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THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES
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ACT 21 OF 1969

THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969

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ACT 21 OF 1969

THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969

An Act to consolidate, amend and unify the laws relating to co-operative societies in the State of Kerala.

Preamble.—WHEREAS with a view to providing for the orderly development of the co-operative movement in the State of Kerala in accordance with the relevant directive principles of State policy enunciated in the Constitution of India, it is expedient to consolidate, amend and unify the law relating to co-operative societies in that State;

BE it enacted in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Co-operative Societies Act, 1969.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "apex society" means a society having the whole of the State as its area of operation and having as its members only other societies with similar objects and declared as such by the Registrar;

(b) "bye-laws" means the registered bye-laws of a co-operative society for the time being in force;

(c) "circle co-operative union" means a circle co-operative union constituted under section 88;

(d) "central society" means a society to which moneys from the Principal State Partnership Fund established under section 44 are provided to enable that society to purchase shares in other societies with limited liability;

(e) "committee" means the governing body of a co-operative society by whatever name called, to which the management of the affairs of the society is entrusted;

(f) "co-operative society" or "society" means a co-operative society registered or deemed to be registered under this Act;

(g) "co-operative society with limited liability" means a society in which the liability of its members for the debts of the society in the event of its being wound up is limited by its bye-laws—

(i) to the amount, if any, unpaid on the shares respectively held by them; or

(ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;

(h) "co-operative society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

(i) "dispute" means any matter touching the business, constitution, establishments or management of a society capable of being the subject of litigation and includes a claim in respect of any sum payable to or by a society, whether such claim be admitted or not;

(j) "financing bank" means a co-operative society having as its members only other co-operative societies and the main object of which is to raise money and lend the same to its members;

(k) "general body meeting" means a meeting of the members who are entitled to vote in the affairs of the society;

(l) "member" means a person joining in the application for the registration of a co-operative society or a person admitted to membership after such registration in accordance

with this Act, the rules and the bye-laws, and includes a nominal or associate member;

(m) "nominal or associate member" means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the bye-laws;

(n) "officer" means the president, vice-president, chairman, vice-chairman, secretary, manager, member of committee or treasurer and includes a liquidator, administrator and any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "Registrar" means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom all or any of the powers of the Registrar under this Act are conferred;

(q) "rules" means the rules made under this Act;

(r) "State" means the State of Kerala;

(s) "State Co-operative Union" means the State Co-operative Union established under section 89;

(t) "Tribunal" means the Tribunal constituted under section 81;

(u) "year" means the period commencing on the first day of July of any year and ending with 30th of June of the succeeding year or in the case of any registered society or class of registered societies, the accounts of which are made upto any other date with the previous sanction of the Registrar, the year ending with such date.

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES

3. *Registrar.*—(1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State.

(2) The Government may by general or special order confer on any person all or any of the powers of the Registrar under this Act.

4. *Societies which may be registered.*—Subject to the provisions of this Act, a co-operative society which has as its object the promotion of the economic interests of its members or of the interests of the public in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act.

5. *Registration with limited liability only.*—(1) A co-operative society shall be registered only with limited liability:

Provided that this sub-section will not affect the rights and liabilities of societies with unlimited liability which are in existence at the time of commencement of this Act.

(2) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a society registered under this Act with limited liability.

6. *Application for registration of co-operative societies.*—(1) An application for the registration of a co-operative society shall be made to the Registrar in such form as may be prescribed and the applicant shall furnish to him such information about the society as he may require.

(2) Every such application shall conform to the following requirements, namely:—

(a) the application shall be accompanied by three copies of the proposed bye-laws of the society;

(b) where all the applicants are individuals, the number of applicants shall not be less than twenty-five, each of such persons being a member of a different family.

Explanation.—For the purposes of this clause, the expression "member of a family" means wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister and wife of brother or half-brother;

(c) the application shall be signed by every one of the applicants who is an individual and by a person duly authorised on behalf of the Government or any society or other body of persons which is an applicant.

7. *Registration.*—(1) If the Registrar is satisfied—

(a) that the application complies with the provisions of this Act and the rules;

(b) that the objects of the proposed society are in accordance with section 4;

(c) that the area of operation of the proposed society and the area of operation of another society of similar type do not overlap;

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and

(e) that the proposed society complies with the requirements of sound business,

he may register the society and its bye-laws.

(2) Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefor within seven days of such order to such of the applicants as may be prescribed.

(3) An application for registration of a society shall be disposed of by the Registrar within three months from the date of receipt of the application.

8. *Registration certificate.*—Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

9. *Co-operative societies to be bodies corporate.*—The registration of a society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

10. *Change of name of society.*—(1) A society may, by an amendment of its bye-laws, change its name.

(2) Where a society changes its name, the Registrar shall enter the new name in the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a society shall not affect any rights or obligations of the society or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

11. *Change of liability.*—(1) Subject to the provisions of this Act and the rules, a society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member or creditor shall, during a period of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have given his assent to the change.

(4) An amendment of the bye-laws of a society changing the form or extent of its liability shall not be registered or take effect until either—

(a) the assent thereto of all members and creditors has been given or deemed to have been given; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. *Amendment of bye-laws of a society.*—(1) No amendment of any bye-law of a society shall be valid unless such amendment has been registered under this Act.

(2) The provisions of section 7 specifying the conditions to be satisfied before registration of the bye-laws of a society by the Registrar shall, *mutatis mutandis,* apply also to the registration of amendments to bye-laws:

Provided that the Registrar shall before registering an amendment of any bye-law consult—

(a) the State Co-operative Union if the bye-laws to be amended are that of an apex society or a central society; or

(b) the circle co-operative union if the bye-laws that are to be amended are that of any other society; and

(c) the financing bank if the society is indebted to the financing bank.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate of registration signed and sealed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with the reasons therefor, within seven days of the order to the society.

(5) Notwithstanding anything contained in this Act or the rules or bye-laws, if the Registrar is satisfied that for the purpose of altering the area of operation of a registered society or for the purpose of improving the services rendered by it, an amendment of the bye-laws of a society is necessary or desirable, he may, after consulting the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order in writing, require the society to make the amendment within such time as may be specified in such order or within such further time as he may grant for the purpose.

(6) If within the time specified under sub-section (5), the society fails to make the amendment, as required by the Registrar or with such further changes as he may agree to, the Registrar may, after giving the society an opportunity for making its representations, register the amendments as required or agreed to by him and issue to the society a copy of such amendments together with a certificate of registration signed and sealed by him, and thereupon such amendment shall be binding on the society and its members.

(7) The provisions of sub-section (4) of section 11 shall not apply when action is taken under sub-sections (5) and (6) of this section.

13. *When amendments of bye-laws come into force.*—An amendment of the bye-laws of a society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. *Amalgamation, transfer of assets and liabilities and division of societies.*—(1) A society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of the society,—

(a) transfer its assets and liabilities in whole or in part to any other society;

(b) divide itself into two or more societies.

(2) Any two or more societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of each such society, amalgamate themselves and form a new society.

(3) The resolution of a society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) When a society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, nothwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member or creditor shall, within a period of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have given his assent to the proposals contained in the resolution.

(6) A resolution passed by a society under this section shall not take effect until either—

(a) the assent thereto of all the members and creditors has been given or deemed to have been given; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

(7) Where a resolution passed by a society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

(8) (i) Where, in the opinion of the Registrar, the amalgamation of two or more societies is necessary or desirable for increasing their strength or usefulness, he may, after consulting, in the manner prescribed, the financing bank to which the societies are affiliated and the circle co-operative union, call upon such societies to amalgamate within such time as may be specified by him into one society in accordance with the provisions of sub-sections (2) to (7).

