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NOTIFICATION

No.H. 12018/177/06-LJD. the 17th November. 2006 : The following Act of the Mizoram Legislative Assembly which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Cooperative Societies Act, 2006 (Act No. 9 of 2006)

(Received the assent of the Governor of Mizoram on 20th October, 2006)

AN
ACT

CHAPTER - I PRELIMINARY

1. Short title, extent and commencement :

- (1) This Act may be called the Mizoram Co-operative Societies Act, 2006.
- (2) It extends to the whole state of Mizoram.
- (3) It shall come into force on such date as the state government may, by notification in the official Gazette, appoint and different dates for enforcement may be appointed for different provisions of this Act.

2. Definitions:

In this Act, unless the context otherwise requires -

- (1) "Act" (the, this) means the Mizoram Co-operative Societies Act, 2006.
- (2) "Administrator(s)" means a person(s) appointed by Registrar by virtue of exercise of power conferred upon him and for the purpose specified under section 64(1) of the Act.
- (3) "Affiliated Society" means a particular Society which is a member of the affiliating society.
- (4) "Affiliating Society" means the registered society in which a particular society becomes a member.
- (5) "Arbitrator" means a person appointed by Registrar by virtue of power conferred upon him under the Act, to settle disputes referred to him. in accordance with the provisions of law.
- (6) "Arbitration" means the method or process by which the disputes referred therein are finally decided or settled.
- (7) "Area of operation" means the area from which the membership is drawn and includes the territorial limit up to which a co-operative can extend its activities as provided under bye-law.

- (8) **"Board"** (or **"Board of Directors/Managing Committee"**) means the governing body of a co-operative by whatever name called, to which the direction of the affairs of the co-operative is entrusted under the bye-laws of that co-operative in addition to the powers and functions assigned to it under section 54 of this Act.
- (9) **"Bonus"** means payment made in cash or kind out of the profits of a co-operative 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 co-operative but does not include any sum paid or payable as bonus to any employee of the co-operative under the Payment of Bonus Act, 1965.
- (10) **"Bye-laws"** means by-laws registered under this Act for the time being in force and includes registered amendments of such bye-laws and deemed amendment of bye-laws.
- (11) **"Charge"** means the lawful conferment of preferential right of enjoyment upon an entity over other rival claimants on the same entity.
- (12) **"Chief Executive"** means an individual, in paid or honorary capacity, nominated or elected or appointed through selection by the board of a co-operative in accordance with the bye-laws of that co-operative, who is the appropriate person to sue or be sued on behalf of the co-operative and has such responsibilities and powers as are specified in the bye-laws and assigned by the board of management committee, in addition to performance of such other functions specified under section 61.
- (13) **"Company"** means a company as defined under the Companies Act, 1956 and includes a banking company and also any board, corporation or other corporate body, constituted or established by any Central or State Act for the purpose of the development of any industry ;
- (14) **"Co-operative"** means a self-reliant, self-help, mutual-aid, autonomous, voluntary, democratic, business enterprise registered or deemed to have been registered under this Act, which is jointly owned, managed and controlled by its members, who may be individuals or co-operatives, for the purpose of fulfilling or meeting their economic and social betterment, through the financially gainful provision of core services which fulfil the common need felt by all members.
- (15) **"Co-operative bank"** means a society which is doing the business of banking as defined in clause (6) of sub-section (1) of section 5 of the Banking Regulation Act, 1949 and includes any society which is functioning or is to function as an Agriculture and Rural Development Bank.
- (16) **"Cooperative Demand Certificate"** means a recovery certificate issued by the Registrar or authorised persons.
- (17) **"Co-operative principles"** or **"principles of cooperation"** means the principles specified under section 6 of this Act meant for strict observance by Co-operatives
- (18) **"Co-operative tribunal"** means a tribunal to be constituted by government in consultation with High court under this Act to decide disputes to be referred to it under any of the provisions of the Act.
- (19) **"Co-operative with limited liability"** means a co-operative having the liability of its members limited by its by-laws;
- (20) **"Co-operative with unlimited liability"** means a co-operative, 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 co-operative;
- (21) **"Court"** means the principal Civil Court of original jurisdiction in a district, and includes the High Court and Supreme Court in exercise of its original civil jurisdiction;
- (22) **"Credit equalization fund"** means a fund created and maintained by each co-operative bank in accordance with and for the purpose specified under section 124 of Chapter XIV of this Act.
- (23) **"Decree"** means a decision expressed in a suit conclusively determining the rights of the parties to the dispute with regard to all or any of the matters in controversy and such decision is given formal expression as an adjudication.

- (24) **"Deemed"** means the intended act, purpose, requirement, need gets its legal status on the expiry of time period provided for taking such action or decision, on such act, purpose, requirement or need, etc.
- (25) **"Deficit"** means the excess of expenditure over income, arrived at, at the end of a financial year, after the payment of interest, if any, on share capital;
- (26) **"Delegate"** means a member nominated or authorized by a co-operative to represent its interests at the time of promotion of a federal or central secondary co-operative, and/or to take part at meetings of such federal or central or secondary co-operative to which the co-operative is affiliated;
- (27) **"Deregistration"** means the act of withdrawing or taking back the legal right conferred upon a co-operative for the purposes specified under section 15.
- (28) **"Director"** means a member elected in accordance with the bye-laws to the board of the committee of management.
- (29) **"District Cooperative Officer"** means Deputy Registrar of Cooperative Societies.
- (30) **"Dividend"** means the amount paid, out of the profits of co-operative to a member in proportion to the share capital held by him.
- (31) **"Employee"** means a person not being an Office Bearer, employed by the registered cooperative society on a salary or similar form of remuneration other than advance, patronage dividend or, payment for goods sold to or, through such society.
- (32) **"Expulsion"** (of members) means the act of driving out members by force or authority who are found to be dishonest by engaging themselves in doing acts which are detrimental and harmful to the interest of the co-operative or to its proper working.
- (33) **"Federal Co-operative (or central or secondary co-operative)"** means a co-operative formed by not less than ten members which themselves are co-operative for the object and purpose specified under chapter III of this Act.
- (34) **"General Body"** in relation to a co-operative, means a body consisting of all its members;
- (35) **"General Meeting" or "General Body Meeting"** means a meeting of the general body called and conducted in accordance with the provisions of this Act and the bye-laws of the co-operative;
- (36) **"Government"** or state government means the Government of Mizoram
- (37) **"Liquidator"** means a person appointed by the Registrar under section 111 of this Act for the object and purpose specified under Chapter XII of this Act.
- (38) **"Managing Committee" or "Board of Directors"** as the case may be means the body to which the management of the affairs of a registered society is directly vested.
- (39) (a) **"Member"** means a person who is in need of and is able to use the core services of a co-operative and who is joining in an application for registration or admitted and continues as a member of the co-operative after registration in accordance with the provisions of this Act, bye-laws of that co-operative, and includes a "member-co-operative"; nominal, associate or sympathizer member.
(b) **"Active Member"** means the member who takes active part in the management and business affairs of the co-operative.
(c) **"Associate Member"** means a member who holds jointly a share of a co-operative with others, but whose name does not stand first in the share certificate;
(d) **"In-active Member"** means a member who simply hold shares of the co-operative, but does not take part in the business affairs and management of co-operative.
(e) **"Member-Co-operative"** means a primary or secondary co-operative which is in need of and is able to use the core services of a secondary co-operative, and which is admitted as a member of that secondary co-operative, in accordance with the provisions of this Act and the bye-laws of that secondary co-operative;
(f) **"Nominal Member"** means a person admitted to membership as such after registration in accordance with the by-laws;

- (g) **"Prospective Member"** means a person who needs the core services being offered by a co-operative, may be accessing them, and is eligible to be a member of that co-operative, but is not yet admitted as its member:
- (h) **"Sympathizer Member"** means a person who sympathies with the aims and objects of the co-operative and who is admitted by the co-operative as such member.
- (40) **"Office Bearer"** means a person elected or appointed by a co-operative to any office of such co-operative 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 co-operative.
- (41) **"Person"** means any individual or institution or company or government undertaking or central or state government competent to contract;
- (42) **"President" or "Chairman"** means an elected director who is further elected by the board of management committee to preside over its meetings and the meetings of the general body, and to perform such other functions and have such other powers and responsibilities as are specified in the bye-laws and assigned by the board of management committee.
- (43) **"Primary Co-operative"** means a co-operative whose members are primarily individual natural persons.
- (44) **"Promoter"** means any eligible person or registered society signing the application for registration of a society.
- (45) **"Qualified Auditor"** means Department Auditor appointed by the Registrar.
- (46) **"Registrar"** means an individual appointed in accordance with the requirements provided under this Act, and includes any individual or officers subordinated to Registrar such as additional Registrar, Joint Registrar, Deputy Registrar, Assistant Registrar entrusted with the performance of functions and discharge of duties and responsibilities of the Registrar under this Act;
- (47) **"Representative General Body"** in relation to a co-operative means all the representatives authorized to constitute and discharge such of the functions of general body.
- (48) **"Representative General Body Meeting"** means a meeting of the representatives, called and conducted in accordance with the provisions of this Act and bye-laws of the co-operative;
- (49) **"Resolution"** means a resolution of the general body at a meeting which has the approval of more than half of all the members of the co-operative with right of vote at the time of the general meeting, or of at least two-thirds of members or any other proportion with right of vote at the time of the general meeting and present in the general meeting, whichever is specified.
- (50) **"Rules"** means rules made under this Act by the government.
- (51) **"Signature"** includes a thumb impression of an illiterate person.
- (52) **"Supersession"** means the act of removing or unseating or dissolving the duly and democratically elected management committee from its operation, in the larger interest of members of co-operative, public or co-operative movement, for managing the affairs of co-operative prejudicial to the interest of members or detrimental to the affairs and growth of co-operative.
- (53) **"Surcharge"** means the action or omission done in the preparation and maintenance of accounts for which credit should have been made and involve amounts in official books of accounts not approved by the auditor which amounts are recoverable from such of the persons including officials and employees of co-operative responsible for spending or incurring such expenditure.
- (54) **"Surplus"** means the excess of income over expenditure, arrived at, at the end of the financial year, after the payment of interest, on share capital, tax, if any and before the payment of surplus refund, and allocation of **reserves and other funds**;
- (55) **"Working Capital"** means funds at the disposal of a co-operative inclusive of paid-up share capital, funds built out of profits, and money raised by borrowing and by any other source.

- (56) **“Winding Up (or dissolution)”** means the act of enabling or allowing an activity, subject or thing coming to an end in normal course or bringing or forcing an end to such activity, subject or thing in larger interest of member, public or co-operative or co-operative movement.
- (57) **Words and expressions** not defined in this Act but defined in the Rules shall bear the meaning as defined in the Rules.

3. State policy on Co-operatives : The state shall:

- (a) endeavour to promote the viability and growth of co-operatives which are instruments of equity, social and economic justice in furtherance to fulfilment of directive principles of state policy as enshrined in Part IV of the Constitution of India
- (b) protect economic rights and interest and political rights of co-operatives
- (c) provide financial, technical and policy aid and assistance to co-operatives and its members in order to reduce poverty, ensure equality, fairness and social progress, for a specified period to be determined by state legislature, which period in any case shall not exceed ten years;
- (d) respect the right to self-control and regulation in the management, production and services activities of co-operatives;
- (e) declare that it shall not intervene in the legitimate management and sound business principles based operations of any co-operative;
- (f) recognise co-operatives as democratic institutions owned, managed and controlled by members of co-operatives to promote their economic and social betterment;
- (g) ensure that co-operatives function in accordance with the co-operative principles incorporated under Section 6 (a) to 6(g) of this Act based on mutual aid;
- (h) assist and promote the co-operatives by providing appropriate tax, lending rate and other economic and social concessions.

CHAPTER - II

REGISTRAR AND REGISTRATION OF CO-OPERATIVE SOCIETIES

4. Appointment of Registrar:

- (1) The state government may appoint a person to be the Registrar of Co-operative Societies (herein after referred as Registrar) for the entire state or part thereof, as the case may be, for the purposes of registration, monitoring, regulation, control and supervision of co-operatives and such other functions, duties and responsibilities specified as under this Act.
- (2) The Government, in consultation with the Registrar, may appoint Additional Registrar, Joint Registrar, Deputy Registrar and Assistant Registrar to assist the Registrar and may, by general or special order in writing, delegate to such persons all or any of the powers of the Registrar under this Act.

5. Co-operative which may be registered (1) A proposed co-operative which inter-alia, has its objects as the promotion of or serving the social, economic and overall interests of its members or of public through self-help and mutual aid in accordance with the internationally recognized principles of cooperation, in force from time to time incorporated under Section 6 may be registered under this Act.

6. Co-operative to conduct business affairs on sound business principles and principles of cooperation: Every co-operative registered under this Act shall conduct its affairs on sound legal business principles in accordance with the principles of cooperation referred under Section 5 which at present include the following:

(a) Voluntary and Open Membership:

Co-operatives are voluntary organisations, open to all persons able to use the services of such co-operatives and willing to accept the responsibilities of membership, without gender, social racial, political, or religious discrimination.

(b) Democratic Member Control:

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. The elected representatives of co-operatives are responsible and accountable to their members. In primary co-operatives, members have equal voting rights (one member, one vote) and co-operatives at other levels are organised in a democratic manner based on proportional representation of voting.

(c) Member Economic Participation:

Members of cooperative contribute equitably to and democratically control the capital of their co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership.

(d) Autonomy and Independence:

Co-operatives are autonomous, self help and self governing organisations controlled by their members. If co-operatives enter into agreement with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure their democratic control by members by retaining its autonomous character.

(e) Education, Training and Information:

Co-operatives provide education and training for their members, elected representatives, managers and employees so that they can contribute effectively to the development of their co-operatives. They inform the general public particularly young people and opinion leaders about the nature and benefits of cooperation.

(f) Co-operation among Co-operatives:

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through available local, national, regional and international structures.

(g) Concern for Community:

While focusing on their member needs and wishes, co-operatives work for the sustainable development of communities, through policies approved by their members.

7. Minimum members required to form a co-operative:

- (1) A primary co-operative may be registered with a minimum of twenty natural persons drawn from or belonging to different families either with limited or unlimited liability.
- (2) A cooperative, other than primary, may be registered with a minimum of ten members which are already registered cooperatives.
- (3) Technical and professional type of cooperative society may be registered with a minimum member of fifteen persons.

8. Activities that may be undertaken by co-operative: The co-operative may undertake any one or more of the following production, distribution or service oriented activities:

- (i) to promote, develop and encourage thrift and savings mobilization among members;
- (ii) to generate funds and resources for providing credit financial and other support to the members for production oriented activities;
- (iii) to encourage systematic production, marketing, distribution and sale of agricultural or non-agricultural produce and services among members;
- (iv) to provide or ensure supply of consumer goods and services or to meet other household requirements of the members and their families;
- (v) to develop expertise and skills among its members for the purpose of undertaking all kinds of production and service oriented activities;

- (vi) to acquire land and buildings at concessional or reasonable rates either from government or others for providing housing facilities on easy terms and conditions among members;
- (vii) to encourage fisheries and get loans and financial assistance at concessional rates from banking and financial institutions for the purchase of seeds, boats, nets and other essential equipments, inputs and materials;
- (viii) to provide services related and insurance related activities against possible losses of goods and services of members;
- (ix) to establish, own, lease or operate, production, investment and service oriented activities in general and specific activities such as sugar, spinning, dairy, poultry, piggery, agro processing, handlooms, power looms, handicraft, fertilizer, pesticides, health, tourism and transport services;
- (x) to promote, develop and advance the economic, social and educational status of members;
- (xi) to undertake or promote any other activities not covered above.

Explanation: The activities undertaken or proposed to be undertaken by cooperatives must be strictly in conformity with other laws in force from time to time.

9. Application for Registration:

- (1) An application for registration of co-operative under this Act shall be submitted to Registrar through concerned District Cooperative Officer either by hand or registered post with acknowledgement due in such form and manner, if any, prescribed under law, rules or bye-laws.
- (2) The application for registration of co-operative, in the case of primary shall be signed by every member who are natural persons and in the case of other than primary co-operative by persons duly authorized by respective boards of co-operatives or bodies or government as the case may be.
- (3) Every such application for registration shall be accompanied by:
 - (a) one copy of proposed bye-laws of co-operative as adopted by the promoter members in the promoter's meeting called for the purpose together with registration fee prescribed, if any;
 - (b) the list of names of members admitted along with their addresses, occupation and the extent of equity share participation held;
 - (c) the list of members of the first board of management committee elected or selected by the promoter members;
 - (d) a true copy of the minutes of the meeting in which bye-laws were adopted duly signed by the chairman of the promoters meetings.
- (4) Where the applicants for registration of co-operative are individual natural persons, the number of such natural applicants shall not be less than twenty, each such person being a member belonging to or drawn from different families as referred under Section 7.

Explanation: The term "members of family" means husband, wife, father, mother, son, daughter, brother, sister, step father, or mother, or son, step daughter, grand son or daughter, grand father or mother.

- (5) Where the applicants for registration of co-operative are other than individual natural persons, the number of such applicant cooperative or bodies shall not be less than ten.

10. Registration:

- (1) The application for registration shall be disposed of by the Registrar within sixty days from the date of receipt of application.

