

Chhattisgarh Co-Operative Societies Act, 1960

17 of 1961

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Chhattisgarh Co-Operative Societies Act, 1960

17 of 1961

(Received the assent of the President on 28-4-1961, the assent first published in M.P. Gaz. on 12-5-1961) (An Act to organize and develop co-operatives as democratic instruments and people's institutions based on self help, and mutual aid, and for curbing exploitation and ensuring socio-economic development of people with particular emphasis on weaker sections of society.) Be it enacted by the Madhya Pradesh Legislature in the Eleventh Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

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

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Additional Registrar" means an Additional Registrar of Cooperative Societies appointed under section 3;
- (a-i) Apex Society means a society whose principal object is to provide facilities for the operation of other societies affiliated to it and whose area of operation extends to the whole State of Madhya Pradesh;
- (b) "Assistant Registrar" means an Assistant Registrar of Cooperative Societies appointed under section 3;
- (b-i) "Area of operation" means the area from which the

membership is drawn or as specified in the byelaws of the society;
(c) "bye-laws" means the bye-laws registered or deemed to have been registered under this Act and for the time being in force, and includes a registered amendment of the bye-laws;

Clause (c-i) - as applicable to M.P. only (c-i) "Central Society" means a Co-operative Land Development Bank or any other society whose area of operation is confined to a part of the State and which has as its principal object the promotion of the principal objects and the provision of facilities for the operation of same type of societies and for other societies affiliated to it and not less than five members of which are societies;

Clause (c-i) - as applicable to Chhattisgarh only (c-i) "Central Society" means a District Co-operative Agriculture and Rural Development Bank or any other society, whose area of operation is confined to a part of the State and which has as its object the promotion of the objects of the member societies, and which has at least five societies as its members;

(c-ii) "Central Co-operative Bank" means a resource society registered or deemed to be registered under this Act, which is either licensed under the Banking Regulation Act, 1949 (10 of 1949) or permitted by the Reserve Bank of India to do banking business till so licensed, and

(i) has area of operation confined to part of the State; and

(ii) has as its principal object, the creation of funds and the obtaining credit, goods or services for and providing credit, goods or services as loan to Co-operative Societies affiliated to it for agriculture, industrial and other allied purposes;

(c-iii) Company means a Company as defined in section 3 of the Companies Act, 1956 (1 of 1956);

(c-iv) "Co-operative Union" means a registered society which has as its principal object the undertaking of co-operative education, propaganda, training and extension of co-operative services;

(d) "Committee" means the Board of a management by whatever name called constituted under section 48;

(d-i) "Co-operative Bank" means a State Co-operative Bank, a Central Co-operative Bank, and a Primary Co-operative Bank, registered or deemed to be registered under this Act;

(d-ii) "Co-operative credit structure" means the Madhya Pradesh State Co-operative Bank or Central Co-operative Bank or Primary Agriculture Credit Co-operative Society;

(e) "Co-operative Society with limited liability" means a society having the liability of its members limited by its bye-laws to the

amount, if any, unpaid on the shares respectively held by them or to such amount as they may, respectively, undertake to contribute to the assets of the society in the event of its being wound up;

(e-i) "Chief executive Officer" means an individual appointed under section 49-E and who subject to superintendence, control and direction of the Board of Directors, has been entrusted by the Board of Directors with the management of the affairs of the society";

(g) "Consumers Society" means a society formed with the object of obtaining or producing and processing and distributing goods to or performing other services for its members, as well as for other customers and dividing 9 among its members and customers in a proportion as may be laid down in the bye-laws of such society, the profits accruing from such supply, production, processing and distribution;

(g-i) "delegate" means a person elected by a group of individual members to represent them in the general body of the society in accordance with the bye-laws of the society;

(g-ii) "Deposit Insurance and Credit Guarantee Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (No.47 of 1961);

(h) "Deputy Registrar" means a Deputy Registrar of Co-operative Societies appointed under section 3; Clause

(hh) - as applicable to Madhya Pradesh only

(hh) "Development Bank" means a Co-operative Land Development Bank registered or deemed to be registered under this Act;

Clause (hh) - as applicable to Chhattisgarh only (hh) "Development Bank" means a District Co-operative Agricultural and Rural Development Bank or the Chhattisgarh State Co-operative Agriculture and Rural Development Bank registered or deemed to be registered under this Act;

(i) "Family" means a person, his spouse, his children, dependent on him and his other relations dependent on him and jointly residing with him;

(j) "Farming Society" means a society formed with the object of promoting development of land and better methods of cultivation, and includes a better farming society, tenant farming society, collective farming society, joint farming society, irrigation society and a crop protection society;

(k) "Federal Society" means a society of which not less than fifty per cent of the share capital, excluding Government share capital is

held by Societies;

(l) "Financing Bank" means a society, the objects of which is the creation of funds to be lent to other societies or its individual members, and includes State Co-operative Bank, Co-operative Agriculture and Rural Development Bank, Central Co-operative Bank, Primary Urban Co-operative Bank and District Co-operative Agriculture and Rural Development Bank;

(l-i) "Financing Institution" means a National or State level Cooperative Institution or organization, which provides financial assistance or advance or loan to a Co-operative Society or an individual;";

(m) "General Society" means a society not falling under any of the heads (i) to (ix) specified in sub-section (1) of section 10; Clause (n) as applicable to Madhya Pradesh only "(n)"Housing Society" means a society formed with the object of providing its members with residential accommodation;";

(n-i) Industrial Society means a Society formed with the objects of promoting development of weavers, carpenters, metal workers, shoe makers or any other Society which aims at producing finished goods from raw materials of any kind.

(o) "Joint Registrar" means a Joint Registrar of Co-operative Societies appointed under section 3:

(p) "Liquidator" means a person appointed under section-70;

(q) "Marketing Society" means a society formed for the purpose of marketing agricultural or other produce and including among its objects, the supply of the requisites of such production;

(r) "Member" means a person joining in the application for the registration of a society or a person admitted to membership after registration in accordance with this Act, the rules and the bye-laws applicable to such society and includes the State Government when it subscribes to the share capital of a society;

(s) "Multi-purpose Society" means a society which includes amongst its objects any of the primary objects specified in any two or more of the clauses (g), (n), (v) and (y);

(s-i) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agricultural and Rural Development Act, 1981(No.61 of 1981);

(t) "Nominal Member" means a person admitted to membership of a society under section 20;

(t-i) "Officer" means a person elected or appointed by a society according to its bye-laws to any office of such society and includes

a Chairman, Vice-Chairman, President, Vice-President, Managing Director, Manager, Secretary, Treasurer, Member of the Committee and any other person elected or appointed under this Act, the rules or the bye-laws to give directions in regard to the business of such society;

(u) "other backward classes" means category of persons belonging to backward classes as notified by the State Government;

(u-i) "Primary Society" means a society which is neither an Apex Society nor a Central Society;

(u-ii) "Primary Agriculture Credit Cooperative Society" means a society organized with the main objective of making credit available for agriculture production and includes a Primary, Service Cooperative Society and Adimjati Sewa Sahakari Samiti.