(ii) If the societies fail to amalgamate into one society within the time specified by the Registrar, he may, after giving an opportunity to the committee of each of the societies to state its objections, if any, direct the amalgamation of the societies into one society.

(iii) Every society so directed shall, within one month of the receipt of the Registrar's direction, give notice of the direction to all its members and creditors.

(iv) (a) Any member of any of the societies so directed may, notwithstanding the provisions of section 24 or any bye-law to the contrary, by notice given to the society of which he is a member, within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of the new society and shall have the option of withdrawing his shares, deposits or loans, as the case may be.

(b) Any creditor of any of the societies so directed may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor, within a period of two months from the date of receipt by him of the direction, demand a return of the amount due to him.

(v) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the amalgamation.

(vi) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clause (iv) by the societies directed to be amalgamated or after a majority of the members and creditors of such societies have given their assent to the amalgamation, the Registrar may register the new society. On such registration, the registration of the old societies shall be deemed to have been cancelled. The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

(9) (i) Where, in the opinion of the Registrar it is desirable for increasing the usefulness of a society by restricting the area of its operation, he may, after consulting, in the manner prescribed, the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order call upon the society to divide itself into two or more societies within such time as may be specified in the order in accordance with the provisions of sub-sections (2) to (7).

(ii) If the society fails to divide itself within the time specified by the Registrar, he may, after giving an opportunity to the committee of the society to state its objections, if any, by order direct the division of the society into two or more societies. The order of the Registrar shall contain directions for the division of the assets and liabilities of the society among the new societies into which it is directed to be divided and may specify the area of operation of, and the members who will constitute, each of the new societies. The proposed bye-laws of the new societies shall be annexed to the order.

(iii) The society shall, within one month of the receipt of the order of the Registrar, give notice of the direction to all its members and creditors.

(iv) Any member of the society may, notwithstanding the provisions of section 24 or any bye-law to the contrary, by notice given to the society within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of any of the new societies and shall have the option of withdrawing his shares, deposits or loans, as the case may be.

(v) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the period referred to in clause (iv), demand a return of the amount due to him.

(vi) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the division in the manner specified in the order of the Registrar under clause (ii).

(vii) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clauses (iv) and (v) by the society directed to be divided or after a majority of the members and creditors of the society have given their assent to the division, the Registrar may register the new societies. On such registration, the registration of the old society shall be deemed to have been cancelled. The registration of the new societies shall be sufficient conveyance to vest in the new societies all the assets and liabilities of the old society in the manner specified in the order of the Registrar under clause (ii).

15. *Cancellation of registration certificates of societies in certain cases.*—(1) Where the whole of the assets and liabilities of a society are transferred to another society in accordance with the provisions of section 14, the registration of the first mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more societies are amalgamated into a new society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each amalgamating society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a society is divided into two or more societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. *Persons who may become members.*—(1) No person shall be admitted as a member of a society except the following, namely:—

(a) an individual—

(i) who has attained the age of eighteen years:

Provided that this sub-clause shall not apply in the case of a society formed exclusively for the benefit of the students of any school or college;

(ii) who is not of unsound mind;

(iii) who is a resident within, or is in occupation of land in, the area of operation of the society;

(b) any other society;

(c) the Government; and

(d) any body of persons, whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order:

Provided that in a society formed for the promotion of the economic interests of its members through a specified activity no person other than one who is likely to be benefited directly by such activity may be admitted as a member of such society unless such admission is permitted specifically by rules:

Provided further that where a society is formed exclusively for the benefit of persons engaged in any particular industry, no person who is not an actual worker in the industry shall be admitted in excess of such percentage of the total membership of the society as may be prescribed:

Provided also that the Coffee Board, the Rubber Board and any other statutory or non-statutory Board, Committee or Corporation constituted for the purpose of the development of an industry, may be admitted as a member of a society engaged in marketing and processing of the products of the industry concerned and formed for the workers and growers of such industry, so however that no such Board, Committee or Corporation shall be admitted as a member of a co-operative credit society.

(2) Membership in any society other than a society formed for the benefit of the Scheduled Castes or the Scheduled Tribes shall not be refused merely on the ground that a person belongs or does not belong to a particular religion, race, community, caste, sect or denomination. A decision on an application for membership shall be taken within two months from the date of receipt of the application.

(3) Where a person is refused admission as a member in a society, the decision refusing admission together with the reasons therefor shall be communicated by the society to that person within a period of fifteen days from the date of the decision.

17. *Expulsion of members.*—(1) Any member of a society, who has acted adversely to the interests of the society, may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of members present and voting at the meeting.

(2) No member shall be expelled under sub-section (1) without being given an opportunity of making his representation.

(3) A copy of the resolution expelling a member shall be communicated to the member within a period of fifteen days from the date of passing of the resolution.

18. *Nominal or associate members.*—(1) A society may admit any individual as a nominal or associate member.

(2) A nominal or associate member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society or to be elected to the committee of a society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

19. *Member not to exercise rights till due payment made.*—No member of a society shall exercise the rights of a member unless he has made such payments to the society in respect of membership or has acquired such interest in the society, as may be prescribed by the rules or the bye-laws.

20. *Votes of members.*—Every member of a society shall have one vote in the affairs of the society:

Provided that—

(a) a nominal or associate member shall not have the right to vote;

(b) where the Government is a member of the society, each person nominated by the Government on the committee of the society shall have one vote except when the right to vote is to be exercised for election of office-bearers of the society;

(c) in the case of an equality of votes, the chairman shall have and exercise a second or casting vote.

21. *Manner of exercising vote.*—(1) Every member of a society shall exercise his vote in person.

(2) Notwithstanding anything contained in sub-section (1), a society or corporation or a statutory or non-statutory Board, Committee or other body of persons which is a member of

another society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

22. *Restrictions on holding of shares.*—In any society no member other than the Government, any statutory or non-statutory Board, Committee or Corporation approved by the Government in this behalf or any other society, shall—

(a) hold more than such portion of the total share capital of the society, not exceeding one-fifth thereof, as may be prescribed; or

(b) have or claim any interest in the shares of the society exceeding five thousand rupees:

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

23. *Restrictions on transfer of shares or interest.*—(1) The transfer of a share or interest of a member in the capital of a society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 22.

(2) No transfer by a member of his share or interest in a society shall be valid unless—

(a) the member has held such share or interest for not less than three years; and

(b) the transfer is approved by the committee of the society.

24. *Restriction on withdrawal of shares.*—Subject to the other provisions of this Act, no withdrawal by a member of his share in a society shall be valid unless—

(a) the member has held such share for not less than three years; and

(b) such withdrawal is in accordance with the bye-laws of the society.

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

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

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

(2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules or the bye-laws and the society shall pay the amount to the nominee, heir or legal representative, as the case may be, on receipt of such requisition.

(3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

26. *Liability of past member or of estate of deceased member.*—(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a society for the debts of the society as they existed—

(a) in the case of a past member, on the date on which he ceased to be a member;

(b) in the case of a deceased member, on the date of his death,

shall continue for a period of two years from such date.

(2) Where a society is ordered to be wound up under section 71, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member, or death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

27. *Final authority in a society.*—(1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a society shall vest in the general body of its members:

Provided that nothing contained in this sub-section shall affect the exercise by the committee or any officer of a society of any power conferred on such committee or such officer by this Act or the rules or the bye-laws.

