

THE KARNATAKA CO-OPERATIVE SOCIETIES ACT, 1959.

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STATEMENT OF OBJECTS AND REASONS

I

Act of 11 of 1959.—The Report of the Committee of Directors of the All India Rural Credit Survey, appointed by the Reserve Bank of India, was published in December, 1954. At the first conference of State Ministers in charge of Co-operation held at New Delhi in April, 1955, it was agreed that schemes of Co-operative development under the Second Five-Year Plan should be drawn up to give effect to the recommendations contained in the Rural Credit Survey Report. The Report recommended, among other things, increased State partnership in Co-operative Societies and State participation in their management. In order to implement the recommendations of the Rural Credit Survey Report and to facilitate the implementation of the schemes of co-operative development under the Second Five-Year Plan and also to simplify, rationalise and

modernise the existing laws relating to Co-operative Societies, the Committee on Co-operative Law was appointed by the Government of India. The Committee observed that the implementation of the recommendations of the Rural Credit Survey Report and of the schemes of co-operative development under the Second Five-Year Plan requires revision of the existing Co-operative Societies Act and the Rules made thereunder in all States. Further, the Re-organisation of States has brought together, areas which are being governed by different Acts and Rules. Under these circumstances the Committee felt, the present juncture was very opportune for revising the Co-operative Societies Act, in force in the different States with a view to bringing about as large a degree of uniformity in the legislation governing Co-operative Societies as possible throughout the country. Taking these factors into consideration, the Committee prepared a Model Co-operative Societies Bill and Model Rules which they recommended to State Governments for enactment and adoption. At present five different Co-operative Societies Acts are in operation in the different parts of the Mysore State. This is a source of considerable administrative inconvenience. It is necessary to have a uniform Co-operative Societies Law as applicable to the whole of the State.

Government have, therefore, decided to introduce the present Bill. The Bill has been drafted after taking into consideration the Model Co-operative Societies Bill recommended by the Committee on Co-operative Law appointed by the Government of India. The principle of State partnership in Co-operative Societies and State participation in their management has been accepted and incorporated in the relevant provisions of this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 10th April 1958 as No. 21 at page 1.)

II

Amending Act 40 of 1964.—The Mysore Co-operative Societies Act, 1959, which was brought into force from First July 1960 has revealed in the course of working the need for some amendments for speedy implementation. It has also become necessary to amend the chapter relating to the Mysore Central Land Mortgage Bank Ltd., so that the Bank could take up expeditiously development activities for which funds could be made available from the provision made under Taccavi loans or from the funds borrowed from the Agricultural Re-finance Corporation of India or from the debentures raised by the Bank itself. Hence the amending Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 18th June 1964 as No. 152 at page 55.)

III

Amending Act 27 of 1966.— Note.—By this Act the Karnataka Agricultural Produce

Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966) was enacted. Certain consequential amendments are made therein to this Act .

IV

Amending Act 16 of 1967.— Consequent on the amendment of the Central Sales Tax Act by the Parliament providing for the enhancement of the rates of tax applicable to the declared good under the local sales tax laws, it has become necessary to amend the IX Schedule which specifies the declared goods and the rates of tax applicable to them. The rates of tax applicable to the declared goods specified therein are now being enhanced accordingly. Co-operative Societies

The Government was considering the question of granting certain concessions to new industries with a view to encourage development of industries in the State. The Government recently took a decision that in respect of new industries exemption from the payment of Sales Tax should be provided for an initial period of two years. The manner in which that exemption should be provided was examined and it was thought that it can be best done by means of Notifications issued from time to time whenever occasion arises. Since the Act did not contain a provision empowering the State Government to issue such notifications it is now intended to insert a provision empowering the Government to notify exemptions and reduction of tax rates. Such a provision exists in the Sales Tax Laws of the neighbouring States also.

This occasion is also utilised to make certain minor amendments relating to procedural matters and also to provide for concessional rate of tax for vermicelli and to reduce the rates of tax on sugarcane and to exempt Amber Charkas, Druggets, Durries and Carpets. The benefit of exemption granted to bona fide producers under item 28 of the V Schedule is proposed to be limited to persons who produce goods exclusively coming under village industry.

Note: By this Act some consequential amendments are made to Act 11 of 1959 .

(Obtained from L.A. Bill No.35 of 1967 Page No. 9 & 10)

V

Amending Act 1 of 1972.—According to clause (c) of section 101 of the Mysore Co-operative Societies Act, 1959, an order, decision and award made under the Act can be executed by the Registrar or any other person subordinate to him by attachment and sale of any property of the person or co-operative society against whom the order, decision or award has been obtained or passed. In order to implement this provision necessary rules have been made and rule 41 of the Mysore Co-operative Societies Rules, 1960, empowers the Sale Officer to investigate the claims to property attached in execution. In pursuance of this provision, Sale Officers have been investigating such claims.

In Jyotiba Yellappa vs. Hubli Co-operative Cotton Sale Society, Ltd., [1970 (2) Mys.

L.J. 344], the High Court of Mysore held that the procedure under Rule 41 of the Co-operative Societies Rules is limited in its operation to persons who can properly be made parties to the original dispute under section 70 of the Act and that hence a claim by non-members against the attachment and sale in execution of an award cannot be adjudicated under rule 41.

In view of this decision, execution of orders, decisions and awards in which claims to the property attached had been made by non-members would become invalid and ineffective. Further, execution of orders, decisions and awards could not be proceeded with except in cases where members of the society were interested in the properties liable to attachment and sale. Consequently, the Co-operative Societies could not pursue the expeditious procedure for recovery under the Co-operative Societies Rules.

Hence it became necessary to empower the Registrar and his subordinate to exercise the powers of investigating claims to property attached in the execution of the orders, decisions and awards.

As the Houses of Legislature were not in Session and the matter was urgent, an Ordinance was promulgated amending section 101 of the Act and validating the action already taken. Thereafter before the Ordinance could be replaced by the Act of State Legislature, the State Legislature was suspended by the proclamation of the President dated 27th March 1971 under article 356 of the Constitution. The Bill is intended to replace the Ordinance and is for enactment under the provisions of the Mysore State Legislature (Delegation of Powers) Act, 1971.

The Consultative Committee on State Legislature relating to Mysore at its second meeting on the 7th December 1971, has considered the Mysore Co-operative Societies (Amendment) Bill, 1972, and has accorded its approval of the same.

(Obtained from Presidents Act 1 of 1972.)

VI

Amending Act 14 of 1973.—The post of Director of Sugar has been created to fulfil the need for a single agency to deal with all matters relating to sugar industry in the State in a comprehensive and co-ordinated manner. Since there are a number of sugar factories already in the co-operative sector and more factories are likely to come up in future it was necessary to designate the Director of Sugar as Additional Registrar of Co-operative Societies in respect of all the Sugar Factories in the co-operative sector. At present the Registrar of Co-operative Societies is dealing with all matters relating to Co-operative Sugar Factories and it is felt that the Director of Sugar should assist the Registrar in the discharge of his functions in respect of Co-operative Sugar Factories. The Additional Chief Marketing Officer has been designated as Ex-Officio Additional Registrar of Co-operative Societies.

2. Section 2-A of the Mysore Co-operative Societies Act, 1959 provides for the appointment of an Additional Registrar of Co-operative Societies. In order to enable the Additional Chief Marketing Officer and the Director of Sugar to be designated as Additional Registrar of Co-operative Societies and also in order to provide for future contingencies it is considered necessary to amend the provision to enable Government to appoint as many Additional Registrars of Co-operative Societies as it thinks fit for the purpose of assisting the Registrar.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 2nd May 1973 as No. 433 at page 3.)

VII

Amending Act 2 of 1975.— Note.- By this Act the Karnataka Agricultural Credit Operations and Miscellaneous Provision Act, 1975 (Karnataka Act 2 of 1975) was enacted. Certain consequential amendments are made therein to Act 11 of 1959.

VIII

Amending Act 39 of 1975.—In order to facilitate the extension of Deposit Insurance Schemes under the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961) to co-operative banks registered under the Mysore Co-operative Societies Act 1959 the Government of India, Ministry of Food, Agriculture, Community Development and Co-operation and also the Reserve Bank of India have suggested to the State Government to make necessary amendments in the State Act so as to enable the State Government and the Reserve Bank of India to exercise powers of supersession, re-constitution and liquidation of Co-operative Banks. The Committee appointed by the Government with the then Deputy Minister for Co-operation as the Chairman with non-official Presidents of some of the major Co-operative Institutions and officers of the Government to consider the amendments to be made in the State Act in the light of the policies and programmes of the Government, recommended among others, making all the necessary provisions in the Co-operative Societies Act as suggested by the Government of India and the Reserve Bank. A Bill was introduced for this purpose in the Legislative Assembly in March 1970. The Bill was not taken up for consideration by the Assembly, and with the dissolution of the Legislative Assembly, the Bill has lapsed. It was considered necessary by Government to amend the Act to provide for certain urgent and important items noted below:

- (1) Extension of deposit insurance schemes to the Co-operative Banks;
- (2) Amalgamation of Co-operative Banks;
- (3) Creation of second charge on the land of the member of the Society enabling him to draw finance for agricultural operations.
- (4) Nomination of members of committee by State Government in certain cases;

(5) Winding up of Co-operative Banks.

Accordingly, an amendment Bill was prepared and forwarded to the Government of India with a request to get it enacted as President's Act. The Government of India suggested certain changes in the Bill. As elections to the State Legislature were to be held the Bill was not enacted as a President's Act.

It is now considered necessary to amend the Mysore State Co-operative Societies Act 1959, so as to facilitate the extension of Deposit Insurance Scheme to Co-operative Banks, to allow for the admission of Commercial Banks as nominal members of the Co-operative Societies, to afford relief to the borrowers from Co-operative Society to get proportionate release of charge on lands where partial discharges of loans are made and where Area Development Works are taken up in compact areas to protect the interest of Government or Land Development Bankfinancing the scheme, to make suitable provision in the Act for nomination of two-thirds of the total number of Directors on the Board of Directors of any Co-operative Society in which Government hold shares of the value not less than 50 percent of the share capital of Co-operative Society, to make provisions of framing T.A. Rules of the members of the Co-operative Societies, to provide for the Central Banks to initiate the Arbitration Proceedings on some of the members of the Primary Co-operative Societies, to make provision for disqualification of defaulters from membership of committee of Management, to provide for the commencement of term office of the members, resignation of Members of the Committee and for disqualifying a member to be appointed or continued as President, vice-president, etc., of a co-operative society for more than six consecutive years, to provide for the constitution of a bench comprising of two members, by the Chairman, Mysore Co-operative Appellate Tribunal and to make provision enabling Government to constitute an authority/authorities for the recruitment, training, etc., of employees of the Co-operative Societies.

During the President's rule, section 101 of the Mysore Co-operative Societies Act, 1959 was amended by President Act No. 1 of 1972. This was to overcome the difficulty arising out of the decision of the High Court in regard to execution of decree against non-members. As the operation of the President's Act is upto March 1973, and it is necessary to continue the provisions made therein, these provisions have to be re-enacted.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 26th February 1973 as No. 179 at page 22–24.)

IX

Amending Act 19 of 1976.—The Karnataka Co-operative Societies Act was

amended on 10th March 1976 providing for reorganization of Co-operative Societies with a view to making the Societies more viable and to serve the interest of weaker sections in particular and to slacken the hold of vested interests over the Societies. But even after the amendment of the Act, it was seen that there were some difficulties in the timely and effective implementation of the provision of the Act. It is also considered necessary to provide for legal steps towards ensuring proper management of the Co-operative Institutions as also for effective action on the erring Co-operative Societies. Accordingly the provisions pertaining to the following matters have been amended suitably by promulgating Ordinance Nos. 15 and 19 of 1976 on 19th July 1976 and 7th August 1976 respectively:

- (1) Reorganization of Co-operative Societies.
- (2) Appointment of Special Officers to Co-operative Societies.
- (3) Power to give direction to Co-operative Societies.
- (4) Appeal provisions under the Act as consequential measure.
- (5) Removal and disqualification of members on the Committee of Management.
- (6) Extending the indemnity provision to the new Management Committee and the Administrators and Special Officers appointed under the Act.

The reorganization of Co-operative Societies was of an urgent nature. The Reserve Bank of India and the Government of India were pressing all State Governments to immediately complete the reorganization of Co-operative Societies so as to enable effective implementation of the 20 Point Economic Programme.

In certain cases immediate action for taking over the management of Co-operative Societies is considered essential. Hence a new Section 30(A) has been included. It is also considered to have legal authority to enable Government to give directions in public interest, to Co-operative Societies. Provision for removal of members of the Committees existed in the rules. It was necessary to make provision under the Act.

The provision regarding the indemnifying the officers who acted in good faith was sought to be extended to the new Committees of Management as also administrators and the Special Officers appointed under the Act is considered necessary.

All the amendments were of urgent nature in the interest of development of Co-operative Movement on right lines and in the absence the Legislative Assembly in Session recourse to promulgation of Ordinance had to be resorted to.

These amendments do not involve additional cost to Government.

This Bill seeks to replace the said Ordinances.

(Published in Karnataka Gazette (Extraordinary) part IV-2A dated 8th November 1976 as No. 4430 at page 7 & 8.

X

Amending Act 70 of 1976.— The Karnataka Co-operative Societies Act was amended on 10th March 1976 providing for reorganization of Co-operative Societies with a view of making the Societies more viable and to serve the interest of weaker sections in particular and to slacken the hold of vested interests over the Societies. But even after the amendment of the Act, it was seen that there were some difficulties in the timely and effective implementation of the provision of the Act. It is also considered necessary to provide for legal steps towards ensuring proper management of the Co-operative Institutions as also for effective action on the erring Co-operative Societies. Accordingly the provisions pertaining to the following matters have been amended suitably by promulgation Ordinance Nos. 15 and 19 of 1976 on 19th July and 7th August respectively.

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All the amendments were of urgent nature in the interest of development of Co-operative Movement on right lines and in the absence the Legislative Assembly in Session recourse to promulgation of Ordinance had to be restored to.

These amendments do not involve additional cost to Government.

This Bill seeks to replace the said ordinances.

(Obtained from L.A. Bill No. 45 of 1976)

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 8-12-1976 as No. 4430.)

XI

Amending Act 71 of 1976.—With a view streamline the working of the Co-operatives and to enable them to play an effective role in the implementation of the economic policies and programmes of Government, certain amendments to the Co-operative Societies Act were considered necessary:—

(i) To enable specially the urban banks to allow institutions like firms etc., to be admitted as members;

(ii) To bar persons carrying on the same kind of business as that of a Co-operative Society from being members;

(iii) To deny voting rights to name-sake societies who used to be activated at the time of election and to deny voting rights to surities also as in the case of defaulters since their responsibility were co-existence with the defaulters;

(iv) To enable the State Land Development Banks to float debentures without mortgage of securities in view of their diversified finances even including Dairy Development to put a stop the tendency of the Co-operative Societies holding their meeting at inconvenient places with ulterior motives;

(v) To make the penalties for offences committed under the Act more rigorous.

All these amendments would help to streamline the working of the Co-operative Societies to instil a sense of responsibility amongst the office bearers, the loanees, surities, etc.

Hence the Bill.

(Obtained from LA Bill No. 65 of 1976.)

XII

Amending Act 14 of 1978.—With a view to make the Co-operative Societies effective instruments of assisting the weaker sections and also for handling the financing of agricultural production on an increasing scale, it was considered necessary to reorganize the Co-operative Societies into stronger units. The need for reorganization of these Societies into viable units has gained urgency in view of the necessity for filling up the credit gap as a result of the Debt Relief measure which apart from redeeming the debts of weaker sections has resulted in more or less drying up the traditional sources of available finance.

Writ petitions were filed before the High Court of Karnataka by the Primary Agricultural Credit Co-operative Societies/individuals challenging the validity of the

provisions of section 14A of the Karnataka Co-operative Societies Act, 1959, as also the orders issued by the Deputy Registrars of Co-operative Societies.

The Hon'ble High Court of Karnataka while disposing of the writ petitions has upheld the constitutional validity of section 14A of the Karnataka Co-operative Societies Act, 1959 but the orders issued by the authorities under section 14A of the Act have been struck down on the ground of non-application of the principle of *udi alterem partem*.

As the amalgamation and reorganization of societies already taken place and the said societies have functioned for quite some time it was not practicable to revert back to the original position. Hence it was considered necessary to validate the action taken earlier by specifically excluding the application of principle of natural justice before taking action under section 14A of the Act by suitably amending the Act with retrospective effect.

Since the Legislature Council was not in session an Ordinance was promulgated. This Bill seeks to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 30th June 1978 as No. 1005 at page 4.)