- (2) The Registrar, on receipt of the application for registration of co-operative, if satisfied:
 - (a) that the application for registration of a co-operative fully complies with the relevant provisions of this Act, rules and bye-laws framed thereunder;
 - (b) that the proposed co-operative fulfils the basic criterion of economic viability, promotion of economic and social interest as well as to serve the overall interest of its members;
 - (c) that the proposed objectives of the co-operative and bye-law provisions are not contrary to the provisions of this Act, rules and bye-laws may register the proposed co-operative, its bye-laws and forward the certificate of registration and a copy of the registered bye-laws by registered post to the chairman of the proposed co-operative within sixty days from the date of submission of the application for registration.
- (3) The Registrar, if the conditions laid down under Section 9 and sub-section (2) of Section 10, are not fulfilled, shall communicate the order of refusal to register the co-operative together with reasons to the chairman of the proposed co-operative by registered post within fifteen days from the date of such decision taken provided that no order of refusal to register a co-operative shall be made without providing a reasonable opportunity of being heard to the applicants.
- (4) Where the application for registration is not disposed of by Registrar within sixty days or the Registrar fails to communicate the order of refusal to register co-operative within the stipulated period specified under sub-section (3), the application for registration shall be deemed to have been accepted for registration by Registrar and he shall issue the Registration certificate in accordance with the provisions of this Act and rules.
- (5) In the event of a co-operative is deemed registered as per sub-section (4) and the registration certificate is not received within seventy five days from the date of submission of application for registration, the chairman of such proposed co-operative shall prefer a specific application to the Registrar indicating the manner by which deemed status has been attained by the co-operative with a specific request to issue a registration certificate in accordance with sub-section (4) of Section 10.
- (6) The Registrar, on receipt of such request under sub-section (5) shall issue a registration certificate to the cooperative.

11. Registration Certificate: Conclusive evidence for registration:

The registration certificate issued under sub-section (2) or (4) or (5) under Section 10 by the Registrar shall be a conclusive evidence to the effect that the co-operative mentioned therein is duly registered under this Act.

12. Co-operative to be a body corporate:

- (1) The Registration of a co-operative shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal.
- (2) The co-operative shall, *inter-alia*, have power to acquire, hold and dispose of property, both movable and immovable, enter into contracts on behalf of co-operative, institute and defend suits and legal proceedings and to do all other things necessary for the purpose for which it was constituted and shall sue or be sued by its name.
- (3) All the transactions entered into good faith prior to the registration of a co-operative shall be deemed to be transactions of the said co-operative entered after registration in furtherance of the objects of its registration.

13. Display of name of co-operative in prominent places and documents:

- (1) Every registered co-operative shall display by paint or affix its full and complete name and address of its registered office and keep the same displayed, affixed or painted in legible characters in conspicuous positions such as:

- (a) at every office or place at which the co-operative carries on business;
 - (b) in all notices and other official publications;
 - (c) on all its contracts, business letters, orders for goods, invoices, statements of accounts, receipts and letters of credit;
 - (d) on all the bills of exchanges, promissory notes, cheques, endorsements, hundies, orders for money or goods it signs or that are signed on its behalf;
 - (e) have its name engraved in legible characters on its seal.
- (2) The word "Limited" shall be the last word in the name of every cooperative society with limited liability registered under this Act.

14. Cancellation of registration:

- (1) The Registrar shall have the power to pass an order of cancellation of registration of a co-operative for the following reasons, namely, the co-operative
- (a) transferred the whole of its assets and liabilities to another co-operative;
 - (b) amalgamated with another co-operative ;
 - (c) divided itself into two or more co-operatives;
 - (d) affairs are wound up;
 - (e) is deregistered under this Act.
- (2) The co-operatives that have acted in one or more of the above said manner shall be deemed to be dissolved and ceased to exist as a body corporate from the date of such order of cancellation passed by Registrar.

15. Deregistration of a co-operative:

- (1) The Registrar shall have the power to deregister a co-operative for the following reasons, namely:
- (a) the registration of co-operative is obtained by misrepresentation or fraud made by promoter applicants;
 - (b) the co-operative failed to commence the business within a period of two years after the receipt of registration certificate;
 - (c) after the commencement of business, the co-operative failed to continue the business for a further period of two years;
 - (d) the work or task of the co-operative is completed or exhausted;
 - (e) the purpose for which the co-operative has been registered is not served within a reasonable time;
 - (f) the cooperative deemed registered under sub-section (4) or (5) of section 10, failed to fulfill the conditions required for registration of cooperative which fact was noticed only after it received the deemed status.
- (2) The power under sub-section (1) shall be exercised by the Registrar only after providing a reasonable opportunity of being heard to the existing chair person or chief promoter applicants and the answers or replies furnished by the existing chair person or chief promoters are not found satisfactory.

16. Bye-laws:

- (1) Every co-operative may make its own bye-laws or adopt in toto or adopt with necessary changes the bye-laws prepared and published by State Government or the Registrar or that of same or similar kind of co-operatives, consistent with the provisions of this Act and rules made thereunder.
- (2) The bye-laws of co-operative shall have legal force only when it is registered by the Registrar under this Act.
- (3) The bye-laws of co-operative may provide for all or most of the following subject matters, namely:

- (a). the name, address and area of operation of the co-operative;
- (b). the objective and purpose behind the formation of the co-operative explicitly stated as a common central need of members;
- (c). the principles of cooperation as stated in this Act, according to which the co-operative shall conduct its affairs;
- (d). the type and kind of services to be provided to its members and non-members as well, if any.;
- (e). eligibility condition or criterion essential for obtaining membership in cooperative;
- (f). incorporation of the procedure for :
 - (i) obtaining membership,
 - (ii) withdrawal or transfer of membership,
 - (iii) termination and cessation of membership ;
- (g). fulfillment of conditions necessary for continuing as a member;
- (h). the time limit within which a potential member must seek and obtain membership in order to continue to use the services of co-operatives;
- (i). rights made available to members and the extent of its enjoyment and non-enjoyment;
- (j). fixation of minimum involvement or performance required annually of each member vis-à-vis use of services, financial commitment, participation in meetings, in order to be eligible to exercise the rights of membership including the right to vote;
- (k). the consequences of default in payment of any sum due to co-operative by a member;
- (l). the nature, type and amount of capital, if any, of the co-operative;
- (m). the maximum capital upto the extent a single member can subscribe;
- (n). the nature and extent of the liability of members for the debts contracted by the co-operative;
- (o). the sources and type of funds to be raised by the co-operative;
- (p). the purposes for which the funds may be applied or utilized with express specification of approval or consent required from Registrar or management committee;
- (q). the extent and conditions under which deposits, loans, debentures and other funds may be mobilized or utilized, as the case may be;
- (r). the conditions and purposes for which state aid and aid from other financial institutions may be sought and obtained;
- (s). the manner of disposal of surplus;
- (t). the constitution of various funds, reserves and the purposes for which the same may or may not be utilized;
- (u). the manner of convening general body and other special general meetings and quorum thereof required to conduct such meetings;
- (v). the frequency of conducting general body meetings;
- (w). the manner of making or bringing amendment in the bye-laws;
- (x). the procedure for conducting elections in (a) normal circumstances and (b) in case the co-operative fails to conduct election;
- (y). the size and constitution of the board of directors;
- (z). fulfillment of conditions essential for: (a) becoming a director, (b) retaining directorship and (c) removal of directors and for filling up of vacancies;
- (za). the term of office of the directors, chairperson and other office bearers;
- (zb). the manner of convening management committee meetings and quorum required;
- (zc). the frequency of conducting board meetings;
- (zd). powers and functions of office bearers including chairman;
- (ze). penalties for acting against the interest of members and for non-fulfillment of duties by members, directors and staff;

- (zf). conduct of audit: (a) the appointment, role and functions of auditors, (b) procedure for conduct of audit where co-operatives fail to make necessary arrangements, (c) time limit for making audit compliance;
- (zg). the authorization of an officer(s) to sign documents and to institute and defend suits and other legal proceedings on behalf of the co-operative;
- (zh). the terms and condition on which a co-operative may: (a) deal with non-members, (b) associate with other co-operatives and (c) deal with organisations other than co-operatives;
- (zi). the rights, if any, which the co-operative may confer on any co-operative or other federations and the circumstances under which these rights may be exercised by the federation/s;
- (zj). the manner of disposal of funds of a co-operative under liquidation;
- (zk). the specification of accounting year for the co-operative;
- (zl). procedure and terms and conditions for transfer of shares and interest of deceased member in the name of a nominee after the death of a member;
- (zm). the grounds for and procedure to be followed for the dissolution of a co-operative;
- (zn). restrictions, if any, on services rendered or to be rendered to non-members;
- (zo). organisation of self-help groups of people living in its area of operation and to conduct education and training programmes.

17. Amendment of bye-laws:

- (1) Every co-operative shall have the authority to amend or delete any of its existing bye-laws or add new bye-law provisions by a resolution passed by majority of two thirds of members present and voting at a general body meeting of the co-operative called for the purpose.
- (2) The said resolution shall be valid only when it is passed by general body after giving a twenty days clear notice of the proposed amendment to all its members.
- (3) Every application for registration of the amendment of bye-laws shall be forwarded by registered post or submitted directly by hand with due acknowledgement to the Registrar within a period of thirty days from the date of the resolution passed or sixty days from the general body meeting whichever is later, duly signed by the chairman and two members of the committee together with the following particulars and documents.
 - (a) the date of the general body meeting in which the proposed amendment of bye-laws was approved along with a copy of the resolution adopted;
 - (b) a copy of the issuance of notice to members for calling general body meeting;
 - (c) the details of actual number of clear days notice given to convene the general body meeting along with a copy of such notice issued;
 - (d) the total number of members on the rolls of the co-operative having the right to vote on the date of such general body meeting;
 - (e) the quorum required for conducting such meetings;
 - (f) the number of members having the right to vote and present at such general body meeting;
 - (g) the actual number of members who voted in such meetings;
 - (h) the actual number of members who voted in favour of as well as against the proposed amendment respectively;
 - (i) A copy of the relevant bye-laws in force with the proposed amendment to be made together with reasons justifying such amendments.
- (4) The Registrar, on receipt of an application under previous sub-section, if satisfied that the proposed amendment of bye-laws:
 - (a) is not contrary to the provisions of this Act and rules;
 - (b) does not conflict with the principles of cooperation;

- (c) is likely to promote the economic and social interest as well as serve the overall interest of the cooperatives;
shall register the proposed amendment within a period of sixty days from the date of receipt of the application meant for the purpose.
- (5) The Registrar shall forward a copy of the registered amendment of bye-laws together with a certificate duly signed and sealed by him to the co-operative within a period of fifteen days after making such registration. The certificate so issued by the Registrar shall be conclusive evidence that the proposed amendment of bye-laws has been duly registered.
- (6) Whereas, the Registrar formed an opinion that the proposed amendment of bye-laws failed to qualify for registration in accordance with the provisions of this Act and rules, he may refuse to register the same or make alteration and communicate his decision to the chairman of the co-operative by giving reasons for not registering the proposal for amendment within fifteen days from the date of such refusal.
- (7) If the application for registration is not disposed of within sixty days after the receipt of such proposal or no order or refusal is communicated within that period to the chairman of the co-operative, the said application shall be deemed to have been accepted for registration of amendment of bye-laws and the Registrar shall issue a registration certificate to that effect in accordance with this Act and rules.
- (9) The Registrar shall not register the amendment of bye-laws proposed or the bye-laws deemed to have been registered shall not have legal effect. if the proposed or deemed registered amendment of bye-laws, as the case may be. is either contrary to or repugnant to the policy directions issued by the state government as the case may be or contrary to the principles of cooperation or likely to affect the very purpose and objective behind the formation of such co-operative.

18. Power to direct amendment of bye-law in public interest:

- (1) If, at any time, the Registrar forms the opinion that an amendment of bye-laws of co-operative is necessary or desirable in the interest of co-operative or co-operative movement, he may advise such co-operative to make the amendment proposed by him within the specified time.
- (2) If the said co-operative fails to make the proposed amendment by the Registrar within the specified time, the Registrar may, after giving such co-operative an opportunity of being heard, register such amendment and issue a copy of such registered amendment of bye-laws duly certified by him to the co-operative. The bye-laws so registered shall be deemed to have been duly amended and shall become legally effective and binding on the co-operative and its members.

19. When amendment of bye-law comes into force:

The amendment of bye-laws of a co-operative, unless expressed to come into operation on a particular date, shall come into force on the date on which it was registered.

20. Change of liability, transfer of assets and liabilities, amalgamation, division of co-operatives:

- (1) A co-operative may, by a resolution passed by a two-thirds majority of members present and voting in its general body meeting, change the extent of its liability as provided under law, rules or bye-laws.
- (2) A co-operative may, by a resolution passed by a two-thirds majority of members present and voting in its general body meeting, decide to transfer its assets and liabilities, either in whole or in part to any other co-operatives which agree to such transfer by the said resolution in its general body meeting in accordance with the provisions of law, rules or bye-laws.
- (3) A co-operative may, by a resolution passed by a two-thirds majority of members present and voting in its general body meeting, divide itself into two or more co-operatives.
- (4) Any two or more co-operatives may, by a resolution passed by majority of members present and voting in their respective general body meetings, decide to amalgamate themselves to form a new co-operative.

- (5) The resolutions referred under sub-section (1), (2), (3) and (4) shall contain all relevant particulars regarding the extent of liability, transfer of assets and liabilities, division, amalgamation of co-operatives, respectively, as the case may be.
- (6) Where a co-operative has passed a resolution under this section, it shall give notice thereof together with a copy of the resolution to all its members, depositors, debtors and creditors with an advice either to express their consent in favour of the resolution or exercise the right of option to withdraw their shares, deposits, loans or services within a period of thirty days from the date of service of notice.
- (7) The members, depositors, debtors and creditors who or which failed to express their consent in favour of the above said resolution or exercise the right of option within the stipulated thirty days period, shall be deemed to have been given their consent in favour of the said resolution.
- (8) A resolution passed by co-operative under this section shall not take effect until:
 - (a) all the members, depositors, debtors and creditors have assented to or deemed to have been assented to the resolution referred under sub-section (6) or (7);
 - (b) all claims of the members, depositors, debtors and creditors who have exercised the right of option referred under sub-section (6) or (7) have been fully met or otherwise satisfied;
 - (c) in the case of change of liability, the proposed amendment of bye-laws of concerned co-operative for the purpose have been either registered or deemed to have been registered;
 - (d) in the case of division or amalgamation, the certificate of registration of new co-operatives have been either issued or deemed to have been issued.
- (9) On receipt of an application for registration of new co-operatives either by making division or amalgamation of existing co-operatives in accordance with the resolutions passed under sub-sections (3) or (4) as the case may be, the Registrar may register the new co-operative(s) or societies and the bye-laws thereof. The Registrar may also have power to refuse registration of new co-operative(s), for reasons to be recorded in writing for such refusal of registration of new co-operative(s).
- (10) Where a resolution passed by a co-operative under sub-section (2) takes effect, such resolution shall be a sufficient conveyance to vest all the assets and liabilities in the transferee co-operative without any further assurance.
- (11) The registration of a co-operative shall stand cancelled and the same co-operative shall be deemed to have been dissolved and shall cease to exist as a corporate body:
 - (a) when the whole of assets and liabilities of such co-operatives are transferred to another co-operative or
 - (b) when such co-operatives divides itself into two or more co-operatives or
 - (c) where two or more co-operatives are amalgamated into a new co-operative, the registration of the co-operatives so amalgamated shall stand cancelled or deemed to have been dissolved and also cease to exist as corporate bodies.

21. Promotion of subsidiary cooperative organisation:

- (1) Any co-operative, by a resolution passed by two-thirds of members present and voting in a general body meeting, may promote one or more subsidiary organisations for the furtherance of its objectives and such organisations may be registered under any law for the time being in force, as agreed to by the general body.
- (2) The annual report and accounts of such subsidiary co-operative organisations so established shall be placed before the general body meeting of the promoting co-operative each year.
- (3) Any subsidiary co-operative organisation so created under sub-section (1) shall exist only so long as the general body meeting of the promoting co-operative deems it necessary.

22. Partnership of Co-operatives

- (1) Any two or more co-operatives, by resolution passed by two-thirds of members present and voting in a general body meeting, a co-operative may enter into contract of partnerships for carrying out any specific business permissible under the bye-laws on such terms and conditions as may be mutually agreed upon.
- (2) Where such contract of partnership requires creation of new co-operative organisations, the participating co-operatives shall be its members.

CHAPTER-III FEDERAL CO-OPERATIVE

23. Registration of Federal Co-operative:

- (1) Federal co-operatives for respective type, category or sector or co-operative unions consisting of primary or secondary co-operatives may be established and registered in accordance with the provisions of this Act in general and section 8, 9, 10 and 11 in particular.
- (2) Every federal, central or secondary co-operative shall be represented in its general body meeting by its member co-operatives
- (3) All the provisions of this Act applicable to any co-operative shall be equally applicable to federal co-operatives.

