing share", in Primary societies;
- (b) making payments 10 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 share:, are purchased in a society by—

- (a) the State Government; or
- (b) an Apex Society from the Principal State Partnership Fond, or a Central Society from the Subsidiary State Partnership Fund. as the case may be the liability in respect of such share 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 !o 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 share stand in the name of the Apex society or the Central society, as the case may be, 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 Disposal of Fund is wound up or dissolved, all moneys 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 Government 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 (A) 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 equalisation or bonus equalisation 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 by-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 merit 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 by-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 by-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 some such purpose of the State, or of 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. RESTRICTIONS 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 Contribution 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 wilfully 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 Contribution educational fund 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.

## **69A. CONSTITUTION OF CO-OPRATIVE STATE CADRE OF SECRETARIES OF CERTAIN SOCIETIES AND ESTABLISHMENT OF EMPLOYMENT FUND FOR SUCH CADRE.**

There Shall be constituted a Co-operative State Cadre of Secretaries, of primary credit societies, multi-purpose co-operative societies and service co-operatives and such other classes of societies as may be prescribed in this behalf (hereinafter in this section referred to as "the Co-operative State Cadre ") consisting of persons recruited for this purpose by the Central Societies notified of certain in this behalf by the State Government. The number or persons to be recruited and societies 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 sub-section (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 oilier term 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)].

[(2A)] 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 reform 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 1972. It shall be utilized 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 services 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 offset 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 o/ 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 widen 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 aforesaid period, the Registrar may direct any Bank; or persons 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. INVESTMENTS 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 contribution made by 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 section a provident fund established by a society to which the Employees, Provident Funds Act, 1952 is applicable & shall be governed by that Act.

#### **71A. 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 section 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 an; ; society or to be officer of any society at any next election including any next bye-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 authority 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. COMMITTEES. 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.

(1A) Notwithstanding anything contained in this Act, the rules made thereunder 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, prescribe 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 thereunder 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, Vii for whatever reason, not been so far constituted, forward their names together with of their permanent addresses to the Registrar, who shall, within fifteen days from the 1986. 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, a fraction shall be ignored:

Provided that, such publication shall, not be deemed—

(i) to preclude the completion of election of the remaining members and the publication of their names and 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 TOMORE 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 this hand addressed 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 or constituencies concerned securing the next higher number of votes as duly elected.]

### **73-IB. POWER OF STATE GOVERNMENT TO POSTPONE ELECTION.**

Where due to scarcity, drought, flood, fire or any other natural calamity Power of or rainy season or any ejection programme, of the State legislative Assembly or Council or the House of the People or a local authority, coinciding with the election programme of any society or class of societies or such other reasons as, in the opinion election. 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 thereunder, 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 notified objects of the society or class of societies (other than the societies specified by or under section 73G), 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 Slate Government may, notwithstanding anything contained in this Act or in any rules, or bye-laws made thereunder, 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 lo in sub-section (1) in the prescribed manner.

### **73-ID. MOTION OF NO-CONFIDENCE AGAINST OFFICERS OF SOCIETIES**

(I) 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 societies, may be, if a motion of no-confidence is passed at a meeting of the committee by [simple 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 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 subsection (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 this 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 this 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.]

[73A.. (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 lakhs.

Category III.—Societies, the area of operation of which does not extend to one whole district but extends



at least to one whole taluka, or the authorised share capital of which is not more than Rs. 10 lakhs but is not less than Rs. 5 lakhs.]

**[Explanation.**—For the purposes of this sub-section, the expression "society" shall no 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) \* \* \* 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 reappointed 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 the completion] of the aforesaid period of [ten years ].

**Explanation**—For this purposes of this sub-section.—

(1)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.

(a) 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 resignation, have been completed, he shall be deemed to have completed the period of [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 subsection (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.

### **73 AA. DESIGNATED OFFICER WHO IS ASSOCIATE COUNCILLOR TO CEASE TO BE DESIGNATED OFFICER ON CEASING TO BE SUCH COUNCILLOR**

Where, after the commencement of the Maharashtra Zilla Parishads and Panchayat Samitis (fourth Amendment) Act, 1974, a designated officer of any society of any of the categories referred to in sub-section (2) of section 73A councillor to who is also an associate Councillor of any *Zilla Parishad*, ceases to be the associate Councillor of such *Zilla Parishads* by operation of the provisions of section 82 of the Maharashtra Zilla 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 Councillor of the *Zilla Parishad*.