XIII

Amending Act 16 of 1979.—In December 1968, Government constituted a committee with the Deputy Minister for Co-operation as the Chairman and non-official Presidents of some major co-operative institutions and officers of Government as members to consider the various amendments to the Mysore Co-operative Societies Act, in the light of the policies and programmes of Government and also the experience gained by the Department of Co-operation in implementing the various provisions of the existing Act. The committee after a detailed consideration of the working of the various classes of cooperative societies submitted its recommendations suggesting certain amendments to the Act. It is considered necessary to amend the Act as recommended by the Committee subject to certain modifications. Hence this Bill. (Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 16th March 1970 as No. 94 at page. 58.)

XIV

Amending Act 3 of 1980.—Under the existing provisions of the Karnataka Co-operative Societies Act, 1959, the Registrar of Co-operative Societies is empowered to get the accounts of the Co-operative Societies audited by a person authorized by him. In order to ensure that the accounts of the Co-operative Societies are audited by independent persons, the State Government has created a separate audit wing with the Chief Auditor as the head thereof. This wing has been functioning effectively since

more than two years.

In order to give the Chief Auditor and officers sub-ordinate to him statutory recognition it was considered necessary to amend the Co-operative Societies Act 1959 suitably. As the matter was very urgent, the Karnataka Co-operative Societies (Amendment) Ordinance 1979 (Karnataka Ordinance No. 20 of 1979) was issued.

Hence this Bill to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 27th February 1980 as No. 139 at page 6.)

XV

Amending Act 4 of 1980.—Section 14A of Karnataka Co-operative Societies Act was first introduced by an amendment to Karnataka Co-operative Societies Act through Karnataka Co-operative Societies Amendment Act 1975. Sub-section (1) of Section 14-A contained a proviso providing for the previous sanction in writing of the Reserve Bank of India in the case of amalgamation, division, Re-organization of Co-operative Banks. This proviso was retained when further amendment were carried out by Karnataka Act 19 of 1976. When the Karnataka Act 70 of 1976 was published carrying out further amendments to the Co-operative Societies Act it is found that this proviso to sub-section (1) of Section 14-A is not found in the Karnataka Act 70 of 1976. In this amendment the sub-section (1) of Section 14-A was substituted by new provision and the proviso was left out.

Hence an amendment to Section 14-A is necessary for incorporating then proviso which was left out while further amendments were made in Karnataka Act 70 of 1976.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 29th February, as No. 151 at page. 3.)

XVI

Amending Act 5 of 1984.—The Karnataka Co-operative Societies Act, 1959 has revealed in the course of working the need for some amendments on the lines of the recommendations made by K. H. Patil Committee for speedy implementation. It has become necessary to amend the provisions relating to audit, so that Government could constitute an audit board for audit of accounts of Milk Co-operative Unions and Milk Co-operative Federations in the State. It has also become necessary to amend the chapter relating to the “Land Development Bank” so that the bank could take up expeditiously developmental activities for which funds could be made available on the basis of hypothecation of moveable property. The penalties under the Act have been enhanced by way of fine, imprisonment to create a deterrent impact on the persons committing offences under the Act.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 24th February 1984 as No. 139 at page 16.)

XVII

Amending Act 34 of 1985.—It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 for speedy recovery of large amounts due from the members of various Co-operative Institutions in the State of Karnataka. The Amendment proposed enables the State Government to purchase the defaulters' properties by Government bidding in the public auction and to dispose of such properties in such manner as Government deems fit.

2. As the matter was very urgent, and the Legislative Assembly was not in session, the Karnataka Co-operative Societies (Amendment) Ordinance, 1985 (Karnataka Ordinance No. 15 of 1985) was issued. This Bill seeks to replace the said ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 29th July 1985 as No. 405 at page 3.)

XVIII

Amending Act 34 of 1991.—It is considered necessary to omit section 101-C, since other provisions relating to recovery of Co-operative dues are found to be adequate and the purchase of immovable property by the State Government in the auctions has caused un-necessary anxiety and hardship to the farmers.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 30th September 1991 as No. 622 at page 254.)

XIX

Amending Act 25 of 1998.—Keeping in view the recommendations made by the Committee headed by Sri K. H. Patil and two other committees and also various suggestions made by prominent co-operators and officers of the Co-operative Department, It was considered necessary to amend the Karnataka Co-operative Societies Act 1959,—

- (i) to define primary societies, secondary societies, federal societies and apex societies;
- (ii) to prohibit members of the same family from applying for registration of a co-operative society;
- (iii) to provide deemed registration of co-operative, society and amendment of byelaws within a period of three months from the date of receipt of the proposal;

- (iv) to provide for cessation of membership of a person who fails to fulfill his obligations as a member under the Act, Rules and Byelaws for a continuous period of three years;
- (v) to remove the powers of the Registrar to direct amalgamation, division, and re-organization of co-operative societies;
- (vi) to prohibit a member who is a defaulter from exercising his right to vote at a meeting of the co-operative society
- (vii) to remove the restrictions on holding of shares by the members of co-operative societies;
- (viii) to substitute section 27 to have more comprehensive provision in respect of conducting annual general meeting;
- (ix) to require a committee to make arrangements for election of membership of next committee and also to provide for consequences of default in making such arrangements;
- (x) to provide for nomination of only three persons in the committee of assisted societies;
- (xi) to remove the powers of Government under section 30A and 30B for appointment of special officer;
- (xii) to do away with the Government nomination of one third of the total strength of the committee under section 53A;
- (xiii) to prohibit such nominated members from contesting in the election of President, Vice-President and other office bearers of the committee;
- (xiv) to provide office bearers to continue even after two terms;
- (xv) to make detailed provisions regarding election of President, Vice-President and other office bearers and also filling up of casual vacancy in the office of the members of the committee;
- (xvi) to provide for appointment of Chief Executive of the Co-operative Society and also to specify his powers and functions;
- (xvii) to provide for appointment of Special Officer in case a society is not functioning on account of the number of members of the committee falling short of the required number of quorum;
- (xviii) to incorporate a new Chapter VA and sections 39A to 39K to have comprehensive provisions relating to election of the members of the committee;
- (xix) to remove the powers of the Government under section 121 by deleting the provision;
- (xx) to take power to notify model byelaws.

Certain consequential amendments are also made.

Hence the Bill.

(Obtained from file DPAL16 LGN 97.)

XX

Amending Act 2 of 2000.— Keeping in view the recommendations made by the various Committees and the suggestions made by leading co-operators, it is considered necessary to amend the Karnataka Co-operative Societies Act, 1959,

- (i) to make co-operative institutions economically sound in the interest of society and its members;
- (ii) to bar Industrial Tribunals from entertaining disputes of the nature of industrial disputes arising under the Co-operative Societies Act, in order to avoid multiplicity of forums, and for certain other purposes.

Hence the Bill.

(Obtained from L.A. Bill No. 20 of 1997.)

XXI

Amending Act 13 of 2000.— Several amendments were made to the Karnataka Co-operative Societies Act, 1959 by the Karnataka Co-operative Societies (Amendment) Act, 1997 including the amendments,-

- (i) to deprive a nominated member's right to vote in the election of office bearers and President, Chairperson, Vice President and Vice Chairperson of the Co-operative Society;
- (ii) to omit section 30B which provides for power to give direction in public interest;
- (iii) to omit section 53A which provides for nomination of members to a Committee by the State Government in certain cases.

The Government has come across several hurdles while implementing the amended provisions. The Government has invested a large amount of money in various Co-operative Societies in the form of share capital, loan and subsidy. Further, the Government has also given guarantee to various Co-operative institutions for repayment of loan and interest due by them. Therefore, it is felt that there should be some enabling provision providing for effective intervention by the Government to safeguard public interest and also the interest of the shareholders of a Co-operative Society.

Therefore, it is considered necessary to amend the Karnataka Co-operative Societies Act, 1959,-

- (i) to confer voting right on nominated members in the election of office bearers of

the Committee and Chairpersons, Vice Chairpersons, President and Vice President so that they can effectively participate in the management of a Co-operative Society;

(ii) to reintroduce the provision 30A empowering the State Government to issue direction in public interest;

(iii) to reintroduce section 52A providing for nomination of members of Committee of a Co-operative Society by the State Government in certain cases where the State Government has given substantial financial assistance.

As the matter was urgent and where both the Houses of the Karnataka Legislature were not in session, the Karnataka Co-operative Societies (Amendment) Ordinance, 2000 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Obtained from L.A. Bill No. 13 of 2000)

XXII

Amending Act 6 of 2001.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Stamp Act, 1957 and the Karnataka Co-operative Societies Act, 1957.

Hence the Bill.

(Vide L.A.Bill No.6 of 2001 File No. ಸಂಖ್ಯೆಶಾಇ 10 ಶಾಸನ 2001)

XXIII

Amending Act 24 of 2001.- To achieve better results in the Co-operative Field and to over come certain difficulties encountered in the effective implementation of the existing provisions of the Karnataka Co-operative Societies Act, 1959. It is considered necessary to amend the Act to provide for the following, namely:-

(1) To enlarge the definition of "Assisted Society" by including even societies which receive assistance in the form of loan or grant or guarantee for repayment of loan or interest.

(2) To restore the earlier provision providing for appointment of a person as the Director of Co-operative Audit.

(3) To omit section 2B as it is redundant in view of the provisions contained in the Karnataka Appellate Tribunal Act, 1976.

(4) To provide for levy of fee in respect of amendment of bye-laws of Co-operative Societies.

(5) To provide for admission of Self Help Groups as nominal members of a society.

(6) To have a specific provisions indicating when a person shall cease to be a member of a Co-operative Society.

(7) To restore earlier provision providing for expansion of time by the Registrar to convene the Annual General Body Meeting of a Society by a period not exceeding six months.

(8) To enhance the total of members of an Apex Society from the existing 25 to 32 and in the case of an urban co-operative bank having an area of operation not beyond a district to enhance it upto 15 members.

(9) To reduce the term of office of the members of the committee from the existing five co-operative years to three co-operative years.

(10) To provide that the nominated members shall not have right to become bearers of a primary co-operative society and any other class or classes of co-operative society as may be specified by the Government and to provide that the members so nominated shall hold office during the pleasure of the Government.

(11) To provide for disqualification under certain circumstances in the case of a person who represents a co-operative society in the committee of District Central Society or with a Federal society or an Apex society.

(12) To reduce the term of office of the office bearers from the existing two and half years to one year.

(13) To provide for appointment and removal of the Chief Executive of an assisted Society by the Government or Registrar.

(14) To provide for supercession of a committee even in case of violation of any direction issued under section 30B and to provide for further extension of period of appointment of an Administrator up to one year in aggregate.

(15) To restore the earlier provision providing for appointment of a Special Officer to a society by the State Government on a report made by the Registrar.

(16) To empower the Registrar to extend the period of appointment of a special officer under section 31 for a further period of one year in the aggregate.

(17) To provide for postponement of election of co-operative societies in the case of natural calamities et.,

(18) To restore earlier provision providing for audit of all co-operative societies by the Director of co-operative Audit.

(19) To provide explicitly for initiation of surcharge proceedings against Government nominees and ex-officio members.

(20) To restore earlier provision providing for exemption of societies from the applicability of the provisions of the Act subject to the modification that it shall not apply

to section 30A.

(21) To provide for submission of copies or resolution or order to the Registrar by the Chief Executive and for rescinding or canceling the resolution or order under certain circumstances.

Certain incidental provisions are also made.

Hence the Bill.

(obtained from LA Bill No. 32 of 2000)

XXIIIIV

Amending Act 13 of 2004.- It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 to provide for.-

(I) conversion of a Co-operative under Karnataka Souharda Sahakari Act, 1997 into a Co-operative Society.

(ii) voting rights to the Co-operative Societies after 12 months of their admission as in the case of individuals.

(iii) prior sanction of RBI in respect of a Co-operative Bank under section 26A and 26B.

(iv) the Registrar to conduct the general meeting in case of failure to the committee to hold Annual general body meeting.

(v) the election shall be held within a three months from the date of registration of a Co-operative Society or Societies formed after amalgamation or reorganization or division and that an administrator be appointed for the said period of three months.

(vi) vesting of powers under section 30, 31, 59 and 64 with the Registrar.

(vii) appeal provision against the orders of Registrar under sec 12, 17 and 31.

(viii) vesting of compounding of offences relating to audit with the Director of Co operative Audit.

Some consequential amendments are also made in view of judgement passed by the Hon'ble High Court in W.A.No: 1899-1912/2001 and W.P.No. 21461/1999.

Hence the Bill

[L.A. BILL No. 1 OF 2004]

(Entry 32 of List II of the Seventh Schedule to the Constitution of India)

XXIIIIV

Amending Act 6 of 2010.- The Government of Karnataka had appointed a 3 men committee namely:-

1) Sri B.S. Viswanathan, Ex-President & Present director of Karnataka State

Cooperative Apex & Rural Development Bank Ltd., Bengaluru

2) Sri M.C. Nanayya, Former Minister for Law & Parliamentary Affairs

3) Sri Shivanand Patil, President, D.C.C. Bank Ltd., Bijapur with Registrar of Cooperative Societies as Secretary to the committee

on 27.05.2005 to suggest amendments to Karnataka Cooperative Societies Act 1959 to remove restrictive provisions in the Act and to enable the cooperative societies to function in a transparent, accountable, vibrant and democratic manner. The said committee travelled extensively throughout the State and interacted with cooperative societies and cooperators. The committee visited some of the States. The committee submitted its report to Government in February 2006.

The Government of India (GOI) also appointed a task force on 05.08.2004 under the Chairmanship of Prof. A.Vaidyanathan to suggest measures for revival of short-term cooperative credit structure in the country. The said task force travelled extensively throughout the country and interacted with cooperative societies and cooperators and made a critical study of the short-term cooperative credit structure in the Country and submitted its report to GOI on 04.02.2005. Thereafter the GOI held discussions with the representatives of the State Governments and formulated a revival package for revitalisation of short-term credit cooperative structure on the basis of the recommendations of Prof.A.Vaidyanathan and taking into account the views of the State Governments and communicated the revival package to the States in January 2006.

The Government of Karnataka has accepted the revival package and signed tripartite Memorandum of Understanding(MoU) with Gol & NABARD on 25.03.2008. The said MoU envisages certain amendments to be brought to the Karnataka Cooperative Societies Act 1959 giving more powers to the cooperative societies and at the same time vesting certain powers with RBI / NABARD. It is a pre-condition under the MoU that the Karnataka Cooperative Societies Act 1959 be amended accordingly before release of the financial assistance by Gol through NABARD under the package.

In the light of the recommendations of Sri B.S. Viswanathan Committee Report and the MoU signed with Gol on 25.03.2008 and administrative requirements, it is considered necessary to amend the Karnataka Cooperative Societies Act 1959 as follows.

- 1) **Section 2.-** It is proposed to insert the definitions of 'Agriculture and Rural Development Bank', 'Backward Class', 'Co-operative Credit Structure', 'Central Co-operative Bank', 'Chartered Accountant', 'Multipurpose Cooperative Society', 'National Bank', 'Primary Agricultural Credit Society', 'State Agriculture and Rural Development Bank' and 'State Cooperative

- Bank'. It is proposed to substitute the words 'Government or State' for the word Government in the definition of 'Assisted Society'.
- 2) **Section 12.-** It is proposed to amend Section 12 by inserting the words 'or to give effect to the provisions of the Act or Rules made thereunder' after the words 'interest of such society' to have a clear understanding.
 - 3) **Section 16.-** It is proposed to amend Section 16 with the insertion of a Depositor or a self-help group so as to enable them to become members of a cooperative society in the light of the revival package
 - 4) **Section 20.-** It is proposed to amend Section 20 clarifying the word 'affairs' to mean 'the general meeting and the election of the members of the committee' and to give a notice of forty five days to the defaulters instead of thirty days.
 - 5) **Section 21.-** It is proposed to amend Section 21 by clarifying the word 'affairs' to mean 'the general meeting and the election of the members of the committee' and inserting the words 'or a self-help group' after the words 'a firm' so as to enable the self-help group to send its delegate. It is also proposed that the newly elected members of the committee shall have an opportunity to send a delegate or nominee to any other cooperative society.
 - 6) **Section 28A.-** It is proposed to amend Section 28A to provide necessary clarifications as to when an administrator could be appointed.
 - 7) **Section 28B.-** It is proposed to amend Section 28B stipulating that the period of the administrator shall not exceed three months in respect of a society in cooperative credit structure.
 - 8) **Section 29.-** It is proposed to amend Section 29 by enunciating the duties of Government nominees.
 - 9) **Section 29A.-** It is proposed to amend Section 29A by omitting the word 'elected' so as to have a clear understanding regarding the term of office of the members of the committee.
 - 10) **Section 29C.-** It is proposed to amend Section 29C that the disqualification mentioned in clause (e) shall not be applicable to the chief executive.
 - 11) **Section 29F.-** It is proposed to amend Section 29F to stipulate that the chief executive shall not have the right to vote at a meeting convened for the purpose of electing office-bearers.
 - 12) **Section 29G.-** It is proposed to amend Section 29G to enable the cooperative credit structure to appoint their own chief executives in the light of the revival package and stipulating that the chief executive shall be a member of the committee.
 - 13) **Section 30.-** It is proposed to amend Section 30 in the light of the revival

package.