24. Functions of Federal or Central or secondary Co-operatives:

- (1) The federal or central or secondary co-operatives or co-operative union for the state may, subject to the provisions of this Act and any other law in force discharge, inter-alia, such of the functions to facilitate the voluntary formation and democratic functioning of co-operatives based on self-help and mutual aid.
- (2) The federal or central or secondary co-operatives or co-operative union for the state in addition to the overall functions specified under sub-section (1) may also undertake or perform any or all of the following functions:
 - (a) secure and safeguard the observance of or ensure compliance of the principles of cooperation by member co-operatives;
 - (b) assist or extend support for making or preparing or modifying or deleting appropriate bye-laws and policies for the consideration of its member co-operatives;
 - (c) make appropriate planning and designing for providing specialized training and education programmes to employees and members respectively and provide required data based information;
 - (d) undertake evaluation and research works on an ongoing basis for the purpose of extending help and support in the preparation of annual or periodical perspective plan for its member co-operatives;
 - (e) undertake business services on behalf of its member co-operatives;
 - (f) provide management development services to member co-operatives;
 - (g) evolve a common and suitable code of conduct for general observance by member co-operatives;
 - (h) evolve model viability norms for member co-operatives based on their business prospects and development indicators;
 - (i) provide legal aid, assistance and advice to member co-operatives;
 - (j) assist member co-operatives in organizing self-help groups and providing services for people living in their respective areas;
 - (k) develop market information system, logo brand promotion, quality control measures and technology upgradation details for the benefit of member co-operatives;

- (l) ensure timely conduct of election in member co-operatives and assist them in the regular conduct of general body and other meetings;
- (m) prepare a panel of qualified auditors and ensure timely conduct of various kinds of annual and other audits in member co-operatives;
- (n) promote harmonious relations amongst member co-operatives;

25. Establishment of co-operative Union:

There shall be established co-operative union for the whole of the state and registered in accordance with the provisions of this Act. The co-operative union so established, in addition to the functions specified under Section 24, inter-alia, may also undertake any or all of the following functions:

- (a) create and receive 'co-operative education fund' from member co-operatives at the rate prescribed under this Act or rules and utilize and maintain the same in accordance with the provisions of this Act;
- (b) utilise the funds so received, inter-alia, for conducting awareness and education programmes for members and also providing all support services to member co-operatives;
- (c) liaise with government and other promotional bodies on behalf of and amongst co-operatives;
- (d) represent at state and district level bodies for the purpose of protecting the interest and welfare of all type of co-operatives;
- (e) undertake research and consultancy projects towards the application of co-operative philosophy, principles and ideology;
- (f) serve as a data bank on co-operative form of activities for the entire state;
- (g) play a pivotal role on an ongoing basis in framing the co-operative policy by state government;

CHAPTER - IV
MEMBERS AND THEIR DUTIES, RIGHTS,
LIABILITIES AND RESPONSIBILITIES

26. Who may become member of co-operative:

- (1) Membership in co-operative shall be made open to all eligible persons without any discrimination on grounds of sex, race, caste, greed, political or religious affinity.
- (2) The eligible persons as per the provisions of this Act who are desirous of utilizing the services of co-operative at the same time ready and willing to undertake the responsibilities of members alone shall be admitted as members of any co-operative.
- (3) Any individual natural person who, is the citizen of India and above the age of eighteen years in the case of adult or between the age group of fifteen to eighteen years in the case of student and voluntarily applies for joining the co-operative may be admitted as a member only in primary cooperatives.
- (4) Any person other than natural person such as co-operative, government, national or state level co-operative development organisations, government company or any class or association of persons, may also be admitted as members of a co-operative, primary as well as secondary, central or federal cooperative.
- (5) Every application received by a co-operative for admission as its member shall be disposed of by such co-operative within a period of sixty days from the date of receipt of such application and the decision of such co-operative on such application shall be communicated to the applicant within fifteen days from the date of such decision taken.
- (6) The admission of members in a co-operative shall be made only by a board of management or by the general body meeting where such a board does not exist.
- (7) The administrator or committee of administrators as the case may be appointed by the Registrar during the intervening period of supersession of a co-operative shall not have the right to admit new members.

27. Admission of nominal, associate or sympathizer members:

- (1). A co-operative may admit persons as nominal or associate or sympathizer members if due provision is made in the bye-laws of respective co-operatives.
- (2) The nominal or associate or sympathizer members shall not be entitled to subscribe to the shares of such co-operative or have any interest in the management thereof including the right to vote or to be elected as a director of the board.

28. Disqualification for members of co-operative:

- (1) No person shall be eligible for being a member of a co-operative whose/who:
 - (a) business or business interest is directly in conflict with or competitive with the business or business interest of such co-operative;
 - (b) used the services of co-operative below the minimum level prescribed under the bye-laws for two consecutive years;
 - (c) has not attended three consecutive general body meetings of the co-operative and such absence has not been condoned by its members;
 - (d) has made default in the payment of any amount payable to the co-operative under the bye-laws of such co-operative;
 - (e) any officer or employee of the government or government undertaking shall be disqualified from being elected or appointed to any position in a co-operative except in salary earners co-operatives.
- (2) No co-operative, without sufficient cause or reason, shall refuse admission of membership to any person duly qualified for membership under this Act, rules or bye-laws. Where the admission is refused for whatever reason, the decision together with reason for such refusal of membership shall be communicated to such person by registered post within fifteen days of the decision taken or within sixty days from the date of the application for membership is made.

29. Deemed admission of member:

- (1) In the event of the application for membership is not disposed of within sixty days or the decision taken is not communicated within a period of fifteen days as stipulated under sub-section (5) of section 26, the co-operative shall be deemed to have taken a decision favouring the admission of the applicant as a member, accordingly, the person who applied for membership shall be deemed to have been admitted as a member of the co-operative at the expiry of sixty days of the receipt of application for membership or fifteen days from the date of such decision taken.
- (2) Where a person has been denied or refused membership by the board of directors, an appeal shall lie to the general body meeting against the decision of such board. Any applicant aggrieved by such decision of general body meeting may apply to the Registrar or Co-operative Tribunal, as the case may be, for review of the decision.

30. Co-operative member not to exercise his rights till due payments are made:

No member of a co-operative shall exercise the rights of a member, unless he has made all payment due to the co-operative in respect of his membership, or has acquired such interests in such co-operative as may be specified in the bye-laws.

31. Right of members: The member of co-operative, inter-alia, shall have the following rights:

- (a) to work for the benefit of co-operative and be paid in accordance with the bye-laws of co-operative;
- (b) to enjoy dividend and profit corresponding to the extent of contribution made in the form such as capital, labour and production by the members and to the level or extent of using the service of the co-operative;
- (c) to be provided with necessary technical and economic information, copy of the Act, rules, bye-laws and annual statement of accounts of the co-operative;

- (d) to enjoy common welfare benefits of the co-operative;
- (e) to participate in or elect representatives to general body meeting, other meetings of members for the purpose of taking part in the decision making process of cooperative and also vote on the affairs of the co-operative;
- (f) to contest election to the management committee, other committees such as executive committee, loan committee, deposit committee, etc. and other posts of co-operative to be filled by the process of election, selection or nomination;
- (g) to seek opinions from the board of management and chief executive on all aspects and functioning of co-operative;
- (h) to make demand or call to convene special or extra-ordinary general meeting of members for specified purposes in accordance with the provisions of the Act, rules and bye-laws;
- (i) to cast vote in elections conducted by co-operative; when required under the Act, rules and bye-laws;
- (n) to know the reasons for the refusal, if any, to render services by the co-operative;
- (o) to make representation to the Registrar or the respective federation against the refusal, if any, made to render services by the co-operative;
- (p) to participate in and benefit from the activities of co-operative;
- (q) to question its management committee and chief executive as to their failures to implement adopted resolutions and to have access to all information concerning his own interests;
- (r) to seek the overturning of resolution or actions by the co-operative(s) bodies which contravene the law or its statutes or are found inappropriate;
- (s) A member of a co-operative who has contributed land to cooperative shall further enjoy the following rights:
 - (i) to retain his ownership over the land as real estate or an equivalent share;
 - (ii) to preserve the established crops on the contributed land;
 - (iii) to sell the contributed land to other members of the co-operative;
 - (iv) to receive rent for any land thus contributed;
 - (v) to receive part of the rent or remuneration in the form of farm produce.

32. Duties of members:

The members shall owe the following duties to the co-operative:

- (a) to abide by the provisions of the Act, rules, bye-laws and other lawful decisions taken by the general body, management committee, other committees and Registrar;
- (b) to make share capital contribution, other fees and payment to the co-operative in accordance with the provisions of the Act, rules and bye-laws;
- (c) to extend full cooperation and support to other members and co-operative, thereby, contributing to the overall development of co-operative;
- (d) to perform or extend the minimum economic commitment and business support to the co-operative as prescribed under the Act, rules and bye-laws;
- (e) to undertake jointly and severally the responsibility to bear liability on debts, risks, losses, damage caused to co-operative within the limit of members share capital contribution in the case of limited co-operative and beyond the limit in the case of unlimited cooperative;
- (f) to compensate for damages caused to the co-operative, if any, in accordance with the provisions of the Act, rules and bye-laws.

33. Withdrawal of membership:

- (1) A member of a co-operative at any time during the continuance of his membership, may withdraw his membership from the co-operative by giving sixty days notice to the board of directors.
- (2) The co-operative, based on an application referred under sub-section (1), may allow a member to withdraw his membership only after fulfilling all the obligations of such member towards such co-operative.

- (3) The withdrawing member shall be entitled to the refund of his share capital contribution and all other interest in the co-operative subject to the condition that the assets of such co-operative, after making such repayment shall not go below the debts and liabilities of such co-operative.

34. Expulsion of member

- (1) A co-operative, by a resolution passed by a majority of not less than two-thirds members present and voting at the general body meeting held for the purpose, may expel a member for acts which are detrimental to the proper working of the co-operative. After providing a reasonable opportunity for making representation on the subject matter.
- (2) Where the member of a co-operative has been expelled by the board of directors, an appeal shall lie to the general body whose decision shall be final.
- (3) An expelled member of a co-operative may be made eligible for re-admission as a member of that co-operative only, after the expiry of three years from the date of such expulsion, provided the concerned member assures or gives an undertaking that he shall not work against the interest or benefit of the co-operative in future.

35. Termination of membership:

- (1) The death, insanity, judicial sentence for any offence involving moral turpitude or any other offence with imprisonment for one year and upward shall lead to automatic termination of membership.
- (2) A member of a co-operative may, in addition, by vote of the majority of all members of the board of directors, be terminated for the following reasons or causes:
 - (a) where, the member of a co-operative failed to patronize, utilize or enjoy the services of the co-operative as per the minimum limit or standard prescribed under the bye-laws for an unreasonably longer period as may be fixed by the board of directors, which in any case shall not be less than two years;
 - (b) where the member of a co-operative has continuously failed to discharge, carryout or comply with his duties, responsibilities and obligations, as the case may be;
 - (c) where a member acted in violation of the provisions of law, rules and bye-laws of the co-operative;
 - (d) for any act done or omitted to do or not to do an act which is injurious or prejudicial to the interest or welfare of the co-operative;
 - (e) where the member of a co-operative has transferred all his share capital contribution, other rights, interests and duties towards to other persons in accordance with the provisions of this Act, rules or bye-laws;
 - (f) a member of a co-operative whose membership is likely to be terminated by the board of director for the reasons or causes specified under sub-section (a) to (e) shall be informed of such proposed action in writing either in person or by registered post and such member shall be given a reasonable opportunity of being heard before such decision is finally taken;
 - (g) the decision of the board of directors to terminate the member of a co-operative shall be subject to an appeal before the general body within thirty days after the decision is communicated and its decision shall become final and binding, if no appeal is preferred.

36. Cessation of membership:

A person shall be ceased to be a member of a co-operative in the following circumstances:

- (a) on acceptance of resignation from membership by the co-operative;
- (b) on transfer of whole of share capital contribution or interest in co-operative to another member, person or cooperative;
- (c) on death, removal, expulsion or termination of membership from co-operative;
- (d) in the case of institutional members i.e. firm, company, body corporate, trust etc., on its dissolution or having ceased to exist.

37. Manner of casting vote and power of members:

- (1) Every member of co-operative shall have one vote regardless of the number of shares held by him in primary co-operative and this right to vote shall be exercised personally and not by proxy and whereas in the case of equality of votes, the Chairman or President, as the case may be shall have a casting vote.
- (2) Where the share of a co-operative 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 and in the absence of first named person, the second named person may cast his vote.
- (3) In the case of institutional members, such co-operative, company, body corporate, trust, government which have invested funds in the shares of co-operatives, the authorized representative or member or director for such institution shall have the right to vote on behalf of the institution they represent.
- (4) The nominees of government, Registrar, financing bank or federal co-operative shall not have any right to vote at any election of office bearers of management committee or any other committees.
- (5) The voting right of members of federal co-operative may be regulated by the provisions of the Act, rules or bye-laws.
- (6) A member who has availed loan from co-operative and remained as a defaulter on due dates in making payment for two or more instalments consecutively towards the repayment of loan facility availed shall not enjoy the right to vote in the affairs of any cooperative.

38. Restriction on holding of shares:

The member of a co-operative, other than government or government undertaking or financing institution shall not hold share capital of such cooperative more than the limit prescribed under the bye-laws and in no case such holding shall exceed one fifth of the total share capital contribution of the co-operative.

39. Restriction on transfer of shares or interest:

- (1) The transfer of share capital or interest of a member in the co-operative shall be subject to the conditions and limits prescribed under section 38.
- (2) No member shall be permitted to transfer the share capital held by him or his interest in the capital or property of the cooperative, unless:
 - (a) the member held the share or interest in the co-operative for a period not less than three years;
 - (b) the transfer is made to a member of co-operative or to a person whose application for membership has been accepted by cooperatives;
 - (c) in the event of members or prospective members not coming forward to acquire such share or interest in the co-operative, the same may be transferred to non-members who are interested in the acquirement of such share and interest and who are prepared to abide by rules and regulations governing the co-operative with the condition that they shall become members of the co-operative at once.

40. Transfer of share or interest on death of a member

- (1) Any co-operative on the death of its member shall, transfer the share or interest of such deceased member to the person(s) nominated to receive such share or interest, as per the provisions of the Act, rules or bye-laws and such member if, failed to nominate any person, the co-operative in such cases, may transfer such share or interest in co-operative to the legal heir or representative of such deceased member.
- (2) If the nominee(s) mentioned therein or legal heirs or representatives of the deceased, so desire, may require the co-operative to pay to him or them, the value of share or interests of the deceased member and on receipt of such request, the co-operative shall make the payment of share or equivalent to interest to such nominee(s), legal heirs or representatives, after duly deducting the dues, if any, due to co-operative from the deceased member.

41. Liability of past member and estate of deceased members:

- (1) The liability of past member or of the estate of the deceased member of the co-operative for the debts of the cooperative shall be determined:
 - (a) in the case of past members on the date on which he ceased to be a member;
 - (b) in the case of deceased member on the date of his death;
 - (c) the liability mentioned under clause (a) and (b) of sub-section (1) shall continue for a period of two years from such date(s).
- (2) Where the cooperative is under winding proceedings, the liability of past and deceased member shall continue until the entire liquidation proceedings are completed. of course, within the period prescribed under this Act and the liability in such cases, however, shall extend only to the debts of co-operative as existed on the date of cessation of membership or death, as the case may be.

42. Share or interest of members not liable for attachment:

The share or interest of a member in the capital of co-operative shall not be liable for attachment or sale under any decree or order of a court in respect of any debt or liability incurred by the member and accordingly, no person shall have any claim on such share or interest.

CHAPTER-V RIGHTS AND DUTIES OF CO-OPERATIVES

43. Rights of Co-operative:

The co-operative registered under this Act shall, inter-alia, have possess and enjoy the following rights, i.e. the right:

- (a) to choose the type or kind of business or service or activity to be undertaken;
- (b) to determine the form, structure and extent and economies of scale of business and services of the co-operative;
- (c) to hire employees only in case members of co-operative are unable to satisfy or meet the requirements of business or service or activities of the co-operative;
- (d) to decide on admission of new members, prescription of qualification disqualification, basis or grounds for withdrawal, expulsion and termination of membership and procedure therefor in accordance with the provisions of this Act;
- (e) to decide or determine the manner and method of distribution of surplus or losses incurred by co-operative;
- (f) to decide on grant of appreciation and reward for individuals who made substantial contribution and achievement in building, promoting and developing the co-operative;
- (g) to take appropriate action against members who violate provisions of this Act, rules and bye-laws;
- (h) to direct erring members, officers and employees to compensate for damages they may or might have caused to the co-operative;
- (i) to borrow money from banks, raise funds from other sources and lend money to members of co-operative in accordance with the provisions of this Act, rules and bye-laws;
- (j) to legally refuse or deny demands of individuals, institutions and organisations which are contrary to the provisions of this Act and rules.

44. Duties of co-operative:

The Co-operative shall, inter-alia, owe, follow, observe or discharge the following duties:

- (a) to undertake or carry on business or service or activities in conformity with law and legally recognised or accepted standards or norms;
- (b) to follow and observe the legally reorganised accounting systems, procedure and standards prescribed under this Act or any other laws for the time being in force;

- (c) to pay the prescribed tax, fee and duty and fulfill all financial obligations as per provisions of law in force from time to time;
- (d) to mobilize, maintain and raise working capital for the co-operative as per the provisions of this Act, rules and bye-laws;
- (e) to undertake the responsibility for the repayment of debt and discharge of obligations of cooperative to be met by the capital and assets owned by such co-operative;
- (f) to ensure enjoyment of right of members and provide economic, social and business commitment to members;
- (g) to protect the interest of members who work for the benefit of cooperative and other employees engaged by such co-operative;
- (h) to ensure regular and periodical conduct of educational and training programmes for members, officers, employees and officials and ensure that all such members, officers, employees and officials of co-operative actively participate in building the co-operative;
- (i) to create favourable conditions for the production, business and service oriented co-operatives to operate within co-operative framework by following the principles of cooperation;
- (j) to protect, promote and preserve the environment, landscape and human ecology in accordance with the provisions of law.