(u-iii) Primary Co-operative Bank means a resource society other than a village or urban resource society not registered as bank, the objects of which include creation of funds to be lent to, and obtaining credit to be extended to its Regulation Act, 1949 (10 of 1949) or permitted by the Reserve Bank of India to do banking business till so licensed;

(v) "Producers Society" means a society formed with the object of producing and disposing of goods as a collective property of its members and includes a society formed with the object of the collective disposal of the labour of its members;

(w) "Processing Society" means a society formed with the object of producing goods by mechanical or manual process and includes an industrial society and a society for the processing of agricultural commodities;

(x) "Registrar" means the Registrar of Co-operative Societies appointed under section 3;

(x-i) "Representative" means a member of the society to represent the society in other societies;

(x-ii) "Reserve Bank" means the Reserve Bank of India established under the Reserve Bank of India Act, 1934 (No.2 of 1934);

(y) "Resource Society" means a society formed with the object of obtaining for its members the credit, goods or services required by them and includes a service society and a primary credit society;

(y-i) "Returning Officer" means a person appointed or approved by the Registrar by general or special order for performing the duties of a Returning Officer under this Act or the rules made thereunder and includes an officer subordinate to the Returning Officer nominated in writing by him to perform the duties of Returning Officer and to assist him;"

(y-ii) "Scheduled area" means the area which has been declared under the Scheduled Area (State of Bihar, Gujarat, Madhya Pradesh and Orissa) Order, 1977.

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

(z-i) "Specified office" means the office of the President or Chairman and the Vice-President or Vice-Chairman;";

(aa) "State Co-operative Bank" means the Madhya Pradesh State Cooperative Bank, Limited;

(bb) "Student" means a person studying in any educational, vocational or training institution;

Clause (cc) - as applicable to M.P. only

(cc) "Tribunal" means the Madhya Pradesh State Co-operative Tribunal constituted under section 77.

Clause (cc) - Omitted in Chhattisgarh only (cc) (xxx)

CHAPTER 2

REGISTRATION

3. Registrar and other officers :-

(1) The State Government shall appoint a person to be the Registrar of Co-operative Societies for the State and may appoint one or more officers of the following categories to assist him, namely:

(a) Additional Registrar of Co-operative Societies;

(b) Joint Registrar of Co-operative Societies;

(c) Deputy Registrar of Co-operative Societies;

(d) Assistant Registrar of Co-operative Societies;

(e) such other categories of officers as may be prescribed.

(2) The officers appointed to assist the Registrar shall, within such areas as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Registrar by or under this Act as the State Government may, by special or general order, direct: Provided that no officer other than the Additional Registrar or the Joint Registrar shall be directed to exercise the powers to hear appeals under section 78.

(3) The officers appointed to assist the Registrar shall be subordinate to him and shall work under his general guidance, supervision and control.

4. Societies which may be registered :-

Subject to the provisions of this Act, a society which has as its objects the promotion of the economic interest of its members or

their general welfare in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society, may be registered under this Act.

5. Registration of societies with limited or unlimited liability :-

A society may be registered with limited or unlimited liability: Provided that unless the State Government by a general or special order otherwise directs, the liability of a society of which another society is a member shall be limited.

6. Conditions of registration :-

(1) No society, other than a society of which another society is a member, shall be registered under this Act unless it consists of at least (twenty) persons competent to contract under section 11 of the Indian Contract Act, 1872 (IX of 1873) and belonging to (twenty) different families, not being near relations and, where the objects of the society include the creation of funds to be lent to its members, unless such persons, save where the Registrar by general or special order otherwise directs, reside in the same town or village or in a compact group of villages: Provided that a society formed exclusively for the benefit of students may be registered, notwithstanding that the members of such society may not have attained the age of majority according to the law to which they are subject: Provided further that the Registrar may relax the condition of minimum membership to that society which is organized for the welfare of the employees of any organization/establishment. Provided also that in case of a primary society, there shall be at least 33 per cent. women members at the time of registration: Provided also that the Registrar may, for sufficient reasons, relax the conditions of the prescribed percentage of women members.

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

7. Application and fee for registration :-

(1) For purposes of registration, an application to register a society shall be made to the Registrar in the prescribed form and shall be accompanied by four copies of the proposed byelaws of the society. The person by whom or on whose behalf such application is made, shall furnish such information in regard to the society, as the

Registrar may such information in regard to the society, as the Registrar may require.

(2) The application shall be signed-

(a) in the case of a society of which no other society is a member, by at least ten persons qualified in accordance with the requirements of section 6; and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society and where all the members of the society are not registered societies, by ten other members, or when there are less than ten other members, by all of them.

(3) A society shall be registered on the payment of such fee and in such manner as may be prescribed.

8. Power of Registrar to decide certain questions :-

Where in connection with the formation, registration or continuance of a society or the admission of a person as a member of a society any question arises whether a person is an agriculturist or not or whether any person resides in a particular area or not or whether any person belongs to any particular class or occupation or not or such other question pertaining to the eligibility of any person to become a member of a society, such question shall be decided by the Registrar and his decision shall be final.

9. Registration :-

(1) If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed bye-laws are not contrary to this Act or the rules, he may register the society and its byelaws with such modifications as he may consider necessary: Provided that no society shall be registered, if in the opinion of the Registrar, it is likely to be economically unsound or is likely to have an adverse effect upon any other society.

(2) Where the Registrar refuses to register a society or its bye-laws he shall communicate the order of refusal together with reasons therefor to the first signatory to the application.

(3) The Registrar shall take a decision within ninety days from the date of receipt of an application for registration of a society: Provided that where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid the Registrar shall within the period of fifteen days from the date of expiration of that period, refer the application to the next higher officer and where the Registrar himself is the registering officer to the State

Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or State Government, as the case may be, to dispose of the application within that period, the society and its byelaws shall be deemed to have been registered.

(4) The Registrar shall maintain register of societies registered or deemed to be registered under this Act. 9-A. Conversion of co-operative into co-operative society.- Where a cooperative registered under the Madhya Pradesh Swayatta Sahakarita Adhinyam, 1999 (No.2 of 2000) intends to convert itself into society under this Act, it may apply for conversion to the Registrar, and if the Registrar is satisfied that the co-operative has complied with the provisions of this Act and rules made thereunder, and that its byelaws are not contrary to this Act and rules made thereunder, he may convert and register the co-operative society in accordance with the provisions of this Act.

10. Classification of Societies :-

(1) The Registrar shall classify all societies under one or more of the following heads, namely:-

- (i) Consumers society;
- (ii) Farming society;
- (iii) Federal Society;
- (iv) Central Society;
- (v) Housing Society;
- (vi) Marketing Society;
- (vii) Multipurpose Society;
- (viii) Producers Society;
- (ix) Processing Society;
- (x) Resource Society;
- (xi) General Society;
- (xii) Industrial Society. Provided that a society formed with the object of facilitating the operations of any particular class of societies shall be classified as a society of that class.

(1-a) The Registrar may further classify the societies falling under any of the heads specified in sub-section (1) under the following heads, namely:

- (a) Apex Society;
- (b) Central Society;
- (c) Primary Society.

(2) The Registrar for reasons to be recorded in writing may alter

the classification of any society from one head to another.

(3) The decision of the Registrar in respect of classification of societies shall be final.

11. Amendment of bye-laws of society :-

(1) No amendment of the byelaws of a society shall be valid until the same has been registered under this Act, for which purpose four copies of the proposed amendment shall be forwarded in the prescribed manner to the Registrar.

(2) If the Registrar is satisfied that the proposed amendment is not contrary to this Act or the rules and is not against the aims and objects of the Society or any of its existing bye-laws he may register the amendment within thirty days of receipt of the proposed amendment.

(3) The Registrar shall not refuse to register an amendment of the byelaws without giving an opportunity to the applicant society, for being heard. If he decides to refuse to register an amendment, he shall communicate the order of refusal together with reasons therefor to the society within thirty days from the date of receipt of the proposal: Provided that, where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period, refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the amendment of the byelaws shall be deemed to have been registered: Provided further that in the case of co-operative credit structure the provisions of the aforesaid proviso shall not be applicable.