(2) Notwithstanding anything contained in sub-section (1), where the area of operation of a society is not less than such area as may be prescribed, or where the society consists of not less than such number of members as may be prescribed, the society may provide by an amendment of its bye-laws for the constitution of a smaller body consisting of such number of the members of the society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws except the power to conduct election of members of the committee, and any reference, by whatever form of words, in this Act to the general body or a meeting thereof shall, where a representative general body has been constituted under this sub-section, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be:

Provided that the representative general body shall not alter any provision in the bye-laws relating to its constitution or powers.

(3) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the bye-laws.

28. *Appointment of committee.*—(1) The general body of a society shall constitute a committee in accordance with the bye-laws and entrust the management of the affairs of the society to such committee:

Provided that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary; but the committee appointed under this proviso shall cease to function as soon as a committee has been constituted in accordance with the bye-laws:

Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the committee for such period as may be specified in the bye-laws.

(2) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for appointment as, or for being, a member of a committee—

(a) if he is a member of the committee of another society of the same type; or

(b) if he is a member of the committees of two or more societies of a different type or different types:

Provided that nothing contained in this sub-section shall be deemed to disqualify a person for election as, or for being, a delegate of a society.

(3) Nothing contained in clause (a) of sub-section (2) shall be deemed to disqualify a member of the committee of a society for appointment as, or for being, a member of the committee of the apex or central society of the same type:

Provided that no member of a committee shall be the president or chairman of more than one society of the same type.

(4) The members of a committee may be paid honorarium at such rates as may be prescribed.

29. *Annual general body meeting.*—(1) A general body meeting of a society shall be held once in a year for the purpose of—

(a) approval of the budget with reference to the programme of the activities of the society prepared by the committee for the ensuing year;

(b) election, if any, in the prescribed manner of the members of the committee other than nominated members;

(c) consideration of the audit report and the annual report;

(d) disposal of the net profit; and

(e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

(2) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society.

30. *Special general body meetings.*—(1) The committee of a society may, at any time, call a special general body meeting of the society and shall call such meeting within one month after receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed.

(2) If a special general body meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf shall have power to call such meeting and that meeting shall be deemed to be a meeting called by the committee.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Registrar or any person authorised by him in this behalf may, at any time, call a special general body meeting of the society in such manner and at such time and place within the area of its operation as he may direct and such meeting shall be deemed to be a meeting called by the committee.

(4) Notwithstanding anything contained in the bye-laws of a society, the Registrar or any person authorised by him in this behalf may, at any time, summon a meeting of the committee of the society and that meeting shall be deemed to be a meeting called in accordance with the bye-laws of the society and shall have power to transact all business which can be transacted at a meeting of the committee under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar or the person authorised.

(5) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society convened in accordance with the provisions of this section.

31. *Nominees of Government on committee of a society.*—(1) Where the Government—

(a) have subscribed to the share capital of a society; or

(b) have assisted indirectly in the formation or augmentation of the share capital of a society as provided in Chapter VI; or

(c) have guaranteed the repayment of principal and payment of interest on debentures issued by a society; or

(d) have guaranteed the repayment of principal and payment of interest on loans and advances to a society,

the Government or any authority specified by the Government in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of the society, whichever is less, to be members of the committee.

(2) A person nominated to the committee of a society under sub-section (1) shall hold office during the pleasure of the Government or the specified authority, as the case may be.

(3) A person nominated to the committee of a society under sub-section (1) shall not take part in the discussion of any no confidence motion or vote on any such motion.

32. *Supersession of Committee.*—(1) If the Registrar is satisfied that the committee of any society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interests of the society or wilfully disobeys or wilfully fails to comply with any lawful order or direction issued under this Act or the rules,

the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing remove the committee and—

(a) appoint a new committee consisting of not more than three members of the society in its place; or

(b) appoint one or more administrator or administrators who need not be a member or members of the society,

to manage the affairs of the society for a period not exceeding one year as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed two years.

(2) The Registrar shall consult the financing bank and circle co-operative union or State Co-operative Union as the case may be before passing an order under sub-section (1).

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) it shall not be necessary to give an opportunity to the committee to state its objections and to consult the Unions and financing banks, in cases where the Registrar is of the opinion that it is not reasonably practicable to do so, subject however to the condition that in such cases the period of supersession shall generally be for six months and in case a new committee cannot be constituted or enter upon office in accordance with the bye-laws of the society within the period of supersession the period may be extended for a further period not exceeding six months—

(a) in the case of a co-operative society only after consulting the circle co-operative union concerned: and

(b) in the case of an Apex Society or a Central Society only after consulting the State Co-operative Union.

(4) The committee or administrator or administrators so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(5) The committee or administrator or administrators shall, before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(6) Every order made by the Registrar under sub-section (1) shall be communicated to the circle co-operative union.

33. *Appointment of new committee or administrator on failure to constitute committee, etc.*—(1) Where the term of office of a committee has expired and a new committee has not been constituted, or where the Registrar is satisfied—(vide amendment by Act No. 38 of 19

(a) that a new committee cannot be constituted before the expiry of the term of office of the existing committee; or

(b) that a new committee is prevented from entering upon office, or a new committee fails to enter upon office, on the date on which the term of office of the existing committee expires,

the Registrar may, either *suo motu* or on the application of any member of the society, after consulting the circle co-operative union, appoint—

(i) a new committee consisting of not more than three members of the society; or

(ii) one or more administrator or administrators who need not be a member or members of the society, to manage the affairs of the society till a new committee enters upon office:

Provided that before making such order, the Registrar shall publish a notice on the notice board of the head office of the society inviting objections to the making of the order within a period specified in the notice and consider such objections:

Provided further that it shall not be necessary to publish such notice in cases where the Registrar is satisfied that it is not reasonably practicable to do so.

(2) The committee or administrator or administrators appointed under sub-section (1) shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(3) The committee or administrator or administrators shall arrange for the constitution of a new committee or for the entering upon office of the new committee, as the case may be.

34. *Securing possession of records, etc.*—(1) If the committee of a society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 32 or a new committee or administrator or administrators is or are appointed under section 33 or if the

society is ordered to be wound up under section 71 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to the new committee or administrator or administrators or the liquidator, as the case may be, or if an outgoing president or secretary who is the custodian of the records and property of a society refuses to hand over charge of the records and property of the society to his successor, the new committee or administrator or administrators or the liquidator or the president or secretary may with the previous sanction of the Registrar apply to the Magistrate within whose jurisdiction the society functions, for securing the records and properties of the society.

(2) On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorise any Police Officer, not below the rank of Sub-Inspector, to enter and search any place where the records and the property of the society are kept or are believed to be kept and to seize such records and property, and the records and property so seized shall be handed over to the new committee or administrator or administrators or the liquidator or the president or secretary, as the case may be.

(3) Where the Registrar or any other officer not below the rank of Assistant Registrar of Co-operative Societies authorised by him in this behalf in the course of audit, inspection, inquiry or supervision is of opinion that there is room to suspect gross negligence of duties, misappropriation or misuse of funds of the society or irregularity in recording proceedings or keeping accounts or books or is satisfied that the records, registers or the account-books of a society are likely to be tampered with or destroyed and the funds and property of a society are likely to be misappropriated or misapplied, he shall have power to take possession of any or all of the books, registers, securities or documents, cash in hand or account-books of the society and remove such seized records and property and to deal with them in any manner as may be directed by the Registrar.