CHAPTER-VI MANAGEMENT OF COOPERATIVE

45. Constitution, power and functions of general body:

- (1) The general body of a co-operative shall consist of all the members of co-operative
- (2) Where the area of operation of the co-operative is far and wide that it shall be neither possible nor feasible for all members to meet in one place without much inconvenience, the bye-laws may provide for the constitution of smaller representative general body consisting of delegates of members of cooperative either elected or selected in accordance with the provisions of Act, rules and bye-laws and in such cases, the smaller representative general body shall exercise all or such powers of the general body as prescribed or specified in the bye-laws of the cooperative.
- (3) The ultimate authority of co-operative shall, subject to the provisions of the Act, rules and bye-laws, vest in the general body consisting of its own members and any reference under this Act to general body shall equally apply to the representative general body wherever exists.
- (4) The representative general body, however, shall not have the right to amend bye-laws of co-operative except those in relation to which the bye-laws have delegated the power of amendment to the representative general body.

46. Annual General Meeting of General Body:

- (1) It shall be the duty and responsibility of existing board of management committee of every co-operative to call the annual general meeting within ninety days after the closure of the financial year, for the purposes specified under sub-section (2) of this section.
- (2) The annual general body meeting shall deal with all or any of the following subject matters:
 - (a). election of directors of the board of management committee. Election of Board of Directors of State Level Societies shall be conducted biennially and the term of office shall be two years;
 - (b). removal of directors of the board of management committee and filling up of vacancies;
 - (c). consideration of the:-
 - (i) balance sheet and annual reports presented by the board of management committee;
 - (ii) audit reports and auditor's statement of accounts;
 - (iii) audit compliance report;

- (d). grant of approval for the maintenance of qualified auditors. make appointment and removal of such auditors including statutory and internal auditors;
 - (e). consideration of the action taken report on inquiry under section 91, if any;
 - (f). disposal of net surplus;
 - (g). review of:
 - (i) operational deficit, if any;
 - (ii) actual utilization of reserve and other funds,
 - (iii) annual report and accounts of subsidiary organisations;
 - (h). approval of the long term perspective plan, the annual operational plan and the annual budget;
 - (i). creation of specific reserves and other funds;
 - (j). report on membership of the co-operative in other co-operatives;
 - (k). decide on partnership with other co-operatives;
 - (l). to hear and decide appeal of a person whose application for membership has been rejected or whose membership has been terminated by the board of management committee;
 - (m). list of employees recruited who are relatives of board of directors or the chief executive;
 - (n). amendment of byelaws;
 - (o). formulation of code of conduct for the board directors, officers, employees and members;
 - (p). admission, termination and expulsion of members;
 - (q). dissolution, liquidation or winding up of the co-operative;
 - (r). any other functions specified in the byelaws.
- (3) Where the board of management committee of a co-operative failed to convene the annual general body meeting within the period specified under sub-section (1) without cogent and convincing reasons, the Registrar shall convene such annual general body meeting within a period of sixty days from the date of expiry of period mentioned under sub-section (1) and the expenditure incurred for calling such meeting shall initially be borne by the co-operative, which amount shall be recovered from the members of the board of management committee responsible for not calling such meeting as per law.
- (4) At every annual general body meeting of a co-operative, the board of management committee, in addition to all other matters shall lay before such meeting a statement containing details of loans or goods or services on credit, if any, given to any members of the board of management committee or to their spouse, sons, daughters or relatives of the members of the board of management committee.
- (5) Proceedings of all meetings of the Annual General Assembly, Special Assembly, Managing committee of the Primary and Secondary Cooperatives shall be submitted to the concerned District Cooperative Officers for approval, and in case of Federal Cooperatives to the Registrar for approval. Until and unless such approval is obtained from such competent authority proceedings of such meeting shall not be valid and all decisions taken in such meetings shall not have legal force or, validity or binding.

47. Calling of special General Body Meeting:

- (1) The Chief Executive of the co-operative shall, on the direction of board of management committee, call a special general body meeting within thirty days after the receipt of requisition in writing from Registrar or required proportion of total number of members of cooperative, board of directors, creditors as may be provided under the Act, rules or bye-laws.
- (2) If the said special general body meeting of a co-operative is not convened as per sub-section (1), the Registrar or persons authorized by him shall have the power to call such meeting which shall be deemed as a meeting called by the Chief Executive of the co-operative as per law and the expenditure incurred for calling such meeting shall be borne by the co-operative or recovered from such person(s) who was or were responsible for the refusal or failure to call such special general body meeting.

48. Board of Directors or Management Committee:

- (1) There shall be a board of directors or management committee for every co-operative (herein after referred as board of management committee) constituted by the general body consisting of such number of persons specified in the bye-laws which number in any case shall not exceed fifteen.
- (2) The Board, may however, co-opt two more additional directors who are exceptionally qualified in the areas such as finance, audit, law, economics and found useful for the essential and effective management of cooperatives.
- (3) The Chief Executive of the co-operative shall be an ex-officio member convener of the meeting of management committee.

49. Reservation of seats for Scheduled Caste/Scheduled Tribe, Weaker Section and Women in the Board of Management Committee:

- (1) Notwithstanding anything contained under this Act, rules or bye-laws of the concerned co-operative, the seats in the committee of management shall be reserved as per the specified number for the following category of persons:
 - (a) at least one seat for members belonging to scheduled caste or scheduled tribe;
 - (b) at least one seat for members belonging to weaker section of the co-operative as defined by state government;
 - (c) at least one seat for women members.
- (2) The representation of scheduled caste or scheduled tribe, weaker sections or women in the meeting of management committee may be more than the number of seats specified under sub-section (1) but in no case it shall be less than such number specified therein.
- (3) If persons belonging to reserved categories failed to get elected in the normal course of election, the management committee shall co-opt at least such number of members not defeated in the election, belonging to such reserved categories specified under sub-section(1).

50. Reservation of seat for employees in the management committee:

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

51. Qualification for becoming a member of the Management Committee:

The members of cooperative desirous to become members of management committee shall fulfill or meet all the requirements specified under this section.:

- (a) a citizen of India and resident of Mizoram state for a minimum period of three years;
- (b) a member of a concerned co-operative for a minimum period of three years with good moral character and possess the vision and ability to administer the affairs of the co-operative;
- (c) preferably a bachelor degree holder in co-operatives, economics, finance, agriculture, or other disciplines having direct relation to the type of activities undertaken or to be undertake by the co-operative and if the required number of members of management committee with bachelors degree are not available, the qualification may be relaxed to the level of senior or higher secondary education or X standard or VIII standard respectively but in any case not below V standard.
- (d) in the absence of qualified persons available as mentioned under sub-section (c) a person worked or currently working for the benefit of co-operatives and its development for a period of at least 10 years may also be admitted as a member of management committee;
- (e) in case of Federal Cooperatives, only existing member of management committee of an affiliated cooperative society can be elected to the Board of Directors or as may be provided in the Bye-Law.

52. Disqualification for being a member of Management Committee:

- (1) The following persons shall be disqualified for being a member of the Management Committee:
A person who:
 - (a) has been convicted for an offence involving moral turpitude or for an offence involving simple or rigorous imprisonment for more than one year or fine beyond rupees five hundred or both;
 - (b) has been adjudged as an insolvent or a person of unsound mind by a competent court;
 - (c) participates or has participated in the profit or any contract with the co-operative;
 - (d) holds any office or place of profit under the co-operative;
 - (e) has been a member of concerned co-operative for less than three years immediately proceeding the date of such election or appointment;
 - (f) has taken loan or goods on credit from the co-operative, and defaulted in making repayment of loan or failed to repay the cost of goods taken on credit, as the case may be, within a period of sixty days from the due date for repayment;
 - (g) is a person against whom any amount due under a decree, decision or order of court is pending recovery under this Act;
 - (h) has been convicted for an offence committed under this Act;
 - (i) is disqualified for being a member of a co-operative under section 28;
 - (j) has been expelled from being a member of co-operative under section 34;
 - (k) has been terminated from membership of co-operative under section 35;
 - (l) absented himself from attending three consecutive management committee meetings or general body meetings as the case may be and such absence has not been condoned by the members of the management committee or general body respectively.
- (2) In addition to the above, all the directors of board or management committee shall collectively, jointly and severally incur disqualification for a period of three years from being chosen as directors, if the current or existing board of management committee fails to:
 - (a) conduct election to the management committee under Section 55;
 - (b) call the annual general body meeting under Section 46 within ninety days after the closure of the corresponding financial year;
 - (c) prepare annual financial statement of account and present the same in the annual general body meeting within the specified period under this Act or any other related law;
- (3) In addition to the requirements mentioned under sub-section (1) and (2), a person who failed to have been a member of a co-operative for at least three years or failed to attend three general body meetings of the co-operative immediately preceding the election, shall also ipso facto incur disqualification.

53. Term of office of the board of Management Committee:

- (1) The term of office of the board of management committee shall be two years from the date of assumption of office by the management committee.
- (2) The term of office referred under sub-section (1) may be terminated before the expiry of the full term by the general body at its meeting specifically called for the purpose with two-third majority of members present and voting for reasons to be recorded in writing after duly providing an opportunity of hearing to the affected board of management committee.
- (3) In the event of a decision to retire the entire management committee before the completion of its full term, if taken by the general body as specified under sub-section (2), it shall be the duty of the general body to prepare a scheme of election to be conducted at the earliest possible by following the required procedure and during the intervening period, the Chief Executive shall be vested with the required additional power by the general body, if any, required to look after the affairs of the management of the cooperative till the newly elected board of management committee or administrator appointed, assumed office.

Provided no member shall hold Office for more than four years in succession, or having already held Office for four years, whether in succession or not, be re-elected within a shorter interval than two years from the date on which he ceased to be a member of such Council or Body. Provided further that if election cannot be held for any reason, the gap period so occasioned shall not be counted to form part of the interval period of two years.

54. Powers and functions of the board of directors:

- (1) The board of management committee shall, in accordance with the byelaws, have the authority to:
 - (a). admit new members in accordance with section 26 and 27;
 - (b). elect the chairperson and other office bearers of various committee meetings;
 - (c). remove the chairperson and other office bearers of various committee meetings from office for reasons to be recorded in writing after following the due procedure required under law, rules or bye-laws;
 - (d). appoint and remove the chief executive of co-operative for reasons to be recorded in writing after following the due procedure required under law, rules or bye-laws;
 - (e). fix staff strength in proportion to the volume of business of cooperative as determined or prescribed by concerned statutory regulatory authority, if any;
 - (f). frame policies concerning:
 - (i) the organisation and provision of services to members;
 - (ii) prescription of qualifications, experience, method of recruitment, service conditions and other staff related matters;
 - (iii) the mode of custody, mobilisation, utilization and investment of funds;
 - (iv) method and manner of keeping books of accounts;
 - (v) monitoring and creation, prescription and maintenance of management information systems including statutory returns to be filed;
 - (g). place the annual report, annual financial statement of accounts of accounts, plan and budget for the approval of general body;
 - (h). consider audit and compliance reports and place the same before the general body;
 - (i). review membership in other co-operatives;
 - (j). undertake such other subjects and matters necessary for the effective performance of the co-operative including functions as delegated by the general body;
 - (k). terminate membership under section 35(2) and confirm termination of membership under section 35(1).
- (2) The Chairperson and other office bearers as may be prescribed in the bye-laws shall be elected by the board members from among the elected members within seven days from the date of declaration of election results in accordance with the byelaws and the chairperson shall:
 - (a). preside over meetings of the board and the general body;
 - (b). have a second vote in the event of equality of votes on any matter being decided upon by the board except in the matters relating to the conduct of election;
 - (c). exercise such other powers as delegated by the board specified in the policies framed or resolutions adopted by the board.

55. Elections of members to the Management Committee:

- (1) The duty and responsibility to conduct timely elections to the management committee primarily lies with the existing management committee.
- (2) Elections to the management committee shall be:
 - (a) conducted before the expiry of the term of outgoing board of management committee as per the provisions of the Act, rules or bye-laws;
 - (b) held in its general body meeting by secret ballot in the manner provided under law;

- (3) The persons elected as directors of the management committee may be made eligible for re-election if so provided under the byelaws.
- (4) Whereas the existing management committee if, for one reason or the other, failed to conduct the election to constitute the new management committee as per law, the tenure of such management committee shall automatically come to an end on the expiry of its full term and in such cases, the Registrar shall hold the election within a period of sixty days from the due date of election and during the intervening period, the Chief Executive may be authorized to discharge the functions of management committee to the extent necessary to continue the normal business of cooperative.
- (5) Except the circumstances specified under sub-section 4, the elected members may continue to hold office till their successors are elected or nominated and assume charge of the office.
- (6) Where there arise vacancies on the board of directors and where there exists a quorum, the remaining directors may either exercise all powers of the management committee or may fill such vacancies from eligible persons through co-option for the remaining period if the remaining tenure of the management committee exceeds six months.
- (7) Where there arise vacancies on the board without having a required quorum of directors, the remaining directors, may call a general meeting for the purpose of electing members to fill such vacancies for the remaining period.
- (8) The expenses for holding election either by the existing board or Registrar shall be borne by the co-operative.

56. Removal of elected members by general body:

- (1) Any elected member of management committee, who had acted adversely or against the interest of a co-operative shall be removed by the management committee by a resolution passed at the general body meeting with prescribed majority of members present and voting.
- (2) Such member, however, shall not be removed without providing a reasonable opportunity for making representation to the appropriate authority in the matter.
- (3) The appropriate authority for the purpose of making representation under this section shall be the general body of cooperative.

57. Periodicity to conduct Management Committee Meeting:

The management committee shall meet as frequently as possible and in no case the gap between two board meetings shall exceed ninety days.

58. Minimum Quorum to hold meetings:

- (1) **Board Meeting:** The management committee shall conduct its official business only if it has a minimum quorum of more than fifty percent of the total members of the management committee as provided under law or bye-laws. Any such meeting held without fulfilling the said quorum shall be considered invalid and the decisions taken in such meeting without the required quorum shall not have legal force or validity or binding.
- (2) **General Body Meeting:** The general body meeting shall conduct its official business only if it has a minimum quorum of one-fourth of the total members of the general body. Any general body meeting held without fulfilling the said quorum shall be considered invalid and the decisions taken in such meeting shall not have legal force or validity or binding.

59. Punishment for the Board of Director for being disloyal to the co-operative:

- (1) The member of board of directors or management committee, by virtue of holding the office of director of a co-operative, as and when acquires an opportunity of misusing properties and funds, which otherwise should have belonged to the co-operative, for himself or his relatives including full blood and half blood relations shall be liable for all damages caused to the co-operative and must account for double the cost or profit which otherwise should have occurred

to the co-operative by refunding the same. provided that the said board of director shall be given a full and complete opportunity to defend his case before awarding such punishment.

- (2) If the said board of directors are found willfully or knowingly vote for or assent to patently unlawful acts or found guilty of gross negligence or bad faith in directing the affairs of the co-operative or acquire any personal or pecuniary interest in conflict with their official duty, shall be made severally, collectively and jointly liable for all damages or profits resulting to the co-operative or its members or other persons.

60. Duties and responsibilities of Board of Directors:

- (1) The board of directors of management committee, shall;
 - (a) observe and follow the provisions of this Act, rules, bye laws and abide by the decisions taken by general body, management committee and other committees;
 - (b) follow and adhere to the rules and regulations governing the business of the co-operative which, inter-alia, include credit regulations, production, procurement, marketing, supply and storage regulations, labour regulations, and housing regulations;
 - (c) perform their duties faithfully and loyally for the benefit of co-operative;
 - (d) be held responsible either individually or collectively to compensate the co-operative for the loss as suffered or damages incurred;
 - (e) If found negligent in performing their official duties. such directors shall be individually or jointly or collectively held or made liable to compensate the losses suffered or damages incurred.
- (2) The duties and responsibilities cast upon board of directors under section 129 shall equally, mutatis mutandi, be applicable to other board of directors, in addition to the same cast upon them under sub-section (1) of section 60.

61. Appointment, role, powers and functions of chief executive:

- (1) There shall be a Chief Executive, by whatever designation may be called, for every co-operative to be appointed by the State Government or the Management Committee who shall be a full time employee of the co-operative.
- (2) The chief executive shall be a member of the board, executive and other committees or sub-committees as may be constituted by the co-operative from time to time.
- (3) The chief executive shall perform the following functions and such other functions specified in the bye-laws; he shall-
 - (a). have overall and general control over the day to day functions, activities and operations of the co-operative;
 - (b). be the authorized person to sue or be sued on behalf of the co-operative;
 - (c). be an authorized person on behalf of co-operative: (i) to have powers to endorse, sign, negotiate cheques and other negotiable instruments, (ii) to operate bank accounts of the co-operative either individually or along with such other person as the board may desire, (iii) be the person to enter into agreements or contracts with other individuals, firms, concerns, companies, organisations and institutions;
 - (d). be responsible for staff recruitment, discipline, performance, growth and development;
 - (e). ensure proper maintenance of records and accounts of the co-operative;
 - (f). present draft annual report and financial statements of accounts for the approval of the board, within thirty days of the closure of financial year;
 - (g). convene or ensure the conduct of the general body, board, executive and other meetings in consultation with the chairperson as per bye-laws and record the proceedings thereof;
 - (h). assist the board of management committee in the formulation of policies and plans;
 - (i). be accountable to the general body;
 - (j). furnish the board necessary information for monitoring the performance of co-operative;

- (k). perform any other function as specified in the bye-laws or as decided by a resolution of board and general body.