12. Power to direct amendment of bye-laws :-

(1) Notwithstanding anything contained in this Act, or the rules or byelaws, on the request of more than fifty per cent of the members of the society or if the Registrar considers that an amendment of the byelaws of society is necessary or desirable in the interest of such society, he may, by an order in writing to be served on the society in the prescribed manner, require the society to make the amendment within sixty days.

(2) If the society fails to make the amendment within the time specified by the Registrar, the Registrar may after giving the society an opportunity of being heard and after soliciting the opinion of such Apex Federal society, as may be notified by the State Government, register such amendment and issue a certified copy thereof to such society:

13. Change of name :-

A society may, by an amendment of its bye-laws, change its name, but such change shall not affect any right or obligation of the society, or of any of its members, or past members, or deceased members, or render defective any legal proceedings by or against the society, and any legal proceedings which might have been continued or commenced by or against the society by its new name.

14. Certain certificates to be conclusive evidence :-

(1) Where a society is registered or deemed to be registered under this Act, the Registrar shall issue a certificate or registration signed by him and such certificate shall be conclusive evidence that the society therein mentioned has been duly registered unless it is proved that the registration of the society has been subsequently cancelled: Provided that where a society is deemed to be registered under this Act, the Registrar shall issue a certificate of registration within sixty days from the date on which it was deemed to be registered.

(2) No society shall commence business unless it has obtained a certificate of registration under sub-section (1) and every member of such society carrying on business in contravention of this sub-section shall be severally liable for all liabilities incurred in such business.

(3) When the Registrar registers an amendment of the bye-laws of a society under section 11 or section 12 he shall issue to the society a copy of the amendment registered by him, which shall be conclusive evidence that the same is duly registered.

(4) Where a society changes its name under section 13, the Registrar shall amend the certificate of registration accordingly which shall be conclusive evidence that the change of name is duly registered.

15. Change of liability of society from limited to unlimited or vice-versa :-

(1) Subject to the provisions of section 11, a society may by an amendment of its bye-laws change its liability from limited to unlimited or from unlimited to limited.

(2) No such amendment shall be registered by the Registrar unless he is satisfied that-

(i) twenty-one days notice has been given to every member of the society and to any person or class of persons whose interest may, in the opinion of the Registrar, be affected by the change; and

(ii) with respect to every such member or person who, in the opinion of the Registrar, is entitled to notice-

(a) either his assent has been obtained to the change or is deemed to have been obtained by virtue of his failure to object within twenty one days from the date of the notice,

(b) if he objects-

(i) he is allowed to withdraw his share if he is a member, or

(ii) that his debt or claim has been discharged or has been determined or has been secured to the satisfaction of the Registrar within three months from the date of receipt of objection if he is a creditor: Provided that the Registrar may in the case of any person or class of persons, for special reasons, to be recorded, dispense with the notice required by this sub-section.

16. Reorganization of Societies :-

(1) In this section-

(a) "affected society" means a society which decides to reorganize itself in any of the manners specified in sub-section (2); and

(b) "resulting society" means a society-

(i) which is formed as a result of amalgamation under clause (a) of sub-section (2); or

(ii) to which the assets and liabilities of the affected societies are transferred in whole or in part under clause (b) sub-section(2); or

(iii) which is formed as a result of division under clause (c) of sub-section (2); or

(iv) which is the result of change of class as provided in clause (d) of sub-section (2).

(2) A society may, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose decide to reorganize itself by-

(a) amalgamating itself with another society; or

(b) transferring its assets and liabilities in whole or in part to any

other society; or

(c) dividing itself into two or more societies; or

(d) converting itself into a class of society, the object of which is materially different from that under which it has been classified under this Act: Provided that no such decisions shall take effect unless it is approved by the Registrar: Provided further than in case of a Co-operative Bank, the Registrar shall not give his approval save with the previous sanction in writing of the Reserve Bank;

(3) Notwithstanding anything contained in sub-section (2) where the Registrar is satisfied that it is essential in the public interest or in the interest of the members of the affected societies or necessary to secure the proper management of any society, he may direct that any society or societies shall reorganize itself or themselves in any one or more of the modes indicated in sub-section (2): Provided that, in the case of a Co-operative Bank, the Registrar shall not issue any direction save with the previous sanction in writing of the Reserve Bank: Provided further that before a final order under this sub-section is passed by the Registrar every society concerned shall be given an opportunity of expressing its opinion on the reorganization proposals.

(4) The procedure for reorganization of a society in accordance with the decision under sub-section (2) or the direction of the Registrar under subsection (3), as the case may be, shall be such as may be prescribed.

(5) If any such reorganization under sub-section (2) or (3) is likely to affect in any manner the interest of any person, notice thereof shall be given to all such persons and every such person shall be given an option, to be exercised within a month from the date of the issue of such notice, of either becoming a member of the resulting society or societies or of demanding the payment of the share or interest or dues in respect of the affected society, as the case may be.

(6) No reorganization shall be final until the assent of every such person whose interest is likely to be affected, has been obtained or deemed to have been obtained by virtue of his failure to exercise the option given to him, and further, unless all the claims of persons who have exercised the option of demanding the payment of their shares or interests or dues under sub-section (5) have been met in full.

(7) Every resulting society under this section shall have such constitution, property, powers, rights, interests, authorities, duties and obligations as may be specified in the scheme of reorganization

and every such scheme of reorganization may contain such consequential, incidental and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to such scheme.

(8) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) or the Indian Registration Act, 1908 (XVI of 1908), a resolution of a society approved by the Registrar under sub-section (3) shall be sufficient conveyance to vest the assets and liabilities of each affected society in the resulting society or societies concerned, such vesting being subject only to the provisions of the scheme of reorganization.

(9) The reorganization of societies shall not in any manner, whatsoever affect any right or obligation of the resulting society or societies or render defective any legal proceedings by or against the society or societies and any legal proceedings that might have been continued or commenced by or against the society or the societies, as the case may be, before the reorganization may be continued or commenced by or against the resulting society or societies.

(10) Where any two or more societies have been amalgamated or a society has been divided or converted, the registration of such society or societies shall be deemed to have been cancelled on the date of registration of the amalgamated society or of the converted society or of the new societies into which the society may have been divided.

(11) Where a land mortgage bank has been reorganized by amalgamation with a central bank, the amalgamated bank shall in respect of all transactions relating to the land mortgage bank business made on and after such amalgamation be deemed to be a land mortgage bank within the meaning of the law relating to Land Mortgage Banks for the time being in force. Explanation.- For the purposes of this section "Central Bank" means a society with the words "Central Bank" or "District Bank" as part of its name and whose main object is to finance societies which are members of it and lie within a specified area.

(12) Every scheme of such reorganization shall be published in the official Gazette for general information.

16A. Collaboration By Societies :-

Any society may, enter into the collaboration with any Government Undertaking or any undertaking approved by the State Government for carrying on any specific business including industrial investment, financial aid or marketing and management expertise.

16B. Partnership Of Societies :-

Any two or more societies may by resolution passed at general meeting by a majority of members present and voting in each such society enter into a contract of a partnership for carrying out any specific business permissible under the byelaws on such terms and conditions as may be mutually agreed upon. Where such partnership requires creation of a new organization, the participating society shall be its members. (Section 16-C - Applicable in Chhattisgarh only)

16C. Governments Power To Make Scheme Of Reorganization In The Public Interest :-

(1) Notwithstanding anything contained in this Act or the Rules made thereunder, if the State Government, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest it is necessary to reorganize any society or societies for the purpose of securing proper implementation of development programmers, the State Government, as it may deem necessary, may make such scheme of reorganization and issue orders to implement above scheme: Provided that in case of a Co-operative Bank, prior sanction in writing of the Reserve Bank shall be necessary.