(4) The Registrar or other officer seizing the records and property of a society under sub-section (3) shall prepare an inventory of the records and property seized in duplicate with his signature and require the officer, employee or member of the society from whose custody the records and property are seized to affix his signature in witness thereof and, if such officer or employee or member refuses to sign, then the Registrar or other officer seizing the records and property shall cause two or more persons to sign the inventory as witnesses to the correctness thereof. A copy of the inventory prepared under this

section shall be delivered to the officer, employee or member of the society from whose custody the records and property were seized.

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

35. *First charge of society on certain assets.*—(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past member or deceased member shall be a first charge—

(a) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the Society by such member; and

(b) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, supplied, or purchased in whole or in part out of any loan given, by the society, or on any article manufactured from raw materials so supplied or purchased.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from any loan granted by them after the grant of the loan by the society.

36. *Charge on land owned or held by members borrowing loans from certain societies.*—Notwithstanding anything contained in this Act or any other law for the time being in force,—

(i) a member who makes an application for a loan to a society of which the majority of the members are agriculturists shall, if he owns any land or holds any land as a tenant entitled to fixity of tenure, make a declaration in the prescribed form, which shall state that the applicant thereby creates a charge on the land owned by him or on his interest

in the land held by him as tenant and specified therein, for the payment of the amount of the loan which the society may make to the member on the application and future loans, if any, that may be made to him, from time to time, by the society together with interest on such loan or loans;

(ii) a declaration made under clause (i) may be varied or cancelled at any time by the member, with the previous written permission of the society in favour of which such charge has been created;

(iii) no member shall alienate the whole or any part of the land or his interest in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid to the society in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society:

Provided further that it shall be lawful to a member to mortgage such land or any part thereof in favour of the Government or a Land Mortgage Bank:

Provided also that if a part of the amount borrowed by a member is paid, the society with the approval of the financing bank to which it may be indebted may, on an application from the member, release from the charge created by the declaration made under clause (i) or varied under clause (ii) such part of the land or of the interest in land specified in the declaration as it may deem proper, with due regard to the security of the balance of the amount of loan outstanding from the member;

(iv) any alienation made in contravention of clause (iii) shall be null and void;

(v) subject to the claims of the Government in respect of basic tax or any money recoverable as land revenue and to the claims of the Government or the Land Mortgage Bank in respect of any money payable under a mortgage in favour of the Government or the Land Mortgage Bank and to the prior claims of any person in whose favour alienation of the land or interest in land specified in the declaration made under clause (i) or varied under clause (ii) has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society

on such land or interest for and to the extent of the dues owing by him on account of the loan;

(vi) a declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii) shall be sent by the society, by registered post, to the Sub Registrar having jurisdiction over the area in which the land is situate, and the Sub Registrar shall register such declaration or variation or cancellation or release and issue a copy thereof to the society;

(vii) any declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii), which has not been registered under clause (vi), shall be null and void.

Explanation.—In this section—

(a) "basic tax" means the tax imposed under the provisions of the Kerala Land Tax Act, 1961 (13 of 1961):

(b) "Land Mortgage Bank" means the Kerala Co-operative Central Land Mortgage Bank, Limited, or a primary mortgage bank as defined in the Kerala Co-operative Land Mortgage Banks Act, 1960 (1 of 1960).

37. *Deduction from salary to meet society's claim in certain cases.*—(1) Notwithstanding anything contained in any law for the time being in force, a member of a society may execute an agreement in favour of the society providing that his employer or the officer disbursing his salary or wages shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such an agreement, the employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) shall, if so required by the society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within seven days from the date of the deduction.

38. *Charges and set-off in respect of shares or interest of members in the capital of a society.*—A society shall have a charge upon the share or interest in the capital and on the

deposits of a member or past member or deceased member and on any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt or outstanding demand owing to the society and may set-off any sum credited or payable to a member, past member or the estate of a deceased member in or towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

39. *Shares or interest or reserve fund not liable to attachment.*—(1) Subject to the provisions of section 38, the share or interest of a member in the capital of a society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by him and a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

(2) The reserve fund of a society invested by such society in accordance with the provisions of section 57 shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

40. *Exemption from certain taxes, fees and duties.*—(1) The Government may, by notification in the Gazette, remit in respect of any class of societies—

(a) the stamp duty chargeable under the Kerala Stamp Act, 1959 (17 of 1959), in respect of any instrument executed by or on behalf of a society or by an officer or member thereof and relating to the business of such society, or any class of such instruments, or in respect of any award or order made under the Act, in cases where, but for such remission the society, officer or member, as the case may be, would be liable to pay such stamp duty;

(b) any fee payable under any law for the time being in force relating to the registration of documents or court fees.

(2) The Government may, by notification in the Gazette, exempt any class of societies from taxes on—

(a) agricultural income;

(b) sale or purchase of goods; and

(c) professions, trades, callings and employments.

41. *Exemption from compulsory registration of instruments.*—Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908), or sections 54 and 59 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), shall apply to—

(a) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) any endorsement upon or transfer of any debenture issued by any such society.

CHAPTER VI

STATE AID TO CO-OPERATIVE SOCIETIES

42. *Direct partnership of Government in societies.*—(1) The Government may subscribe directly to the share capital of a society with limited liability.

(2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to a dividend on the shares of any such society at a rate higher than that at which such dividend is payable to any other share-holder of the society.

43. *Indirect partnership of Government in societies.*—The Government may provide moneys to a society for the purchase of shares in other societies with limited liability.

44. *Principal State Partnership Fund.*—(1) An apex society which is provided with moneys by the Government under section 43 shall, with such moneys, establish a fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilise the Principal State Partnership Fund for the purpose of—

(a) directly purchasing shares in other societies with limited liability; or

(b) providing moneys to a central society to enable that society to purchase shares in other societies with limited liability (hereinafter in this Chapter referred to as primary societies); or

(c) making payments to the Government in accordance with the provisions of this Chapter,

and for no other purpose.

45. *Subsidiary State Partnership Fund.*—(1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilise the Subsidiary State Partnership Fund for the purpose of—

(a) purchasing shares in primary societies; or

(b) making payments to the apex society in accordance with the provisions of this Chapter,

and for no other purpose.

46. *Approval of Government for purchase of shares.*—No shares in a society shall be purchased from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund except with the previous approval in writing of the Government.

47. *Liability to be limited in respect of certain shares.*—Where any shares in a society are purchased by—

(a) the Government; or

(b) the apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be,

the liability in respect of such shares shall, in the event of the society being wound up, be limited to the amount paid in respect of such shares.

48. *Restrictions on amount of dividend.*—An apex society which has purchased shares in other societies from the moneys in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Partnership Fund shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share-holders of that society.

49. *Indemnity of apex and central societies.*—(1) If a society in which shares are purchased from the moneys in the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase; but the Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) If a society in which shares are purchased from the moneys in the Subsidiary State Partnership Fund is wound up or is dissolved, neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

50. *Disposal of share capital and dividend, etc.*—(1) All moneys received by an apex society in respect of shares of other societies purchased from the moneys in the Principal State Partnership Fund on redemption of such share or by way of dividends or otherwise shall be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that fund and then transferred to the apex society which shall credit them to the Principal State Partnership Fund.

(3) All moneys referred to in sub-section (1) or sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the Government.

(4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 43.

(5) Any amount to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund and the investments thereof shall not form part of the assets or liabilities of the apex society or central society, as the case may be. The balance sheet of any such society shall separately show the amounts to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund or the investments thereof, as the case may be.

51. *Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society.*—(1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the Government.