62. Committees of Board of Management:

The management committee is empowered to constitute executive and other committees as may be considered necessary, provided that the total number of committees at a particular time including executive committee but excluding statutory committee shall not exceed three.

63. No confidence motion against elected officials of a co-operative:

- (1) The requisition for calling a special board meeting for the purpose of moving no confidence motion against the president, vice president, chairman, vice chairman, secretary, treasurer or any other elected officials of a co-operative, by whatever description or name be called, shall be signed by not less than one third of the total members of the management committee and shall be delivered to the convener of such committee meeting by duly making a copy of the same to the Registrar with a request to call such a special board meeting if the convener of such meeting failed to call the meeting within fifteen days of the receipt of such request.
- (2) If the proposed no confidence motion is passed by a simple majority of the total number of management committee members who are entitled to vote, it shall be deemed that such position(s) against which the motion was passed, had fallen vacant from the date of passing such no confidence motion against such elected officials.
- (3) No such requisition, however, shall be made or entertained even if made, for calling a special board meeting within a period of six months from the date on which the said elected officials entered upon the office and there shall be a minimum gap of six months between the two special board meetings intended for the said purpose.
- (4) If the convener of the management committee failed to call a special board meeting within fifteen days from the date of receipt of the requisition under sub-section(1), the Registrar may call such a special board meeting within seven days after the expiry of fifteen days notice given to the convener of such special meeting.
- (5) The special meeting so referred shall be presided over by the Registrar or his authorized officer, who while presiding the meeting shall have the same power as that of president or chairman of the co-operative as the case may be.

64. Supersession of a Management Committee:

- (1) The Registrar for the reasons, basis or grounds specified under sub-section (2) shall have the power to supersede or remove the duly elected management committee from office before the expiry of its full tenure and in its place appoint one or more officers to be called as administrator to manage the affairs of the co-operative for a period not exceeding six months as may be specified in the order which period may at the discretion of Registrar for the reasons to be recorded in writing, be extended for a further period not exceeding six months and that the aggregate period in any case shall not exceed one year.
- (2) The basis or reasons or grounds for superseding the duly elected management committee may include any one or more of the following, that the management committee:
 - (a) is persistently making default or is negligent in the performance of duties imposed upon it under the Act, rules or byelaws;
 - (b) has committed acts which are prejudicial to the interest of the co-operative or its members;
 - (c) has omitted or failed to comply with any direction or order issued to it by Registrar or government in general or public interest;
 - (d) experienced a stalemate in the constitution or discharge of functions of the management committee;
 - (e) without sufficient cause or reason failed to conduct the election as per scheduled due date.

- (3) The Registrar shall prescribe the minimum qualification and experience essential for appointment of a person as an administrator referred under sub-section (1) and ensure that only qualified and experienced persons related to the particular type of co-operative alone are appointed as administrator(s).
- (4) For the purpose of sub-section (3), the Registrar may prepare and maintain a panel of specialist who possess proved competency to discharge the functions in the respective field of co-operatives with the approval of government and as and when the occasion arises for the appointment of administrator, the Registrar shall appoint a person as an administrator from the said list.
- (5) The Registrar may fix the remuneration for the administrator as he deems fit payable out of the funds of the co-operative which is subject to recovery from the directors of the board superseded after providing adequate opportunity of hearing to the affected directors or connected persons
- (6) The administrator so appointed shall have the power to exercise all or any of the functions of the management committee or of any officer of the co-operative which are essential for the continuance of smooth functioning of the co-operative or other functions considered necessary in the interest of co-operative. The administrator during his tenure as an administrator, however, shall not exercise the power of admission of new members.
- (7) The administrator so appointed shall, before the expiry of his tenure of office, arrange for the constitution of a new management committee in accordance with the rules or byelaws of the co-operative and hand over the management of the co-operative peacefully to the newly constituted management committee and cease to function thereafter.

CHAPTER-VII

PRIVILEGES OF STATE AID TO CO-OPERATIVES

- 65. Creation of charge and set-off in respect of share or contribution or interest of members:**
 - (1) A co-operative shall have a charge or first claim on the share or interest in the capital and on the deposit of its members and on any dividend, bonus or profit payable to such members in respect of any debts due from such members to the co-operative and may set-off any sum credited or payable to the members or towards payment of any such debt.
 - (2) The members for the purpose of this chapter shall not only include present members but also the past and deceased members.
- 66. Admissibility of copy of entry made in the books of accounts of the co-operative as evidence:**

A copy of any entry made in the books of accounts maintained by a co-operative shall, if certified by a competent or authorized person or authority, be received and admitted as a prima-facie evidence of the existence of such entry in any or all legal proceedings, as that of original entry itself is admissible.
- 67. Exemption from compulsory registration of instruments:**

Nothing contained in clauses (b) and (c) of Section 17(1) of the Indian Registration Act 1908 shall apply to:

 - (a) any instrument relating to shares in a co-operative notwithstanding that the assets of the co-operative consist in whole or in part of immovable property;
 - (b) any debenture issued by any co-operative 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 co-operative has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefits of the holders of such debentures;
 - (c) to any endorsement upon or transfer of any debentures issued by any co-operative.

68. Power of government to exempt co-operative from payment of taxes, fees, duty and power of refund:

The state government may reduce or remit or exempt payment of taxes, fees, duty, whether prospectively or retrospectively for the whole or part of the state:

- (a) the stamp duty with which instruments are executed by or on behalf of a co-operative or any class of instruments or awards made by Registrar or co-operative tribunal or civil court under this Act, are chargeable;
- (b) any fee payable by or on behalf of a co-operative under the law relating to the registration of documents and payment of court fees, for the time being in force;
- (c) any other tax or fee or duty payable by or on behalf of co-operative under any law for the time being in force, on which the state government is having the authority to levy;
- (d) the state government may, refund the amount of any tax, fee or duty paid already, in pursuance of any law under this section, to such an extent and subject on such terms and conditions, the state government may by order determine.

69. Prior claim of co-operative:

- (1) Notwithstanding anything contained in any other law for the time being in force but subject to the prior claim of government in respect of land revenue or any money recoverable as land revenue and to the provisions of S 60 and 61 of the Code of Civil Procedure 1908:
 - (a) Any debt or outstanding demand owing to a co-operative by any member including past or deceased member, shall have a first charge:
 - (i) upon the crops or other produce raised whether with or without any loan taken from the co-operative by members including past or deceased member;
 - (ii) upon any cattle, fodder for cattle, implements, machinery, raw materials, workshop or go-down, place of business supplied or purchased by such member from any loan availed from co-operative whether in money or kind;
 - (iii) upon any movable property hypothecated, pledged or mortgaged by a member with the co-operative and remaining in the custody of members;
 - (b) any outstanding demands or dues payable to a co-operative by any member in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such co-operative shall be first charge upon his interest in the immovable property of the co-operative.
- (2) No property or interest in property which is subject to charge under the previous sub-section shall be transferred in any manner without the previous permission of the co-operative and such transfer shall be subject to such conditions, if any, as the co-operative may impose
- (3) Any transfer made in contravention of sub-section (2) shall be invalid.

70. Deductions from sale price of produce to meet dues to co-operative:

When a loan has been advanced by any co-operative for any purpose, and if the produce is tendered by the member who has taken loan for sale by the co-operative, the sale price of such produce shall be paid to the member after deducting the amount due to the co-operative from such member.

71. Deduction from salary to meet claim of co-operative in certain cases:

- (1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative may execute an agreement in favour of that co-operative providing that his employer disbursing his salary or wages shall be competent to deduct every month from the salary or wages payable to him, such amount as may be specified in the agreement and to pay the amount so deducted to the co-operative in satisfaction of any debt or other demand the member owes to the co-operative.
- (2) On the execution of such agreement, the employer disbursing the salary or wages of the members of co-operative shall, if so required by the co-operative by a requisition in writing

and so long as the co-operative does not intimate that the whole of such debt or other demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the co-operative within a period of fourteen days of the date on which such deduction has been made, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936, and such payment shall be a valid discharge of the employer for his liability to pay the amount deducted.

- (3) If, after the receipt of a requisition made under sub-section (2), the employer disbursing the salary or wages of the member at any time fails to deduct the amount specified in the requisition form, the salary or wages payable to the member concerned or makes default in remitting the amount deducted already from the salary or wages, to the concerned co-operative, the co-operative shall be entitled to recover any such amount from such employer as arrears of land revenue and the amount so due from such employer shall rank in priority in respect of the liability of such employer equal to that of the salary or wages in arrears.

72. Government aid to co-operative societies:

Notwithstanding anything contained in any law for the time being in force, the central government or a state government, either suo moto or on receipt of request from a co-operative with a view to promoting the co-operative movement, may:

- (a). subscribe to the share capital of a co-operative;
- (b). give loans or make advances to a co-operative;
- (c). guarantee the repayment of principal and payment of interest on debentures issued by a co-operative;
- (d). guarantee the repayment of share capital of a co-operative and dividend thereon at such rates as may be specified by the central government or the state government;
- (e). guarantee the repayment of principal and payment of interest on loans and advances to a co-operative;
- (f). give financial assistance in any other form, including subsidies, to any co-operative;
- (g). provide aid to any other co-operative on such terms and conditions as may be prescribed.

CHAPTER-VIII
MANAGEMENT OF PROPERTY AND FUNDS

73. Mobilisation of funds:

A co-operative may mobilize equity, capital, deposits, debentures, loans and other contributions from its members to the extent and conditions as may be specified in the Act, rules and bye-laws.

74. Restrictions on borrowings:

- (1) A co-operative may mobilize debentures, deposits, raise loans and receive grants from external sources to the extent and conditions as may be specified in the Act, rules and bye-laws. However, the total deposits and loans raised from external sources, shall at no time exceed twenty times of the paid up share capital.
- (2) A co-operative may accept funds from the government or the financing institutions in furtherance of its objectives on the terms and conditions as are mutually agreed upon and such conditions may include the right of the government or other financial institutions or agencies to nominate one expert on the board of directors respectively regardless of the quantum and extent of funds received from such institutions and agencies.

75. Restrictions on holding of equity:

A member of a co-operative shall at no time hold more than one tenth of the paid up equity capital of the co-operative.

76. Disposal of surplus:

- (1) In any financial accounting of co-operative year, a co-operative shall, out of the surplus arising from transactions held with members in that year, make deferred payment to members as patronage rebate, at an amount more than twenty percent but less than fifty percent of such surplus and make interest payment on share capital at a rate not exceeding the prevailing rate of interest available to depositors in the concerned co-operative bank
- (2) The balance surplus accruing from members and the entire surplus accruing from transactions held or entered with others, shall be utilized in the following manner:
 - (a). not less than twenty five percent shall be transferred to a statutory reserve fund;
 - (b). not less than twenty percent shall be transferred to a separate reserve for meeting unforeseen losses;
 - (c). where the co-operative is a member of the state co-operative union, not exceeding three percent may be transferred in the manner prescribed to a '**co-operative education fund**' maintained by the co-operative union;
 - (d). bonus shall be paid to employees in accordance with the decision of the general body;
 - (e). not less than twenty percent shall be transferred to an equity redemption fund by such co-operatives as already have government equity participation;
 - (f). not less than five percent may be transferred towards a common good fund whose purpose is approved by the general body;
 - (g). not more than five percent may be paid as contribution for any purpose connected with the development of the co-operative movement;
 - (h). the balance shall be transferred to such other funds and reserves as created by the general body;
 - (i). surplus accruing as a result of servicing persons other than members shall not be divisible amongst members and may be utilized in the case of other than credit co-operatives towards equity participation of potential members and towards 'credit equalisation fund' in the case of credit co-operatives as specified under section 124.
- (3) No dividend, bonus, patronage dividend or rebate shall be paid without the previous sanction of the Registrar and on the Certificate of the Statutory audit Report approved by the Registrar.

77. Liability for deficit:

Where a co-operative has an operational deficit in any given year, the board of directors shall place before the general body the amount of deficit along with reasons for incurring such deficit.

78. Reserve and other funds:

- (1) A co-operative may create statutory and non statutory reserve and other funds for the promotion of objects of the co-operative.
- (2) Reserves and other funds shall be used for the purpose for which they were created whenever found necessary but otherwise may be used in the business of the co-operative.

79. Investment of funds outside the business:

The funds as are not needed for use by a co-operative may be invested or deposited outside its business:

- (a) in any federal co-operative of which it is a member;
- (b) in any district central or state co-operative Bank and in the absence of both the banks, in any urban co-operative bank;
- (c) in a local co-operative or nationalised bank;
- (d) in the equities of any other co-operatives;
- (e) in any of the securities specified in section 20 of the Indian Trust Act, 1882;
- (f) in the local postal savings bank.

80. Restriction on contribution to political parties or religious institutions:

No co-operative shall make any contribution either in money or kind, either directly or indirectly to any organisation that has an object in furtherance of interests of political party or of any religious faith.

81. Contribution to Co-operative Education fund of the State Federal Co-operative Union:

- (1) Every co-operative shall contribute annually towards the Co-operative Education Fund maintained by the state or federal co-operative union by whatever description be called by virtue of power conferred upon the co-operative under section 76(2)(c) as per the rate prescribed by the Registrar and different rates may be prescribed for different type and classes of co-operatives depending upon their financial conditions, strengths, status or position.
- (2) The rate, so levied, in any case shall not be less than one percent and not more than three percent of the total net profit earned by the co-operative as provided under section 76(2)(c).
- (3) In the event of any co-operative intending to pay more than three percent, may do so, but only with the prior approval of Registrar.
- (4) Every co-operative shall pay its contribution to the above said education fund within ninety days after the closure of the financial year.
- (5) Where any co-operative which fails to pay the contribution to education fund as specified in sub-section (4), the amount of such contribution due shall be recoverable as arrears of land revenue.
- (6) The federal co-operative or co-operative union as the case may be, in such cases, may submit a report containing the details and particulars of defaulting co-operatives to the Registrar and the Registrar in turn after making an enquiry in this regard shall grant a certificate for recovery of the said amount due as arrears of land revenue.

82. Restrictions on grant of loan:

- (1) A co-operative, other than a co-operative bank, shall not grant loans to members on the security of their share or on the security of a non-member.
- (2) A co-operative may, however, grant loans to depositors on the security of their deposits.

83. Restrictions on transactions with non-members:

The transactions of a co-operative held or to be held with non-members shall be subject to such conditions, prohibitions and restrictions, if any, as may be specified in its byelaws.

84. Contributory Provident Fund:

- (1) A co-operative having members or class of employees more than the limit prescribed under the Employees Provident Fund and Miscellaneous Provisions Act 1952, for the purpose shall maintain the Employees Contributory Provident Fund for the benefit of its employees and all contributions made by employees and co-operative shall be credited to a separate account.
- (2) The quantum of money standing in the credit of any Contributory Provident Fund established by a co-operative under sub-section (1) shall not
 - (a) be used in the business of co-operative;
 - (b) form part of assets of co-operative;
 - (c) be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER-IX
REGULATION OF CO-OPERATIVES
(Audit, inquiry, inspection and surcharge)

85. Audit:

- (1) The Registrar shall audit or cause to be audited by person authorized by him by general or special order in writing in this behalf, the accounts of every registered Society and Society under liquidation once at least every year.

- (2) The Auditor so appointed shall hold Office until the conclusion of the next general body meeting.
- (3) The Auditor's Report. in addition to the report on the accounts of the Cooperatives, shall contain a report on the attendance at meetings by directors, loans and advances sanctioned to or the business done with the cooperative by the directors, remuneration paid to directors, expenses reimbursed to directors, expenditure incurred on education and training for members, directors, officers, employees and others.
- (4) It shall be the duty of the board of Management Committee to ensure that the annual financial statement of accounts are prepared and presented for audit within forty five days of closure of the corresponding financial year.
- (5) In every audit of the accounts, a registered society shall pay audit fee as may be prescribed and such fee shall be deemed to be outstanding dues from the Society.

86. Remuneration of Auditor:

The remuneration of Auditor appointed under section 85(2) shall be fixed by the Registrar.