- 14) **Section 31.-** It is proposed to amend Section 31 by omitting the words 'or for any other reason' so as to limit the power to appoint the special officer to a situation of want of quorum only and to stipulate that the period of special officer shall not exceed three months in respect of a society in cooperative credit structure.
- 15) **Section 39A.-** It is proposed to amend Section 39A by stipulating multi-level holding of elections to different cooperative societies and that the State Government should not postpone the elections of a society in co-operative credit structure for a period exceeding three months.
- 16) **Section 54.-** It is proposed to omit the Section 54 in keeping with the MoU.
- 17) **Section 56.-** It is proposed to amend Section 56 to state the mode of mobilisation of funds of a co-operative society and to provide that TA, DA & Other allowances payable to the members of the committee be specified in the bye-laws subject to the maximum rate specified by the Registrar.
- 18) **Section 58.-** It is proposed to amend Section 58 to lay down that a Co-operative Bank may invest its funds in Scheduled bank or financial institution regulated by the Reserve Bank as per the directives of the Reserve Bank of India.
- 19) **Section 59.-** It is proposed to amend Section 59 to provide for the limit of deposits and loans that a cooperative society can raise to be specified in the bye-laws.
- 20) **Section 60.-** It is proposed to amend Section 60 to enable a cooperative society to make loans to another cooperative society without the sanction of the Registrar.
- 21) **Section 63.-** It is proposed to amend Section 63 making it obligatory on the part of every society to get its accounts audited every year and elaborate the scope of audit.
- 22) **Section 64.-** It is proposed to amend Section 64 to enable a copy of the inquiry report to the cooperative society and the society shall report the action taken thereon within three months to the Registrar.
- 23) **Section 65.-** It is proposed to amend Section 65 to enable a copy of the inspection report to the cooperative society and the society shall report the action taken thereon within three months to the Registrar.
- 24) **Section 69.-** It is proposed to amend Section 69 stipulating that the application shall be decided within a period of twelve months which may be extended upto eighteen months.

- 25) **Section 70.-** It is proposed to amend Section 70 substituting the words 'or any other office bearer' for the words 'secretary, treasurer' as the latter are paid employees.
- 26) **Section 70A.-** It is proposed to amend Section 70A stipulating that a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of cause of action.
- 27) **Section 71.-** It is proposed to amend Section 71 stipulating that the dispute shall be decided within a period of twelve months which may be extended upto eighteen months.
- 28) **Section 76.-** It is proposed to amend Section 76 by omitting clauses (b) & (c) as they have been inserted in Section 2.
- 29) **Section 98A to 98Y.-** It is proposed to incorporate a separate chapter making special provisions applicable to societies in cooperative credit structure as envisaged in the MoU signed with GOI & NABARD in the revival package for revitalisation of cooperative credit structure.
- 30) **Section 100.-** It is proposed to dispense with the approval of the Registrar in the light of the revival package.
- 31) **Section 105.-** It is proposed to amend section 105 stipulating that 25% of the amount due shall be deposited before filing an appeal.
- 32) **Section 106.-** It is proposed to amend section 106 by providing appeals against the orders passed under section 28A(5), 99, 105A and 111 and lay down the appellate authorities specifically. It is also proposed to stipulate that 25% of the amount due shall be deposited before filing an appeal and that the appeal shall be decided within a period of twelve months which may be extended upto eighteen months.
- 33) **Section 111.-** It is proposed to amend section 111 to provide for the sanction of the Registrar for launching a criminal case in respect of all matters concerning a co-operative credit structure society in keeping with MoU. It is also proposed to provide that no sanction of the Registrar or the Director of Cooperative Audit is necessary for filing criminal complaints against the concerned for misappropriation.
- 34) **Section 128A.-** It is proposed to retain Section 128A for a period of six months in order to comply with directions of the Hon'ble High Court in certain cases and give postings to employees who are on weighting and to settle such other service conditions of the employees of primary cooperative agricultural and rural development banks.

As the matter was urgent and both the Houses of the Karnataka Legislature were

not in Session, the Karnataka Cooperative Societies (Amendment) Ordinance, 2009 (Karnataka Ordinance No. 8 of 2009) was promulgated on 30.10.2009.

This Bill seeks to replace the said Ordinance.

[L.C.Bill No. 1 of 2010, File No. DPAL 50 Shasana 2009]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

XXIII VII

Amending Act 04 of 2011.- The Karnataka State Co-operative Agriculture and Rural Development Bank has expressed that the revival package for long-term loan (under Prof. A. Vaidyanathan committee) has not been implemented, it is necessary to continue the existing system till the Government of India takes a decision to implement the Prof. A. Vaidyanathan package for the long-term credit structure. Therefore, it is considered necessary to continue the Common Cadre Committee to prevent adverse effect on the functioning of Primary Co-operative Agricultural and Rural Development (PCARD) Banks. Hence, it is proposed to insert the new section 97A in the Karnataka Co-operative Societies Act, 1959.

It is considered necessary to hold the elections in respect of Co-operative Credit Structure Societies also in four stages namely.- Primary, Secondary, Federal and Apex. Hence, it is proposed to amend section 98Q on the lines of section 39A (2).

Hence the Bill.

[L.A. Bill No. 05 of 2011, File No. Samvyashae 45 Shasana 2010]

[Entry 32 of List II of the Seventh Schedule to the Constitution of India.]

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सत्यमेव जयते

¹[KARNATAKA ACT]¹ No.11 OF 1959

(First published in the ¹[Karnataka Gazette]¹ on the Twentieth day of August, 1959.)

THE ¹[KARNATAKA]¹ CO-OPERATIVE SOCIETIES ACT, 1959

(Received the assent of the President on the Eleventh day of August, 1959.)

(As Amended by Karnataka Acts, 40 of 1964, 27 of 1966, 16 of 1967, 1 of 1972, 14 of 1973, 2 & 39 of 1975, 19, 70 & 71 of 1976, 14 of 1978, 16 of 1979, 3 & 4 of 1980, 5 of 1984, 34 of 1985, 34 of 1991 and 25 of 1998, 13 of 2000, 6 of 2001, 24 of 2001, 13 of 2004, 6 of 2010 and 4 of 2011)

An Act to consolidate and amend the laws relating to co-operative societies in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to consolidate and amend the laws relating to co-operative societies in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Tenth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Co-operative Societies Act, 1959.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(3) It shall come into force on such ¹[date]¹ as the State Government may, by notification in the official Gazette, appoint.

1. Act came into force on 1.6.1960 by notification. Text of the notification is at the end of the Act.

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

¹[(a) 'Apex Society' means a federal society whose area of operation extends to the whole of the State;

²[(a1) 'Assisted Society' means a co-operative society which has received the ³[Government or State]³ assistance in the form of share capital or loan or grant or guarantee for repayment of loan or interest]²¹

1. Clause (a) and (a1) Inserted by Act 25 of 1998 w.e.f. 15.8.1998 by notification. Text of the notification is at the end of the Act.

2. Substituted by Act 24 of 2001 w.e.f. 05.09.2001 by notification. Text of the notification is at the end of the Act.

3. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

¹[(a-1-1) 'Agriculture and Rural Development Bank' means a Co-operative Agriculture and Rural Development Bank registered or deemed to be registered under this Act and admitted as a member of the State Agriculture and Rural Development Bank and includes such class or classes of co-operative societies as may be notified by the Registrar and admitted as members of the State Agriculture and Rural Development Bank.]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

¹[(a2)]¹ 'bye-laws' means the bye-laws registered or deemed to be registered under this Act and for the time being in force and includes a registered amendment of the bye-laws;

1. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(a-2-1) 'Backward Class' means the Backward Classes as notified under clause (a) of section 2 of the Karnataka State Commission for Backward Classes Act, 1995(Karnataka Act No.28 of 1995);]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

²[(a3) 'Chief Executive' means any employee of a co-operative society by whatever designation called and includes an official of the State Government, an employee of any other institution or co-operative society who discharges the functions of a Chief Executive under the Act, rules or the bye-laws;]²

2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

³[(a4)]¹ Director of Co-operative Audit'²[means a person appointed to perform]² of the Director of Co-operative Audit under this Act and includes an Additional Director of Co-operative Audit, a Joint Director of Co-operative Audit, a Deputy Director of Co-operative Audit, and an Assistant Director of Co-operative Audit appointed to assist the Director of Co-operative Audit when exercising all or any of the powers of the Director of Co-operative Audit.]³

1. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 24 of 2001 w.e.f. 05.09.2001

3. Inserted by Act 3 of 1980 w.e.f. 11.8.1977 & substituted by Act 25 of 1998 w.e.f.15.8.1998.

(b) '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;

¹[(b1) "Co-operative Bank" means a Co-operative Society which is doing the business of banking.

Explanation.—For the purpose of this clause "banking" shall have the meaning assigned to it in section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949).]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975 by notification. Text of the notification is at the end of Act. Again substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(b-2) 'Co-operative Credit Structure' means and includes Primary Agricultural Credit Co-operative Societies by whatever name called, Central Co-operative Banks, State Co-operative Bank, Agricultural and Rural Development Banks and State Agricultural and Rural Development Bank.

(b-3) 'Central Co-operative Bank' means a federal society engaged in the business of banking.

(b-4) 'Chartered Accountant' means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949).]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

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

(d) 'co-operative society with limited liability' means a co-operative 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;

¹[(d1) 'Co-operative Year or year' means the year commencing from the first day of April;]¹

1. Inserted by Act 5 of 1984 w.e.f. 9.1.1984 & substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[d-2) Co-operative means a Co-operative registered under the Karnataka Souharda Sahakari Act, 1997 (Karnataka Act 17 of 2000) and includes the Union Co-operative and the Federal Co-operative]¹.

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004 by notification. Text of the notification is at the end of the Act.

(e) 'co-operative society with unlimited liability' means a co-operative 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;

¹[(e1) 'credit agency' means a credit agency as defined in the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 ²[and includes any other body or corporation or financial institution which gives financial assistance to a co-operative society and has been notified by the State Government from time to time]²;]¹

1. Inserted by Act 2 of 1975 w.e.f. 17.7.1975 by notification. Text of the notification is at the end of the Act.

2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(e2)]² 'Deposit Insurance Corporation' means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(e3)] 'employee' means a salaried employee of a co-operative society and includes an official of the State Government or any employee of any other institution or co-operative society who for the time being is working in a co-operative society;

(e4) 'federal society' means a co-operative society, the membership of which is not open to individuals:

Provided that nothing in this clause shall apply to admission of individuals as nominal members;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(e5)]¹ 'Financing Bank' means a co-operative society, the main object of which is to make advances in cash or in kind to other co-operative societies;]¹

1. Re-numbered by Act 25 of 1998 w.e.f. 15.8.1998.

(f) 'member' means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal and an associate member;

¹[(f-1)] 'Multipurpose Cooperative Society' means a primary society the object of which is to provide various services including services related to credit, business, industry and consumer durables to its members.

"(f-2) 'National Bank' means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and rural Development Act, 1981 (Central Act No. 61 of 1981).]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

¹[(g)] 'office bearer', means the President, Vice-President, Chairperson, Vice-Chairperson, Liquidator, Administrator, Special Officer and includes a member of the committee or any other person not being an employee empowered to exercise any power or perform any function in regard to the business of a co-operative society and to give directions in regard to policies affecting the business of the society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(h) 'prescribed' means prescribed by rules made under this Act;

¹[(h1) 'primary society' means a co-operative society whose membership is not open to another co-operative society;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(h-2) 'Primary Agricultural Credit Co-operative Society' means a cooperative society as defined under clause (cciv) of Section 5 of Banking Regulation Act, 1949 (Central Act 10 of 1949) and includes a multipurpose cooperative society.]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

¹[(l) 'Registrar' means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes an Additional Registrar of Co-operative Societies, a Joint Registrar of Co-operative Societies, a Deputy Registrar of Co-operative Societies and an Assistant Registrar of Co-operative Societies appointed to assist the Registrar when exercising all or any of the powers of the Registrar;]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.6.1965 by notification. Text of the notification is at the end of the Act.

¹[(i-1) 'Reserve Bank' means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934)]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

(j) 'rules' means the rules made under this Act,

¹[(j-1) 'Scheduled Castes and Scheduled Tribes' means the Scheduled Castes and Scheduled Tribes specified in respect of the State of Karnataka in the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 for the time being in force;

(j2) 'secondary society' means a co-operative society whose membership is also open to another co-operative society;

(j3) "State Representative' means any person appointed as State representative under section 2A;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(j-4) State Agriculture and Rural Development Bank' means the Karnataka State Co-operative Agriculture and Rural Development Bank, Limited."

(j-5) 'State Cooperative Bank' means an apex society doing the business of banking.]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

¹[(k) 'Tribunal' means the tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976)]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.6.1965 and again Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(l) references to any enactment or provision of law not in force in any Area of the 1[State of Karnataka]1 shall be construed as references to the corresponding enactment or provision of law, if any, in force in that Area.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

¹[CHAPTER IA

AUTHORITIES AND APPELLATE TRIBUNAL.

2A. Registrar, Additional Registrars, Joint Registrars, Deputy Registrars

²[,State Representatives]² and Assistant Registrars.- (1) The State Government may appoint a person to be the Registrar of Co-operative Societies for the State. 1. Chapter IA inserted by Act 40 of 1964 w.e.f. 26.6.1965. 2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998. (2) The State Government may appoint 1[as many Additional Registrars of Co-operative Societies,]1 Joint Registrars of Co-operative Societies, Deputy Registrars of Co-operative Societies 2[,State Representatives, and Assistant Registrars of Co-operative Societies either as officiating or otherwise]2 as it thinks fit for the purpose of assisting the Registrar.

1. Substituted by Act 14 of 1973 w.e.f. 14.6.1973.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(3) The State Government may appoint such other officers with such designations as it deems fit to assist the Registrar.

(4) All officers and persons employed in the administration of this Act ¹[except relating to the audit]¹ shall be subject to the superintendence, direction and control of the State Government and the Registrar, and the officer or officers to whom each officer appointed under this Act shall be subordinate shall be determined by the State Government:

1. Inserted by Act 3 of 1980 w.e.f. 11.8.1977.

Provided that the power vested in the State Government and the Registrar under this sub-section shall not be exercisable so as to interfere with the discretion of any authority in the exercise of any quasi-judicial function whether as original or appellate authority.

(5) The State Government may, by general or special order, confer on any person appointed as Additional Registrar of Co-operative Societies, Joint Registrar of Co-operative Societies, Deputy Registrar of Co-operative Societies or Assistant Registrar of Co-operative Societies, ¹[either as officiating or otherwise]¹ all or any of the powers of the Registrar under this Act.

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

(6) Notwithstanding anything contained in this Act, matters relating to the ¹[x x x]¹ accounts of every Co-operative society shall be subject to the supervision and control of the Registrar of Co-operative Societies for the State.

1. Omitted by Act 3 of 1980 w.e.f. 11.08.1977.

¹[(7) In proceedings before the Tribunal, the State Representative shall be competent,—

- (i) to prepare and sign applications, appeals and other documents;
- (ii) to appear, represent, act and plead;
- (iii) to receive notices and other processes; and
- (iv) to do all other acts connected with such proceedings,

on behalf of the State Government or any officer appointed under this Act.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[2AA. ²[Director of Co-operative Audit]², ²[Additional Director of Co-operative Audit]², ²[Joint Directors of Co-operative Audit]², ²[Deputy Directors of Co-operative Audit]² and ²[Assistant Directors of Co-operative Audit]².- ³[(1) The State Government may appoint a person to be the Director of Co-operative Audit of Co-operative Societies for the State]³

1. Section 2AA inserted by Act 3 of 1980 w.e.f. 11.08.1987.

2. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

3. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) The State Government may appoint an ¹[Additional Director of Co-operative Audit]¹ of co-operative societies and as many ¹[Joint Directors of Co-operative Audit]¹, ¹[Deputy Directors of Co-operative Audit]¹ and ¹[Assistant Directors of Co-operative Audit]¹, of co-operative societies, as it thinks fit for the purpose of assisting the ¹[Director of Co-operative Audit]¹.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(3) The State Government may appoint such other officers with such designations as it deems fit to assist the ¹[Director of Co-operative Audit]¹.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(4) All officers and persons employed in the administration of this Act relating to audit shall be subject to the superintendence, direction and control of the State Government and the ¹[Director of Co-operative Audit]¹ and the officer or officers to whom each officer appointed under this section shall be subordinate shall be determined by the State Government:

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

Provided that the power vested in the State Government and the ¹[Director of Co-operative Audit]¹ under this sub-section shall not be exercisable so as to interfere with the discretion of any authority in exercise of any quasi-judicial function whether as original or appellate authority.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(5) The State Government may, by general or special order confer on any person appointed as ¹[Additional Director of Co-operative Audit]¹, ¹[Joint Director of Co-operative Audit]¹, ¹[Deputy Director of Co-operative Audit]¹ or ¹[Assistant Director of Co-operative Audit]¹, of co-operative societies, all or any of the powers of the ¹[Director of Co-operative Audit]¹ under this Act.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

(6) Notwithstanding anything contained in this Act, matters relating to audit of every co-operative society shall be subject to the supervision and control of the ¹[Director of Co-operative Audit]¹.