(2) If a central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be credited or paid, as the case may be, to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 44.

52. *Agreement by Government and apex societies.*—Subject to the foregoing provisions of this Chapter,—

(a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 43;

(b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 44.

53. *Other forms of State aid to societies.*—Notwithstanding anything contained in any law for the time being in force, the Government may—

(a) give loans or make advances to societies;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a society;

(c) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government;

(d) guarantee the repayment of principal and payment of interest on loans and advances to a society;

(e) guarantee the repayment of deposits received by the society and payment of interest on such deposits; and

(f) give financial assistance in any other form, including subsidies, to any society.

54. *Provisions of sections 43 to 52 to over-ride other laws.*—The provisions of sections 43 to 52 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VII

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

55. *Funds not to be divided.*—No part of the funds other than the net profits of a society shall be paid by way of bonus or dividend or otherwise distributed among its members:

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

56. *Disposal of net profit.*—(1) A society shall, out of its net profits in any year,—

(a) transfer an amount not being less than fifteen per cent of the net profits to the reserve fund; and

(b) credit such portion of the net profits, not exceeding five per cent, as may be prescribed, to the Co-operative Education Fund referred to in clause (xix) of sub-section (2) of section 109.

(2) The balance of the net profits may be utilised for all or any of the following purposes, namely:—

(a) payment of dividends to members on their paid-up share capital at such rate not exceeding ten percent as may be prescribed;

(b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and in the manner specified in the bye-laws;

(c) constitution of, or contributions to, such special funds as may be specified in the bye-laws;

(d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890); and

(e) payment of bonus to employees of the society to the extent and in the manner specified in the bye-laws or in the Payment of Bonus Act, 1965 (Central Act 21 of 1965), as the case may be.

57. *Investment of funds.*—A society may invest or deposit its funds—

(a) in Government Savings Bank; or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act 2 of 1882); or

(c) in the shares or securities of any other society approved for the purpose by the Registrar by general or special order; or

(d) in any bank approved for the purpose by the Registrar; or

(e) in any other prescribed manner.

58. *Restrictions on borrowings.*—A society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

59. *Restrictions on loans.*—(1) A society shall not make a loan to any person or a society other than a member:

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

(2) Notwithstanding anything contained in sub-section (1), a society may make a loan to a depositor on the security of his deposit.

60. *Restrictions on other transactions with non-members.*—Save as is provided in sections 58 and 59, the transactions of a society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

61. *Provident Fund.*—(1) A society shall establish a contributory provident fund for the benefit of its employees, to which shall be credited all contributions made by the employees and the society in accordance with the rules or the Employees Provident Funds Act 1952 (Central Act 19 of 1952) whichever is more beneficial.

(2) A contributory provident fund established by a society under sub-section (1)—

(a) shall not be used in the business of the society;

(b) shall not form part of the assets of the society;

(c) shall not be liable to attachment or be subject to any other process of any court or other authority;

(d) shall be deposited in the financing bank of the area.

62. *Gratuity.*—The employees of a society shall be entitled to gratuity at such rates and on such conditions as prescribed.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

63. *Audit.*—(1) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorised by him under sub-section (1) shall at all reasonable times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for the custody of, any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society, and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him under sub-section (1) may require.

(5) The result of any audit under sub-section (1) shall be communicated to the society within six months of the date of the audit.

(6) Every society shall pay to the Government such fee for the audit of its accounts for each year as may be fixed by the Registrar in accordance with the rules made in this behalf, and the fee levied for audit shall be recoverable in the manner specified in section 79.

64. *Communication of defects in audit to societies.*—(1) If the result of the audit held under section 63 discloses any defects in the working of a society, the Registrar may bring such defects to the notice of the society and if the society is affiliated to another society also to the notice of that other society.

(2) The Registrar may, by order in writing, direct the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit.

65. *Inquiry by Registrar.*—(1) The Registrar may, of his own motion or on the application of a society to which the society concerned is affiliated, by himself or by a person authorised by him by order in writing, hold an inquiry into the constitution, working and financial condition of the society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of—

(a) a majority of the members of the committee of the society; or

(b) not less than one-third of the total number of members of the society or the number of members required for the quorum of the general body whichever is less.

(3) The Registrar or the person authorised by him under sub-section (1) shall, for the purpose of an inquiry under this section, have the following powers, namely:—

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for the custody of, any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general body meeting of the society, himself call a general body meeting or require the president or secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof to determine such matters as may be directed by him;

(ii) any meeting called under sub-clause (i) shall have all the powers of a general body meeting called under the bye-laws of the society.

(4) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to which the society is affiliated and the circle co-operative union.

(5) When an inquiry made under this section reveals only minor defects which, in the opinion of the Registrar, can be remedied by the society, he may communicate the result of the inquiry to the

society and the society, if any, to which that society is affiliated. He may also direct the society or its officers to take such action within the time specified therein to remedy the defects disclosed in such inquiry.

66. *Supervision and inspection.*—(1) (a) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently as he may consider necessary.

(b) The supervision under clause (a) may include an inspection of the books of the society.

(2) The Registrar may, of his own motion, or on the application of a creditor of a society, inspect or direct any person authorised by him by order in writing in this behalf to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant—

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where the inspection under sub-section (2) is made on the application of a creditor, the Registrar shall communicate the result of any such inspection to such creditor.

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or sub-section (2) shall at all reasonable times have free access to the books, records and accounts of the society and may summon any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorised by him under sub-section (1) or sub-section (2) may, by order in writing, direct the society or its officers to take such action as may be specified in such order within the time that may be mentioned in such order.

(6) The circle co-operative union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) A financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of a financing bank inspecting the books of a society shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of, or responsible for the custody of, any books, accounts, documents, securities, cash and other properties referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) The financing bank may also report to the Registrar about the action to be taken against the society as a result of the inspection by its officers.

67. *Cost of inquiry or inspection.*—Where an inquiry is held under section 65, or an inspection is made under section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society:

Provided that—

(a) no order of apportionment of the cost shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

68. *Surcharge.*—(1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws, or

has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CHAPTER IX

SETTLEMENT OF DISPUTES

69. *Disputes to be referred to Registrar.*—(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises—

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society; or

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society; or

(d) between the society and any other society; or

(e) between a society and the members of a society affiliated to it; or

(f) between the society and a person other than a member of the society who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(g) between the society and a surety of a member, past member, deceased member or employee or a person other than a member who has been granted a loan by

the society whether such a society is or is not a member of the society; or

(h) between the society and a creditor of the society, such dispute shall be referred to the Registrar for decision, and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely:—

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of the Board of Management or any officer of the society.

Explanation.—A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election shall be deemed to be a dispute arising in connection with the election.

(3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Registrar unless it is referred to him within one month from the date of the election.

(4) If any question arises whether a dispute referred to the Registrar under this section is a dispute as defined in clause (i) of section 2, the decision thereon of the Registrar shall be final.

70. *Decision and award on disputes.*—(1) The Registrar may, on receipt of the reference of a dispute under section 69,—

(a) elect to decide the dispute himself; or

(b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or

(c) refer it for disposal to an arbitrator appointed by the Registrar.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and he may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (1) or refer it to any other arbitrator under clause (c) of that sub-section.

(3) The Registrar or such person shall decide the dispute, or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision or award shall, subject to the provisions of section 82, be final. Pending decision or award, the Registrar, such person or arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interests of justice.