87. Powers and duties of auditor:

- (1) Every auditor shall:
 - (a) have right of access at all times to the books, accounts vouchers and all other related documents of a co-operative;
 - (b) be entitled to require from officers or other employees of a co-operative such information and explanations found necessary for the performance of his duties as an auditor;
 - (c) have right to enquire as to whether:
 - (i) the loans and advances made by a co-operative on the basis of security have been properly secured;
 - (ii) the terms on which such loans and advanced have been made are not prejudicial to the interest of the co-operative or its members;
 - (iii) the transactions of co-operative which are represented merely by book entries are not prejudicial to the interests of co-operative;
 - (iv) personal expenses have been charged to revenue account;
 - (v) cash has actually been received or not in respect of share allotment made on cash wherever indicated;
 - (vi) the position stated in the books of accounts and balance-sheet is correct, regular and not misleading in the event of cash mentioned under previous sub clause has actually not been received;
 - (d) in his report also state as to whether:
 - (i) he has obtained all the information and explanations which in his opinion, were necessary for the purpose of carrying out audit;
 - (ii) proper books of account have been kept by the co-operative for his examination and proper returns adequate for the purposes of his audit have been received from branches, units or offices of the co-operative not visited by him;
 - (iii) the balance sheet and profit and loss account of co-operative dealt with by the report are in agreement with the books of accounts and returns;
 - (e) also undertake examination or verification of following items such as:-
 - (i) overdues of debts, if any;
 - (ii) cash balance and securities and a valuation of assets and liabilities;
 - (iii) whether loans and advances made by co-operative have been shown as deposits;
 - (iv) whether the co-operative has properly utilized financial assistance granted by government, government undertaking or financial institutions for the purpose for which such assistance were actually granted;
 - (v) whether the co-operative is properly carrying out its objects, purpose and obligations towards members;

- (f) indicate every deviation observed in actual expenditure and income vis-a-vis the estimated expenditure and income indicated in the approved budget;
- (g) specify the gross remuneration or honorarium or allowances, or any other payment made, if any, to the chief executive, officer bearers, directors and others during the financial year under audit;
- (h) state whether or not any of the office bearers or directors had become ineligible, at any time during the financial year under review to continue in the office as an office bearer or director, as the case may be;
 - (i) state whether the decisions on disposal of surplus or assessment of deficit by the general body at its previous annual general meeting were implemented completely or not.
- (2) The government or Registrar, as the case may be, in such co-operatives which are substantially funded by government or government undertakings or financial institutions in public interest, if found necessary and appropriate, may order or direct for the conduct of internal audit or cost audit or performance audit or special audit or test audit or any other audit for such co-operative.

88. Filing of returns with Registrar:

Every co-operative, within sixty days of the closure of the corresponding financial year, shall file the following information or returns pertaining to the co-operative with the Registrar:

- (a) audited annual statement of accounts;
- (b) annual report of activities undertaken by the co-operative;
- (c) the list of names of directors and their terms of office;
- (d) details of amendments to bye-laws carried out by the co-operative during the relevant period;
- (e) plan or proposal for disposal of surplus as approved by the general body by virtue of power conferred upon co-operative under section 76;
- (f) declaration regarding date of holding of general body meeting and actual conduct of election wherever become or fallen due;
- (g) statistical details indicating:
 - (a) total number of members on the role of co-operative as on the last day of the financial year;
 - (b) the core services offered by the co-operative to its members;
 - (c) total liabilities such as:
 - (i) funds from members and surpluses,
 - (ii) funds from government, government under taking or financing institutions, if any;
 - (iii) funds from other external sources;
- (d) Extent and quantum of services provided to members and non-members separately and respectively.

89. Filing of returns by Registrar before the state legislature:

- (1) The Register shall prepare and submit every year a status report of co-operative movement for the whole of state to the state legislature.
- (2) The said annual status report may include the following details for each type of or sectoral co-operatives:
 - (a) total number of co-operatives;
 - (b) membership with bifurcations such as active members, regular or permanent members, inactive members, nominal members, sympathiser members or associate members;
 - (c) business and financial statistics;
 - (d) category-wise staff and employees' deployment;
 - (e) co-operatives registered afresh, deregistered, cancelled, closed, wound-up and under supersession, during the preceding financial year:

- (f) co-operatives working with profit or losses, accumulated losses or otherwise;
- (g) details regarding inquiry, inspection and surcharge proceedings initiated, under progress and concluded during the year;
- (3) The annual report shall also contain particulars about the functioning of co-operative department in general and in particular:
 - (a) total category or class wise staff and officers as at the end of the previous financial year;
 - (b) deployment of officers of cooperation department on deputation to other co-operatives along with reasons and duration of such deputation;
- (4) A brief summary containing achievements and non-achievements made by co-operatives in the whole of state, strength and weakness of different type, class and category of co-operatives, policy changes or prescription introduced by the government and or Registrar, and proposed plan of action for the ensuing financial year.

90. Rectification of defects in accounts:

- (1) If the result, finding or outcome of the audit held or conducted, discloses defects in the constitution, financial conditions and working of any co-operative, such co-operative shall explain the defects or irregularities identified, observed or pointed by auditor, to the Registrar within a period of sixty days and take appropriate steps to rectify such defects and remedy the irregularities pointed out by Registrar and shall submit an action taken report to the Registrar within the time stipulated therein.
- (2) The Registrar may, inter-alia also direct or order the co-operative or its officers to take such other actions as may be specified in the order or direction to remedy the defects within the time specified therein.

91. Inquiry:

- (1) The Registrar either suo-moto (or based on an application made by a co-operative, or not less than one third members of the management committee or not less than one tenth of total number of members of co-operative, or creditors or debtors or depositors) may hold an enquiry himself or order or direct some other person to hold an inquiry into the constitution, working and financial condition and status of a co-operative.
- (2) The Registrar, before directing or ordering the conduct of inquiry into a co-operative, shall provide an adequate opportunity to such co-operative for making representation on the subject matter and if not satisfied with the reply given by the co-operative, may order or direct the conduct of inquiry on aspects identified by the Registrar on issues raised in the application, as the case may be.
- (3) In the event of an inquiry demanded by persons or authorities specified under sub-section (1), the Registrar may order or direct the conduct of an inquiry only after the receipt of required fee deemed sufficient enough to conduct and complete the inquiry from persons or authorities who demanded conduct of such inquiry.
- (4) The inquiry ordered or directed shall be completed within a period specified in the order and in any case, such period shall not exceed ninety days from the date of order or direction of inquiry.
- (5) The Registrar while holding an inquiry or persons authorized by Registrar to hold such an inquiry shall have:
 - (a) free access to the books of accounts, documents, securities, cash or other properties of co-operative;
 - (b) power to summon persons in possession or responsible for the custody of documents specified under sub-section 5(a).
- (6) The Registrar, within a period of thirty days from the date of completion of inquiry, shall communicate the result or findings of such inquiry report to:
 - (a) the applicants or persons who demanded such an inquiry;

- (b) the co-operative;
 - (c) the persons or authorities, if any, named therein in the application for the conduct of inquiry;
 - (d) the financial institutions or funding agency or authority;
 - (e) any member or person, on payment of fee prescribed by Registrar.
- (7) The Registrar shall have power to withdraw any inquiry from the authorized persons or authorities to whom it was entrusted and hold the inquiry either himself or entrust the task to any other persons or authorities as he deems fit.

92. Inspection of a co-operative:

- (1) The Registrar either suo-mpto or based on an application made by a co-operative, or not less than one third members of the management committee or not less than one tenth of total number of members of co-operative, or a credit or debtor or depositors) may hold an inquiry himself or order or direct, some other person to hold an inspection into the constitution, working and financial condition and status of a co-operative.
- (2) The Registrar, before directing or ordering the conduct of an inspection in a co-operative, shall provide an adequate opportunity to such co-operative for making representation on the subject matter and if not satisfied with reply given by co-operative may order or direct for conduct of inspection on aspects identified by the Registrar or on the issues raised in the application, as the case may be.
- (3) In the event of an inspection demanded by persons or authorities specified under sub-section (1), the Registrar may order or direct the conduct of inspection only after the receipt of required fee deemed sufficient enough to conduct and complete the inspection from persons or authorities who demanded conduct of such an inquiry.
- (4) The inspection ordered or directed shall be completed within a period specified in the order or direction and in any case such period shall not exceed ninety days from the date of order or direction of such inspection.
- (5) The Registrar while holding an inspection or persons authorized by Registrar to hold such an inspection shall have:
 - (a) free access to the books of accounts, documents, securities, cash or other properties of co-operative;
 - (b) power to summon persons in possession or responsible for the custody of documents specified under sub-section 5(a).
- (6) The Registrar, within a period of thirty days from the date of completion of inspection, shall communicate the result or findings of such inspection report to:
 - (a) the applicants or persons who demanded such an inspection;
 - (b) the co-operative;
 - (c) the persons or authorities, if any, named therein in the application for conduct of inspection;
 - (d) the financial institutions or funding agency or authority;
 - (e) any member or person, on payment of fee prescribed by Registrar.
- (7) The Registrar shall have power to withdraw any inspection from authorized persons or authorities to whom it was entrusted and hold the inspection either himself or entrust the task to any other persons or authorities as he deems fit.

93. Cost of inquiry and inspection:

- (1) Where an inquiry is held under section 91 or an inspection is carried out under Section 92, the Registrar may apportion the cost of inquiry or inspection as the case may be between the co-operative, members, creditors or debtors or depositors demanding such an inquiry or inspection and officers of co-operative. The members and officers, for the purpose of this section shall not only include present members and officers but also former officers and past members.

- (2) The Registrar, before apportioning cost of inquiry or inspection as the case may be, as referred under sub-section (1) shall provide a reasonable opportunity of hearing to co-operative or other persons such as creditors, debtors or depositors liable to pay such costs.
- (3) While apportioning the cost of inquiry or inspection, the Registrar shall record in writing the reasons, grounds or basis on which the cost were apportioned either proportionately or disproportionately.

94. Recovery of cost:

The cost awarded under Section 93 may be recovered, on an application made by Registrar to the Magistrate having jurisdiction over the place where the persons against whom the cost is recoverable resides or carries on business or trade or property of such persons is situated and such Magistrate shall recover the same as if it were a fine imposed by himself.

95. Initiation of surcharge proceedings against delinquent officers or members by Registrar:

- (1) Where the Registrar is satisfied either on the basis or as a result of audit report made under section 85 or an inquiry report made under Section 91 or an inspection report made under Section 92 or winding up of co-operative under section 110, that any person who has been entrusted with or taken part in the organisation or management of a co-operative or who is or has at any time been an officer or employee of a co-operative, has made payment contrary to the provisions of this Act, rules or bye-laws or caused any loss, damage to or deficiency in the assets of co-operative by breach of trust or willful negligence or has misappropriated or fraudulently retained any money or other property belonging to the co-operative, the Registrar may on his own motion or on the application made by management committee, auditor, liquidator, or any creditor, may frame charges against such persons and inquire by himself, or direct any authorized person in writing, to inquire into the conduct of such persons and after providing a reasonable opportunity to reply or answer the charges framed to the concerned persons may make an order directing him or them to repay or return the money or restore property with interest as determined by Registrar or to pay compensation with regard to the misappropriation, misapplication, retention, misfeasance or breach of trust as the Registrar may determine.
- (2) The persons or such persons or concerned person referred under sub-section (1), shall not only include present members or officers or employees or board members, etc. but also include past, or deceased, legal heirs or representatives, members or employees or board members respectively.
- (3) The act of framing charges, conduct and completion of proceedings referred under sub-section (1) shall be completed within three years from the date of submission of reports of audit, inquiry, inspection or date of the order of winding up of co-operative.
- (4) The Registrar or persons authorized by him in this regard may also provide for the payment of total cost or part thereof and direct that such costs shall be recovered as arrears of land revenue from such persons against whom such orders have been passed.

96. Power to enforce attendance:

The Registrar or persons authorized by him while conducting an inquiry under Section 91, an inspection under Section 92 or surcharge proceedings under Section 95, shall have the power to summon and enforce attendance of any person or to compel the production of documents or other material objects in the same manner and procedure as provided under the Code of Civil Procedure, 1908.

CHAPTER-X SETTLEMENT OF DISPUTES

97. Reference of dispute:

- (1) Notwithstanding anything contained in this Act or other Acts for the time being in force, any co-operative dispute arising between or among the parties touching:
 - (a) constitution,
 - (b) management,
 - (c) business,
 - (d) conduct of elections,
 - (e) conduct of general meetingsof co-operative shall be referred to Registrar until co-operative tribunals are constituted or arbitration for the purpose who or which shall function as a court of law.
- (2) The dispute between or among parties referred under sub-section(1) may include the following. A dispute arising:
 - (a) among present, past or deceased members, legal heirs or representatives or lawful claimants past or deceased member, a co-operative which is a member of federal or central co-operative;
 - (b) between present, past or deceased member, legal heirs or representatives or lawful claimants of past or deceased member, a member co-operative and the co-operative, its board, any officer, employee or agent of the co-operative or the liquidator past or present;
 - (c) between the co-operative or its board and any past board, officer, employee or agent or nominee or respective legal heirs or representatives or lawful claimants of the co-operative;
 - (d) between the co-operative and another co-operative or between a co-operative and liquidator of another co-operative or between a liquidator of one co-operative and another.

98. What shall constitute co-operative dispute:

For the purpose of section 97(1), the following shall also be deemed to be a co-operative dispute touching the constitution, management or business or conduct of elections or general meetings of a co-operative:

- (a) a claim by a co-operative for any debt or demand due to it from a member or nominee, heirs or legal representatives of a deceased member;
- (b) a claim by surety against principal debtor where the co-operative has recovered a sum from surety any amount in respect of any debt or demand due to it from the principal debtor as a result of default of principal debtor;
- (c) any dispute arising in connection with the election of any officer of a co-operative;
- (d) a claim by a co-operative for any loss caused to it by a present or past or lawful claimants or deceased member or any officer including past or deceased or lawful; claimants or by its committee, past or present;
- (e) any refusal or failure by a member, including past or deceased, and their legal heirs or representatives or lawful claimants to deliver possession of assets to a co-operative resumed or recovered by the co-operative for breach of conditions as to the assignment.

99. What shall not constitute co-operative dispute:

For the purpose of this chapter, the following shall not be construed as a co-operative dispute:

- (a) an industrial dispute covered under Section 2(k) of the Industrial Disputes Act 1947;
- (b) rejection of nomination paper at the election to a committee of any co-operative;
- (c) refusal of admission of membership to any person or institution by a co-operative;

- (d) any proceedings for the recovery of dues due to co-operative as arrears of land revenue on a certificate granted by Registrar under sections 104 and 106;
- (e) any proceedings, for recovery of dues to co-operative by Registrar or any other person authorized by him or an officer of co-operative authorized or notified by state government who is empowered to exercise power for the purpose.

100. Ouster of jurisdiction of courts on co-operative disputes:

No court other than criminal court for offences covered under Indian Penal Code or High Court and Supreme Court by way of writ, shall have jurisdiction to entertain any application, suit or application or other proceedings in respect of any co-operative dispute referred under Section 97 and 98.

101. Limitation:

- (1) Notwithstanding anything to the contrary contained in the Limitation Act, 1963 but subject to specific provisions provided in this Act and rules, the period of limitation in the case of a dispute referred to Registrar or persons authorised by him or arbitrator shall be:
 - (a) when the dispute relates to the recovery of any sum including interest thereon due to co-operative by member thereof, be computed from the date on which such member dies or ceases to be a member of co-operative;
 - (b) save as otherwise provided in clause(c), when the dispute relates to any commission or omission of any act on the part of any of the parties referred to under section 95 by six years from the date on which such commission or omission of act, with reference to which the dispute arose, or took place as the case may be;
 - (c) when the dispute is in respect of an election of an officer of a co-operative, by one month from the date of declaration of the result of election.
- (2) The period of limitation in the case of any dispute, except those mentioned in sub-section (1), which are required to be referred to Registrar or persons authorised by him or arbitrator as the case may be shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute were a suit and the Registrar or persons authorized by him or arbitrator a civil court.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), the Registrar or persons authorized by him or an arbitrator may admit a dispute or appeal as the case may be, after the expiry of the period of limitation, if the applicant satisfies the Registrar or persons authorized by him or an arbitrator that he had sufficient cause for not referring the dispute or preferring the appeal within such period.

102. Attachment before award or order and interlocutory orders:

- (1) Where a co-operative dispute has been referred to Registrar or persons authorised by him or arbitrator hears a person against whom charges are framed under section 95, is satisfied on inquiry or otherwise that such person with the intent to defeat or obstruct the execution of any award passed or carrying out any order made already is about to dispose of or remove the whole or any part of the property from its or his jurisdiction, the Registrar or arbitrator or persons authorized by Registrar may, unless adequate security is furnished, direct conditional attachment of the said property and such attachment shall have the same effect as if it was made by a competent Civil Court.
- (2) Where upon the property attached as per sub-section (1), the Registrar or persons authorized by him or the arbitrator as the case may be, shall issue a notice calling upon such person whose property is so attached to furnish adequate security within a specified period and if the person so directed fails to provide adequate security so demanded, the authority who issued the notice, may direct the disposal of the property so attached towards the claim awarded, if any.
- (3) The Registrar or persons authorized by Registrar or the arbitrator may, in order to prevent the ends of justice being defeated, make appropriate interlocutory orders as may appear to be just, proper and convenient pending decision in any co-operative dispute referred under Section 97 or 98.

103. Decision of Registrar or persons authorized by Registrar or the arbitrator final and binding:

- (1) Where a co-operative dispute referred to Registrar or persons authorized by him or the arbitrator as the case may be, is decided or an award has been made, after providing a reasonable opportunity to the parties in dispute to be heard, shall be binding on such parties and become final subject to appeal, if any, provided.
- (2) The expenses incurred towards making settlement of co-operative dispute shall be recovered or collected from parties to dispute as determined by Registrar or persons authorized by him or the arbitrator appointed as the case may be.