(2) There shall be the provisions in scheme of reorganization regarding :-

(a) Method of reorganization;

(b) Procedure for reorganization;

(c) To the membership, registration, management, assets and liabilities, powers, rights, interests, duties, staff and conditions of employment of such society or societies which are made after reorganization;

(d) Such other consequential, incidental and supplementary provisions as may be necessary;

(e) Any other subject as may be deemed necessary by the State Government.

(3) The State Government may modify or cancel any reorganization scheme made or issued any orders under sub-section (1).

(4) The provisions regarding every reorganization scheme and the orders issued by the State Government shall be binding upon the interested parties.

(5) Every scheme of such reorganization shall be published in the official Gazette for general information.

17. Compromise or arrangement for repayment of liabilities and reconstruction of societies :-

(1) Notwithstanding anything contained in this Act, or the rules made thereunder where a compromise or arrangement is proposed between

(a) a society and its creditors or any class of them, and

(b) a society and its members, the Registrar may on the application of the society or of any member or of any creditor of the society or, in the case of a society which is being wound up of the liquidator order a meeting of the members, or creditors or both, as the case may be, to be called, held and conducted in such manner as may be prescribed: Provided that the Registrar may, on his own motion, order such a meeting to be called for the purpose of affecting a compromise or arrangement.

(2) If a majority in number representing three-fourths of the members or three-fourths of the total amount of valuation due to the creditors, as the case may be, present and voting in person at the meeting agree to any compromise or arrangement the compromise or arrangement shall, if confirmed by the Registrar, be binding on all members or all the creditors, as the case may be, and also on the society, or in the case of a society which is being wound up, on the liquidator: Provided that the Registrar shall not confirm a compromise or arrangement unless he is satisfied that all the members or creditors, as the case may be, whose interests are affected by such compromise or arrangement, had notice of such meeting: Provided further that in case of a Co-operative Bank the Registrar shall not confirm the compromise, or arrangement, save with the previous sanction in writing of the Reserve Bank or National Bank for Agriculture and Rural Development.

(3) When an order canceling a meeting is passed under sub-section (1) or the proviso thereof for considering any compromise or arrangement between a society and its creditors or any class of them, the Registrar may give notice of such order to a Civil Court in which proceedings, whether instituted before or after the order, in respect of any liability of the society due to a creditor to whom a copy of the order is posted, are pending and on receipt of such notice the Civil Court shall stay the proceedings. If no such compromise or arrangement is confirmed under sub-section (2), the Registrar shall inform the Civil Court accordingly and the proceedings which may have been stayed, shall be resumed.

(4) If a compromise or arrangement between a society and its creditors or any class of them is confirmed under sub-section (2) the proceedings, if any, stayed under sub-section (3) shall abate and no proceedings shall lie in a Civil Court in respect of any liability of the society to which the compromise or arrangement relates.

(5) The Registrar may, with the previous approval of the State Government, exempt any class of creditors from the operation of this section or any provisions thereof.

(6) A compromise or arrangement confirmed by the Registrar shall not be called in question in any Civil Court.

(7) If a creditor in respect of whom a compromise or arrangement has been confirmed by the Registrar under sub-section (2), fails to receive the amount payable to him under such compromise or arrangement after due notice to do so within the period specified in such notice, the society or the liquidator, as the case may be, shall

deposit the amount in such manner as may be directed by the Registrar. On the making of such deposit the amount payable to the creditor under the compromise or arrangement shall be deemed to have been paid to the extent of the deposit.

(8) A compromise or an arrangement between a society and its creditors or any class of them confirmed by the Registrar under sub-section (2) shall cease to be in force as soon as the whole amount of the liability determined thereunder has been or is deemed to have been paid whether under the provisions of this section or otherwise notwithstanding that the period originally stipulated for the discharge of such liability has not expired.

(9) After such compromise or arrangement has ceased to be in force no further claim shall remain against the society, or against any property, movable or immovable which it may acquire thereafter, in respect of the liability which had been the subject of the compromise or arrangement, and the society shall be free to conduct its normal business.

17A. Action And Liability Of Banks Under Moratorium :-

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 (No.10 of 1949) in respect of Co-operative Bank, the Registrar with the previous approval of the Reserve Bank in writing, may, during the period of moratorium, prepare a scheme,-

- (i) for the reconstruction or re-organization of the Co-operative Bank; or
- (ii) for the amalgamation of the Co-operative Bank with any other Bank.

17B. Liability Of New Bank To Repay To The Deposit Insurance Corporation :-

Notwithstanding anything contained in this Act, where a Cooperative Bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (No.47 of 1961) is amalgamated or in respect of which a scheme of compromise or arrangement or of reconstruction or reorganization has been sanctioned 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 to 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 (No.47 of 1961).

18. Cancellation of registration :-

(1) The Registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or it is de-registered under the

provisions of sub-section (1) of section 18-A or it is wound up under section 69. The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

(2) Notwithstanding anything contained in this Act if any proceedings relating to the winding up or dissolution of a society are pending immediately before the commencement of this Act, such proceedings shall after such commencement be disposed of in accordance with the provisions of the law under which such society was registered or deemed to be registered.

18A. De-Registration Of Societies :-

(1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or the purposes for which the society has been registered or not served or the society other than a Co-operative Bank or Development Bank has used the word "Bank", "Banker", "Banking" and any other derivative of the word Bank" he may, after giving an opportunity of being heard to the chief promoter, the committee and the members of the society, deregister the society: Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on all such individual members, a public notice of the proceedings of the de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society, including the chief promoter and the members of the committee of the society, and no proceeding in respect of the de-registration of the society shall be called in question, merely on the ground that individual notice is not served on any member.

(2) When a society is de-registered under the provisions of subsection (1), the Registrar may, notwithstanding anything contained in this Act, make such incidental and consequential order including appointment of official assignee as the circumstances may require.

(3) Subject to the rules made under this Act, the official assignee shall realize the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents. The period aforesaid may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The official assignee shall be paid such remuneration and allowances as may be prescribed.

(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any officer below the rank of a Joint Registrar of Cooperative Societies.

CHAPTER 3

MEMBERS, THEIR RIGHTS, LIABILITIES AND PRIVILEGES

19. Persons who may become members :-

(1) No person shall be admitted as a member of a society except the following, namely:

(a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (No.11 of 1872);

(b) any other society;

(c) a public trust registered under the Madhya Pradesh Public Trusts Act, 1951 (No.30 of 1951);

(d) a firm, company or any other body corporate, not having minors as partners or directors, registered established or constituted, as the case may be under any law for the time being in force.

(e) a society registered under the Madhya Pradesh Societies Registration Act, 1959 (No.1 of 1960), as may be approved by the State Government in this behalf by general or special order;

(ea) a co-operative registered under the Madhya Pradesh Swayatta Sahakarita Adhiniyam, 1999 (No.2 of 2000);

(f) the State Government: Provided that the provisions of clause (a) shall not apply to-

(i) an individual seeking admission to a society exclusively formed for the benefit of students;

(ii) a minor acting through a guardian appointed by the Court.

(2) Notwithstanding anything to the contrary in this Act or rules or in the byelaws of a society, where the State Government has contributed to the share capital of a society, the liability of the State Government shall be limited to the face value of the shares held by it.