### **73-AB 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 a committee of any society by virtue of his holding office under the Central Government or the State Government or in any local authority or 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-BRESERVATION OF SEATS ON COMMITTEES OF CERTAIN SOCIETIES FOR SCHEDULED CASTES, SCHEDULED TRIBES AND FOR MEMBERS OF WEAKER SECTION AND ELECTION THERETO**

(1) Notwithstanding anything contained in this Act or in the rules made thereunder 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, two seats shall be reserved,—

a) one for the members belonging to the Scheduled Castes or Scheduled Tribes;and

(b) one for the members belonging to the weaker section.

(2) The two reserved seats referred to in sub-section (1), shall [unless where the bye-laws of the society already provide for the reserved seats], b3 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 as the case may be, weaker section, shall be eligible to contest the election to a 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 seats.

[(4) Where no person is elected to any of the two 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 ;

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(b) the expression "Scheduled Castes" includes "Nav-Boudhas", and the expression "Scheduled Tribes" includes "Denotified Tribes and Nomadic Tribes" ;

(c) the expression "member 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.]

### **73-BB. RESERVATION OF SEATS FOR EMPLOYEES ON COMMITTEES OF CERTAIN SOCIETIES.**

(1) On the committee of such society or class of societies as the State of seats for 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 seats so reserved shall be filled by selection made by the [union or unions recognised under the Bombay Industrial Relations Act, 1946, or the Maharashtra Recognition of Trade Unions and Prevention of Unfair labour Practices Act, 1971, from amongst such employees. Where

there is no such [recognised 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 recognised 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 continued as a member under sub-section (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.]

### **[73-BBB. RESERVATION OF SEATS ON COMMITTEES OF SOCIETIES FOR WOMAN MEMBERS AND ELECTIONS THERETO.]**

(1) Notwithstanding anything contained in this Act, or in the rules Reservation made thereunder, 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 a society; [and every person who is entitled to vote at the election of the committees 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 Chairmen " ) ;

(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, at 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 or 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 Co-operative Bank of the District

Central Co-operative Bank, there shall not be more than [representative of such be elected by individual members from amongst themselves], on 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 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 officers, 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-DSOCIETY'S NOMINEE ON OTHER SOCIETY NOT ELIGIBLE TO BE DESIGNATED OFFICER EXCEPT IN A 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 IS 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, equipment, 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 a director of a company or a partner in a firm carrying on business in such dealing in 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 thereunder 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 a 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 instalment 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 instalment 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 is a partner in a firm or a director in a company which carries on business of the kind carried on by the society ;

**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 ; or

(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 73BB.

(2) A member who has incurred any disqualification under sub-section (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 73FF shall be eligible to be re-appointed, re-nominated, re-co-opted or as member re-elected as a member of the committee after the expiry of the period of two years of committee 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.]

### **73G.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 for conduct 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 to laid down by or under that Chapter :—

(i) such Apex [societies , which the State Government may, by general or societies 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 Organisations;

(b) all Taluka Co-operative Sale and Purchase Organisations;

(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 a 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 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 term of office of the elected members under sub-section (1), notwithstanding the date of their such 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.

(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]

#### **73H. 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) [The Commissioner] shall cease to function [on the expiration of its term hold election 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 term 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 OF CHIEF EXECUTIVE OFFICER AND FINANCIAL OFFICER FOR CERTAIN SOCIETIES.**

(1) The qualifications for appointment of the Chief Executive Officer and Finance Officer, Manager, Secretary, Accountant or any other officer of a society of Manager 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 societies, 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 general fixed for making up its accounts for the year under the rules for the time being in meeting force, call a general meeting of its members :

Provided that, the Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months :

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 73 FF of any committee member (including a society or firm or company of which such member or member 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 by-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, the 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 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.

(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 special or by a majority of the committee and shall be called within one month—

(i) on a requisition in writing of one-fifth of the members of the society of members the number of which is specified in the by-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 by-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 by-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.**

(7) Where the Registrar is satisfied that,—

[1 a) 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 the term of office 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-operatives 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 the 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 action 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 clause (ff ) 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 wilfully disobeys directions issued by the State Government, or by the Registrar for the purposes of securing proper implementation of co-operative policy and development programme 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 diligently 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 the 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.]