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

¹[**2B.** x x x]¹

1. Omitted by Act 24 of 2001 w.e.f. 5.9.2001.

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES.

¹[**3.** x x x]¹

1. Omitted by Act 40 of 1964 w.e.f. 26.6.1965.

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

Provided that no co-operative society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the co-operative movement.]¹

1. Substituted by Act 40 of 1964 w.e.f. 26.6.1965.

5. Registration with limited or unlimited liability.- (1) A co-operative society may be registered with or without limited liability:

Provided that the liability of a co-operative society of which any member is a co-operative society, shall be limited.

(2) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative 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 ¹[and after complying with such formalities]¹ as may be prescribed; and the applicants shall furnish to him all such information about the society as he may require.

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

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

(a) the application shall be accompanied by ²[five]² copies of the proposed bye-laws of the co-operative society;

(b) where all the applicants are individuals, the number of applicants shall not be less than ten;

(c) every one of the applicants who is an individual shall be above the age of eighteen years ¹[and the applicants shall not be members of the same family.

Explanation.—For the purpose of this clause family in relation to a person means an individual, wife or husband, as the case may be, and their dependent children and parents;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(d) where the objects of the co-operative society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in the same village or town ¹[or in the proposed area of operation of the co-operative society]¹ or belong to the same class or pursue the same occupation;

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(e) the application shall be signed by every one of the applicants who is an individual and by a person duly authorized on behalf of any co-operative society which is an applicant.

¹[(f) the application shall be accompanied by such fee as may be prescribed and different fees may be prescribed for different class or classes of co-operative societies.]¹

1. Inserted by Act 25 of 1998 w.e.f. 27.10.1998 by notification text of the notification is the end of the Act.

¹[(g) in the case of the co-operative which intends to convert itself into a Co-operative Society under this Act, the application shall be accompanied by a resolution of the general meeting of such Co-operative approving such conversion]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

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

(a) that the application complies with the provisions of this Act ¹[, rules and the provisions of any other law for the time being in force]¹;

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

(c) that the aims of the proposed society are not inconsistent with the principles of social justice;

(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 and has reasonable chances of success;

the ¹[Registrar shall, within a period of three months from the date of receipt of the application, register]¹ the co-operative society and its bye-laws ²[and send by registered post, a certificate of registration and the original registered bye-laws signed with date and seal by him to the chief promoter mentioned in the application or to the chief executive of the Co-operative which is converted]²

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

¹²[(2) If the Registrar is unable to dispose of such application within the period specified in sub-section (1), the society and the bye-laws shall be deemed to have been registered.]²

1. Sub-sections (2) to (4) inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(3) Where the Registrar refuses to register a proposed co-operative society, he shall forthwith communicate his decision, with the reasons therefor, to the person making the application and if there be more than one to the person who has signed first in the application.

(4) The Registrar shall maintain a register of all co-operative societies registered or deemed to be registered under this Act.]¹

8. Registration certificate.- Where a co-operative society is registered ¹[or is deemed to be registered]¹ under this Act, the Registrar shall issue a Certificate of Registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered ¹[or is deemed to be registered]¹ under this Act.

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

9. Co-operative societies to be bodies corporate.- The registration of a co-operative 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 co-operative society.- (1) A co-operative society may, by an amendment of its bye-laws, change its name.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on 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 co-operative society shall not affect any rights or obligations of the co-operative 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 co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a co-operative 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 any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of 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 assented to the change.

(4) An amendment of the bye-laws of a co-operative 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, or deemed to have been, obtained; 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 co-operative society.- (1) No amendment of any bye-law of a co-operative society shall be valid unless such amendment has been registered under this Act.

¹[(1-A) Every proposal for such amendment shall be accompanied by such fee as may be prescribed, and different fees may be prescribed for different class or classes of co-operative societies]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment,—

- (I) is not contrary to the provisions of this Act and the rules;
- (ii) does not conflict with co-operative principles;
- (iii) satisfies the requirements of sound business;
- (iv) will promote the economic interests of the members of the society; and
- (v) is not inconsistent with the principles of social justice;

¹[he shall, within a period of three months from the date of receipt of the proposal, register the amendment]¹.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2A) If the Registrar is unable to dispose of such application within the period specified in sub-section (1), the amendment of bye-laws shall be deemed to have been registered.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(3) When the Registrar registers an amendment of the bye-laws of a society or where an amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of amendment certified by him and such certificate shall be conclusive evidence that the amendment of the bye-law has been duly registered or deemed to be registered, as the case may be.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

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

¹[(5) If it appears to the Registrar that any amendment of the bye-laws of a co-operative society is necessary or desirable in the ¹[interest of such society or to give effect to the provisions of the Act or rules made thereunder]¹ the Registrar may, by order, call upon the co-operative society, to make the amendment proposed by him in such manner as may be prescribed and within such time as he may specify.

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

(6) If such amendment is not made by the co-operative society within the time specified in the said order, notwithstanding anything contained in the Act, the Registrar may, after giving the co-operative society an opportunity of being heard, register the said amendment and forward a copy thereof to the co-operative society along with a certificate signed by him which shall be conclusive evidence that the amendment has been duly registered.]¹

1. Sub-sections (5) and (6) inserted by Act 5 of 1984 w.e.f. 09.01.1984.

13. When amendments of bye-laws come into force.- Subject to any appellate order under section 106, an amendment of the bye-laws of a co-operative 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 co-operative societies.- (1) A co-operative society may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of the society,—

(a) divide itself into two or more co-operative societies; or

(b) transfer its assets and liabilities in whole or in part to any other co-operative society which by a like resolution agrees to such transfer.

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

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be, and no such resolution shall have any effect unless approved by the Registrar.

¹[Provided that in the case of a co-operative bank, the Registrar shall not approve such resolution without the previous sanction in writing of the Reserve Bank.]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

(4) When a co-operative society has passed any such resolution, and it has been approved by the Registrar, the co-operative society shall give notice thereof in writing to all its creditors and such members of the society as did not vote in favour of the resolution and, notwithstanding any bye-laws or contract to the contrary, any creditor or any member to whom such notice is given shall during the period of one month 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) and every member who has voted in favour of the resolution shall be deemed to have assented to the proposals contained in the resolution.

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

(a) the assent thereto of all the members and creditors has been, or deemed to have been, obtained under this section 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 co-operative 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. ¹[²[14A. x x x]²

1. Sections 14A to 14C inserted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Section 14A, Omitted by Act 25 of 1998 w.e.f. 15.8.1998.

14B. Registrar to prepare scheme for amalgamation of co-operative banks in certain areas.- (1) Where an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 (Central Act 10 of 1949) in respect of a co-operative bank, the Registrar may, during the period of moratorium, prepare a scheme,—

(i) for the re-organization of the co-operative bank; or

(ii) for the amalgamation of the co-operative bank with any other co-operative bank.

(2) No such scheme shall be given effect to unless it has been sanctioned by the Reserve Bank.

14C. Liability of co-operative bank to the Deposit Insurance Corporation.- Notwithstanding anything contained in section 14 or other provision of this Act, where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961) is amalgamated or re-organized and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated or the new co-operative bank formed after such amalgamation or, as the case may be, the insured bank or transferee bank shall be under an obligation to repay the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance Corporation Act, 1961.]¹

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

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 14, ¹[or section 14A]¹ the registration of each of the amalgamating societies shall stand cancelled on the

registration of the new society and each such society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

(3) Where a co-operative society ²[is divided]² into two or more co-operative societies in accordance with the provisions of section 14, ¹[or section 14A]¹ 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.

1. Inserted by Act 39 of 1975 w.e.f. 23.9.1975.

2. Substituted by Act 39 of 1975 w.e.f. 23.9.1975.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES.

16. Persons who may become members.- ¹[(1) Subject to the provisions of section 17, no person shall be admitted as a member of a co-operative society except the following, namely:—

¹[(a) an individual who needs the services of such co-operative society and is competent to enter into contract under the Contract Act, 1872(Central Act IX of 1872)]¹

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

¹[(a-1) a depositor]¹

1. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

(b) any other co-operative society;

(c) the state Government or the Central Government;

(d) the Life Insurance Corporation of India, State Warehousing Corporation and such other institutions as may be approved by the State Government;

(e) a firm, a company or any other body corporate constituted under any law for the time being in force including a society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960);

(f) a Market Committee established under the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966);

(g) a local authority.

Explanation.—For the purpose of this clause, local authority means, a Municipal Corporation, Municipal Council, Town Panchayat, Zilla Panchayat, Taluk Panchayat or Grama Panchayat constituted under any law for the time being in force.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2) No co-operative society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this ²[Act, rules and bye-laws]².

1. Sub-sections (2) to (4) substituted by Act 40 of 1964 w.e.f. 26.6.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(3) Any person seeking admission as a member of any co-operative society shall make an application in writing for admission as a member of such society.

(4) Every co-operative society shall within three months from the date on which application for admission was delivered to such society either admit or refuse to admit any such person as a member, and shall send a written communication of such admission or refusal to the applicant before the said period. If no communication of admission as a member is received by the applicant before the expiry of the said period, his application for admission shall be deemed to have been refused by the co-operative society on the last day of the said period for purposes of section 105A.]¹

¹[(5) Notwithstanding anything contained in the preceding sub-sections or section 18 or the rules and the bye-laws of such co-operative society or classes of co-operative societies as the State Government may, by notification, specify, an individual who makes an application for admission as a member of such co-operative society shall be deemed to have been admitted as an associate member of such co-operative society from the date of receipt of such application.

1. Sub-sections (5) to (7) inserted by Act 19 of 1976 w.e.f. 20.1.1976.

(6) If the society does not, within ¹[sixty days]¹ from the said date, prefer an application to the Registrar objecting to such admission, such individual shall be deemed to have been admitted as a member.

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(7) Where the application under ¹[sub-section (6)]¹ is preferred, the Registrar shall, after giving to the individual and the co-operative society concerned an opportunity of making representation, by order, reject the application if he finds that the individual is not disqualified under section 17 for being a member and thereupon the individual shall be deemed to have been admitted as member of the co-operative society concerned.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(8) Notwithstanding anything contained in this section and section 17, the State Government shall be deemed to have been admitted as a member of a co-operative society on the day it subscribes to the share capital of such co-operative Society.]¹

1. Inserted by Act 16 of 1979 w.e.f. 1.6.1960.

17. Disqualification for membership.- (1) No person shall be eligible for admission as a member of a co-operative society, if he,—

(a) has applied to be adjudicated an insolvent or is an undischarged insolvent;
or

(b) has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude, such sentence not having been reversed or the offence pardoned and a period of five years has not elapsed from date of expiry of the sentence.

¹[(c) carries on ²[XXX]² business of the kind carried on by such co-operative society;

²[**Explanation.—XXX**]²

(d) is already a member of a co-operative society carrying on business of the same kind as itself;]¹

1. Clauses (c) and (d) inserted by Act 71 of 1976 w.e.f. 03.11.1976.

2. Omitted by Act 13 of 2004 w.e.f. 22.03.2004

(2) If a member becomes subject to any of the disqualifications specified in ¹[²[x x x]2 sub-section (1)]¹, he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

1. Substituted by Act 71 of 1976 w.e.f. 3.11.1976.

2. Omitted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(2A) If a member fails to fulfil his obligations as a member under the Act, rules or bye-laws, for a continuous period of three years, he shall, on the expiry of such period, cease to be a member.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(3) If any question arises as to whether a member is deemed to have ceased or has ceased to be a member under sub-section (2) or (2A), the Registrar may either suo-motu or on a report made to him and after giving an opportunity to the person concerned of being heard, decide the question.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

18. Nominal or associate members.- ¹[(1) Notwithstanding anything contained in section 16, a co-operative society may admit,—

(a) any individual as a nominal or associate member;

(b) any banking company as a nominal member.

²[(c) any firm, company, co-operative society, or any body or corporation constituted by or under any law for the time being in force, as a nominal or associate member;]²

³[(d) Self help group as nominal members]³

Explanation.—In this sub-section "banking company" shall have the same meaning as is assigned to it in the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961).

1. Sub-sections (1) and (2) substituted by Act 39 of 1975 w.e.f. 23.9.1975.
2. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.
3. Inserted by Act 24 of 2001 w.e.f. 5.9.2001.

(2) A nominal member shall not be entitled to any share in any form whatsoever in the assets or profits of the society and a nominal member who is an individual shall not also be entitled to become an ¹[office bearer]¹ of the society.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(3) An associate member may hold shares but shall not be entitled to become an ¹[office bearer]¹ of the society.

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(4) 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.

¹[18A. Cessation of membership.- A person shall cease to be a member of a co-operative society,-

(a) in the case of an individual, on his or her,-

- (i) death;
- (ii) resignation;
- (iii) removal or expulsion in accordance with bye-laws of the co-operative society; or

(iv) transfer of whole of his or her share or interest in the co-operative society to another member;

(b) in the case of a firm, company, co-operative society or corporate body,-

- (i) on dissolution of the firm or a corporate body;
- (ii) on winding up of a company or a co-operative society.]¹

1. Section 18A inserted by Act 24 of 2001 w.e.f. 5.9.2001.

19. Member not to exercise rights till due payment made.- ¹[Save as otherwise provided in sub-section (8) of section 16, no member]¹ of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society, as may be specified in the bye-laws.

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[20. Votes of members.- (1) No member of a society shall have more than one vote in the ³[general meeting or in the election of the members of the committee]³ of the co-operative society.

²[Provided that where the State Government is a member of a co-operative society, each person nominated or deemed to have been nominated by the State Government on the committee of such co-operative society shall have one vote.]²

1. Substituted by Act 71 of 1976 w.e.f. 3.11.1976.

2. Substituted by Act 16 of 1979 w.e.f. 18.12.1978.

3. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

(2) The following shall not have the right to vote at ³[a general meeting or an election of the members of the committee]³ of the co-operative society in which they are members, namely:—

¹[(a) a nominal or associate member;

(a-I) an individual member who is a defaulter;

(a-ii) members admitted as per ²[clauses (d), (e), (f) and (g) of sub-section (1) of section 16,]² who are defaulters;]¹

1. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

3. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

¹[(a-iii) ²[a person]² who has become member of a society not later than ³[twelve months]³ prior to the date of such meeting:

Provided that nothing in this clause shall apply to ²[a person]² of a society participating in the first general body meeting of such society held immediately after its registration;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 13 of 2004 w.e.f. 22.3.2004.

3. Substituted by Act 24 of 2001 w.e.f. 5.9.2001.

(b) a co-operative society,—

(I) the committee of which stands superseded or to which a special officer is appointed under ¹[section 31]¹ of the Act;

(ii) which is ¹[ordered to be wound up]¹ under section 72;

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

(iii) which has not commenced working or has ceased to work;

¹[(iv) whose principal object is to advance loans and whose percentage of recovery is less than seventy five percent of the total demand for the co-operative year immediately preceding the co-operative year during which the meeting is held and which has failed to pass on to the financing bank or the credit agency, as the case may be, to which it is indebted,-

(a) seventy five percent of the demand of the society, if the demand of the society is less than the demand of the financing bank or credit agency, or 1959:

(b) the actual demand of the financing bank or credit agency, if the demand of the society is more than the demand of the financing bank or credit agency, not later than fifteen days of the close of the said co-operative year.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(v) other than the society referred to in sub-clause (iv), which is a defaulter;]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

¹[(c) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.8.1998.

Explanation.—A member shall be deemed to be a defaulter if he has failed to pay the arrears of any kind due by him to the society ²[as borrower]², ¹[or has failed to pay any other amount due by him to the society]¹ at least fifteen days before the date of ³[the general meeting or the date of election of the members of the committee] ³ after a notice of ³[not less than thirty days]³ in this behalf has been issued to him.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

2. Substituted by Act 5 of 1984 w.e.f. 9.1.1984.

3. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

¹[(3) An Agricultural Credit Society which is a member of the concerned District Central Co-operative Bank, but has been permitted by the Registrar to raise loan from another financing agency for the purpose of financing its members shall not have a right to vote at a meeting of such District Central Co-operative Bank.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.8.1998.