(2-A) Notwithstanding anything contained in this Act or rules made thereunder or in the byelaws of a resource Society or consumers society, as the case may be, if any person duly qualified for admission as a member under the provisions of this Act and the byelaws of that Society makes an application for membership of such Society he shall be deemed to have been admitted as a 22 member of such Society from the date of receipt of the application in the office thereof: Provided that the Registrar may, either on his own motion at any time or on an application by the society or any aggrieved person made within fifteen days from the aforesaid date and after giving reasonable opportunity to the society or person concerned by order, declare such person as not eligible for membership of such society for the reasons mentioned therein, within forty five days from the date of receipt of application by the Registrar.

(3) Where a student, who is not competent to contract under section 11 of the Indian Contract Act, 1872 (IX of 1872), desires to become a member of a society formed exclusively for the benefit of

students, his application for the registration of a society or his application for membership shall be accompanied by a written undertaking from his guardian or other person competent to contract under section 11 of the said Act in the prescribed form, in respect of the liability of the student as a member.

(4) Where a person is refused admission as a member in a society, the decision refusing admission shall be communicated by the society to that person within (thirty days) of the date of such decision.

(5) No society shall, without sufficient cause, refuse admission to membership to any person, duly qualified therefor under the provisions of this Act and the byelaws of the society.

(6) Any person aggrieved under sub-section (4) or sub-section (5) may appeal to the Registrar within ninety days of the date of rejection.

(7) The decision of the Registrar in appeal shall be final and the Registrar shall communicate his decision to the parties within (thirty) days from the date thereof.

19A. Disqualifications Of Member :-

No person shall be eligible for admission as member and any member shall cease to be a member of a society, if-

- (a) he is an applicant to be adjudicated or is an undischarged insolvent;
- (b) he has been sentenced for an offence involving moral turpitude and a period of five years has not elapsed from the date of expiry of sentence;
- (bb) he has been sentenced for an offence under the provisions of the Protection of Civil Rights Act, 1955 (No.22 of 1955) and a period of six years has not elapsed from the date of expiry of sentence.
- (c) he or any member of his family, having common interest with him, carries on business similar to one carried on by the society: Provided that the provisions of clause (b) shall not apply to a person seeking admission as member of a society exclusively formed or to be formed for the reclamation of Vimukta Jatis.
- (d) If he is disqualified under section 48-A of the Act;
- (e) If he is a person who has been dismissed from the service of any co-operative institution or Government service. Explanation.- For the purposes of this section-
- (i) "Vimukta Jatis" means such tribes as the State Government may, from time to time, by general or special order, declare as Vimukta Jatis for the purpose of this sub-section;
- (ii) the business carried on by a trader including that of money lending shall be deemed to be similar to the business carried on by a marketing society. 23 represent the society in other society, if he suffers from such disqualification, as may be prescribed: Provided that, if a member suffers from any of the disqualifications prescribed under this section-
- (i) it shall be lawful for the committee of the society to disqualify such member where he is elected as a Director being a member of that society

19B. Effect Of Subsequent Disabilities :-

If any person having been admitted as a member of a society subsequently becomes subject to any of the disqualifications specified in section 19-A, such person shall cease to be a member of the society and the Registrar shall declare

his seat to be vacant.

19C. Expulsion Of Members :-

(1)The Committee may, by a resolution passed by three-fourth majority of the members present and voting at a meeting held for the purposes, expel a member if he -

(a) intentionally does any act likely to injure the credit of the society or bring it to disrepute; or

(b) willfully deceives the society by false statements; or

(c) carries on any business which comes or is likely to come into conflict with the business carried on by the society; or

(d) persistently makes default in payment of his dues or fails to comply with any provisions of the bye-laws: Provided that no such resolution shall be valid unless the member concerned has been given seven days notice, either personally or by registered post, of the proposal to expel him and has been given an opportunity to represent his case to the committee.

(1-A) Any person aggrieved by the resolution of the Committee under sub-section (1) may appeal before the Registrar within 30 days of the communication of such resolution.

(2) Notwithstanding anything contained in this Act or rules or byelaws made thereunder, where it appears to the Registrar that it is necessary and desirable in the interest of the society to expel a member from the society for his indulging in any of the activities specified in sub-section (1), he may call upon such member and the society, to explain within a period to be specified by him, why such member should not be expelled from the society. If the member or society fails to furnish his or its explanation, within the specified period or after considering the explanation, if received, the Registrar may pass an order expelling a member from the society.

(3) No person who has been expelled shall be eligible for readmission as a member of the co-operative for a period of six years from the date of such expulsion.

(4) Expulsion of a member from a society may involve forfeiture of shares held by the member in such society.

20. Nominal members :-

Notwithstanding anything contained in section 19, a society may admit any person as a nominal member who shall no share either in the management or profits of a society and shall not be subject to any contributory liability in the case of winding up of the society.

21. No rights of membership to be exercised till due payments are made :-

No member shall exercise the rights of a member unless he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed or as may be specified in the bye-laws of such society.

22. Votes of members :-

(1) Every member of the society shall have one vote in the affairs of the societys (1-A) Every depositor who shall be a member of the Primary Agriculture Credit co-operative Society shall also be eligible

to vote in the affairs of the society.

(2)(a) The voting right of federal society shall be so regulated that the members, which are societies, do not have less than four-fifths of the total number of votes in the general meeting of such society.

(b) In case of federal society the voting rights of individual members (which term shall include public trust, firm, company or body corporate, society registered under the Madhya Pradesh Society Registrickaran Adhinyam, 1973 (No.44 of 1973), and State Government but shall not include a co-operative society) shall be regulated in such manner as may be prescribed.

(3) every affiliated co-operative society through its properly authorized representative and every delegate referred to in clause (b) of sub-section (2) shall have one vote in the general meeting.

(4) The quorum for the meeting shall, unless otherwise provided in the byelaws of a society, be one-fifth of the total number of delegates and representatives of the societies: Provided that the delegates shall not at any time in the meeting exceed one-fifth of the member representatives of the societies.

(5) The elections of delegates shall be held in accordance with the provisions prescribed for election of the members of the committee.

(6) Any vacancy of a delegate caused on account of cessation of membership or otherwise, shall be filled in by delegates by co-opting one of the individual members of the group to which the vacancy relates.

(7) Unless otherwise directed by the Registrar in respect of any particular society the delegates on the committee shall not at any time exceed one-third of the number of representatives of societies (fractions being neglected).

(8) In the case of equality of votes the Chairman shall have a second or casting vote.

23. Manner of exercising vote :-

(1) Every member of a society shall exercise his vote in person and no member shall be permitted to vote by proxy: Provided that subject to any rules made under this Act-

(i)(a) a society which is a member of another society may appoint one of its members as a representative to vote on its behalf.

(b) a group of individual members formed by the society in accordance with its bye-laws may elect one of the members in the group as a delegate to vote on their behalf.

(ii) the State Government may nominate one of its officers as its

representative, to vote or otherwise participate in its behalf in the affairs of the society of which such society or the State Government is a member;

(iii) a public trust which is a member of a society may appoint, in writing, any one of its trustees to vote on its behalf;

(iv) a firm which is a member of a society may appoint, in writing, any one of its major partners to vote on its behalf; and

(v) a company or any other body corporate which is a member of a society may appoint, in writing, any of its directors or officers to vote on its behalf.

(2) Where a share is held jointly by more than one person and if-

(i) in respect of such share a share certificate is issued by the society, the person whose name stands first in such share certificate; and

(ii) in respect of such share no share certificate is issued by the society, the person whose name stands first in the register of members maintained by such society; shall have the right to vote.

24. Restriction on holding of share capital by a member :-

In any society, no member, other than the State Government or any other society, shall-

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

(b) have or claim any interest in the shares of the society exceeding (twenty thousand) rupees: Provided that the State Government may, by notification, specify in respect of any class of societies a maximum exceeding one-fifth of the share capital or (twenty thousand) rupees, as the case may be.