(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 or of any officer of the society, and take all such-action 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 or 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 orders of the Registrar.

(3) If at any lime during any period, or extended period referred to in subsection (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, 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 arrear 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.

## **79A. [GOVERNMENT'S POWER] 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 programmes 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 interest, etc. society being conducted in a manner detrimental to the interest of the members 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<sup>3</sup> modify or cancel any directions issued under sub-section (7), 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 subsections (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 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 frame 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.]

#### **[79B. 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 by-laws of the society, the Registrar may, on complaint made by the society or suo motu, 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 by laws, the Registrar may be 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 authorise] any police officer, not below the rank of a sub-inspector, to either 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 headquarters 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 sub-sections (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 seized 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 Tuluka Co-operative Sale and Purchase Organisations, and any such Society of 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) overdues 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 prejudicial to the interest of the society;

(iv) whether transactions of the society which are represented 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 member.]

[(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 'time 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 head-quarters 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 maybe 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 every communication relating to the annual general meeting of the society and to attend such meeting and to be heard there at, 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 transaction 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 of 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 condition 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 inquiry, 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 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, 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 defence, 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 himself.

(4) The result of any inquiry 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 such 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, costs of under the last preceding section, the Registrar may apportion the costs, or such Inquiry and part of the costs, as he may think just between the society, the members or inspection 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 persons, or the legal representative of the deceased person liable to pay the costs thereunder 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. Any sum awarded by way of costs under the last preceding section, may Recovery of be recovered, on an application by the Registrar to a Magistrate having jurisdiction costs 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 DISCLOSE IN INQUIRY ON 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 inquiry on to the notice of the society. The Registrar may also make an order directing the inspection 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 this 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 costs 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 Registrar on 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 promoters, 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 of 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 rate 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) on 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 be criminally responsible.

## **88A. DEPOSIT TOWARDS FEES OF INQUIRY.**

Where the Registrar on his own motion decides and orders an towards fees inquiry under section 83, or proceeds or authorises to make inquiry under of inquiry, 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 or any document or other material object by the same means ,and e 1908t 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 direction given by the State Government in accordance with the provisions of this Act and the rules made thereunder:

Provided that, inspection of the societies specified under section 73G shall be undertaken by the registrar or by the officer or not below the rank of [Deputy Registrar] of Co-operative Societies authorized 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 the accounts of any 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 book<sup>^</sup> 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 recognise 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 authority a society or a class of societies and may frame rules for making grants to such an to supervise authority.

(2) The State Government may, by general or special order, require of a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment 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. authority may recover it as if it were an arrear 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 officers], conduct of general meetings, management or business of a 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 a co-operative Court], if both the parties thereto are not or either 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 the 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 [for 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 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 therefor, [or any proceeding for the recovery of the amount as arrear of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 191 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.]

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

**Explanation 1.**—A dispute between the Liquidator of a society [or an official Assignee of a de-registered society] and [the members (including past members, or nominees, heir or legal representative or deceased members)] of the same society shall not be referred [to the Co-operative Court] under the provisions of sub-section (1)



**Explanation 2**— For the purposes of this sub-section, a dispute shall include— (1) a claim by or against a society for any debt or demand due to it from a member or due from to a, member past member, or the nominee, heir or legal representative of a deceased member, or servant for 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 officer 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.

## **91A. 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 disputes [referred 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 there of 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, of 1973, [before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made thereunder have been delegated or 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 here 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 thereunder 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 of such proceedings 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 a 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 or 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 1963. Co-operative Court] a Civil Court.

(3) Notwithstanding anything contained in sub-sections (7) and (2), [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 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 document by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the 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 endeavour 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 Co-operative 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 Co-operative Court], may be necessary in order [to 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 reliefs; but if he omits to claim for all such reliefs, 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 satisfied 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 INTER-LOCUTORY ORDERS.**

(1) Where, a dispute has been referred to the Co-operative Court under Attachment 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 right 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.**

[96. When a dispute is referred to arbitration, the Co-operative Court may, after giving a 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 or [the Co-operative Court] under the last preceding section or order passed [by the Co-operative 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 [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 [for 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 [for the Co-operative Court] or a Liquidator, be deemed to be a decree of 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 orde<sup>1</sup> 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 transfer of 98,[or in the recovery of any amount under section 101 or section 137], any property which 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 not withstanding 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 sub-section (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 LAND REVENUE.**

[(1) Notwithstanding anything contained in sections 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 or cash credit facilities or artisans or 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, 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 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 purpose of this sub-section, the expression “other agricultural purposes ”. includes dairy, pisciculture 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 Born. measures authorised by sections 140 to 144 of the \*Bombay Land Revenue Code, 1879 or any law or provision 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. 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-fourth 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) as ceased to comply with any conditions as to registration and management in this Act or the rules or the by-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 confirming 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's 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 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.