104. Recovery of co-operative dues: Cooperative Demand Certificate issued by Registrar or persons authorized by him to be treated as court decree:

- (1) Every order passed in favour of co-operative by Registrar or his subordinate officers or persons or officers of co-operatives as authorized by Registrar or the arbitrator involving payment or repayment of money due or borrowed or assets of co-operative, guarantee owned or created out of the funds of the co-operative shall, if not carried out:-
 - (a) on a Cooperative Demand Certificate as in Schedule-A issued by the Registrar or his subordinate officers or persons authorized by him or the arbitrator shall be deemed to be a decree passed by Civil Court and shall be executed in the same manner as if it were a decree of civil court and such decree shall be executed by Registrar or any person or officer authorized by him in writing in this behalf by attachment and sale or sale without attachment of any property of the person or co-operative against whom or which such decision or order has been made;
 - (b) where the decision or order provides for recovery of money be executed as per law or rules in force for the time being in force for the recovery as arrears of land revenue. For this purpose, the party or co-operative in whose favour the order has been passed shall apply to Registrar for an issuance of Cooperative Demand Certificate;
 - (c) The Cooperative Demand Certificate under the signature of Registrar or his subordinate officers or other persons or officers of co-operative as authorized by Registrar shall be executed by Recovery Officer appointed by him as arrears of land revenue.
- (2) The Registrar is authorized or empowered to delegate the powers specified under sub-section (1) to any of his subordinate officers and of co-operatives including co-operative banks and credit co-operatives.
- (3) The Registrar or his subordinate officers or officers of co-operatives including co-operative banks and credit co-operatives authorized by Registrar as referred under sub-section (2), shall also have the power of execution of the decisions, awards and orders passed by themselves or arbitrators or appellate tribunal.

105. Registrar or Arbitrator or persons authorized by Registrar to be civil court for certain purposes:

The Registrar or the arbitrator or any person authorized by him including officers of co-operatives, co-operative banks and credit co-operatives, in writing in this regard shall be deemed to be a civil court while exercising powers under this Act for recovery of amounts by attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to them respectively for such recovery or for taking steps in aid of such recovery.

106. Recovery of dues to co-operatives as arrears of land revenue:

- (1) The Registrar, based on an application made by a co-operative for recovery of arrears of any sum advanced by it to any of its members or any co-operative, including co-operative bank, credit co-operative and salary earners co-operative, for the recovery of arrears of its dues as the state government may notify in the official gazette, may after making such inquiry as deemed fit, grant a certificate for recovery of the amount stated therein to be due as arrears of land revenue.

- (15). failure to comply with the provisions of law by employer, directors of co-operative or any other authority;
- (16). acquirement or abatement in the acquisition of property on which the possession change;
- (17). failure to produce cash balance on demand by board or officers or members or any other authorized person of the co-operative;
- (18). failure to make available the records for audit, inquiry, inspection by the board or officers or employees of the co-operative;
- (19). failure to deduct amount from salary of employees for the purpose of meeting claims of the co-operative;
- (20). failure to pay the amount specified under clause (19), deducted within specified period to the co-operative;
- (21). failure to communicate decision on the application for admission of members;
- (22). failure to transfer the interest on the death of members to nominees, legal heirs or representatives;
- (23). failure to call special general meeting within the specified time period provided under law;
- (24). division or distribution of funds (other than net profit) belonging to the co-operative in the form of bonus or dividend contrary to the provisions of law;
- (25). failure to make investment of funds belonging to co-operative as per law or as provided under law;
- (26). giving loans to non-members and other co-operatives without the approval of Registrar;
- (27). violation of restrictions imposed on borrowings by co-operative;
- (28). failure to create contributory provident fund for the benefit of employees;
- (29). grant of admission to members who are disqualified or ceased to be members under law and allowing them to exercise their rights and privileges;
- (30). exercise of rights of members contrary to the provisions of law;
- (31). grant of lease of mortgaged property contrary to the provisions of law;
- (32). the exercise of right to vote by persons who are ineligible to vote;
- (33). offences committed by companies are to be deemed as offences committed by the persons in-charge of company, or persons responsible to conduct the business of the company for the commission of offences mentioned above.

108. Penalties:

- (1) Every committee member, officer, employee, board member, past or present of a committee or any other person shall, without prejudice to any action taken against him under any law for the time being in force, for the offences specified under section 107(2) shall be subject to punishment as provided under column (2) of section 108 (2).
- (2) **Nature of Offences committed and punishment prescribed thereof.**

* Serial number
of offences
committed as
specified under
Section 107 (2)

Punishments prescribed

- | | |
|----|---|
| 1. | (a) Fine ranging from Rupees 5000 to Rupees 20000 in the case of board of co-operative,
(b) In the case of employees and paid servants past as well as present imprisonment upto six months or fine upto Rupees 2000 or with both. |
| 2. | Imprisonment upto six months or fine with Rupees 2000 or with both. |
| 3. | Fine upto Rupees.2000 and if the offence is continuing, then additional fine of Rupees 500 for each day. |
| 4. | (a) In the case of the board of co-operative fine upto Rupees 5000.
(b) In the case of employees and paid servants etc. imprisonment upto six months or fine upto Rupees.2000 or with both. |

5. Fine upto Rupees 5000.
6. Fine upto Rupees 5000 or imprisonment upto one year or with both.
7. Fine upto Rupees 5000.
8. Imprisonment upto one year or fine upto Rupees.5000.
9. Fine ranging from Rupees.5000 to Rupees 10000.
10. Fine ranging from Rupees.5000 to Rs. 10000.
11. Fine upto Rupees.20000.
12. Fine upto Rupees 20000.
13. Fine upto Rupees 2500.
14. Fine upto Rupees.20000 over and above the value of property fraudulently disposed or imprisonment ranging from six months to three years or with both.
15. Fine upto Rupees.5000.
16. Fine upto Rupees. 10000 over and above the value of property fraudulently disposed or imprisonment ranging from six months to three years or with both.
17. Fine upto Rupees 5000.
18. Fine upto Rupees 5000.
19. Fine upto Rupees 5000.
20. Fine upto Rupees 5000.
21. Fine upto Rupees 1,000 and further fine of Rs.100/- for each days delay.
22. Fine upto Rupees 3000.
23. Fine upto Rupees 3000.
24. Fine upto Rupees 3000 in addition to compensating the loss caused to the co-operative.
25. Fine upto Rupees 3000 in addition to the compensating the loss caused to the co-operative.
26. Fine upto Rupees 3000 in addition to the compensating the loss caused to the co-operative.
27. Fine upto Rupees 3000 in addition to repayment of total loan outstanding amount.
28. Fine upto Rupees 3000.
29. Imprisonment upto 3 months or fine upto Rupees 3000 for each member admitted against the provisions of law.
30. Imprisonment upto 3 months or fine upto Rupees 3000 in addition to compensating the loss caused to the co-operative, if any.
31. Imprisonment upto 3 months or fine upto Rupees 3000.
32. Fine upto Rupees 3000.
33. Punishment as provided against offences specified under law ie. section 108(2).

Explanation:

- * The serial number mentioned under sub-section (2) refers to the nature of offences committed as elaborated under section 107 (2).

109. Cognizance of offences, procedure to be followed and outcome:

- (1) An offence under this Act shall be tried only by a court not inferior to that of Metropolitan Magistrate or Judicial Magistrate of first class.
- (2) No prosecution shall be instituted under this Act without the previous sanction of Registrar and such sanction or approval shall not be given or granted by Registrar without providing an opportunity to represent the case to the person sought to be prosecuted.
- (3) In the event of punishment prescribed for non-officials under section 108(2) for the corresponding offences committed under section 107(2) stand annulled, modified or cancelled either on appeal or revision, the affected persons shall be restored back to the original position occupied for the remaining period for which such person was nominated or elected.

- (4) In the event of punishment prescribed for officers and employees of co-operative under Section 108(2) for the corresponding offences committed under Section 107(2) stand annulled, modified or cancelled either on appeal or revision, such affected officers or employees shall be restored back to the original official position held at the time of conviction for the rest of the service period.
- (5) The persons, officers, employees not covered under sub-section (3) and (4) shall incur permanent disqualification for offences involving corrupt practice and moral turpitude.
- (6) Any authority created or appointed under the Act such as Registrar including Additional, Joint, Deputy or Assistant Registrar, administrator, liquidator, auditor or any other officer or authority authorized by Registrar or government while discharging the official duties and functions assigned to them respectively, if proved beyond doubt that such authorities passed orders, issued directions or failed or refused to take decision either contrary to the provisions of law or without following the procedure prescribed under law or exercise inherent power under the direction or dictation of higher authority shall be deemed to have committed offences under this Act and accordingly be proceeded and punished as per the service rules governing such persons or authorities and shall be subjected to heavy financial penalty or imprisonment as determined in consultation with Registrar or government as the case may be.

CHAPTER-XII

WINDING UP OR LIQUIDATION OF CO-OPERATIVES

110. Winding up of co-operative:

When the Registrar:

- (a) based on the reports of audit under Section 85, or an inquiry under Section 91 or an inspection under Section 92;
- (b) on receipt of an application made upon a resolution passed by three fourth of the members of the co-operative present and voting at special general body meeting called for the purpose;
- (c) on his own motion, in case of a co-operative which/or whose:
 - (i) has not commenced its working within a period of one year from the date of registration,
 - (ii) has ceased working,
 - (iii) the shares or deposit of members have been reduced below the minimum level prescribed under this Act, rules or bye-laws,
 - (iv) membership has been reduced below the minimum number prescribed for registration of a co-operative under sub section (4) or (5) of section 9, is of the opinion that the co-operative ought to be wound up, he may, after giving reasonable opportunity for making representation by concerned co-operative and if not satisfied with the reply or answers furnished by such co-operative, he may direct the co-operative to be wound up.

111. Appointment of liquidator:

- (1) Where the Registrar has formed an opinion based on valid grounds or reasons to windup a co-operative, he may appoint a suitable and qualified person as liquidator for the purpose and fix his remuneration accordingly.
- (2) The liquidator, on his appointment, shall take into his custody or under his control all the property, effects and actionable claims to which the co-operative is or appears to be entitled and shall take all steps deemed necessary or expedient to prevent further loss or deterioration of or damage to, such property, effects and claims and he may carry on the business of a co-operative so far as may be necessary with the approval and permission of Registrar.
- (3) Where an appeal is preferred against the order of winding up of a co-operative, such winding up order shall not become operative until the order is confirmed in appeal.
- (4) Where an order for winding up of co-operative is set aside in appeal, the property, effects and actionable claims of such co-operative shall revert in the same co-operative again.

112. Appeal against the order of winding-up:

The management committee of co-operative or one third members of co-operative or creditors of co-operative which is ordered to be wound up, may prefer an appeal to Registrar against the order of winding up within sixty days from the date of issuance of said winding up order.

113. Power of liquidator:

- (1) The liquidator appointed under section 111(1) shall have the following powers subject to the overall supervision, control and direction of Registrar:
 - (a) to institute and defend suits and other legal proceedings on behalf of co-operative by the name of his office;
 - (b) to determine from time to time the contribution (including debts due and costs of liquidation) to be made or remaining to be made by members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by officers or former officers, to the assets of the co-operative;
 - (c) to investigate all claims against co-operative and subject to the provisions of this Act, to decide questions of priority between claimants;
 - (d) to pay claims against the co-operative, including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of co-operative may permit; and the surplus, if any, remaining after payment of claims being applied in payment of interest from the date of such an order of winding up at a rate fixed by the liquidator but not exceeding the contracted rate in any case;
 - (e) to determine by which persons or authorities and in what proportions the cost of liquidation proceedings are to be borne;
 - (f) to determine whether any person is a member or past member or nominee of a deceased member;
 - (g) to give such directions in regard to the collection and distribution of the assets of co-operative as may appear to the liquidator to be necessary for winding up the affairs of such co-operative;
 - (h) to carry on the business of co-operative under winding up so far as may be found necessary and essential for the beneficial winding up of the same co-operative;
 - (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the co-operative may be rendered liable;
 - (j) to make any compromise or arrangement with any person between whom and the co-operative there exists any dispute and to refer any such dispute for decision;
 - (k) after consulting the members of the co-operative, to dispose of the surplus, if any, remaining after paying the claims against the co-operative, in such manner as may be prescribed;
 - (l) 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 alleged to be subsisting between the co-operative and a contributory or other debtor or person apprehending liability to the co-operative and all questions in any way relating to or affecting the assets or the winding up of the co-operative 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;
 - (m) to sell the immovable and movable property and actionable claims of the co-operative 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 parts.
- (2) As and when the affairs of a co-operative have been wound up, the liquidator shall make a report to the Registrar and deposit the records of such co-operative in such place as directed by Registrar.

114. Disposal of surplus Assets:

The surplus assets, if any, shown by the liquidator of a co-operative which is wound up:

- (a) may be utilized by the Registrar for purposes specified in its bye-laws;
- (b) if the byelaws do not specify the said purpose, the surplus may be divided by Registrar amongst its members in such manner as he prescribed.

115. Priority of contributions assessed by the liquidator:

The contribution assessed by a liquidator shall rank next to debts due to central or state government or local authority in accordance with the order of priority in insolvency proceedings.

116. Cancellation of registration of co-operative:

- (1) The Registrar, after considering the report of the liquidator submitted to him under Section 113(2), may order the cancellation of registration of the co-operative which is wound up and such co-operative, on cancellation of its registration, shall stand dissolved.
- (2) An order of cancellation of registration of wound up co-operative referred under sub-section (1) shall be communicated to its chairman or president as the case may be including the financial institutions.

CHAPTER XIII APPEAL AND REVIEW

117. Right to appeal:

- (1) Subject to the provisions of this Act in general and section 118 in particular, an appeal to the next higher authority shall lie against:
 - (a) An order passed by the Registrar:
 - (i) refusing to register a co-operative under Section 10(3);
 - (ii) refusing to register an amendment of byelaws of a co-operative under Section 17(6);
 - (iii) apportioning the cost of inquiry and inspection made under section 93 (1);
 - (iv) directing the supersession of a co-operative under section 64;
 - (v) directing the repayment of cost after conducting surcharge proceedings under section 95;
 - (vi) directing the winding up of a co-operative under section 110;
 - (b) a decision of a co-operative refusing or deemed to be refusing to admit any person as a member of the co-operative under sections 26(5) and 29 who is otherwise qualified to become a member of a co-operative as per law.
- (2) An appeal against any decision taken or direction issued or order made under sub section (1) shall be preferred within sixty days from the date of such decisions taken or direction issued or orders made to the appropriate authority.
- (3) The appellate authority may admit the appeal even after the expiry of sixty days referred under sub-section (2) if the appellants show or provide sufficient reasons or causes for not preferring the appeal within the specified period of sixty days.
- (4) The appellate authority may, after giving the parties to the appeal a reasonable opportunity of making their representation, pass such an order as deemed fit.
- (5) The decision or order of the appellate authority on appeal shall be final and binding on all concerned.
- (6) The orders passed or directions issued or decisions made as specified under sub section (1) by concerned authority shall become final and binding if appeal is not preferred within the stipulated period of sixty days.

118. No right to appeal in certain cases:

Whereas a co-operative bank, with the previous sanction of Reserve Bank of India is being wound up or a scheme of amalgamation or reorganisation in respect of such co-operative bank is given effect

under chapter XIII of this Act, no appeal against it shall lie or be permissible and the sanction or approval of Reserve Bank of India shall not be called in question before any court of law.

119. Review:

- (1) The appellate authority referred to under Section 117 may, based on an application made by either of the party, review its own order, direction or decision provided, there has been a discovery of new and important facts or matter or evidence after the order has been passed or decision has been taken or direction has been issued or there has been some mistake or error, apparent on the face of the record or for any other reason, the appellate authority, may entertain such an application referred earlier and pass such other order as deemed fit, but only after providing a reasonable opportunity of being heard to all concerned or affected parties.
- (2) An application for review under Sub-Section (1) shall be made within thirty days from the date of communication of the order passed or directions issued or decisions made of the appellate authority sought to be reviewed.

**CHAPTER-XIV
CO-OPERATIVE BANKS**

120. Interpretation:

- (1) The co-operative bank, for the purpose of this chapter means a co-operative bank registered under any one of the following Acts.
 - (a) The Credit Co-operative Societies Act, 1912;
 - (b) The Co-operative Societies Act, 1912;
 - (c) The Multi Unit Co-operative Societies Act, 1942;
 - (d) Assam Co-operative Societies Act, 1949;
 - (e) The Multi State Co-operative Societies Act, 1984 or 2002;
 - (f) The Mizoram Co-operative Societies Act, 1991;
 - (g) any other co-operative societies Act.
- (2) A bank which obtained a licence from Reserve Bank of India for the purpose of carrying out the business of banking defined under S.5 (b) of the Banking Regulation Act 1949.
- (3) A bank registered as an insured bank with deposit insurance corporation created under Deposit Insurance and Credit Guarantee Corporation Act, 1969.

Explanation: A bank in order to be called a co-operative bank under sub-section (3) must fulfill the requirements stipulated under sub-section (1) and (2).