25. Restrictions on transfer of shares or interest :-

(1) The transfer of a share or interest of a member in the share capital of a society shall be subject to the restrictions as to the maximum holdings specified in section 24.

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

(a) the member has held such share or interest for not less than one year;

(b) the transfer is made to the society or to a member of the society; and

(c) the transfer is approved by the Committee.

26. Transfer of interest on death of member :-

(1) On the death of a member, a society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such members interest, as ascertained in accordance with rules or bye-laws. (2) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

27. Share or deposit or interest not liable to attachment :-

Subject to the provisions of section 39, the share or interest or deposit of a member in the capital or working capital of society or in the loan stock issued by a housing society or in the funds raised by a society from its members by way of savings deposit or by compulsory deductions made by it from wages or in the form of surcharge on the value of sale or supply of goods to members, shall not be liable to attachment or sale under any decree or order of a court for or in respect of any debt or liability incurred by the members or past members and accordingly neither a Receiver under the Provincial Insolvency Act, 1920 (No. 5 of 1920), nor any such person or authority under any corresponding law for the time being in force shall be entitled to, or have any claim on such share or interest or deposit.

28. Rights of members to see books, etc :-

(1) every society shall keep open to inspection for its members free of any charge, at all reasonable times at the registered address of the society-

- (a) a copy of this Act;
- (b) a copy of the rules;
- (c) a copy of the bye-laws of the society; and
- (d) a register of members.
- (e) the last audited annual balance sheet, the profit and loss account; and
- (f) the minutes of the general meetings.

(2) All registers and record of a society except books and other documents relating to accounts other than ones own shall be open to inspection in the office of the society by any member of such society on payment of such fee as may be specified in the bye-laws.

(3) Subject to such conditions and on payment of such fees as may be specified in the bye-laws, the society shall, on an application made by any member thereof grant him a certified copy of such records or registers or extracts thereof.

29. Liability of a past member or estate of deceased member :-

(1) Subject to the provisions of sub-section

(2), the liability of a past member or of the estate of a deceased member of a society for the debts of the society as they stood:-

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

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

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

30. Insolvency of members :-

Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (V of 1920), in an insolvency proceeding against a member of a society, the dues of the society shall have priority over all other dues except those payable to Government.

CHAPTER 4

DUTIES, PRIVILEGES, PROPERTY AND FUNDS OF SOCIETIES

31. Societies to be bodies corporate :-

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

constituted.

32. Address of society and display of name :-

(1) Every society shall have an address registered in accordance with the rules to which all notices and communications may be sent, and shall send a notice in writing to the Registrar of any change therein within thirty days of the change.

(2) Every society shall display its name and the address of its registered office and the words "Registered under Madhya Pradesh Co-operative Societies Act, 1960" in legible characters in conspicuous position-

(a) at every office or place at which it carries on business;

(b) in all notices and other official publications;

(c) on all its contracts, business letters, orders for goods, invoices, statements of account, receipts and letters of credit; and

(d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf.

(3) The name of every society shall contain the words "Co-operative" and "limited" or their equivalent in official language of the State.

(4) The Primary Agriculture Credit Co-operative Society shall not use the word "Bank", "Banking", "Banker" or any other derivative of the word "Bank" in its registered name.

33. Register of members :-

(1) Every society shall keep a register of its members and enter therein the following particulars, namely:-

(a) the name, address and occupation of each member;

(b) the share held by each member in the case of a society having share capital;

(c) the date on which each person was admitted as a member;

(d) the date on which any person ceased to be a member; and

(e) such other particulars as may be prescribed: Provided that, where a society has under this Act, permitted a member to transfer his share or interest on death, to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member and the date on which the nomination was recorded.

(2) The register shall be prima facie evidence of the date on which any person was admitted to the society as a member and of the

date on which he ceased to be a member.

34. Proof of entries in societys books :-

(1) A copy of any entry in a book of a society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received, in any suit or legal proceedings or for any other purposes as Prima facie evidence of such entry and shall be admissible in evidence in respect of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry.

(2) Copies given by a society of any document obtained and kept by it in the course of its business or any entries in such document shall, if certified in the prescribed manner, be admissible in evidence in any suit or legal proceedings or for any other purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

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

34A. Societies To Give Pass Books To Member :-

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

(2) The entries in the pass book duly made shall, until the contrary is proved, be prima facie evidence of the account of transactions of the society with the member.

35. Exemption from compulsory registration of instruments

:-

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

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

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

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

(d) any declaration made by a member in favor of a society for creating a charge on land under section 41 and its assignment by the said society in favor of the financing bank or the federal society to which it is affiliated and further assignment by such financing bank or federal society in favor of the Madhya Pradesh State Co-operative Bank Ltd., or any other federal society. Explanation.- For the purposes of this section, a financing bank shall include the Reserve Bank of India, the State Bank of India, the State Bank of India, the corresponding new bank specified in First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (No.5 of 1970), and such other Bank as the State Government may, from to time, by notification, specify in this behalf.

36. Borrowings :-

A society may receive deposits and loans from the State Government, Banks, Financing bodies, Corporate Bodies under any law, operating in the State and individuals under the provision of the byelaws of the society. It may also receive funds as a share capital under specific agreement or approved project by way of granting nominal membership.

37. Restrictions on loans :-

(1) No society shall make a loan to-

(a) any person who is not a member;

(b) any member on the security of its own shares;

(c) any member on the security of a non-member; Provided that a society may make loans to another society and/or nominal member as provided in the byelaws of the society.

(1-A) a society making a loan to its members who have been provided with "Bhoo-Adhikar Avam Rin Pustika" prescribed under section 114-A of the Madhya Pradesh Land Revenue Code, 1959 (No.20 of 1959) shall enter all transactions of loans; advances and recoveries thereof in the aforesaid BhooAdhikar Avam Rin-Pustika.

(1-B) Notwithstanding anything contained in this Act, rules made thereunder and byelaws of the society, in case of an omission in making entry of a loan or advance made to members of the society, it shall be presumed that no such loan or advances has been made unless proved otherwise by the society;

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

(4) If an officer or employee of a society entrusted with the work of making an entry of any transaction of loans, advances and recoveries thereof in the "Bhoo-Adhikar avam Rin-Pustika" referred to in sub-section (1-A) fails to make such entry in the said Pustika the Registrar may by order impose a penalty on him of any amount not exceeding rupees five hundred. The order imposing a penalty shall be enforced in accordance with the provisions of section 85.

38. Restrictions on other transactions with non-members :-

Save as provided in sections 36 and 37, the transactions of a society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

39. Charge and set-off in respect of share or interest of members :-

A society shall have a charge upon the share or interest in the capital and on the deposits of a member, past member or deceased member and upon any dividend, bonus or profits payable to a member, past member or deceased member, in respect of any debt or outstanding demand owing to the society from such member or past member or deceased member and may set-off any sum credited or payable to a member, past member or deceased member in or towards payment of any such debt or outstanding demand: Provided that no financing bank shall have a charge upon any sum invested in such bank by a society as reserve fund if such bank is not the sole creditor of the society or upon any sum invested in such bank from any Provident Fund nor shall such bank be entitled to set-off any such sum credited or payable to the society in or towards payment of any debt or outstanding demand owing to such bank from such society.