**\* See now the Maharashtra Land Revenue Code, 1966 (Mah XLI of 1966).**

(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 against 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 (1) 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.**

<sup>1</sup>[(1)] The Liquidator appointed under section 103 shall have power, 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 undertakings, 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 creditor in full or rateable 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 claim present or future, whereby the society may be rendered liable;

1. Section 105 was re-numbered as sub-section (1) of that section by Mah. 3 of 1974, s. 30(1).

(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 on past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs or legal representatives of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers.:

(i) to issue requisitions 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.

(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 members 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 realise 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 used is concerned but they shall continue to apply to the person who acted as Liquidator.

#### **108. AUDIT OF LIQUIDATOR'S 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 closed [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 sub-section, 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 a 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 off 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.**

110. 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 by-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 by-laws, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the 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, then 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 as 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 of the State Government; and

(c) any charitable purpose as defined in section 2 of the Charitable Endowment 1890- Act. 1890.

## **CHAPTER X-A. INSURED CO-OPERATIVE BANK**

### **110A. ORDER FOR WINDING UP, RECONSTRUCTION, SUPERSESSION 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 requisition 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 supersession (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 the Administrator so appointed shall after the expiry of this 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 supersession (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 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 provision 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 TO 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 Bank]"), namely :—

(i) agricultural or rural development ;

(ii) purchase of, or acquisition of title to, agricultural lands by tenant, occupants and assignees under any law for the time being in force ;

(iii) liquidation of Governmental, 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 a [Agriculture and Rural Development Bank.]

**Explanation.**—For the purposes 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 oilier 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, improvements 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 lauds 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, of land,

(vi) bunding 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 holdings under the relevant law for the time being in force,
- (xv) animal husbandry and dairy farming such as purchase of milk cattle rearing of cross-breed female calves, cattle breeding, sheep and goat rearing) piggery, poultry farming and purchase of bullocks,
- (xvi) plantation including tree 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 agriculture 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 a State Agriculture and Rural Development Bank, for the State of Maharashtra. If considered necessary by the State Government, other in the public interest or in the interest of the co-operative movement there may be Agriculture 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-Bank 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.

### **112A. 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 rules made thereunder, 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.]

[(ia) two members, one from the persons belonging to the Scheduled Castes or Scheduled Tribes and one from the persons belonging to the weaker section, who shall be elected from the District]:

(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.

[Provided that, in a district, where there are more than seven talukas 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 of number of delegates as may be necessary from the talukas from which no delegates are elected, so as to bring the total number of the delegates equal to the number of talukas in such district:

Provided further that. after having held the election as aforesaid, the two member 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, the 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 of to the Scheduled Castes or Scheduled Tribes, or, as the case may be, weaker section, shall be eligible to contest such election ;]

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

(c) The delegates or members to be elected under sub-clauses (i) and {i-a) of clause (6) 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 member] 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 thereunder shall be deemed to be a reference to an election of delegates or member referred to in clause (b)].

(2) Every District Loan Committee shall have a Chairman, who shall be elected by the [elected delegates or 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 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 to 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 coterminus with the term of such members and on expiry of their term they shall be deemed to have vacated their offices.

(J) A casual vacancy of an elected delegate, members or Chairman occurring in the District Loan Committee due to any reason whatsoever shall be filled by election 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, or as the case may be members expires, the vacancy shall not, unless the Registrar otherwise directs, be filled.

Provided further that, the delegate, members or Chairman elected to fill a vacancy shall hold office so long only as the delegate, members 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 recommsnd 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 commiitee 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, 77A, 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.]

### **112AA.ELECTION OF DELEGATE AS MEMBER OF AGRICULTURE AND RURAL DEVELOPMENT BANK FROM CITY OF BOMBAY DISTRICT AND BOMBAY SUBURBAN DISTRICT.**

112AA. (1) Notwithstanding anything contained in this Act or the rules made thereunder, 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 subsection (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.