121. Qualification for a member to exercise the right to vote in the election of any committee:

A person who remained as a member of a co-operative bank for the whole financial year preceeding the financial year in which the election is held and continuing as a member at the time of election and promises to continue as a member in future as well, is eligible to exercise the right to vote at any election of a member of committee held in that year.

122. Qualification and disqualification for being a committee member of a co-operative bank:

- (1) No person shall be eligible to contest the election or chosen as a committee member of a co-operative bank :
 - (a) unless he is a member of the co-operative bank for a minimum continuous period of three years;
 - (b) unless he has maintained a minimum deposit balance of rupees two thousand on an average every day for a minimum continuous period of three years and continues to maintain such deposit even after three years;
 - (c) if the cooperative he represents is cancelled.

- (2) Any person failed to or ceased to possess any of the minimum qualifications prescribed under Clause (a) and (b) of sub-section (1) shall be disqualified from becoming a committee member.
- (3) In addition, a person shall be disqualified from becoming a committee member:
 - (a) If such person has made default in the repayment of any loan taken from any co-operative bank or other co-operatives;
 - (b) if a company in which the person or any member of his family has any interest, has made default in repayment of any loan taken from any co-operative bank or other co-operatives after the date when repayment of the loan has become due.
- (4) A committee member of a co-operative bank shall cease to hold office, if at any time during the term of office he becomes disqualified for being a member by reason of provisions of sub-section (2).
- (5) If any question arises as to whether a committee member has ceased to hold office under sub-section (3), the Registrar may, after giving an opportunity to the committee member of being heard, determine the question and where the Registrar determine that the committee member has ceased to hold office, may remove such member by passing an appropriate order.

123. Essential duties and functions of a management committee of co-operative bank:

It shall be the duties and functions of management committee of a co-operative bank to ensure that:

- (a) information containing the details of loans taken from co-operative bank by each committee member, members of the family and companies with which such member is associated in any manner, is furnished regularly and periodically once in three months to the Registrar or his subordinate officers specified if any, and the same information is also placed before the management committee and annual general body meetings;
- (b) the defects and deficiency, if any, in the working of co-operative bank and financial irregularities disclosed in the course of audit, inspection or inquiry of the co-operative bank are rectified or remedied as the case may be at the earliest possible;
- (c) appropriate action to recover loans and advances given by the co-operative bank to members and non-member borrowers are taken within six months from the date when the repayment of loan has become due, failing which a no confidence motion shall lie against all members of present management committee;
- (d) no financial loss is caused to the co-operative bank and debts due to the co-operative bank are fully recovered without showing any leniency or negligence;
- (e) appropriate civil and criminal proceedings against persons who has misappropriated funds of the bank are initiated timely;
- (f) the provisions of Banking Regulation Act, 1949 as applicable to co-operative societies are complied with and contravention of any provisions of the said Act. of 1949 so observed shall be reported to the Registrar immediately.

124. Establishment of co-operative credit equalization fund:

- (1) Every co-operative bank coming under the purview of Section 120 shall establish a fund to be called 'Credit Equalization Fund' of concerned co-operative bank consisting of payments made in to it as provided or specified under sub-section 2 or 3 or both.
- (2) The state government, with or without the contribution made by central government may, contribute a one time lump sum contribution to the 'credit equalization fund' as referred under sub-section (1) of such co-operative banks whose financial conditions are precarious, hence in need of government contribution at such rate as may be determined by the government.
- (3) Every co-operative bank after providing for reserve fund, dividend, education fund and contribution for public purpose shall set aside a sum of not less than 15% of its profit and transfer it into the said co-operative 'credit equalization fund'.
- (4) The co-operative 'credit equalization fund' shall be maintained as per the rules to be framed by the Registrar in consultation with state co-operative bank, district central co-operative banks

as and when formed and urban co-operative banks with the previous approval of Reserve Bank of India.

- (5) For the purpose of sub-section (4), the failure or refusal to reply within the period specified therein by state co-operative bank, district central co-operative bank as and when formed, urban co-operative banks and Reserve Bank of India shall be deemed to have consented to the rules framed by Registrar and come into force on the expiry of such date specified therein.
- (6) In cases where the co-operative bank ceases to function, the amount of the said fund shall be paid to the depositors as the Registrar may determine in consultation with the Reserve Bank of India and general body Meeting of such co-operative bank.

125. Offences and punishments and cognizance of offences:

- (1) It shall be an offence if the managing committee of the co-operative bank fails to comply with any of the provisions of section 123.
- (2) Where an offence under this section has been committed by a management committee or any other committee of a co-operative bank, every person who at the time the offence was committed was a member of such committee shall be deemed to be guilty of the offence and be liable to be proceeded against and punished accordingly.
- (3) If any such member of a management committee or any other committee of a co-operative bank proves beyond doubt that the offence was committed without his knowledge or that he has exercised all due diligence and care to prevent the commission of such offence, such member may not be held liable for any punishment as provided under this section.
- (4) Every committee member who is found or deemed to be guilty of any offence under sub-section (1) and (2) shall on conviction be punished as under:
if it is an offence for failure to comply with the provisions of sub-section (a) to (f) of Section 123, the member shall be punished with imprisonment for a term which may extend up to one year or with fine which may extend to Rs. One lakh or with both.
- (5) Whoever after having been convicted of an offence under sub-section (4) for failure to comply with the provisions of sub-section (a) of section 123 is again convicted there under on every such subsequent conviction and be punishable with fine which may extend up to Rs.50,000/-.
- (6) Whoever after having been convicted of an offence under sub-section (4) for failure to comply with the provisions of sub-section (c) of Section 123 continues to commit such offence shall be punished @ Rupees 1000 for each day during which period the offence was continued.
- (7) No court inferior to that of metropolitan magistrate or the first class magistrate court shall have the jurisdiction to try an offence under this chapter.
- (8) Without prejudice to the interest of either of the parties, the metropolitan magistrate or the first class magistrate shall have discretionary power to award sentence of imprisonment or fine on any person in excess of his powers conferred under the Code of Criminal Procedure (Section .29).
- (9) It is, however, not lawful to lodge a complaint under this chapter without the previous sanction of Registrar.

126. Chapter to have overriding effect on other provisions of this Act : The Provisions of this chapter shall have overriding effect on any of the provision of this Act or Rules made thereunder or byelaws, in regards to Co-operative Banks.

127. Winding up order, supersession of the committee, amalgamation or division of the co-operative bank not to be made without the sanction or requisition of Reserve Bank of India:

- (1) No co-operative bank shall be divided into more than one, or one or more co-operative bank be amalgamated into one or superceded or wound up as the case may be, without the previous sanction or approval in writing of the Reserve Bank of India.

- (2) The Reserve Bank of India is equally empowered to, in the interest of public or for preventing the affairs of a co-operative bank from being conducted in a manner detrimental to the interest of depositors or for securing proper management of the co-operative bank, direct the Registrar to divide a co-operative bank into more than one or amalgamate more than one co-operative bank into one or supersede the management committee of a co-operative bank or wind up the affairs of the co-operative bank as the case may be. Any such direction issued by the Reserve Bank of India shall be binding upon the Registrar who shall execute such direction immediately, failing which disciplinary proceedings shall automatically lie against the Registrar or concerned officer responsible for not giving effect into the request or direction of Reserve Bank of India.
- (3) The order of division, amalgamation, supersession or winding up passed by the Registrar with the previous approval or sanction or consent in writing or deemed approval or sanction or consent of Reserve Bank of India shall not be called in question in any manner before any court of law.
- (4) The management of the co-operative bank, the liquidator or trustee of the bank shall be under legal obligation to pay the required deposit insurance fee to the Deposit Insurance Corporation established under Deposit Insurance and Credit Guarantee Corporation Act, 1961 as provided under section 21 of the Act.

128. Guarantee by state government:

It shall be lawful for the co-operative bank to honour the guarantee provided by government towards the principal amount or interest or both on the loans and advances sanctioned by the co-operative bank subject to the maximum amount as may be fixed by the government on such terms and conditions as it may deem fit. It shall, however, be the endeavour of the state government to gradually withdraw from providing any guarantee to co-operative banks in the years to come which period may be decided by the government, in any case such period shall not exceed ten years from the date of enactment of this Act.

129. Duties and responsibilities of Board of Directors of Co-operative Bank:

- (1) The member of Board of Directors of a Co-operative Bank shall-
 - (a) attend board meetings of management committee of a co-operative bank regularly with due diligence, care, caution, precision and work effectively in true spirit of cooperation;
 - (b) as soon as after being elected, shall gain familiarities with the broad objectives of concerned co-operative bank, the policy laid down by government, Registrar and Reserve Bank of India;
 - (c) work as a team and not sponsor or be prejudiced against any individual proposals;
 - (d) pay added attention on the following aspects and working of co-operative bank:
 - (i) that the loans and advances to board of directors and their relatives are made in conformity with guidelines and directions issued by concerned bank and Reserve Bank of India;
 - (ii) that the loan recoveries are promptly made and overdues reduced to minimum level;
 - (e) discourage individual officers or employees of co-operative bank upon approaching him in any manner;
 - (f) maintain secrecy on all bank related matters and ensure confidentiality of banks' internal management and functions;
 - (g) work in furtherance that the funds of co-operative bank are utilized in proper and judicious manner for the benefit of all members strictly in accordance with the guidelines, instructions and directions issued by Registrar and Reserve Bank of India from time to time;
 - (h) avoid extension of protection to defaulters by making recommendation for postponement or reschedulement of loan repayment;

- (i) ensure maintenance of cash reserve ratio and statutory liquidity ratio as per directions issued by Reserve Bank of India from time to time.
- (2) Every board of Director shall not –
 - (a) involve or interfere himself in matters relating to:
 - (i) personnel administration, be it an appointment, transfer, posting, promotion, demotion or redressal of individual grievances of employees,
 - (ii) the routine or every day to day business and management functioning of co-operative bank;
 - (b) send any instruction or give direction to any individual officer or employee of the co-operative bank in any manner;
 - (c) reveal any information relating to any constituent of the co-operative bank to any one as he is under an oath of secrecy and fidelity;
 - (d) participate in the discussion in any proposal in which he has direct or indirect interest when such proposal comes up for discussion;
 - (e) call for any papers or files or notes either directly or indirectly for scrutiny in respect of agenda items to be discussed in meetings;
 - (f) sponsor any loan proposal, building and sites for bank premises or recommend individual names for enlistment or empanelment of auditors, contractors, architects, and lawyers.

CHAPTER- XV INSURED COOPERATIVE BANKS

130. Notwithstanding anything contained in this Act, "eligible cooperative bank" means a Co-operative Bank the law for the time being governing which provides that:-

- (i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction, of the bank may be made only with the previous sanction in writing of the Reserve Bank.
- (ii) an order for the winding up of the bank shall be made if so required by the Reserve Bank in the circumstances referred to in section 13D of the Deposit Insurance & Credit Guarantee Corporation Act, 1961;
- (iii) if so required by the Reserve Bank in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefor for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank;
- (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 or an order for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefor made with the previous sanction in writing or on the requisition of the Reserve Bank shall not be liable to be called in question in any manner; and
- (v) the liquidator or the insured bank or the transferee bank, as the case may be, shall be under an obligation to repay the Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance & Credit Guarantee Corporation Act, 1961.

CHAPTER- XVI MISCELLANEOUS PROVISIONS

131. Acts not to apply:

The provisions of following Acts shall not apply to the co-operatives registered under Mizoram Co-operative Societies Act, 2006:

- (a) the Companies Act, 1956;
- (b) the Monopolies and Restrictive Trade Practices Act, 1969 and the Competition Act, 2002;
- (c) the Industrial Disputes Act, 1947;
- (d) any other Act notified by government from time to time.

132. Power to make Rules:

- (1) The government shall have power to make necessary rules to carry out various provisions of this Act.
- (2) Every rule made by government under sub-section (1) shall be laid before the state legislature while it is in session. When the state assembly is not in session and if the government is of the opinion that certain rules have to be framed and put into use immediately in public interest, the government may do so. However, the same shall be laid before the state legislature immediately on its ensuing assembly within thirty days for suggestions and modifications, if any, by the legislature and the rules deemed to have been modified to the extent of suggestions and modifications made by the legislature

133. Power to remove difficulties:

- (1) If any difficulty arises in giving effect to the provisions of this Act, the government may, by order published in the official gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.
- (2) Every order made under this section shall be laid, as soon as it may be, before the state legislature.

134. Repeal and saving:

- (1) The Mizoram Co-operative Societies Act, 1991 (Act 19 of 1991) is hereby repealed.
- (2) All the notifications, rules, orders, requirement, registration, certificate, notice, decision, direction, approval, authorization, consent, application, request or things made, issued, given under the Mizoram Co-operative Societies Act, 1991 (Act 19 of 1991) in force at the commencement of this Act shall continue to be in force and have effects as if made, issued, given or done under the corresponding provisions of this Act.
- (3) Every co-operative existed immediately before the commencement of this Act which has been registered under the Mizoram Co-operative Societies Act, 1991 (Act 19 of 1991) or under any other Act relating to co-operatives in force from time to time shall be deemed to be registered under the corresponding provisions of this Act and the byelaws of such co-operative shall, in so far as they are not inconsistent with the provisions of this Act or rules framed under this Act continue to be in force until altered or rescinded.
- (4) All appointments, rules and orders made, all notifications and notices issued and all suits and other legal proceedings instituted under any of the Acts referred to in sub-section (1) shall in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act.
- (5) The provisions of this Act shall also apply to:
 - (a) any application for registration of a co-operative;
 - (b) any application for registration of amendment of byelaws of a co-operative;
 - (c) any proposal for amalgamation or division of co-operatives pending at the commencement of this Act and the proceedings consequent thereon and to any registration granted in pursuance thereof.
- (6) Save as otherwise provided under this Act, any legal proceedings pending in any court or before the Registrar or government or any other authority at the commencement of this Act shall be continued to be in that court or before the Registrar or any other authority for final decision as if this Act had not been passed.

135. Indemnity for action taken in good faith:

No suit, prosecution or other legal proceedings, but subject to sub section (2) of section 127 shall lie against the Registrar, any person subordinate to him or other persons or authority acting on his authority or against any other person, in respect of anything done in good faith or purporting to have been done in good faith under this Act.

136. Prior notice necessary before filing suits against any co-operative or its officers:

No suit shall be instituted against any co-operative or any of its officers or employees in respect of any act touching the constitution, management, business of election or conduct of general meetings of any co-operative until the expiry of ninety days 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.

137. Registrar, liquidator, auditor, arbitrator and other officers to be public servant:

The Registrar, or persons exercising the power of Registrar, liquidator, arbitrator, administrator or any other person or authority authorized to exercise power under this Act and rules framed thereunder shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

138. Enabling provision for different type of co-operatives:

In order to facilitate autonomous or appropriate formation, constitution, management and conduct of business for different type or sector co-operatives, special legal provisions may be enacted and provided for as a separate chapter in this Act.

SCHEDULE "A"
(See Section 104)

Cooperative Demand Certificate granted under Section 104 of the Mizoram Cooperative Societies Act, 2006.

(To be realised as an arrear of land revenue by the authority within whose jurisdiction the judgement debtor's property is situated)

Case No. of
District/Sub-Division

In the matter of
versus
.....

Whereas as a result of my enquiry under section 91 of the Mizoram Cooperative Societies Act, 2006. I decide that a sum of Rs (Rupees)
by way of Principal and a sum of Rs (Rupees)
by way of interest is/are due from you and you have not paid;

Whereas has made a reference in writing to me complaining/determining that a sum of Rs. (Rupees)
by way of principal under section 97 of the Mizoram Cooperative Societies Act, 2006 and a sum of Rs (Rupees)
by way of interest is/are due from you and you have evaded payment of the same and whereas a notice of demand calling on you to pay the dues within the specified time was served with notice to show cause;

And whereas you have not paid up your dues specifies in the notice;

And whereas you have not submitted explanation/your explanation is unsatisfactory;

Now, therefore, I, under authority of section 91 of the Mizoram Cooperative Societies Act, 2006 as amended/section 104 of the Mizoram Cooperative Societies Act, 2006 as amended do hereby order that the above mentioned sum of Rs. (Rupees)
is due to the above name from you and that you will pay further interest on the principal sum at the rate of per cent per annum from together with all costs till the date of realisation
I further order that right, title and interest of in the properties set out and described in the schedule below be sold as an arrear of land revenue under the provisions of the Mizoram (Land and Revenue) Act, 1956 as amended and section 106 of the Mizoram Cooperative Societies Act, 2006 and that, if the sale proceeds should be found insufficient to discharge the dues with subsequent interest at the above rate till the date of realisation and costs in full, the balance be realised by attachment and sale of other movable and immovable properties of the judgement debtor as an arrear of land revenue.

Further take notice that if you fail to pay the amount as ordered above within a period of **thirty days** from the date of service of the Certificate, you shall also be liable to prosecution under sub-section (2) of section 107 of the Mizoram Cooperative Societies Act, 2006 in addition to other measures for recovery of the amount payable by you.

SCHEDULE:

- 1.
- 2.
- 3.

Registrar	Arbitrator
Cooperative Societies	Arbitration Court
Mizoram	Cooperation Department
	Aizawl

Dated Aizawl.

The

N.B. The irrelevant words/portions may be struck off and relevant entries may be made where necessary.

Sd/-
P. Chakraborty,
Secretary,
Govt. of Mizoram,
Law & Judicial Department.