CHAPTER X

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

71. *Winding up of societies.*—(1) If the Registrar, after an inquiry has been held under section 65 or an inspection has been made under section 66 or on receipt of an application made by not less than three-fourths of the members of a society, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representation and in consultation with the financing bank to which the society is affiliated and the circle co-operative union, by order in writing, direct it to be wound up.

(2) The Registrar may of his own motion, by order in writing, direct the winding up of a society,—

(a) where it is a condition of the registration of the society that the society shall consist of at least twenty five members and the number of members has been reduced to less than twenty five; or

(b) where the society has not commenced working within six months of its registration, unless extension of time is granted by the Registrar, or has ceased to work; or

(c) where the number of actual workers falls below the prescribed limit in the case of a society formed exclusively for the benefit of persons engaged in a particular industry or occupation.

(3) The Registrar may cancel an order for the winding up of a society, at any time, in any case where, in his opinion, the society should continue to exist.

72. *Liquidator.*—(1) Where the Registrar has made an order under section 71 for the winding up of a society, he shall appoint a liquidator for the purpose and may fix his remuneration.

(2) The liquidator shall, on appointment, take into his custody or under his control all the property, effects and

actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claims.

(3) Where an appeal is preferred under section 82 against an order of winding up of a society made under section 71 such order shall not operate thereafter until it is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and to have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

73. *Powers of liquidator.*—(1) Subject to any rules made in this behalf, the whole of the assets of a society in respect of which an order of winding up has been made shall vest in the liquidator appointed under section 72 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) The liquidator shall also have power, subject to the control of the Registrar,—

(a) to institute and defend suits and other legal proceedings on behalf of the society by the name of his office;

(b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;

(c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the society including interest upto the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(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 society may be rendered liable; and

(j) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts and all claims, present or future, certain or contingent, subsisting or supposed to subsist, between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed upon and to take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

74. *Cancellation of registration of a society.*—Where in respect of a society which has been ordered to be wound up under section 71 no liquidator has been appointed under section 72 after two months from the date of such order, or if an appeal has been filed against the order of winding up, from the date of confirmation of the order in appeal, or where the affairs of a society in respect of which a liquidator has been appointed under section 72 have been wound up or where the Registrar is satisfied that the final winding up of the affairs of the society is not possible on account of the destruction of the records, the Registrar shall, by order in writing, cancel the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

75. *Enforcement of charge.*—Notwithstanding anything contained in Chapter IX or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, on the application of a society, by order in writing, direct the payment of any debt or outstanding demand due to the society by any member or past member or deceased member, by sale of the property or any interest therein, which is subject to a charge under sub-section (1) of section 35:

Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within thirty days from the date of such service.

76. *Execution of orders, etc.*—Every order made under sub-section (2) of section 68 or under section 75, every decision or award made under section 70, every order made by the liquidator under section 73 and every order made by the Tribunal under section 82, section 84, section 85 or section 86 and every order made under section 83 shall, if not carried out,—

(a) on a certificate signed by the Registrar or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(b) where the order is for the recovery of money, be executed according to the law and under the rules for the time being in force for the recovery of arrears of public revenue due on land:

Provided that any application for such recovery shall be made—

(i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf;

(ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, within twelve years from the date of the order, decision or award, as the case may be; or

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed.

77. *Registrar or person empowered by him to be a civil court for certain purposes.*—The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery, to be a civil court for the purposes of Article 136 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

78. *Attachment of property before award or order.*—If the Registrar is satisfied on an application, report, inquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act—

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or the liquidator, as the case may be,

he may, unless adequate security is furnished, by order in writing, direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent civil court.

79. *Recovery of sums due to Government.*—(1) All sums due from a society or from an officer or member or past member or deceased member of a society as such to the Government, including any costs awarded to the Government under any provision of this Act, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of public revenue due on land.

(2) Sums due from a society to the Government and recoverable under sub-section (1) may be recovered first, from the property of the society and secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability, and in the case of other societies, from the members, past members or the estates of deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 26.

CHAPTER XII

ESTABLISHMENT

80. *Officers, etc., of co-operative societies.*—(1) The Government shall classify the societies in the State according to their type and financial position.

(2) The Government shall, in consultation with the State Co-operative Union, fix or alter the number and designation of the officers and servants of the different classes of societies specified in sub-section (1).

(3) The Government shall, in consultation with the State Co-operative Union, make rules regulating the qualification, remuneration, allowances and other conditions of service of the officers and servants of the different classes of societies specified in sub-section (1).

CHAPTER XIII

APPEALS, REVISION AND REVIEW

81. *Tribunal.*—(1) The Government shall constitute a Tribunal consisting of three members to exercise the powers and discharge the functions conferred on the Tribunal under this Act:

Provided that until a Tribunal is constituted under this sub-section, the powers and functions conferred on the Tribunal under this Act shall be exercised and discharged by the Government.

(2) A member of the Tribunal shall be a person who has been in practice as an Advocate for at least ten years.

(3) The Government shall appoint one of the members of the Tribunal to be its chairman.

(4) The term, salary and allowances and other conditions of service of the chairman and other members of the Tribunal shall be such as may be prescribed.

(5) Any vacancy in the office of a member of the Tribunal shall be filled by the Government.

(6) The functions of the Tribunal may be performed—

(a) by a Bench consisting of all the members of the Tribunal; or

(b) by a Bench consisting of two members constituted by the chairman; or

(c) by a Bench consisting of the chairman and the other member in the event of the office of a member other than the chairman being vacant.

(7) Where an appeal or application is heard by a Bench consisting of all the three members of the Tribunal and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(8) Where an appeal or application is heard by a Bench consisting of two members and the members are divided in their opinion on any point, the point shall be referred for decision to the Bench consisting of all the members.

(9) The Government shall make rules for regulating the procedure and the disposal of the business of the Tribunal.

82. *Appeals to Tribunal.*—(1) Any person aggrieved by—

(a) an order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of sub-section (9) of section 14; or

(b) an order of the Registrar made under section 32; or

(c) an order of the Registrar made under section 33; or

(d) any decision of the Registrar made under sub-section (3) of section 70; or

(e) any decision under sub-section (3) of section 70 of the person invested by the Government with powers in that behalf; or

(f) any award of the arbitrator under sub-section (3) of section 70,

may, within sixty days from the date of such order, decision or award, as the case may be, appeal to the Tribunal, and the Tribunal may pass such order on the appeal as it may deem fit.

(2) An order passed by the Tribunal under sub-section (1) shall be final.

83. *Appeals to other authorities.*—(1) An appeal shall lie under this section against—

(a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a society; or

(b) an order of the Registrar made under sub-sections (4) and (6) of section 12 refusing to register an amendment of the bye-laws of a society; or

(c) a decision of a society refusing to admit any person as a member of the society or expelling any member of the society; or

(d) an order made by the Registrar under section 67 apportioning the cost of inquiry held under section 65 or an inspection made under section 66; or

(e) an order of surcharge made by the Registrar under section 68; or

(f) an order made by the Registrar under section 71 directing the winding up of a society; or

(g) any order made by the Liquidator of a society in exercise of the powers conferred on him by section 73; or

(h) any order made under section 76; or

(i) an order for attachment of any property made by the Registrar under section 78; or

(j) any order made by any person exercising all or any of the powers of the Registrar.

(2) An appeal under sub-section (1) shall be made within sixty days from the date of the order or decision,—

(a) if the order or decision was made by the Registrar, to the Government; and

(b) in other cases, the Registrar, and the Government or the Registrar, as the case may be, may pass such order on the appeal as they or he may think fit.