21. Manner of exercising vote.- ¹[(1) Every member, every delegate and every nominee shall exercise his vote in person and not by proxy]¹ ²[at a general meeting or an election of the members of the committee of a cooperative society]²

1. Substituted by Act 19 of 1976 w.e.f. 21.01.1976.

2. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

(2) Notwithstanding anything contained in sub-section (1),—

¹[(a) the committee of a co-operative society which is a member of another co-operative society may appoint one of the members of the committee to vote on its behalf in the affairs of that other society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 13 of 2004 w.e.f. 22.03.2004.

¹[Provided that where a new committee has been elected to a cooperative society, such newly elected committee shall send a delegate or nominee to any other cooperative society where it is a member.]¹

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

¹[(b) where the Life Insurance Corporation of India, the State Warehousing Corporation or such other institutions approved by the State Government or a market committee or a local authority or a firm, ²[or a self-help group]² a company or any other body corporate constituted under any law for the time being in force is a member of a co-operative society, a person nominated by such institution, market committee or local authority or a firm, ²[or a self-help group]² a company or any other body corporate constituted under any law for the time being in force, may vote on its behalf in the ³[general meeting or the election of the members of the committee]³ of the society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

3. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

¹[(3) A member once nominated by the committee of a co-operative society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other co-operative society shall not be changed except by a resolution passed in a general body meeting by a majority of the members present and voting in such meeting.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[22. x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

23. Restrictions on transfers of shares or interest.- ¹[(1) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

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

- (a) the member has held such share or interest for not less than one year;
- (b) the transfer is made to a member of the society; and
- (c) the transfer is approved by the Committee of the society.

¹**[23A. Refund of value of share.-** (1) If an individual member of a co-operative society, the principal object of which is to advance agricultural loans is not indebted to such society, then, the value of all except one of the shares held by him shall, on his application, be refunded to him.

(2) If the amount of debt due by such member to the co-operative society is equal to or less than the value of all except one share held by him in such society, then, on the application of such member, the value of such number of shares as are required to

discharge the amount of debt may be adjusted in full discharge of such debt and the value of the remaining share, except one, shall be refunded to him thereupon the share certificates relating thereto shall be cancelled.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

24. Transfer of interest on death of member.- (1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member,—

(a) to the person or persons nominated in accordance with the rules and if the nomination subsists; or

(b) if no person has been so nominated or the nomination does not subsist,

(I) where the share or interest of the deceased member does not exceed ¹[one lakh rupees]¹, to such persons as may appear to the Committee to be the heirs or legal representatives of the deceased member, on the execution by such persons of an indemnity bond with such sureties as it may require;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(ii) where the share or interest of the deceased member exceeds ¹[one lakh rupees]¹, to such person or persons as produce a succession certificate or other legal authority granted by a competent court of law:

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

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 co-operative society.

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

(3) A co-operative 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 co-operative society in accordance with the provisions of this section shall be valid and effective against any demand made upon the society by any other person.

25. Liability of past member and estate of deceased member.- (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a

deceased member of a co-operative 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; and

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Where a co-operative society is ordered to be wound up under section 72, 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.

¹[26. Final authority in a co-operative society.- (1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a co-operative society shall vest in the general body of members:

Provided that nothing contained in this sub-section shall affect the exercise by a committee or any ²[office bearer]² of a registered co-operative society of any power conferred on such committee or such ²[office bearer]² by this Act or the rules or the bye-laws.

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) Notwithstanding anything contained in sub-section (1),—

(a) where the area of operation of a co-operative society is not less than the area that may be prescribed; or

(b) where a co-operative society consists of not less than the number of members that may be prescribed,

the Registrar may amend the bye-laws of the co-operative society providing for the constitution of a smaller body consisting of such number of the members of the co-operative 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 and any reference, by whatever form or words in this Act to the general body or a meeting thereof shall have effect as if such reference were a reference to the representative general body or a meeting thereof, as the case may be.

(3) The amendments of the bye-laws made by the Registrar under sub-section (2) shall be deemed to have been registered under section 12.

(4) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be prescribed by the rules or by the bye-laws.]¹

¹[26A. Partnership of Co-operative Societies.- (1) Any two or more co-operative societies may, by resolution, passed by three-fourth majority of the members present and after voting at a general meeting of each of such co-operative societies, may enter into partnership to carry out any one or more specific business. ²[xxx]² A written notice of the date of general meeting shall be given to each member before ten clear days of such meeting.

³[Provided that no such partnership shall be entered into without prior permission of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank]³

1. Sections 26A and 26B inserted by Act 2 of 2000 w.e.f. 31.05.2003 by notification dated 02.06.2003. Text of the notification is at the end of the Act.
2. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.
3. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) Nothing in the Indian Partnership Act, 1932 (Central Act 9 of 1932) shall apply to such partnership.

26B. Collaboration by Co-operative Societies.- (1) Any co-operative society or co-operative societies may enter into collaboration with any Government undertaking or any other undertaking approved by the State Government to carry out any one or more specified business provided in the bye-laws of such society or societies including industrial investment, financial aid or marketing and management expertise. ¹[xxx]¹

²[Provided that no such partnership shall be entered into without prior permission of the Registrar in the case of an assisted society and of the Reserve Bank of India in the case of a Co-operative Bank]²

1. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.
2. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) Before approving such schemes of collaboration under sub-section (1), the Registrar ¹[or Reserve Bank of India, as the case may be]¹ shall have due regard to the following matters, namely:-

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(a) the scheme is economically viable;

(b) It can be implemented without, in any way, altering the co-operative character of the co-operative society or the co-operative societies;

(c) the scheme is in the interest of the members of the co-operative society or co-operative societies or is in the public interest or in the interest of the co-operative movement, in general]¹

¹[(d) in the case a of Co-operative Bank, the scheme is not detrimental to the interest of depositors or Banking Policy]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

¹[27. Annual General Meeting.- (1) Every co-operative society shall convene a general meeting of its members once in a year before thirtieth day of September for the purpose of,—

- (a) consideration of annual report presented by the committee;
- (b) consideration of latest available audit report and the report of the committee thereon;
- (c) consideration of inquiry report, if any;
- (d) disposal of net profits;
- (e) review of operational deficit, if any, and programme to reduce such deficit;
- (f) approval of the programme of activities of the society prepared by the committee for the ensuing year;
- (g) approval of the annual budget;
- (h) creation of specific reserve and other funds;
- (l) approval of membership of the co-operative society in other co-operative societies;
- (j) review of annual report and accounts of any subsidiary organization, if any;
- (k) perusal of list of the employees recruited who are relatives of members of the committee or the Chief Executive;
- (l) amendment of bye-laws;
- (m) formation of code of conduct for the members of the committee, office bearers and employees of the co-operative society;
- (n) note on admission and termination of members; and
- (o) consideration of any other matter which may be brought forward in accordance with the bye-laws.

²[Provided that the Registrar may by special order extend the period for holding such meeting by a period not exceeding six months]²

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar shall by order,—

(a) in case of an office bearer or member of the committee whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, disqualify him for being elected as and for being an office bearer or member of the committee for such period not exceeding five years;

(b) in case of an employee of the society whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, impose a penalty of rupees one thousand and may also direct the committee to initiate disciplinary action on such employee and if the amount so fined remains unpaid, it shall be recovered as arrears of land revenue:

Provided that no order shall be made under this sub-section unless a reasonable opportunity of being heard is given to the person against whom the order is to be made.]¹

¹[(3) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar or any other person authorized by him in this behalf shall, without prejudice to the provisions of sub-section (2) convene the general meeting for the purpose of sub-section (1)]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

28. Special general meeting.- (1) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from ¹[fifty members or one fifth of the total number of members whichever is less, to transact a specified business]¹.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorized by him in this behalf, shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee and shall have power to transact all business which can be transacted at the annual general meeting under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar.

¹[28A. Management of co-operative societies vest in the committee.- (1) The management of a co-operative society shall vest in a committee constituted in accordance with this Act, the rules and the bye-laws of such society. The committee shall exercise such powers, discharge such duties and perform such functions as may be conferred or imposed upon it by this Act, the rules and the bye-laws.

1. Section 28A inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(2) The committee of a co-operative society shall consist of not less than nine but not exceeding the number of members specified below excluding Government nominees and the Chief Executive, namely:—

(I) in the case of a primary society and a secondary society whose area of operation extends to,—

- (a) a part of a taluk, nine members;
- (b) whole taluk, eleven members;
- (c) beyond a taluk but not beyond a district, thirteen members;

[Provided that in the case of an urban co-operative bank having an area of operation not beyond a district, the maximum number shall not exceed fifteen members]²

(d) beyond a district, eighteen members;

1. Sub-sections (2) to (6) Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 24 of 2001 w.e.f. 5.09.2001.

(ii) in the case of a federal society, excluding Apex societies, twenty one members;

¹[(iii) in the case of an Apex society, thirty two members:]¹

1. Substituted by Act 24 of 2001 w.e.f. 5.09.2001.

Provided that a member shall not represent more than one constituency in the committee of a society.

(3) In the committee of every primary society there shall be reserved:—

(I) one seat to be filled by election, in favour of the persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) one seat to be filled by election, in favour of women: Provided that no such reservation shall be required to be made in case of a society where there are no members belonging to the Scheduled Castes, Scheduled Tribes and Women.

(4) Subject to the provisions of sections 29A and 39A, the term of office of the members of the Committee shall be five co-operative years and they shall be deemed to have vacated office as such members of the Committee on the date of completion of the said term: Provided that if an election to the Committee of any co-operative society had already been held in accordance with the bye-laws of such society, prior to the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1997, the term of office of the committee of such co-operative society shall be three years including the co-operative year in which such election was held.

Explanation.—For the purpose of this sub-section where elections to the committee have been held in the middle of a co-operative year, for the purpose of computing the term of office of the committee, the remaining part of the co-operative year shall be deemed to be a co-operative year:

Provided further that the first general meeting of a society after registration shall be held within one month from the date of its registration to elect the first committee to manage the affairs of the society and the term of office of such committee shall also be five co-operative years.

¹[Provided also that the first general meeting of the Co-operative Society or Societies formed after amalgamation or reorganization or division in accordance with section 14 shall be held within three months from the date of registration to elect the first committee to manage the affairs of the Co-operative Society or Societies, and the term of office of such committee shall also be five Co-operative years]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(5) If the new committee is not constituted under section 29A, on the date of expiry of the ¹[term of office of the committee or if the elections are not held within the time limits specified in Section 39A,]¹ the Registrar or any other officer within whose jurisdiction the society is situated, and who is authorized by the Registrar, shall be deemed to have assumed charge as Administrator and he shall, for all purposes function as such committee of management. The Administrator shall, subject to the control of the Registrar, exercise all the powers and perform all the functions of the committee of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required, in the interest of the co-operative society.

1. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

¹[Provided that the Registrar shall appoint an administrator to a Co-operative Society or each of the co-operative Societies formed after amalgamation or reorganization or division in accordance with section 14 for a period of three months and the administrator so appointed shall arrange for holding elections to a Committee of such Co-operative Society or Societies as the case may be]¹

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(6) The ¹[members]¹ of the committee shall elect from among themselves the office bearers of the co-operative society. The election of the office bearers shall be by secret ballot.]¹

1. Substituted by Act 13 of 2000 w.e.f. 26.02.2000.

¹[28B. Committee to arrange for election.- (1) The committee shall make arrangement for election of members of the next committee in accordance with the Act, rules and the bye-laws.

(2) The members of the committee who have failed to make arrangements for election within the time limit specified in section 39A, shall be deemed to have vacated their office on the last day of the time limit so specified and such members shall not be eligible for election as members of the committee for a period of five years from the date of expiry of their term.

(3) The Administrator who shall assume charge under sub-section (5) of section 28A, shall, as early as possible but within a period of six months arrange for the constitution of a new committee of the society in accordance with the Act, rules and the bye-laws.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[Provided that the Administrator so appointed shall not continue for a period beyond three months in respect of a society in cooperative credit structure.]¹

1. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

¹[29. Nominees of Government on the committee of an assisted co-operative society.- (1) The State Government may nominate not more than three persons as its representatives on the committee of any assisted society of whom one shall be a person belonging to the Scheduled Castes or Scheduled Tribes and one shall be a woman.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2) The persons so nominated shall not have the right to become office bearers of the primary co-operative societies and any other class or classes of co-operative societies as may be specified by the State Government from time to time]¹

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[(3) The persons nominated as a member of co-operative society under sub-section (1) shall hold office as such member during the pleasure of the State Government.]¹

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(4) Where an officer of Government is nominated under sub-section (1), such officer may, if unable to be present himself at any meeting of the committee, depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be a person nominated as a representative of the State Government for the purpose of such meeting.]¹

1. Substituted by Act 25 of 1998 w.e.f.15.08.1988.

¹[(5) The nominated member under sub-section (1) shall perform the following duties, namely:-

- (a) to attend meetings of the committee;
- (b) to ensure implementation of Government policies;

(c) to register his vote of dissent in all matters in which, according to the best judgement, the resolutions sought to be carried in the committee meetings are not in the interests of the society or of the co-operative movement or are likely to be prejudicial to the interests of the society or of the co-operative movement;

(d) to register his vote of dissent when the meeting of the committee seeks to pass a resolution contravening any express order of the State Government or of the Registrar or any provisions of the Act or the rules or the bye-laws of the society; and

(e) to keep the Registrar and the Government apprised of such resolution under clause (c) or clause (d) if adopted by majority of votes;]¹

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

¹[29A. Commencement of term of office.- ²[(1)]² ³4[The term of office of the members of the committee]⁴ shall commence on the date on which the majority of the elected members of the committee assume office or the term of the out going committee expires, whichever is later.]³

1. Sections 29A to 29D Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Renumbered by Act 19 of 1976 w.e.f. 20.01.1976.

3. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

4. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

¹[(2) Notwithstanding anything contained in this Act or the rules or the bye-laws of a co-operative society, the committee shall be deemed to be duly constituted when ³[the majority of the elected members of the committee are available]³ to function as members of the committee after the ²[x x x]² election.

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(3) The committee deemed to be constituted under sub-section (2) shall be competent to exercise all the powers and perform all the functions of the committee of the co-operative society.

¹[(4) x x x

(5) x x x

(6) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[29B. Resignation of a member.- A member of a committee, other than a nominated member, may resign his membership in writing under his hand and delivered to the Chief Executive and his seat shall become vacant on the expiry of fifteen days from the date of such delivery unless within the said period of fifteen days he withdraws such resignation in writing under his hand and delivered to the Chief Executive. The Chief Executive shall place the letter of resignation before the meeting of the committee convened next after the delivery of such letter.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

29C. Disqualification for membership of the committee.- (1) No person shall be eligible for being elected or appointed or continued as a member of the ¹[committee of any co-operative society]¹, if,—

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(a) he is in default to that society or any other co-operative society in respect of any dues from him as borrower;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(b) he is interested directly or indirectly in any contract made with such co-operative society or in the sale or purchase made by such co-operative society privately or in auction or in any contract or transaction of the co-operative society (other than investment and borrowing) involving financial interests in that contract, sale, purchase or transaction;

(c) ¹[he or any of his near relation carries]¹ on a business of the kind carried on by such co-operative society or by a co-operative society of which such co-operative society is a member;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[Provided that if any question arises as to whether any person is near relation or not, the case shall be decided by the Registrar and his decision shall be final.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(d) he is employed as legal practitioner on behalf of such co-operative society or accepts employment as legal practitioner against such co-operative society;

(e) he is a paid employee ¹[other than the chief executive]¹ of such co-operative society or of its financing bank;

1. Inserted by Act 6 of 2010 w.e.f.30.03.2010.

¹[x x x]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984 and Omitted by Act 24 of 2001 w.e.f. 05.09.2001.

(f) he is a near relation of a paid employee of such co-operative society.

1[Explanation.—For the purpose of ²[this clause and clause (c)]² 'near relation' means,—

- (i) husband, wife and unmarried daughter;
- (ii) father, mother, undivided son, undivided brother and unmarried sister; and
- (iii) such other relations as may be prescribed to be a near relation.

³[x x x]³¹

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Omitted by Act 70 of 1976 w.e.f. 04.12.1976.