### **112B.GENERAL BODY AND COMMITTEE OF STATE AGRICULTURE AND RURAL DEVELOPMENT BANK.**

(1) Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the bye-laws of the State Agriculture and Rural Development Bank,—]

(a) The delegates and member elected in accordance with the provisions of Clauses (c) and (d) of subsection (1) of section 112A and sub-section (1) of section 112AA shall, for the purposes 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 ;

(A) two members, one each belonging to the Scheduled Caste 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 order issued under clause (c) of the *Explanation* to section 73B 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 recognised union or unions of employees, from amongst such employees. Where there is no recognised union or unions or where there is no union at all, the employees shall elect representatives from amongst, themselves. The election shall be held by the Collector in the manner laid down in Chapter XI A of this Act.

(v) The Commissioner for Co-operation 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 Agriculture and Rural Development Bank ex-ofocio, who shall also act as the Secretary of the committee.

(2) The members referred to in sub-clause (1) of clause (b) of sub-section (1) shall cease to be members of the committee on the date of expiry of their term as Chairmen of the District Loan Committees and they shall be deemed to have vacated their offices and the term of office 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 office.

(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 subsection (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 he presided ovsr by the Collector or by such authorised officer, but such presiding officer wd 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 subsection (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 (1) of sub-section (1) shall not have a right to vote at such meeting. The Vics-Chairman so elected shall hold office as such Vice-

Chairman subject to the provisions of sub-section (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 144A.

(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 recognised 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 thereunder 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.

### **113. APPOINTMENT POWERS AND FUNCTION 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 fulfilment of the obligation, of the State 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 Development and Rural 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, Issue of 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 Bank.

(2) Every debenture may contain a term fixing a period not exceeding thirty year; 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, guarantees, 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 at 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 Rural Development Bank or the Trustee at the time;

(b) where debentures are issued otherwise than on mortgages on the instruments aforesaid held, the total amount a.s calculated under clause (a) increased, by such portion of the amount obtained on the debentures as is not covered by a mortgage, instruments 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, any carry the guarantee of the State Government, subject to such maximum amount 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 sub-section (3) of that section held by the State Agriculture and Rural Development Bank, shall vest in the Trustee, and the holders of debentures charge 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 purposes referred to in section 111, and to hold lands or dwelling houses in rural area the possession is which of transferred to them under the provisions of this Chapter.

**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 by-laws of the Bank to make loans for or certain all or any of the purposes specified in section 111, granting, either before or after matters, 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 lands or for the productive purpose or for the purpose of dwellings house in rural area] specified therein, shall for the purposes of thi^ 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 for the purpose of dwellings house in rural area, as the case may be, withm the meaning of section 111:
- (b) that the person had at the date of the order a ritgh to make such an improvement or incur expenditure for productive purpose or for the purpose of dwelling house in rural area, as the case may be and
- (c) that the improvement is 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 ia favour of an Agriculture and Rural Development Bank, shall have priority over any claim of the Government arising from of a loan granted after the execution of the mortgage. under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or under any other law for the time being force.

(2) Notwithstanding anything contained in the Bombay Tenancy and Agricul tural Lands Act, 1945, or any other corresponding law for the time being in force, where a mortgage in favour of an Agriculture and

Rural Development Bank 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 charge of the an Agriculture and Rural Development Bank.

### **121.MORTGAGES AND OTHER INSTRUEMENTS 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 and 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 favour of 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 Agri- culture 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 favour of such time and in such manner as may be prescribed a copy of such instrument the concerned registering authority; and on receipt of the copy 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 any corresponding law for the time being in force, a mortgage, or any other instruments supporting the loan executed in favour of an Agriculture and Rural Development Bank shall not be called in question n in any insolvency proceedings on the ground that it was not executed in good faith for valuable consideration, or on the ground that't was executed in order to give the Bank a preference over other creditors of the mortgagor or of the executant of the instrument.