84. *Revision by Tribunal.*—The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit:

Provided that the Tribunal shall not take any action under this section if—

(a) the time for appeal against the decision or order has not expired; or

(b) the decision or order has been made the subject—matter of an appeal:

Provided further that no order shall be made under this section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

85. *Review of orders by Tribunal.*—(1) The Tribunal may, either on the application of the Registrar or on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record or that there is any other sufficient reason for reviewing its order:

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) by any party shall be made within ninety days from the date of communication of the order of the Tribunal.

86. *Interlocutory orders by Tribunal.*—Where an appeal is made to the Tribunal under section 82 or where the Tribunal calls for the record of a case under section 84, it may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal or revision as it may deem fit.

87. *Powers of revision of Registrar and Government.*—(1) The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him not being an officer exercising the powers of the Registrar, and the Government may of their own motion or on application call for and examine the record of the Registrar including any officer exercising the powers of the Registrar, in respect of any proceeding, not being a proceeding in respect of which an appeal to the Tribunal is provided by section 82, to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made thereon, and if, in any case, it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly:

Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within three months from the date on which the proceeding, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Registrar or the Government, as the case may be, may suspend the execution of any decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.

(4) The Registrar or the Government may award costs in proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.

CHAPTER XIV

CO-OPERATIVE UNIONS

88. *Constitution of circle co-operative unions.*—(1) The Government shall, by notification in the Gazette, constitute a circle co-operative union for each circle in the State with the following members, namely:—

(a) nine members elected in such manner as may be prescribed by the members of the committees of the societies within the circle;

(b) one member elected by the Board of Directors of the District Co-operative Bank having jurisdiction over the circle;

(c) the senior-most Inspector of co-operative societies in the circle, *ex-officio.*

and

(d) two members elected in such manner as may be prescribed by the employees of co-operative societies within the circle.

(2) Each circle co-operative union shall elect one of the members, other than the *ex-officio* member, to be its chairman.

(3) The *ex-officio* member of each circle co-operative union shall be its secretary.

(4) The Inspector of the District Co-operative Bank having jurisdiction over the circle, shall have the right to attend every meeting of the circle co-operative union and to take part in the discussions thereat, but shall have no power of voting.

(5) The term of office of the members, other than the *ex-officio* member, of a circle co-operative union shall be three years from the date on which they enter upon office.

89. *Establishment of State Co-operative Union.*—(1) The Government shall, by notification in the Gazette, establish a State Co-operative Union.

(2) The State Co-operative Union shall consist of—

(a) a general body; and

(b) a managing committee;

(3) Each of the circle co-operative unions, apex societies and District Co-operative Banks and central societies other than District Co-operative Banks in the State shall elect a delegate in such manner as may be prescribed and all such delegates shall constitute the general body of the State Co-operative Union.

(4) The managing committee referred to in clause (b) of sub-section (2) shall consist of the following members, namely:—

(a) nine members, one from each revenue district in the State, elected in such manner as may be prescribed by the delegates of the circle co-operative unions in that district from among themselves;

(b) two members elected in such manner as may be prescribed by the delegates of the apex societies in the State from among themselves;

(c) two members elected in such manner as may be prescribed by the delegates of the District Co-operative Banks from among themselves;

(d) two members nominated by the Government; and

(e) two members elected from among themselves in such manner as may be prescribed by the members of the circle co-operative unions elected under clause (d) of sub-section (1) of section 88.

(5) The managing committee shall elect one of its members to be the chairman of the State Co-operative Union.

(6) The term of office of the members of the general body and of the managing committee of the State Co-operative Union shall be three years from the date on which they enter upon office.

(7) The Registrar or any other officer nominated by him, not below the rank of a Joint Registrar of Co-operative Societies shall be the Secretary of the State Co-operative Union.

90. *Co-operative societies to affiliate to State Co-operative Union.*—(1) Every co-operative society in the State shall, within a period of six months from the commencement of this Act, or within a period of six months from the date of its registration, whichever period expires later, get itself affiliated to the State Co-operative Union.

(2) The affiliation under sub-section (1) shall be in force for a period of one year from the date of affiliation and shall be renewed on the expiry of that period.

(3) The fees payable by a co-operative society for affiliation to the State Co-operative Union or for the renewal of such affiliation shall be such as may be prescribed.

(4) If any co-operative society fails to affiliate to the State Co-operative Union as required by sub-section (1) or to renew such affiliation as required by sub-section (2), such society shall not be entitled to any of the privileges conferred on a co-operative society by or under this Act.

91. *Functions of State Co-operative Union.*—(1) The functions of the State Co-operative Union shall be—

(a) to organise, assist and generally develop co-operative societies;

(b) to carry on co-operative propaganda; and

(c) to spread education on co-operative principles and practices.

(2) The State Co-operative Union shall perform such other functions as may be prescribed.

92. *Assets, liabilities etc., of Regional Unions.*—(1) Notwithstanding anything contained in this Act or in the bye-laws of the Cochin Central Co-operative Institute Ltd., the Malabar Co-operative Institute Ltd., and the South Kerala Co-operative Union Ltd., all properties and all rights of whatever kind us t, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held by them and all liabilities legally subsisting against them shall on and from the date of commencement of this Act and subject to such directions as may be issued by the Registrar by general or special order made in this behalf, pass to the Kerala State Co-operative Union Ltd.

(2) The duties performed and the functions discharged by the aforesaid societies shall be performed and discharged by the Kerala State Co-operative Union Ltd., and the employees of the said societies shall become the employees of the Kerala State Co-operative Union Ltd.

(3) The management of the Kerala State Co-operative Union Ltd., shall, notwithstanding anything contrary in the bye-laws thereof, be vested in a committee consisting of all the members of the Board of Directors of the aforesaid societies including the Kerala State Co-operative Union Ltd.

93. *Assets, liabilities, etc., of State Union.*—On a date to be notified by the Government after the formation of the State Co-operative Union under section 89, all properties and

all rights of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held by and all liabilities legally subsisting against the Kerala State Co-operative Union Ltd., shall subject to such directions as may be issued by the Registrar, vest in the State Co-operative Union so formed and all the employees of the Kerala State Co-operative Union Ltd., shall become the employees of the State Co-operative Union.

CHAPTER XV

OFFENCES AND PENALTIES

94. *Offences.*—(1) No person other than a society shall trade or carry on business under any name or title of which the word 'co-operative' or its equivalent in any Indian language is part without the sanction of the Government:

Provided that nothing in this section shall apply in any area to the use by any person or his successor-in-interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act 2 of 1912), the Co-operative Societies Act (Travancore Act X of 1089) or the Cochin Co-operative Societies Act, XXVI of 1113, as the case may be, came into operation in that area.

(2) Any person carrying on any trade or business in contravention of sub-section (1) shall be punishable with fine which may extend to two hundred rupees.

(3) Any member or past member or the nominee, heir or legal representative of a deceased member of a society who contravenes the provisions of section 35 by disposing of any property in respect of which the society is entitled to have a first charge under that section or does any other act to the prejudice of such claim, shall be punishable with fine which may extend to two hundred rupees.

(4) The committee of a society or an officer or member thereof wilfully making a false return or furnishing false information or failing to produce cash balance on demand or failing to make the records available for audit, inquiry or inspection, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to five hundred rupees.

(5) Any employer or officer who, without sufficient cause,—

(a) fails to deduct any amount as required by sub-section (2) of section 37; or

(b) fails to pay to a society the amount deducted by him under that sub-section within a period of seven days from the date on which such deduction is made, shall be punishable with fine which may extend to five hundred rupees.