¹[(g) he was a paid employee of a co-operative society and was dismissed, removed or compulsorily retired from service of a co-operative society;

(h) he is disqualified to be a member of the society or to vote as such member;

(l) he has been convicted for an offence punishable under section 153A or section 171E or section 171F or sub-section (2) or sub-section (3) of section 505 of the Penal Code, 1860 (Central Act 45 of 1860) or under section 39J or clause (b) of sub-section (2) of section 39K of this Act, unless a period of six years has elapsed from the date of such conviction;

(j) he has been convicted by a Court in India for any offence and sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed from the date of his release;

(k) he is found guilty of corrupt practice within the meaning of section 39C unless a period of six years has elapsed from the date on which he was found guilty;

(l) he has failed to remit to any co-operative society any amount (other than a loan) retained by him in contravention of the provisions of this Act, rules or bye-laws;

(m) he is a representative of a co-operative society which is in default to a financing bank or to any co-operative society in respect of any dues by the co-operative society which he represents, for a continuous period of one year:

Provided that the disqualification under this clause for being continued as a member of the committee shall apply to a co-operative society which has defaulted in payment of an amount exceeding thirty percent of such dues;

(n) he was a member of the committee which failed to make arrangement for election within the time limit specified in section 39A.]¹

1. Clauses (g) to (n) inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(o) he, is in the Committee of a District Central Society or a Federal Society or an Apex Society as a representative of a Co-operative Society; and,-

(l) he ceases to be a member of the primary or secondary society which he represents; or

(ii) the society which nominated him as a representative withdraws his nomination; or

(iii) the committee of the society of which he is a member has been removed under section 30, or a special officer is appointed under section 31;

(iv) the society of which he is the representative has been liquidated;]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) No person including a person elected by a co-operative society as a member of a committee of another co-operative society of which such co-operative society is a member shall be a 1[President or Chairperson, Vice-President or Vice-Chairperson or other office bearer]1 of more than two co-operative societies. 1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(3) x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(4) Nothing in sub-section (2) shall apply,—

(i) to any person who is appointed by the State Government or the Registrar as the President or Chairperson, Vice-President or the Vice-Chairperson; or

(ii) to any person who is merely a member of the committee.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(5) In the case of co-operative marketing societies, consumers co-operative societies and such class or classes of co-operative societies as may be specified by the State Government, by notification in the official Gazette, no member shall be eligible for being appointed or elected as a member of the committee of such co-operative society if he does not fulfill the minimum qualifications relating to his transactions with the co-operative society upto such monetary limits as may be specified from time to time in such notification.

(6). There shall be no representative of individual members on the committees of a District Central Co-operative Bank or an Apex Co-operative Bank or such other classes of co-operative banks as may be prescribed.

(7) Any question as to whether a member of the committee was or has become subject to any of the disqualifications mentioned in this section shall be decided by the Registrar after giving the person concerned a reasonable opportunity of being heard.

¹[(8) If any member of a committee of a co-operative society during the term of his office,—

(a) becomes subject to any disqualifications specified in sub-sections (1), (2) and (5); or

(b) has acted or has been acting fraudulently or with gross negligence or in contravention of the provisions of this Act, the rules or the bye-laws of the co-operative society or without the sanction of the committee of the co-operative society where such sanction is necessary or contrary to the resolution of the co-operative society or its committee or in any way prejudicial to the interest of the co-operative society; or

(c) has acted or has been acting persistently against the directions or orders issued under this Act, rules or bye-laws; or

(d) is not discharging his duties satisfactorily; the Registrar may either on a report made to him or otherwise, by order remove such member, and in cases falling under clauses (a), (b), (c) and (d) of this sub-section disqualify him from holding any office in the co-operative society for such period not exceeding five years, as may be specified in such order:

Provided that no order shall be made under this sub-section unless a reasonable opportunity of being heard, is given to the person against whom the order is to be made.

(9) A copy of the order made under sub-section (8) shall be communicated to the member and the co-operative society concerned.]¹

1. Sub-sections (8) and (9) inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[29D. x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[29E. Filling up of casual vacancy in the office of members of the Committee.- Any vacancy in the office of members of the committee of a co-operative society by reason of death, resignation, removal or otherwise, shall be filled up in such manner as may be specified in the bye-laws of such society.

1. Sections 29E and 29F inserted by Act 25 of 1998 w.e.f. 15.08.1998.

29F. Election of President, Chairperson, Vice-President, or Vice-Chairperson, etc.,- (1) Every co-operative society shall have a President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers elected in accordance with the provisions of this Act, rules or bye-laws.

(2) The President or Chairperson shall preside over meetings of the committee of the society and its sub-committee as well as general meeting of the society.

(3) In the event of vacancy in the office of President or Chairperson by resignation, death or removal or otherwise, the Vice-President or Vice-Chairperson shall perform the duties of the President or Chairperson as the case may be, until a member is duly elected as President or Chairperson.

(4) The Chief Executive shall within fifteen days from the date of constitution or deemed constitution of the committee after a general election and immediately before the expiry of the term of office of the President or Chairperson, Vice-President or Vice-Chairperson convene a meeting in the prescribed manner of all the ¹[members]¹ of the committee for the purpose of electing President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected under the bye-laws of the co-operative society. One of the ¹[members]¹ who is not a candidate for the election of President or Chairperson, Vice-President or Vice-

Chairperson shall be chosen to preside over such meeting: ² [The chief executive shall not have a right to vote at such a meeting.]²

1. Substituted by Act 13 of 2000 w.e.f. 26.02.2000.

2. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

Provided that the members of the first committee elected in the first general meeting held after the registration of a co-operative society shall elect the President or Chairperson, Vice-President or Vice-Chairperson and other office bearers in such manner as may be prescribed.

(5) Save as otherwise provided under this Act, the President or Vice-President, Chairperson or Vice-Chairperson or other office bearers shall hold office for a term of two and half years.

(6) The Chief Executive shall as and when there is a casual vacancy in the office of the President, or Chairperson, Vice President or Vice Chairperson or other office bearers convene a meeting of the ¹[members]¹ of the committee for the purpose of filling up the casual vacancy and the provisions of sub-section (4) shall mutatis mutandis apply.

1. Substituted by Act 13 of 2000 w.e.f. 26.02.2000.

(7) The Chief Executive shall within three days from the date of the meeting, forward to the Registrar a copy of the notice convening the meeting and also a copy of the proceedings of the meeting.

(8) If the Chief Executive fails to convene the meeting in accordance with sub-sections (4) and (6), the Registrar or any person authorized by him to do so shall convene a meeting for the purposes specified in the said sub-sections.]¹

¹[29G. Appointment of Chief Executive.- (1) For every co-operative society there shall be a Chief Executive who shall ²[XXX] ² be appointed and be removable by the society:

1. Section 29G inserted by Act 25 of 1998 w.e.f. 27.10.1998.

2. Omitted by Act 6 of 2010 w.e.f.03.11.2009.

Provided that,—

¹[Subject to such rules as may be prescribed, in case of an ²[assisted society other than a society in co-operative credit structure]² the Government or the Registrar shall have power to appoint and remove the Chief Executives; and]¹

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

2. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

¹[Provided further that a society in co-operative credit structure shall have the option of getting the chief executive appointed by requesting the Government or the Registrar, as the case may be.]¹

1. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

(ii) ¹[in other cases]¹, the Government or the Registrar may appoint Chief Executives where such Society makes a request for appointment of a Chief Executive for a term which shall not be less than five years; and remove such Chief Executive.

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

(2) On the appointment of Chief Executive to a co-operative society by the Government or the Registrar, the person appointed as Chief Executive by the society, if any, by whatever name called, shall cease to be the Chief Executive.

(3) Salary and other conditions of services of the Chief Executive shall,—

(i) in the case of an official of the State Government be as approved by the State Government; and

(ii) in other cases, be as approved by the Registrar:

¹[XXX]¹

1. Omitted by Act 6 of 2010 w.e.f. 03.11.2009.

(4) The Chief Executive shall be the Chief Administrative Officer of the society and shall, subject to the general supervision and control of the committee and such other conditions and restrictions as may be specified in the bye-laws,—

(a) be responsible for general supervision and control over the employees of the society and be responsible for the day-to-day management and business of the society;

(b) carry on the authorized and normal business of the society;

(c) make arrangement for repayment of loans due to the State Government and loans obtained on Government guarantee and other loans, and shall send report to the Registrar in this behalf;

(d) be responsible for operating the bank accounts in accordance with the provisions of the bye-laws and shall make arrangements for safe custody of cash:

(e) sign and authenticate all documents of the co-operative society for and on behalf of the society;

(f) be the custodian of all records and documents of the co-operative society and shall make arrangements for the correct maintenance of accounts and various books and records of the society and for the correct preparation and timely submission of periodical statements and returns in accordance with the provisions of the Act, rules and bye-laws and as directed by the Registrar or the Director of Co-operative Audit;

(g) be responsible for convening the meeting of the general body, the committee of management and the sub-committee in consultation with the President or Chairperson and recording and maintaining minutes of such meetings;

(h) assist the committee in the formulation of policies and objectives and planning;

(l) provide necessary information to the committee and apprise the committee the functions and operations of the society;

(j) sue and be sued on behalf of the co-operative society;

(k) perform such other duties and exercise such other powers imposed or conferred on him under the Act, rules or bye laws.

¹[(4A) The Chief Executive shall have right to attend every meeting of the society and the committee thereof and to take part in the decision and to move any resolution ²[XXX]1]²

³[(4-B): Notwithstanding anything contained in this Act or the Rules or the byelaws of a cooperative society, the Chief Executive shall be a member of the committee of the cooperative society]³

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

2. Omitted by Act 6 of 2010 w.e.f.03.11.2009.

3. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

(5) In addition to the powers and duties specified in sub-section (4), the Chief Executive of an Apex Society,—

(a) shall have power to appoint with the approval of the committee and subject to the provisions of the Act, rules and the bye-laws, necessary staff;

(b) shall specify the powers, functions and duties of the employees of the society;

(c) may conduct, defend, compound or abandon any suit or legal proceeding instituted by or against the society or otherwise concerning the affairs of the society and also allow in consultation with the President or Chairperson, reasonable time for payment or satisfaction of any claims or demand by or against the society;

(d) may subject to the guidelines issued by the committee enter into negotiations and execute contracts;

(e) may delegate any of his powers to any employee.

(6) In respect of primary co-operative societies, the Chief Executive shall send a ¹[copy of the receipt and payment account]¹ duly certified by him every month to the Registrar and the financing bank or credit agency within fifteen days of the next following month. He shall also send a certified copy of the proceedings of the General Meetings and of the committee meetings to the Registrar and financing bank or credit agency within fifteen days from the date of such meetings.]¹

1. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[30. Supersession of committee.- ¹[(1) If, in the opinion of the Registrar, the committee,-

- (a) 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
- (b) commits any act which is prejudicial to the interests of the society or its members; or
- (c) incurs losses for three consecutive years; or
- (d) has serious financial irregularities or frauds which have been detected; or
- (e) fails to get its accounts audited for three consecutive years; or
- (f) against which there are judicial directives to this effect; or
- (g) is otherwise not functioning properly; or
- (h) is not functioning in accordance with the provisions of this Act, the rules or bye-laws or any order or direction issued by the State

Government or the Registrar including the direction issued under Section 30-B, the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the said committee and appoint an administrator to manage the affairs of the society for such period, not exceeding six months, as may be specified by the Registrar. The Registrar may, and for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time, and in any case such extension shall not exceed one year in the aggregate:

Provided that the supersession of the committee of a Co-operative Bank shall be done only after consultation with the Reserve Bank of India.]¹

1. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

(2) The administrator so appointed shall, subject to the control of the Registrar and such instructions as he may give from time to time, exercise all or any of the functions of the committee or of any ¹[office bearer]¹ of the co-operative society and take such action as he may consider necessary in the interest of the society.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(3) The administrator shall, before the expiry of his term of office arrange for the constitution of a new committee after holding the election in accordance with this Act, the rules and the bye-laws of the co-operative society:

¹[Provided that in such an election, no member of the Committee removed under sub-section (1) shall, notwithstanding anything contained in this Act, the rule or the bye-laws, be eligible for being elected as a member of the Committee, for a period of four years from the date of supersession of the Committee under said sub-section]¹

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[Provisos x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

(4) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult the financing banks to which it is indebted.

(5) Notwithstanding anything contained in this Act, the Registrar shall, in the case of a co-operative bank, if so required in writing by the Reserve Bank of India, in public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the co-operative bank, by order in writing, remove the committee of that co-operative bank and appoint an administrator to manage the affairs of the co-operative bank for such period ¹[x x x] as may, from time to time, be specified by the Reserve Bank of India.]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[30A. x x x]¹

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[30B. Powers to give direction in public interest.- (1) Where the State Government is satisfied that in public interest and for the purposes of securing proper implementation of co-operative and other development programmes approved or undertaken by the State Government or for specially safeguarding the interest of the members belonging to the Scheduled Castes, Scheduled Tribes and other Backward Classes and ensuring reservation to persons belonging to such Castes, Tribes or Classes in the services under the Co-operative Societies, it is necessary to issue directions to any class of Co-operative Societies generally or to any Co-operative Society or Co-operative Societies in particular, it may issue directions from time to time and all such Co-operative Societies or the Co-operative Society concerned shall be bound to comply with such directions.

(2) The State Government may modify or cancel any directions issued under sub-section (1) and in modifying or cancelling such directions may impose such conditions as it may deem fit.

(3) The State Government may by notification, delegate its powers under this section to the Registrar subject to such restrictions and conditions as may be specified in the notification.]¹

1. Section 30B Omitted by Act 25 of 1998 and inserted by Act 13 of 2000 w.e.f. 26.02.2000.

¹[31. Appointment of Special Officer ²[by the Registrar]².- (1) Where the Registrar is of the opinion that a co-operative society is not functioning in accordance with the provisions of the Act, rules or bye-laws on account of the number of members of the Committee falling short of the required number to form a quorum due to disqualification, resignation or death or removal of a member ⁴[XXX] ⁴ the Registrar

may, notwithstanding anything contained in this Act, rules or bye-laws, by order appoint a Special Officer for such co-operative society, for such period not exceeding six months. ²[The Registrar may ³[XXX]³ for the reasons to be recorded in writing extend the period of such appointment for a further period of six months at a time and in any case such extension shall not exceed one year in the aggregate]²

1. Section 31 Omitted by Act 19 of 1976 w.e.f. 20.01.1976 and Sections 31 and 31A inserted by Act 25 to 1998 w.e.f. 15.08.1998.

2. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

3. Omitted by Act 13 of 2004 w.e.f. 22.03.2004.

4. Omitted by Act 6 of 2010 w.e.f.03.11.2009.

(2) Before making an order under sub-section (1), it shall not be necessary for the Registrar to give any co-operative society or person likely to be affected by such order, an opportunity to state its or his objection, if any.

(3) On the issue of the order under sub-section (1),—

(a) the members of the committee of the co-operative society, if any, shall vacate and shall be deemed to have vacated their offices; and

(b) the Special Officer shall be deemed to have assumed charge of the affairs of the co-operative society.

(4) The Special Officer shall, subject to the control of the Registrar, exercise and perform all the powers and functions of the committee of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required in the interest of the co-operative society.

(5) The Special Officer shall, before the expiry of his term, arrange for constitution of a new committee for the co-operative society in accordance with its bye-laws.

¹[Provided that the Special Officer so appointed shall not continue for a period beyond three months in respect of a society in cooperative credit structure.] ¹

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

31A. Delivery of possession of records and properties of the co-operative societies.- (1) Where a new committee is elected or an Administrator or Special Officer is appointed by the Registrar or where the co-operative society is ordered to be wound up and a liquidator is appointed under this Act, and such new Committee, Administrator or Special Officer or Liquidator is resisted in, or prevented from obtaining possession of the books, accounts, documents, securities, cash and other properties, whether movable or immovable of the co-operative society (hereinafter in this section referred to as the records and properties of the society) by the previous committee or superseded committee or by the committee of the society which has been ordered to be taken over or to be wound up, or a person who is not entitled to be in possession of the records and properties of the society, the Registrar may, on

application by the new committee or Administrator or Special Officer or Liquidator, if satisfied, authorize in the prescribed form setting forth the reasons therefore any officer subordinate to him not below the rank of a Senior Inspector of co-operative societies, to enter, search or break open any premises or place where such records and properties of the co-operative societies are kept and to seize any such records and properties of the co-operative society and to cause them to be delivered to the new committee, Administrator or Special Officer or Liquidator.

(2) For the purpose of the proceedings under sub-section (1), the authorization aforesaid shall be conclusive evidence that the records and properties to which it relates belong to the co-operative society.

(3) The provisions of sections 100, 101 and 102 of the Code of Criminal Procedure, 1973 relating to searches and seizures shall mutatis mutandis apply to searches and seizures under this section.

(4) The provision of sub-sections (1), (2) and (3) shall mutatis mutandis apply, if necessary records and properties of a co-operative society are not made available for purpose of inspection, inquiry or audit under this Act or for taking charge of office by the Chief Executive or any other employee.]³

CHAPTER V PRIVILEGES OF CO-OPERATIVE SOCIETIES.