**124.** [\* \* \* DELETED\* \*]

### **125. MORTGAGES AND OTHER INSTRUEMENTS EXECUTED BY MANAGERS OF JOINT HINDU FAMILIES.**

(1) Mortgages and other instruments in respect of loans by an Agriculture and Rural Development Bank

or the State Agriculture and Rural Development Bank either before or after the commencement of this Act, by the managers of 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 families, 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 instrument executed in favour of an 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 member 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 ACT XXXIII OF 1956 TO APPLY TO MORTGAGES AND OTHER INSTRUMENTS ITO AN AGRICULTURE AND RURAL BANK, SUBJECT TO CERTAIN MODIFICATION.**

Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages and other instruments in favour of an Agriculture and Rural Development Bank, subject to the modification no.36020r 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 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 on any such property :

Provided that, the rights of the 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 the an Agriculture and Rural Development Bank, shall give notice to the tenant to pay rent to the an Agriculture and Rural Development Bank during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned 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 Development the mortgagor to the Agriculture and Rural Development Bank, and such payment receive shall be as valid as if the mortgage had not been so transferred and the Agriculture money and Rural Development Bank shall in the absence of specific

direction to the give contrary, issued by the State Agriculture and Rural Development Bank or 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. RIGHTS OF 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 Bank] 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 Tribals, 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 Bank all Recovery of interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when the become due, be recoverable by the Agriculture and Rural Development Bank concerned.

### **132. POWERS TO DISTRAINT**

(1) If any installment payable under a mortgage, hypothecation deed, loan bond, surety bond or other



instrument 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 distraining 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 month from the date on which the instalment 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 (hereof, 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 objection if any, of the debtor or debtors ;

(b) notice in writing requiring payment of such debt or loan money or part there of has been serve 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 or the payment of 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 Agriculture 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 Trustee.

(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 AND 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 Development Bank or the Trustee under section 133, the State Agriculture and 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 the 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 where of 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 remain 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 upon 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 or 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 PURCHASE.**

(1) Where a sale of mortgaged property has become absolute under section Certificate 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 and title of 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, within 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 mortgager, 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 this 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 Some, 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 best 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 authorising 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 unauthorised, improper or irregular exercise of such power shall have & remedy in damages against the Agriculture and Rural Development Bank.

### **137. RECOVERY OF LOANS ON CERTIFICATE BY REGISTRAR.**

(1) Notwithstanding anything contained in section 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 the 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 or any law or provision corresponding thereto for that time being in force until the arrears due to the Agriculture and Rural Development Bank together with interest and

any incidental charges incurred, in the 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 this section.

### **138 .MODE OF RECOVERY BY COLLECTOR**

. (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 movable or immovable property, held under the provisions Officers or of this Chapter, no officer or employee or any member of the family of such officer members of or employee of an Agriculture and Rural Development Bank, except on behalf of the bank of which he is an officer or an employee, and no person having any duty auction 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 BOM. 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 of the Agriculture and Rural Development Banks.

### **141.PROVISION FOR GUARANTEE FUNDS TO MEET CERTAIN LOSSE (1) It shall be**

competent for the State Government to constitute one or more 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 to immovable property subsequently found to be defective or for any other purpose under the Chapter, for certain 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 the Agriculture and Rural Development Banks 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 be made by the State Government in this behalf

#### **142. REGISTRAR'S POWER TO PERMIT ANY SOCIETY, OF CLASS OF SOCIETIES TO FUNCTION AS AN AGRICULTURE AND RURAL DEVELOPMENT BANK.**

It shall be competent for the Registrar to permit any society or a 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 provision of sections 102 and 103 of the Transfer of Property Act, 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 13A of that Act, then notwithstanding anything contained in this Act, all the rights and liabilities of the State Government 1942 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 thereunder 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 liability 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 TO COMMITTEE OF STATE AGRICULTURE AND RURAL DEVELOPMENT BANK TO SUPERVISE AGRICULTURE AND RURAL DEVELOPMENT BANKS AND MAKE REGULATIONS.**

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 thereunder, for all or any of the following matters, namely :—

- (a) for the inspection of the account books and proceedings of Agriculture and supervise 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 realised from the mortgagors :
- (f) the conditions of service of employees of such banks ;
- (g) the programme and policy to be followed by such banks for making loans ;
- (h) the type and extent of security to be obtained by such banks for advancing loans ;
- (i) generally, to the purpose of safeguarding the interest of the parties, furtherance of activities of such banks, and carrying out the purposes ,of this Chapter.