40. Prior claim of society on certain assets :-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the State Government in respect of land revenue or any money recoverable as arrears of land revenue and to any claim of a development bank arising out of a loan granted at any time whatsoever under the Madhya Pradesh Sahkari Bhoomi Vikas Bank Adhinyam, 1966 (28 of 1966), any debt or outstanding demand owing to a society by any member or past member or deceased member, shall be a first charge upon the crops and other movable property belonging such member, past member or forming part of the estate of the deceased member, as the case may be: Provided that where any prior claim of the State Government arises out of a loan granted under the Land Improvement Loans Act, 1883 (XIX of 1883) or the Agriculturists Loans Act, 1884 (XII of 1884) and such loan is granted after the grant of loan by a society the loan granted by the society shall, notwithstanding anything contained in the said enactments, have priority over such claim of the Government.

(2) No person shall transfer any property which is subject to a charge under sub-section(1) except with the previous permission in writing of the society which holds the charge: Provided that it shall always be lawful for a member or past member to create a charge in favour of a Development Bank under the Madhya Pradesh Sahkari Bhoomi Vikas Bank Adhinyam, 1966(28 of 1966) for the dues thereof.

(3) Notwithstanding 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 as against any claim of the society in respect of any debt or outstanding demand owing to it which is a first charge on such property under sub-section (1).

41. First charge of Co-operative societies on certain assets :-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the State Government in respect of land revenue or any money recoverable as arrears of land revenue or to any of claim of a development bank arising out of a loan granted at any time whatsoever under the Madhya Pradesh Sahkari Bhumi Vikas Bank Adhinyam, 1966 (No. 28 of 1966), or by a bank under the Madhya Pradesh Krishi Uddhar

Pravartan Tatha Prakirn Upbandha (Bank) Adhiniyam, 1972 (No. 32 of 1973), any debt or outstanding demand owing to a society by a member or past member or deceased member shall be first charge in favour of the society on-

(a) the land owned by such member or past member or forming part of the estate of the deceased member, as the case may be; and

(b) his interest in any land as a tenant if such member owns such interest; against which such debt was granted or such outstanding demand stands, for and to the extent of the debt, or outstanding demand owing by him: Provided that where any prior claim of the State Government arises out of the loan granted under the Land Improvement Loans Act, 1883 (No.19 of 1884), and such loan is granted after the grant of loan by a society, the loan granted by the society shall, notwithstanding anything contained in the said enactment, have priority over such claim of the Government.

(2) No member shall alienate the whole or any part of the land or interest therein which is subject to charge under sub-section (1) until the whole amount borrowed by the member together with interest is paid in full: Provided that it shall be lawful for a member or a past member to mortgage in favour of-

(i) a Co-operative Land Development Bank; or

(ii) a bank under the Madhya Pradesh Krishi Uddhar Pravartan Tatha Prakirn Upbandha (Bank) Adhiniyam, 1972 (No.32 of 1973); or

(iii) the State Government such land or any part thereof under the rules made under the Madhya Pradesh Irrigation Act, 1931 (No.3 of 1931), for supply of water from a canal to such land or any part thereof.

(3) Any alienation made in contravention of the provisions of subsection(2) shall be void as against any claim of the society in respect of the loan taken from it under this section.

(4) Intimation in writing shall be given to the Tahsildar about the details of the debt or outstanding demand owing to the society from a member, past member or deceased member in the prescribed manner and the Tahsildar shall on receipt of such information, have it entered in the Record of Rights.

41A. Right Of Society To Acquire And Dispose Of Immovable Property :-

(1) Notwithstanding anything contained in any law for the time being in force, a society shall have power to itself to acquire agricultural land or interest therein, or any immovable property which has been charged or mortgaged to it by a member

in respect of any financial assistance availed of by him, provided the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase it for a price which is sufficient to pay to the society the money due to it: Provided that only such portion of the property shall be sold as may be reasonably sufficient to satisfy the debt and interest thereon.

(2) A society which acquires land or interest therein or any other immovable property in exercise of the power vested in it under sub-section (1) may dispose it of by sale within a period to be specified by the Registrar in this behalf.

(3) If the society has to lease out any land acquired by it under subsection (1) pending sale thereof as indicated in sub-section (2), the period of lease shall not exceed one year at a time and the lessee shall not acquire any interest in that property, notwithstanding any provisions to the contrary in any other law for the time being in force.

(4) A sale by a society of land or interest therein in terms of this section shall be subject to the provisions of any other law for the time being in force providing for restrictions on purchase of land by non-agriculturists or in excess of ceiling limits or involving fragmentation of land below a specified limit.

(5) The provisions of sub-section

(6) of section 165 of the Madhya Pradesh Land Revenue Code, 1959 (No.20 of 1959), shall apply for sale of any land or interest therein of a person belonging to an aboriginal tribe to a person not belonging to such tribe.

(6) Nothing in the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No.20 of 1960) shall apply to a society acquiring land under sub-section (1) and holding such land till such time as the society is in a position to sell the land in the manner provided in this section or otherwise, at a price which is adequate to cover its dues.

42. Deduction from salary to meet societys claim in certain cases :-

(1) Notwithstanding anything contained in any law for the time being in force, a member of a society may execute an agreement in favour of such 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 agreement, it shall not be necessary to have the debt or claim adjudged by any authority, and the employer shall, if so required by the society, by a requisition in writing and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society, as if it were a part of the salary, or wages payable on the day as required under the Payment of Wages Act, 1936 (No.4 of 1936).

(3) If after the receipt of a requisition, made under sub-section (2), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the members

concerned or makes default in remitting the amount deducted to the society, the society shall be entitled to recover any such amount from the employer as an arrear of land revenue and the amount so due from the employer shall rank in priority in respect of the liability of the employer equal to that of the wages in arrears.

(4) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (1) as were in force on the date of the commencement of this Act.

(5) Nothing contained in this section shall apply to persons employed in railways, mines and oil-fields.

(6) For the purposes of this section, Drawing and Disbursing Officer shall be deemed to be an employer in respect of a Government servant.

43. Funds and profits :-

(1) No part of the funds of a society other than the net profits shall be paid by way of bonus or dividend or otherwise distributed among its members: Provided that a member may be paid remuneration on such scale as may be laid down by the bye-laws for any services rendered by him to the society.

(2) A society shall, out of its net profits in any year-

(a) transfer an amount not being less than twenty-five percent of such profits to the reserve funds unless such society has been, by general or special order, partially or wholly exempted in this behalf by the Registrar; and

(b) pay to the Madhya Pradesh Co-operative Union Ltd. and to such other institutions or unions as may be specified by the Registrar in this behalf, such contribution as may be prescribed but co-operative credit structure shall not be required to pay any contribution; and

(c) transfer at least twenty per cent, to an equity redemption fund by such societies which have Government equity participation."

(3) No society shall pay dividend to its members at the rate exceeding twenty five per cent. except with the prior approval of the Registrar.

(3-A) The Primary Agriculture Credit Co-operative Society shall pay dividend to its members in accordance with the guidelines issued by the Registrar in consultation with the National Bank for the purpose.

(4) A society may, with the sanction of the Registrar, after one fourth of the net profit in any year has been carried to the reserve

fund, contribute not exceeding five per cent of the remaining net profits to any purpose connected with the development of co-operative movement or charitable purpose as defined in section 2 of the Charitable Endowment Act, 1890 (No.6 of 1890).

(5) No society shall make a contribution either in money or in kind, either directly or indirectly to an organization that has an object the furtherance of the interest of a political party or of any religious faith.