32. First charge of co-operative 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 co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(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 co-operative 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 a loan granted under the ¹[Karnataka Land Improvement Loans Act, 1963 or the Karnataka Agriculturists Loans Act, 1963]¹, after the grant of the loan by the society.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

33. Charge on land, owned by members or held as tenants by members borrowing loans from certain co-operative societies.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force,—

(I) any person who makes an application to a co-operative society of which he is a member for a loan shall, if he owns any land, or holds any land as a tenant make a declaration in the prescribed form. Such declaration 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 in pursuance of the application and for all future advances, if any, required by him which the society may make to the member as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

(ii) a declaration made under clause (i) may be varied at any time by a member with the consent of the co-operative society in favour of which such charge is created;

(iii) no member shall alienate the whole or any part of the land or any interest of his 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 in full:

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

¹[Provided further that it shall be lawful for a member to mortgage such lands or any part thereof in favour of the State Government or an ²[Agricultural and Rural Development Bank]²:

Provided also that if a part of the amount borrowed by a member is paid, the co-operative 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 the land specified in the declaration as it may deem proper, with due regard to the security for the balance of the amount of loan outstanding from the member.]¹

1. Provisos inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(iv) any alienation made in contravention of the provisions of clause (iii) shall be void;

(v) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue and the prior claims of any person in whose favour alienation of the land or interest in such land 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 the land or interest in the land specified in the declaration made under clause (i) or varied under clause (ii) for and to the extent of the dues owing by him on account of the loan.

(2) Notwithstanding anything contained in 1[the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964)]¹, -

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

(i) the record of rights maintained under the said Act shall also include the particulars of every charge on land or interest in land created under sub-section (1);

(ii) the co-operative society in whose favour a charge is created under sub-section (1) shall communicate the particulars of the charge, and when the loan is discharged, the cessation of the charge, to the Deputy Commissioner or the prescribed officer and he shall cause necessary entries to be made in the record of rights;

(iii) the State Government may, by notification in the official Gazette, make rules to carry out the purposes of clauses (i) and (ii).

Explanation.—For the purpose of this section,—

(1) 'land' shall mean land to which 1[the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964)]¹, is applicable; and

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

(2) 'co-operative society' shall mean a co-operative society of which majority of the members are agriculturists and which is,—

(a) a credit society the primary object of which is to obtain credit for its members; or

(b) any other class of society specified in this behalf by the State Government by general or special order.

34. 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 co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such 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 shall, if so required by the co-operative 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 fourteen days from the date of the deduction.

(3) Nothing contained in this section shall apply to persons employed in railways as defined in Article 366 of the Constitution, mines and oil fields.

35. Charge and set off in respect of shares or interest of members in the capital of a co-operative society.- A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set off any sum credited or payable to a member towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a co-operative 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.

36. Shares or interest not liable to attachment.- Subject to the provisions of section 35 the share or interest of a member in the capital of a co-operative 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 such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

37. Exemption from certain taxes, duties and fees.- The State Government, if in its opinion it is necessary in public interest so to do, may, by notification in the official Gazette, and subject to such restrictions and conditions as may be specified in such notification, reduce or exempt in respect of any class of co-operative societies,—

(a) the tax payable under the ¹[Karnataka]¹ Agricultural Income-tax Act, 1957 (¹[Karnataka Act]¹ 22 of 1957) for the time being in force;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

¹[(b) the tax payable under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957);]¹

1. Omitted by Act 16 of 1967 w.e.f. 01.01.1968 and inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(c) the duties with which any instrument executed by or on behalf of a co-operative 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 this Act, are chargeable under the ¹[Karnataka]¹ Stamp Act, 1957 (¹[Karnataka Act]¹ 34 of 1957) for the time being in force;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(d) the fees payable in respect of any document under the ¹[Karnataka]¹ Court-Fees and Suits Valuation Act, 1958 (¹[Karnataka Act]¹ 16 of 1958) for the time being in force;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(e) any fee payable under the Indian Registration Act, 1908 (Central Act XVI of 1908) for the time being in force.

38. 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 XVI of 1908), shall apply to,—

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

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable 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 immoveable 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 other debenture issued by any such society.

¹[Provided that the exemption from compulsory registration of instrument shall not apply to instruments which is intended to transfer or in effect transfers the right title or interest in immovable property executed by or in favour of House Building Co-operative Societies, registered under this Act.]¹

1. Inserted by Act 6 of 2001 w.e.f. 01.04.2001.

39. Registration of documents executed on behalf of co-operative societies.- (1) Notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act XVI of 1908), it shall not be necessary for any member of a committee, ¹[Chief Executive]¹ or other ¹[office bearer of a co-operative society]¹ or any officer of the Department of Co-operation to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity on behalf of a co-operative society or to sign as provided in section 58 of that Act.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such member, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

¹[CHAPTER V-A**ELECTION OF MEMBERS OF THE COMMITTEES OF CO-OPERATIVE SOCIETIES**

39A. Conduct of elections.- (1) Every general election of members of the Committee other than the members of the first committee of a co-operative society after its registration or any casual vacancy shall be held subject to the superintendence, direction and control of the Registrar.

1. Chapter V-A & sections 39A to 39K inserted by Act 25 of 1998 w.e.f. 15.08.1998 except that sub-section (3) of section 39A is brought into force w.e.f. 27.10.1998.

¹[(2) Every general election of the members of the committee shall be held

(a) in respect of primary societies within twenty days before the date of expiry of the term of office of the Committee

(b) in respect of secondary societies within ten days before the date of expiry of the term of office of the Committee.

(c) in respect of federal societies, within fifteen days after the date of expiry of the term of office of the Committee

(d) in respect of apex societies, within thirty days after the date of expiry of the term of office of the Committee

(2A).-The date of such general election shall be fixed by the Committee or in the absence of the committee by the Administrator or Special Officer.¹

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

(3) Subject to the provisions of the Act, the election of members of the committee shall be held by secret ballot, in accordance with such rules as may be prescribed.

¹[(4) Where due to scarcity, drought, flood, fire or any other natural calamities or rainy season or any election programme of the State Legislative Assembly or Council or Parliament or Local Authority co-inciding with the election programme of any society or class of societies, or in public interest the elections are to be postponed, the State Government may, notwithstanding anything contained in this Act, or rule or by-laws, by general or special order postpone the election of any society or class of societies for a period not exceeding six months at a time and in any case not exceeding two years in aggregate]¹

²[Provided that the State Government shall not postpone the elections of a society in a co-operative credit structure for a period beyond three months.]²

1. Subsection (4) inserted by Act 24 of 2001 w.e.f. 05.09.2001.

2. Inserted by Act 6 of 2010 w.e.f. 03.11.2009.

39B. Cost of conducting elections.- The expenses of holding any election, including the payment of traveling allowances, dearness allowances and other

remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election shall be borne by the co-operative society concerned.

39C. Corrupt practices.- The following shall be deemed to be corrupt practices for the purposes of this Act, namely:—

(I) 'Bribery' as defined in clause (1) of section 123 of the Representation of the Peoples Act, 1951 (Central Act 43 of 1951), for the time being in force;

(ii) undue influence as defined in clause (2) of the above section for the time being in force;

(iii) the appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;

(iv) the promotion of, or attempt to promote, feeling of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate or for prejudicially affecting the election of any candidate;

(v) the publication by a candidate or his agent or by any other person, with the consent of candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidature, being a statement reasonably calculated, to prejudice the prospects of that candidates election;

(vi) the hiring or procuring whether on payment or otherwise, any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

Provided that the use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purposes of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purposes of road transport, whether propelled by mechanical power or otherwise whether used for the drawing of other vehicles or otherwise;

(vii) the holding of any meeting at which intoxicating liquors are served;

(viii) the issuing of any circular, placard or poster having reference to the election which does not bear the name and address of the printer and publisher thereof:

(ix) any other practice which the State Government may by rule specify to be a corrupt practice.

39D. Maintenance of secrecy of voting.- (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

39E. Officers etc. at election not to act for candidates or to influence voting.-

(1) No person who is a returning officer, or an assistant returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour,—

- (a) to persuade any person to give his vote at an election; or
- (b) to dissuade any person from giving his vote at an election; or
- (c) to dissuade any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

39F. Prohibition of canvassing in or near polling station.- (1) No person shall, on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognizable.

39G. Penalty for disorderly conduct in or near polling station.- (1) No person shall on the date or dates on which a poll is taken at any polling station,—

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice such as megaphone or a loud speaker; or

(b) shout or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighborhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of officers and other persons on duty at the polling station.

(2) Any person, who contravenes or willfully aids or abets the contravention of the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

39H. Penalty for misconduct at the polling station.- (1) Any person who during hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer, may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorized in this behalf by such Presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

39I. Breaches of official duty in connection with election.- (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(4) The persons to whom this section applies are the returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nomination or withdrawal of candidature or the recording or counting of votes at an election and the expression "official duty" shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

39J. Removal of ballot papers from polling station to be an offence.- (1) Any person who at any election fraudulently takes or attempts to take a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall on conviction be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1) such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to the police officer by the presiding officer or when the search is made by police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

39K. Other offences and penalties.- (1) A person shall be guilty of an electoral offence, if at any election, he,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than ballot paper which he is authorized by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,—

(a) if he is a returning officer, assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty, if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under sub-section (2) shall be cognizable.]²

CHAPTER VI

STATE AID TO CO-OPERATIVE SOCIETIES.

40. Promotion of co-operative movement.- It shall be the duty of the State Government to encourage and promote the co-operative movement including encouragement of co-operative farming in the State and to take such steps in this direction as may be necessary.

41. Direct partnership of State Government in co-operative societies.- (1) The State Government may subscribe directly to the share capital of a co-operative society with limited liability.

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

42. Indirect partnership of State Government in co-operative societies.- The State Government may, subject to appropriation by law, provide moneys to a co-

operative society (hereinafter in this Chapter referred to as apex society) for the purchase of shares in other co-operative societies with limited liability.

43. Principal State Partnership Fund.- (1) An apex society which is provided with moneys by the State Government under section 42 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 co-operative societies with limited liability;

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

(c) making payments to the State Government in accordance with the provisions of this Chapter; and for no other purpose.

44. 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;

(b) making payments to the apex society in accordance with the provisions of this Chapter; and for no other purpose.

45. Approval of State Government for purchase of shares.- No shares shall be purchased in a co-operative society from the moneys in the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund,' except with the previous approval in writing of the State Government.

46. Liability to be limited in respect of certain shares.- Where any shares are purchased in a co-operative society by,—

(a) the State Government; or

(b) an 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 co-operative society being wound up, be limited to the amount paid in respect of such shares.

47. Restriction on amount of dividend.- An apex society which has purchased shares in other co-operative societies from the moneys in the 'Principal State

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

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

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

49. Disposal of share capital and dividend, etc.- (1) All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the 'Principal 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.

(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 dividend or otherwise, shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the 'Principal State Partnership Fund'.

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

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 42.

50. Disposal of 'Principal State Partnership Fund' and 'Subsidiary State Partnership Fund' on winding up of an apex or a 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 State Government.

(2) If a central society which has established a 'Subsidiary State Partnership Fund' is wound up or is dissolved all moneys, to the credit of, or payable to, that Fund shall be

paid and credited to the 'Principal State Partnership Fund' from which it received moneys under clause (b) of sub-section (2) of section 43.

51. Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.- Any amount to the credit of a 'Principal State Partnership Fund' or a 'Subsidiary State Partnership Fund' shall not form part of the assets of the apex society or the central society, as the case may be.

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

(a) the State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 44;

(b) an apex society may, with the previous approval of the State Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the 'Principal State Partnership Fund' for the purpose specified in clause (b) of sub-section (2) of section 43.

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

(a) give loans or make advances to co-operative societies;

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

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

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

(e) give financial assistance in any other form, including subsidies, to any co-operative society.

¹[53A. Nomination of members of committee by State Government in certain cases.- (1) Notwithstanding anything contained in section 29, where the State Government has subscribed to the share capital of a Co-operative Society to extent of not less than,-

(i) fifty percent of the total share capital; or

(ii) five lakhs of rupees,

the State Government shall have the right to nominate as its representatives one third of the total number of members of the committee of the Co-operative Society.

(2) A person nominated as a member of a committee of a Co-operative Society under sub-section (1) (hereinafter in this section referred to as nominated member) shall hold office as such member during the pleasure of the State Government.

(3) Subject to the provisions of sub-section (2), a nominated member shall hold office as such member for such period as the State Government may, by order specify.

(4) Where an Officer of the State Government is nominated as member of a committee under sub-section (1) such Officer may be nominated by virtue of his office, and when any such nomination is made, such officer may if unable to be present himself at any meeting of the committee depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be the person nominated as a representative of the State Government for purposes of such meeting.

(5) Notwithstanding anything contained in this Act, a person so nominated under this section shall not have right to vote in any meeting of a Co-operative Society convened for the purposes of election of office bearers under section 29F nor he shall have right to become an office bearer of the Society.]¹

1. Section 53A Omitted by Act 25 of 1998 and inserted by Act 13 of 2000 w.e.f. 26.02.2000.

¹[54.XXX]¹

1. Omitted by Act 6 of 2010 w.e.f. 03.11.2009.

55. Provisions of this Chapter to override other laws.- The provisions of sections 42 to 54 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law for the time being in force.

CHAPTER VII.

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES.

¹[56. Mobilisation of Funds.- (1) A co-operative society may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from,-

- (i) its members; or
- (ii) its depositors; or
- (iii) any other person, institutions and organisations to such extent and subject to such conditions as may be specified in the bye-laws of the co-operative society.

(2) No part of the funds, other than the net profits of a co-operative 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 at such rate as may be specified in the bye-laws for any services rendered by him to such co-operative society.

Provided further that no member other than a member of a society in co-operative credit structure shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the committees or for performing any other functions as a member at a rate higher than the maximum rate specified by the Registrar for the purpose and different rates may be specified for different classes of co-operative societies or for different purposes.]¹

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

57. Net profits and their disposal.- (1) The net profits of co-operative societies shall be determined in accordance with such rules as may be prescribed and different rules may be made for different classes of co-operative societies.

(2) A co-operative society shall, out of its net profit in any year transfer an amount not being less than twenty-five per cent of the profits to the reserve fund.

¹[(2A) A Co-operative Society shall, from out of the balance of its net profits, contribute two percent to the Co-operative Education Fund to be administered by the Karnataka State Co-operative Federation Limited, Bangalore.

(2B) No Co-operative Society which has failed to contribute to the Co-operative Education Fund shall pay dividend to its members.]¹

1. Sub-sections (2A) & (2B) inserted by Act 40 of 1964 w.e.f. 26.06.1965 and substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 13 of 2004 w.e.f. 22.03.2004.

(3) The balance of the net profits may ¹[x x x]¹ be utilised for all or any of the following purposes, namely:—

²[(a) x x x

(b) x x x]²

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Omitted by Act 40 of 1964 w.e.f. 26.06.1965.

(c) 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:

Provided that no bonus shall be payable to members in a credit society;

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

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

(f) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws:

Provided that the bonus payable in any year to any employee shall not exceed two months' pay.

¹[(4) A co-operative society may pay dividend to its members from out of the balance of net profits available after making deductions as provided for under sub-sections (2), (2A) and (3) and the bye-laws of the society.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

58. Investment of funds.- A co-operative society may invest or deposit its funds,—

- (a) in a Government Savings Bank; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882); or
- (c) in the shares or securities of any other co-operative society; or
- ¹[(d) with any Co-operative Bank; or
- ²[(e) with any scheduled bank or financial institution regulated by the Reserve Bank of its choice and approved by the Registrar.

Provided that no such approval shall be necessary in respect of a society in cooperative credit structure and a cooperative bank.

Provided further that in the case of a Co-operative Bank, such investment shall be made in accordance with the instructions and directives issued by the Reserve Bank from time to time.]²

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

59. Restrictions on borrowings.- ¹[(1)]¹ A co-operative society shall receive deposits and loans only to such extent and under such conditions ²[XXX]² as may be specified in the bye-laws.

1. Renumbered by Act 2 of 1975 w.e.f. 17.07.1975.

2. Omitted by Act 6 of 2010 w.e.f. 30.03.2010.

¹[(2) Notwithstanding anything contained in sub-section (1), such co-operative societies or class of co-operative societies as the Registrar may, by general or special order, specify, shall have power to borrow from a credit agency subject to such conditions as may be specified in such order]¹

1. Inserted by Act 2 of 1975 w.e.f. 17.07.1975 and substituted by Act 13 of 2004 w.e.f. 22.03.2004.

60. Restrictions on loans.- (1) A co-operative society shall not make a loan to any person other than a member:

Provided that ¹[XXX]¹ a co-operative society may make loans to another co-operative society.

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

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

61. Restrictions on other transactions with non-members.- Save as is provided in sections 59 and 60, the transactions of a co-operative society with persons

other than members shall be subject to such restrictions, if any, as may be prescribed.

62. Provident Fund.- (1) A co-operative society may establish a contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and society in accordance with the bye-laws of the society.