#### **144-IA. REORGANISATION, AMALGAMATION OR DIVISION OF AGRICULTURE AND RURAL DEVELOPMENT BANKS, IN PUBLIC INTEREST.**

(1) Notwithstanding anything in this Act or in any rules or bye-laws made thereunder, 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 reorganisation of the State Agriculture and Rural Development Bank], either by amalgamating with it all or any of the Primary Agriculture and Rural and Rural Development Banks or otherwise; or for the division of the State Agriculture and Development Rural Development Bank] into a State Agriculture and Rural Development Banks], in 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 thereunder 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, 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 Development Bank throughout the State or in the area concerned, as the case may be. Any reference to 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 to 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 or due to merger of the Primary Agriculture and Rural Development Bank or Banks in the State Agriculture and Rural Development Bank.

**144-1B** [ \* \* DELETED \* \* ]

## **CHAPTER XI-A ELECTIONS OF COMMITTEES AND OFFICES OF CERTAIN SOCIETIES.**

**144-A. APPLICATION OF THE CHAPTER AND DEFINITION** (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 committee 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 elections, 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 by-laws of a specified society authorise 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-DCOST OF CONDUCTING ELECTIONS**

(1) The expenses, of the holding of any election, including the payment; of traveling allowances, daily allowances 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 a 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 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 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 153-A or of 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 144-Q or clause (a) of sub-section (2) of section 144-R 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" means 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 sub-section (2) 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 TO 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 or being elected as, and for being, a member of the committee of any specified society, and 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, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

**144-1CORRUPT PRACTISES.** The following shall be deemed to be corrupt practices for the purposes 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, in 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, or

(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 purpose 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 344-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 ex-communication 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 member 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 his 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 for being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used drawing other 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 favouring any elector or group of electors between the date of declaration of programme 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 of secrecy in connection with the recording or counting of votes at an election shall maintain, of voting, 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 or to (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 endeavour—

(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 of 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 or new public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker stations. 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 neighbourhood 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 wilfully 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), 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 to 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-I 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 PAPER 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 wilfully aids, or abets the doing of 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 an offence, 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, the 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 THEREOF.**

(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 therefor.

(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 envelope 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 or the purposes of the election; or:

(g) fraudulently or without due authority, as the case may be, attempts to do any of the wilfully 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, on 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 other petition to the specified officer, within a period of two months from the date of specified 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. DEPOSITS TOWARDS COSTS FOR HEARING AND POWER TO AWARD COSTS.**

A petitioner presenting an election petition under the last preceding section shall deposit not exceeding Rs. 500 as the Commissioner may direct hearing Awards the costs for hearing the petition. Unless the petitioner deposits the same and power as aforesaid the petition shall be summarily dismissed. Subject to such conditions to award 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 at 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 fall 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 TH PETITIONER.**

A petitioner may, in addition to claiming a declaration that the election may 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 generally 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 voter,.

## **144-Y.SPECIAL PROVISION FOR 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 societies, under section 73-B, or whenever such election is due, the election of the office 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 officers 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, or use of the word 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; or

(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 the 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-section (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 section .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 wilfully 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, wilfully 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-sections (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 of property over which the society has a prior claim, or a member or officer or employee or any person disposes of 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 wilfully 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 months, 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 (p) 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 a Metropolitan Magistrate or a Judicial Magistrate of the First Class, shall try any offence under this Act.

(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.

(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 provision of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(8) The regulations 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 inter-locutory orders pending the decision of the appeal or applications, 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.

**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.

(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.]

## **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 new and important matter of evidence, which after the exercise of due 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 the date of the communication of the order of the Co-operative Appellate Court.

### **151. CO-OPERATIVE APPELLATE COURT TO HAVE POWER OF CIVIL COURT.**

In exercising the functions conferred on it by or under this Act, the Appellate 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**

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 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 Co-operative 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.

#### **152A. APPEAL AGAINST REJECTION OF NOMINATION PAPER OF ELECTION.**

(1) Notwithstanding anything contained in this Act or the rules or Appeal the bye-laws made thereunder, a person aggrieved by the rejection of nomination of a candidate at the election of a committee of any society other than a society nomination 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 thereunder, 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 Extension filed against any decision or order within a specified period, the appellate authority of period 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 moto* 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 Government or order has been passed by any subordinate officer, and no appeal lies against such and 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.