(6) If any person collecting the share money for a society in formation does not deposit the same in the State Co-operative Bank, a Central Co-operative Bank, a Postal Savings Bank or in any other bank approved by the Registrar within fourteen days of its receipt, he shall be punishable with fine which may extend to five hundred rupees.

(7) If any person collecting the share money for a society in formation makes use of the funds so raised for conducting any trade or business in the name of the society to be registered or otherwise, he shall be punishable with fine which may extend to five hundred rupees.

(8) If any officer or member of a society misappropriates or unauthorisedly or illegally keeps any money belonging to that society he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(9) The provisions of this section shall be without prejudice to any action that may be taken against the offenders under any other law for the time being in force.

95. *Cognizance of offences.*—No court inferior to that of a Magistrate of the first class shall try any offence under this Act and no prosecution shall be instituted under this Act without the previous sanction of the Registrar:

Provided that no such sanction shall be required in the case of an offence under sub-section (8) of section 94.

CHAPTER XVI

MISCELLANEOUS

96. *Address of a society.*—Every society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

97. *Copy of Act, rules and bye-laws to be open to inspection.*—Every society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

98. *Tribunal, Registrar, etc., to have certain powers of civil court.*—(1) In exercising the functions conferred on it or him by or under this Act, the Tribunal, the Registrar, the arbitrator or any other person deciding a dispute and the liquidator of a society shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits; and

(d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer appointed by the Tribunal, the Registrar, the arbitrator or any other person deciding a dispute or the liquidator, as the case may be, in this behalf may administer the oath to the deponent.

99. *Orders to be pronounced.*—In cases where parties have been heard, the order, decision or award made or given by the Registrar or any officer or other person or a liquidator under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

100. *Bar of jurisdiction of courts.*—No civil or revenue court shall have any jurisdiction in respect of any matter for which provision is made in this Act.

101. *Power to exempt societies.*—The Government may, if they are satisfied that it is necessary so to do in the public interest, by general or special order for reasons to be recorded, exempt any society or any class of societies from any of the provisions of this Act or direct that such provisions shall apply to such society or class of societies subject to such modifications as may be specified in the order.

102. *Register of members.*—Any register or list of members or shares kept by any society shall be *prima facie* evidence of the following particulars entered therein:—

(a) the date on which the name of any person was entered in such register or list as a member;

(b) the date on which any such person ceased to be a member.

103. *Proof of entries in society's books.*—(1) Notwithstanding anything contained in the Indian Evidence Act a copy of

any entry in a book of a society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A society may grant copies of any documents obtained and kept by it in the course of its business, or of any entries in such documents; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein. as the case may be.

(3) No officer of a society and no officer in whose office the books of a society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents, the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded except under order of the court, the Tribunal or the arbitrator made for special cause.

104. *Service of notice.*—Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business of such person preparing and posting by registered post a letter containing the notice or order and, unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

105. *Acts of societies not to be invalidated by certain defects.*—No act of a society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of the officer or on the ground that such officer was disqualified for his appointment:

Provided that nothing in this section shall be deemed to apply to any act done by any society or committee or officer in cases where such defect or disqualification was previously declared by a competent authority.

106. *Immunity for acts done or purporting to be done in good faith.*—No suit, prosecution or other legal proceedings shall lie against any officer or the Government for anything which is in good faith done or purporting to be done under the provisions of this Act or the rules or the bye-laws.

107. *Companies Act, 1956, not to apply.*—The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to any co-operative society.

108. *Duties of Police Officer.*—(1) It shall be the duty of every police officer to assist the Registrar or any person subordinate to the Registrar reasonably demanding his aid for the lawful exercise of any power vesting in the Registrar or such persons under this Act or any rule, or bye-law made thereunder.

(2) Any Police Officer who omits or refuses to perform any duty imposed on him under sub-section (1) shall be deemed to have committed an offence under clause (d) of section 41 of the Kerala Police Act, 1960 (5 of 1961).

109. *Power to make rules.*—(1) The Government may, for the whole or any part of the State and for any class of societies, after previous publication, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the applicant to whom the order refusing the registration of a society may be sent by the Registrar;

(ii) the procedure and conditions for change in the form and extent of the liability of a society;

(iii) the matters in respect of which a society shall or may make bye-laws;

(iv) the procedure to be followed for amendment of bye-laws by a society;

(v) the qualifications or disqualifications of individuals who may be admitted as members of societies;

(vi) the payment to be made and the interests to be acquired before the exercise of the right of membership;

(vii) the appointment by a society of one of its members to represent and vote on its behalf at a meeting of another society of which it is a member;

(viii) the maximum number of shares or portion of the share capital of a society which may be held by an individual member;

(ix) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;

(x) the mode in which the value of a deceased member's share shall be ascertained;

(xi) the election of members of the committee by the general body of a society;

(xii) the requisitioning of a general body meeting of a society;

(xiii) the remuneration payable to a new committee or administrator or administrators appointed by the Registrar under section 32 or section 33;

(xiv) the qualifications or disqualifications for membership of the committee of a society;

(xv) the qualifications of employees of societies;

(xvi) the prohibition against officers of a society being interested in contracts with the society;

(xvii) the matters connected with the direct and indirect partnership of the Government in societies;

(xviii) the rate at which dividend may be paid by societies;

(xix) the constitution of the Co-operative Education Fund, the payment to be made to the fund by a society out of its net profit and the mode of its investment;

(xx) the mode of investment of funds of a society;

(xxi) the objects of the reserve fund of a society and the mode of its investment;

(xxii) the mode of disposal of the reserve fund of a society on its winding up;

(xxiii) the extent to which and the conditions subject to which a society may receive deposits and loans;

(xxiv) the restrictions on transactions by a society with non-members;

(xxv) the restrictions on grant of loans by a society against its shares;

(xxvi) the form and standards of fluid resources to be maintained by societies accepting deposits and granting cash credits;

(xxvii) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes;

(xxviii) the conditions subject to which the assets of a society shall vest in a liquidator and the procedure to be adopted in the winding up of a society;

(xxix) the procedure for the recovery of amounts due or payable to a society;

(xxx) the mode of making attachment before judgment;

(xxxi) the manner of registering the address of a society;

(xxxii) the account books and registers to be kept by a society and power of the Registrar to call for any returns or to direct the accounts and books to be written up;

(xxxiii) the manner of certification of entries in the books of a society and of copies of documents kept by it in the course of its business;

(xxxiv) the statements and returns to be furnished by a society to the Registrar;

(xxxv) the restrictions on persons appearing as legal practitioners;

(xxxvi) the inspection of documents and the levy of fees for granting certified copies thereof;

(xxxvii) the procedure to be followed in, and the fees for, audit and arbitration under this Act; and

(xxxviii) any other matter required or allowed by this Act to be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

110. *Repeal and savings.*—The Madras Co-operative Societies Act, 1932 (VI of 1932), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Co-operative Societies Act, 1951 (X of 1952), are hereby repealed.

(2) Notwithstanding the repeal of the Madras Co tive Societies Act, 1932 and the Travancore-Cochin tive Societies Act, 1951 and without prejudice to sions of sections 4 and 23 of the Interpretation clauses Act, 1125 (VII of 1125),—

(i) all appointments, rules and orders made, notifications and notices issued, and suits and other proceedings instituted, under any of the Acts hereby repealed shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act;

(ii) any society existing in the State on the date of the commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed Acts shall be deemed to be registered under this Act; and the bye-laws of such society shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded.

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THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969

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