(2) A contributory Provident Fund established by a co-operative 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; and
- (c) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

63. Audit.- ¹[(1) Every co-operative society shall get its accounts audited atleast once in each year by the Director of Co-operative Audit or by a person authorised by him by general or special order in writing in this behalf.]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998 and again substituted by Act 24 of 2001 w.e.f. 05.09.2001 and again substituted by Act 6 of 2010 w.e.f.30.03.2010.

(2) The audit under ¹[sub-section(1) or section 98U or section 98V]¹ shall include an examination of overdue debts, if any, the verification of the cash balance and securities, a valuation of the assets and liabilities, and an examination of the working and the other prescribed particulars of the society.

1. Substituted by Act 6 of 2010 w.e.f. 30.03.2010.

(3) The ¹[Director of Co-operative Audit]¹ ²[XXX]² shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any public office at the headquarters of the society or any branch thereof.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Omitted by Act 6 of 2010 w.e.f. 30.03.2010.

(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 ¹[Director of Co-operative Audit]¹ ²[XXX]² may require.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.
2. Omitted by Act 6 of 2010 w.e.f. 30.03.2010.

¹[(4A) Every Co-operative Society shall for each co-operative year, prepare and furnish within two months from the end of that year, to the Registrar and the Director of Co-operative Audit, a statement showing the receipts and disbursements, profit and loss and the balance sheet for the year and such other statements and returns as the Registrar or the Director of Co-operative Audit may direct.]¹

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

¹[(5) The Director of Co-operative Audit ²[xxx]² shall send copies of the audit report and communicate the results of audit to the co-operative society, the Registrar and to the financing bank or credit agency, and if the society is affiliated to any other co-operative society, to such co-operative society;]¹

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.
2. Omitted by Act 24 of 2001 w.e.f. 05.09.2001.

¹[(6) The Director of Co-operative Audit ²[or any person] ² authorized by him shall have right to receive all notices and every communication relating to the annual general meeting of a co-operative society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.

1. Sub-sections (6) to (11) substituted for sub-section (6) by Act 25 of 1998 w.e.f. 15.08.1998.
2. Substituted by Act 6 of 2010 w.e.f. 30.03.2010.

(7) If the result of the audit held under sub-section (1) discloses any defects in the working of society, the society shall within six months from the date of the audit report explain to the Director of Co-operative Audit and to the Registrar the defects or the irregularities pointed out in audit, and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein.

(8) (a) Any society aggrieved by any item held under objection in the audit report may apply to the Director of Co-operative Audit for its deletion within six months of the receipt of the audit report.

(b) The Director of Co-operative Audit may on receipt of the application under clause (a) summon the production of documents, if any, pertaining to the objection and examine the same. He may also examine any person including the auditor and order for deletion or confirmation of the audit objection and on deletion, the objection shall stand removed from the balance sheet of the society and on confirmation the amount held under objection shall be recoverable.

(9) The Registrar shall submit half yearly reports to the State Government furnishing details of the number of defects disclosed in audit, number of defects rectified, action taken to remedy the defects and the reasons for pendency, if any. A copy of such report may be forwarded to the Director of Co-operative Audit.

(10) If it appears to the State Government on an application by a co-operative society or otherwise that it is necessary or expedient to re-audit any account of a society, the State Government may, by an order provide for such re-audit and the provisions of the Act and the rules applicable to the audit shall apply to such re-audit:

¹[Proviso xxx]¹

1. Omitted by Act 24 of 2001 w.e.f. 05.09.2001.

Provided also that such re-audit shall be ordered only when there is a prima-facie case of fraud or mis-appropriation or embezzlement of funds not detected or properly examined by the auditor during regular audit or misclassification of accounts or for any other valid reasons with a view to truly reflect the financial position of the society;

(11) Notwithstanding anything contained in the preceding sub-sections, the Director of Co-operative Audit shall have power to re-examine or re-verify the audited accounts of any co-operative society pertaining to any year and incorporate the lapses observed during such re-examination or re-verification in the next audit report to be issued.]¹

¹[(12) Without prejudice to provisions of sub-section (3), the auditor shall inquire,-

- (a) whether loans and advances made by the cooperative society on the basis of security have been properly secured and whether terms on which they have been made are not prejudicial to the interests of the cooperative society or its members;
- (b) whether transactions of the cooperative society which are represented merely by book entries are not prejudicial to the interests of the cooperative society;
- (c) whether personal expenses have been charged to revenue account;
- (d) where it is stated in the books and papers of the cooperative society that any shares have been allotted for cash, whether cash has actually been received in respect of such allotment, and if no cash has actually been so received, whether the position as stated in the account books and the balance-sheet is correct, regular and not misleading; and
- (e) whether any special issue or subject matter referred to for enquiry by the Reserve bank or the National Bank has been duly enquired into and report thereof is submitted to the Reserve Bank or the National Bank as the case may be.

(13) The auditor shall make a report to the members of the co-operative society on the accounts examined by him and on every balance sheet and profit and loss account

and on every other document required to be part of or annexed to the balance sheet or profit and loss account, which are placed before the cooperative society in general meeting during his tenure of office, and the report shall state whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by this Act in the manner so required and give a true and fair view,-

- (a) in the case of the balance sheet, of the state of the cooperative society's affairs as at the end of the year; and
 - (b) in the case of the profit and loss account, of the profit or loss for the year.
- (14) The auditor's report shall also state-
- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
 - (b) whether in his opinion, proper books of accounts have been kept by the cooperative society so far as appears from his examination of those books, and proper returns adequate for the purpose of his audit have been received from branches or offices of the cooperative society not visited by him;
 - (c) whether the report on the accounts of any branch office audited by a person other than the cooperative society's auditor has been forwarded to him and how he has dealt with the same in preparing the auditor's report; and
 - (d) whether the cooperative society's balance sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns.

(15) Where any of the matters referred to in clauses (a) and (b) of sub-section(13) or in clauses (a), (b), (c) and (d) of sub-section (14) is answered in the negative or with a qualifying observation, the auditor's report shall state the reason for the answer.]¹

1. Inserted by Act 6 of 2010 w.e.f. 30.03.2010.

64. Inquiry by Registrar.- (1) The Registrar may, of his own motion, by himself or by a person authorized by him, by order in writing, hold an inquiry into ¹[any matter specified in the order touching]¹ the constitution, working and financial condition of a co-operative society.

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

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

- (a) a co-operative society to which the society concerned is affiliated;
- (b) a majority of the members of the committee of the society; or
- (c) not less than one-third of the total number of members of the society.

¹[(2A) An inquiry under sub-section (1) shall be completed ²[within a period of twelve months which may however be extended ³[by the Registrar for the reasons to be recorded in writing]³ for a further period of six months]²]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 24 of 2001 w.e.f. 05.09.2001.

3. Substituted by Act 13 of 2004 w.e.f. 22.03.2004.

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

(a) he shall, at all 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 or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office 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 society, to appear before him at any public office 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 meeting of the society, require the ¹[office bearers]¹ of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the ¹[office bearers]¹ of the society refuse or fail to call such a meeting he shall have power to call it himself;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(ii) any meeting called under clause (i) shall have the powers of the general meeting called under the bye-laws of the society and its proceeding shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall ²[send a copy of the inquiry report and communicate]² the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated ¹[and also to the Director of Co-operative Audit]¹.

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

¹[(5) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within three months from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps

to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein.]¹

1. Inserted by Act 6 of 2010 w.e.f.30.03.2010.

65. Inspection of books of a co-operative society.- (1) The Registrar may of his own motion, or on the application of a creditor of a co-operative society, inspect or direct any person authorized 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.

(2) The Registrar shall ²[send a copy of the inspection report and communicate] ²¹[the result of any such inspection to the Director of Co-operative Audit and],—

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

(a) where the inspection is made of his own motion to the society; and

(b) where the inspection is made on the application of a creditor, to the creditor and the society.

¹[(3) If the result of the inquiry held under sub-section (1) discloses any defects in the working of the society, the society shall within three months from the date of the receipt of the inquiry report and communication of the result of the inquiry explain to the Registrar the defects or the irregularities pointed out in the inquiry and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein.]¹

1. Inserted by Act 6 of 2010 w.e.f.30.03.2010.

¹[65A. Report of ²[inquiry]², inspection and final report to be made available to a credit agency.- The Registrar shall draw the attention of a credit agency financing a co-operative society to ²[the defects noticed in any inquiry]² or inspection of such co-operative society and shall also supply a copy of each of ²[such inquiry or inspection report]², if demanded in writing by such credit agency.

1. Sections 65A and 65B inserted by Act 2 of 1975 w.e.f. 17.07.1975.

2. Substituted by Act 3 of 1980 w.e.f. 11.08.1977.

[Explanation.—For the purpose of this section and section 65B credit agency includes a financing Bank.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

65B. Inspection of books of co-operative society by a credit agency.- (1) A credit agency shall have the right to inspect the books of any co-operative society which has either applied to the credit agency for financial assistance or is indebted to it.

(2) The inspection may be made either by an officer of the credit agency or a member of its paid staff authorized by the credit agency as competent to undertake such inspection.

(3) The officer or member so inspecting shall, at all reasonable times, have free access to the books, account, document, securities, cash and other properties belonging to or in the custody of the co-operative society and may also call for such information, statements and returns as may be necessary to ascertain the financial conditions of the co-operative society, and to ensure security of the sums lent to it by the credit agency;]¹

66. Power to seize books and property.- If any officer or person conducting audit under section 63, inquiry under section 64 or inspection under section 65, has reason to believe that any books or other property of the society have been tampered with or are likely to be tampered with, if left with the society with a view to eliminate or efface or change or manipulate any evidence which may be deemed necessary by such officer or person in connection with the proof of any defect or irregularities noticed by him during the course of audit, inquiry or inspection, he shall have power to seize and impound such books or property in such manner and for such period as may be prescribed.

67. Costs of Inquiry.- Where an inquiry is held under section 64 or an inspection is made under section 65 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs, as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society, the members or creditor demanding an inquiry or inspection, and the '[office bearers]'¹ or former '[office bearers]'¹ of the society:

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

Provided that,—

(a) no order of apportionment of the costs 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. Order by the Registrar.- ²[(1)]² The Registrar may make an order directing the co-operative society or its ¹[office bearers]¹ to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit under section 63 or the inquiry under section 64 or inspection under section 65 ³[and 65B]³.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.
2. Renumbered by Act 25 of 1998 w.e.f. 15.08.1998.
3. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[(2) A report about rectification of defects by the co-operative society shall be sent by the committee of such society periodically till all such defects are rectified to the Registrar, the credit agency and the financial Bank, and where the defects were pointed out in the audit, to the Director of Co-operative Audit.

(3) When the Registrar makes an order under sub-section (1) to remedy the defects disclosed in the inquiry or inspection, he shall send a copy of the order alongwith the result of the inquiry or inspection as the case may be, to the Director of Co-operative Audit who shall take action for incorporation of such results in the next audit report and financial statements wherever necessary.]¹

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

¹[Explanation: x x x]¹

1. Omitted by Act 19 of 1976 w.e.f. 20.01.1976.

¹[69. Surcharge.- (1) If in the course of an audit, inquiry, inspection or the winding up of a Co-operative society, it is found that the Committee of Management of such society or the President, Vice-President, the Chairman, Vice-Chairman or any other member of the Committee of Management ²[including Government nominees and ex-officio members]² or any person who is or was entrusted with the organization or management of such co-operative society or who is or has at any time been an officer or an employee of a co-operative society has made any payment contrary to the Act, the rules or the bye-laws or has caused any deficiency in the assets of the co-operative society by breach of trust or ³[x x x]³ negligence or has misappropriated or fraudulently retained any money or other property belonging to such Co-operative society, the Registrar may, of his own motion or on an application of the Committee, Liquidator or any creditor, frame charges against such person or persons and after giving such person and in the case of a deceased person, to his representative who inherits his estate, an opportunity of making representation, make an order requiring him to pay or restore the money or property or any part thereof with interest at such rate as he may determine or to contribute such sum to the assets of the co-operative society by way of compensation to such extent as he may consider just and equitable.

(2) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally liable.]¹

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

3. Omitted by Act 71 of 1976 w.e.f. 03.11.1976.

¹[(3) The order made by the Registrar under sub-section (1) may also provide for recovery of cost of surcharge proceeding from the person against whom the order is made at such rate and in such manner as may be prescribed.]¹

1. Inserted by Act 25 of 1998 w.e.f. 27.10.1998.

¹[(4) The application under sub-section(1) shall be decided within a period of twelve months excluding the period of stay granted by the Court if any. However, the Registrar may for reasons to be recorded in writing extend the said period not exceeding eighteen months.]¹

1. Inserted by Act 6 of 2010 w.e.f.30.03.2010.

CHAPTER IX SETTLEMENT OF DISPUTES

70. Disputes which may be referred to Registrar for decision.- (1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society 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 co-operative society, ¹[or a credit agency]¹

1. Inserted by Act 2 of 1975 w.e.f. 17.07.1975.

such dispute shall be referred to the Registrar for decision and ¹[no civil or labour or revenue court or Industrial Tribunal]¹ shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

1. Substituted by Act 2 of 2000 w.e.f. 20.06.2000 by notification. Text of the notification is at end of the Act.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, 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 a President, Vice-president, Chairman, Vice-chairman, ¹[or any other office-bearer]¹ or Member of Committee of the society.

1. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

¹[(d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society ²[notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947)]²;

(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its committee, past or present whether such loss be admitted or not.]¹

1. Clauses (d) and (e) inserted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Inserted by Act 2 of 2000 w.e.f. 20.06.2000.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

[70A. Period of limitation.- (1) No dispute under section 70 shall be entertained unless it is referred to the Registrar within six years from the date of the cause of action:

Provided that a dispute relating to the election of a member, President, Vice-President, ²[or other Office-bearer]² shall be referred to the Registrar within thirty days from the date of declaration of the result of the election.

(2) Notwithstanding anything contained in sub-section (1), the Registrar may entertain a dispute referred after the period specified in sub-section (1) if he is satisfied

that the person making the reference had sufficient cause for not making the reference within that period.]¹

³[Provided that a dispute relating to the disciplinary action against or service conditions of an employee shall be filed within a period of twelve months from the date of the order relating to such dispute.]³

1. Inserted by Act 39 of 1975 w.e.f. 01.06.1960.

2. Substituted by Act 6 of 2010 w.e.f.30.03.2010.

3. Inserted by Act 6 of 2010 w.e.f.30.03.2010.

71. Disposal of disputes.- (1) The Registrar may, on receipt of the reference of a dispute under section 70,—

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf, or
- (c) refer it for disposal to one 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 decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interests of justice.

¹[(3A) When a dispute is referred to an arbitrator under clause (c) of sub-section (1), the award shall, subject to such rules as may be prescribed, include the fee payable to the arbitrator and the fees and expenses payable to the Registrar. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal or revision, be binding on the parties to the dispute.]¹

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(4) Notwithstanding anything contained in section 70, when any dispute under clause (a) or (b) of sub-section (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by the society concerned that in the interest of the society it is necessary for an effective decision of the dispute to implead persons who cannot be made parties to the dispute in proceedings before him, he may permit the society to institute a regular suit in a Civil Court having jurisdiction and the Civil Court shall be competent to entertain such suit.

¹[(5) The dispute under sub-section(1) shall be decided within a period of twelve months excluding the period of stay granted by the Court if any. However, the Registrar may for reasons to be recorded in writing extend the said period not exceeding eighteen months.]¹

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

[71A. Powers of financing bank to proceed against members of a co-operative society for the recovery of money due to it from such society.- (1) If a co-operative society is unable to pay its debts to a financing bank by reason of its members committing default in the payment of moneys due by them, the financing bank may direct the committee of such co-operative society to take proceedings against such members under section 70 or to initiate proceedings under section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank itself may proceed against such members under section 70 or section 101, as the case may be, in which case, the provisions of this Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions were references to the financing bank.

(2) Where a financing bank has obtained a decree or decision against a co-operative society in respect of money due to it from the co-operative society, the financing bank may proceed to recover such moneys, first, from the assets of the co-operative society and, secondly, from the members of such co-operative society to the extent of their debts to the society.]¹

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

[71B. Powers of credit agency to proceed against members of a co-operative society for the recovery of money due to it from such society.- (1) If a co-operative society is unable to pay its debts to a credit agency by reason of its members committing default in the payment of the moneys due by them, the credit agency may direct the committee of such co-operative society to take proceedings against such member under section 70 or initiate proceedings under section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction the credit agency may itself proceed against such defaulting members under section 70 or section 101, as the case may be, in which case, the provisions of the Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions, were reference to the credit agency.

(2) Where a credit agency has obtained a decree or award against a co-operative society in respect of money due to it from the co-operative society the credit agency may proceed to recover such moneys firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society.]¹

1. Inserted by Act 2 of 1975 w.e.f. 17.07.1975.