(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.**

#### **154-A CONSTITUTION OF STATE CO-OPERATIVE COUNCIL, ITS FUNCTIONS, ETC.**

(1) There shall be a Council to be called the Maharashtra State Co-operative Council consisting of such number of 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 co-operative movement;

(b) to review the co-operative movement and to suggest ways of co-ordinating 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 co-operative development especially for the development of backward classes and economically weaker sections 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 or specialised 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 travelling 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 or past member or a deceased member of a society as Government, may be recovered according to the law and under the rules for the time in force for 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 its 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. REGISTRAR'S 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 such rules as may be made by the State Government, but without prejudice to any attachment or 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 or 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 sub-section (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 order on any application made to him for such recovery, to

be a Civil Court for the purposes of article 136 in the Schedule to the 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 thereunder, or any direct that such provisions shall apply to such society or class of societies with such modifications provisions 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 OFFICER.**

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 to any other authority or to any officer of the Zilla Parishad authorities 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 Branches, 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 by-laws and amendments and, if these are not written in English language, a certified translation there of 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 overrecords Chairman; in whose place the new Chairman is elected, shall hand over charge of he office of the committee and all papers and property, if any, of the society in Chairman 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 a 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 thereunder, 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 Parishads and Panchayat Samitis Act, 1962, 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 a board of nominees, shall not be entitled to receive any remuneration other than travelling allowance, the daily allowance or such other allowance which is offices paid to the holder of any such office for the purpose of meeting the personal societies, 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 THE MAXIMUM PRESCRIBED.**

Subject to the provisions of section 160A, no member of the committee committees of any society shall be entitled to receive from the society the travelling allowance, the daily allowance or such other allowances or fees which are paid to the members for attending meetings of its committee or for performing any other functions as daily such members, at a rate higher than the maximum, rate prescribed in this bdnalf, allowance, 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, a person appointed as an Official Assignee under sub-section (2) of section 21-A, or as an administrator under section 77-A or 78, or a person authorised to seize books, records or funds of a society under public 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 89-A or to make an order under section 88, or a person appointed as a member constituting a Co-operative Court under section 91A or the Co-operative Appellate of Court under section 149, or a Liquidator under section 103, shall be deemed to be public servants within the meanihg 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 of 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 3. prescribe the designation of officer<sup>^</sup> 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 to 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, by-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 .or 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 realise 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 sections 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 interest 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 provisions 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 this 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 member 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 Registrar's 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, of a 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 the 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 funds 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 73-1C (1);

(xxxv-b) prescribe the manner of recovery of the expenses of holding elections to notified societies by the Registrar, under section 73-1 C(2);

(xxxv-c) prescribe the requisition form and the manner in which the motion of no-confidence can be brought under section 73-1D;

(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 power 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 or 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 a 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 or 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;

(xliii) 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 conducting 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 a 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 provide for fixing, levying and collecting appropriate fees and expenses for determining the disputes (including expenses incurred by the parties to the proceeding), 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 this 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 Co-operative Court;

(liv) provide for the issue and service of processes and for proving 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 the 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;

(Ix) 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;

(Ixi) 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;

(Ixii) prescribe the matters in which an appeal shall lie from the order of a Liquidator appointed under section 103;

(Ixiii) 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;

(Ixiv) 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;

(I xv) 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;

(I xvi) 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;

(I xvii) prescribe the circumstances in which action may be taken by an Agriculture and Rural Development Bank against a mortgagor under section 133(2) ;

(I xviii) prescribe, in case of sale of immovable property under Chapter XI—

(a) the procedure for proclamation and conduct of the sale and the conditions on 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 Agriculture 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 or 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 ;

(Ixix) 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 of by the bank ;

(Ixx) prescribe the procedure to be followed in presenting and disposing of appeals ;

(Ixxi) prescribe the qualifications and the period of office of members of the Co-operative Appellate Court ;

(Ixxii) prescribe in the case of appeals lying to the State Government the authority to which power of hearing appeals may be delegated ;

(Ixxiii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules ;

(Ixxiv) provide that the contravention of any of the rules shall be an offence under the Act;

(Ixxv) 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 Co-operative 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 by-law framed, rule made or deemed to be made or proceeding 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 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 this 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 there be a doubt as to the corresponding officer authority or person to such 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 thereunder, 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 and 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 provision of the of Companies Act, 1956 shall not apply to societies registered, or deemed to be registered, under this Act.