43A. Appropriation Of Profits :-

(1) A society earning profit shall calculate the net profit by deducting from the gross profits for the year the following:-

- (a) all overdue interest accrued on loan accounts.
- (b) management charges;
- (c) interest payable on loans and deposits;
- (d) audit fee;
- (e) working expenses, including repairs, rent, taxes;
- (f) depreciation;
- (g) bonus payable to employees under the Payment of Bonus Act, 1965 (No.21 of 1965)
- (h) provision for payment of income-tax;
- (i) provision for payment of subscription to the State/District Co- operative Union as may be notified;
- (j) provision for development fund, bad debt fund, price fluctuation fund, dividend and equalization fund, investment fluctuation fund and such other funds as may be specified by the Registrar in this behalf;
- (k) provision for retirement benefits to employees and in the case of societies engaged in consumer goods business, provision for purchase rebate to be paid to the members; and
- (l) provision for writing off bad debts and losses not adjusted against any fund created out of profits.
- (m) provision for non performing assets, as may be specified from time to time by the Registrar in consultation with the Reserve Bank of India and National Bank for Agriculture and Rural Development.

(2) A society may, however, add to the net profits of the year, interest accrued in the preceding years but actually recovered during the year; the net profits thus arrived at, together with the amount of the profits brought forward from the previous year, shall be available for appropriation for the purposes of section 43.

43B. Liability For Deficit :-

(1) Where a society has an operational deficit in any year, the committee shall place before the general body the reasons therefor.

(2) The general body shall examine the reasons and where the deficit has arisen in the normal course of business of the society the general body based on its examination may resolve to make good the operational deficit wholly or partially from members and or its reserves.

44. Investment of funds :-

(1) Subject to the provision of sub-section (3), a society may invest or deposit its funds-

- (a) in savings account of Government Post -office or Government securities; or
 - (b) in any Bank or financial institution regulated by Reserve Bank; or
 - (c) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (II of 1882); or
 - (d) with the federal society of which it is a member or in the purchase of the share thereof; or 34
 - (e) with any other society with limited liability or in the purchase of the shares or securities or debentures thereof.
- (2) The reserve fund of a society shall be utilized only in such manner and on such terms and conditions as may be laid down by the Registrar in this behalf: Provided that in the case of co-operative credit structure, the manner and terms and conditions to be laid down for utilization of the reserve fund by the Registrar shall be subject to the guidelines specified by the National Bank.
- (3) No investment of any of its fund in immovable or movable property, other than funds created for specified purposes, shall be made by a society, other than a housing society.
- (4) A society accepting deposits shall maintain, as a cover against such deposits, fluid resources to such extent and in such manner as may be specified by the Registrar from time to time: Provided that in the case of co-operative credit structure, the Registrar shall specify the extent and manner after consultation with the National Bank.

45. Grant of State aid to societies :-

- (1) Any society desirous of having State aid otherwise than by way of contribution towards share capital may apply to the Registrar stating the reasons for seeking such State aid.
- (2) On receipt of an application under sub-section (1) or otherwise, the Registrar may, if he is satisfied that such aid is necessary in the interest of the society, recommend to the State Government the grant of such aid. The State Government may thereupon grant such aid to the society as it may deem fit on such terms and conditions as may be prescribed.

46. Employees Provident Fund :-

- (1) A 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 the society in accordance with the

bye-laws of the society.

(2) A contributory Provident Fund established by a society under sub-section (1)-

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

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

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

(d) shall be administered in such manner as may be prescribed.

47. Power to direct affiliation to Federal Society :-

The State Government may, by a general or special order, direct that all or any of the societies situated within a specified area shall be affiliated to the Madhya Pradesh Co-operative Union or to a (the District Co-operative Union) or to any other union in such manner and on such conditions as the State Government may specify: Provided that no order shall be passed by the State Government in respect of co-operative credit structure.

47A. Apex Society :-

(1) The Apex society may, for servicing its constituents and in accordance with its byelaws, perform the following functions:-

(a) safeguard the observance of the co-operative principles;

(b) promote and organize co-operative societies and for this purposes, frame model byelaws and guidelines for making various regulation and policies for consideration by the societies;

(c) provide co-operative training, education and information, and propagate co-operative principles;

(d) undertake research and evaluation and assist in preparation of perspective development plans of member societies;

(e) promote harmonious relations between member societies;

(f) help member societies in the settlement of disputes among themselves and between a society and its members;

(g) represent the interest of member societies and lobby for policies and legislation favorable to societies;

(h) undertake business services on behalf of its members;

(i) provide co-operation and management of development services to member societies including participation in board meetings where member societies are invited;

(j) ensure timely conduct of annual audit in member societies;

(k) ensure timely conduct of elections in member societies;

(l) assist member societies in regular conduct of general meetings;

(m) evolve code of conduct for observance by member societies;

(n) evolve viability norms for member societies;

(o) provide legal aid and advice to member societies;

(p) provide any other service in the interest of member societies.

CHAPTER 5

MANAGEMENT OF SOCIETIES

48. Final authority in society :-

(1) The final authority in a society shall vest in the general body of members: Provided that the byelaws of a society may provide for the constitution of a smaller body consisting of delegates elected in accordance with such byelaws to exercise powers of the general body or as may be specified in the byelaws of the society.

(2) Subject to sub-section (1), the management of every society shall vest in a committee constituted in accordance with this Act or rules made thereunder or byelaws of the society and it shall exercise such powers and perform such duties as may be conferred or imposed respectively by the Act or rules made thereunder or byelaws of the society.

(3) (a) On the Committee of primary society:-

(i) in which half or more than half the members belong to scheduled castes, Scheduled Tribes, and other backward classes, not less than half the total number of seats shall be reserved for the members belonging to such castes, tribes and backward classes in such proportion as may be prescribed;

(ii) in which one fourth or more than one fourth, but less than half the members belong to Scheduled Castes, Scheduled Tribes and other backward classes, three seats shall be reserved for the members belonging to such castes, tribes and backward classes of which one seat each shall be reserved for each class.

(iii) in which the number of members belonging to Scheduled Castes, Scheduled Tribes, and other backward classes is less than one fourth of total number of members, one seat shall be reserved for a member belonging to such castes, tribes and other backward classes, which has the larger number of members in the society.

(iv) which is operating in a Scheduled Area, the number of seats to be reserved for Scheduled Tribes shall bear as nearly as may be the same proportion as members belonging to Scheduled Tribes bear to the total memberships of the society. Explanation.-For the purpose of this clause the Co-operative Land Development Bank shall be deemed to be a primary society.

(b) On the Committee of such Central or Apex Society or class of Central or Apex societies as the State Government may having regard to the total membership of Scheduled Castes, Scheduled Tribes and other backward classes in the Primary Societies affiliated to such Apex or Central Society, by general or special order, direct, such number of seats as may be specified in the order shall be reserved for the members belonging to Scheduled Castes, Scheduled Tribes and other backward classes: Provided that the

number of seat so reserved shall not exceed (two) for each category of members: Provided further that in the Board of Directors of every Central or Apex Society at least one seat each shall be reserved for the members of Scheduled Castes, Scheduled Tribes and other Backward Classes.

(c) In the event of society falling to elect requisite number of members or to elect less than such number of members, as is specified in clauses (a) and (b), the members of the committee shall co-opt the requisite number of members from amongst members of such society eligible for such representation and in the event of the Committee failing to do so Registrar shall nominate the requisite number of members from amongst members of such society eligible for such representation: Sub-section (5) - as applicable to M.P. only

(5) There shall be a President/Chairman and two Vice-Presidents/ViceChairman in a resource society. Out of the two offices of VicePresidents/Vice-Chairman-

(i) One shall be held by a woman member, and

(ii) One shall be held by,-

(a) in case of a resource society operating in a non-scheduled area, by a member belonging to Scheduled Castes, Scheduled Tribes and other backward classes, and

(b) in case of a resource society operating in a scheduled area, by any member: Provided that in case of a resource society operating in the scheduled area the President or Chairman shall be elected from amongst the members belonging to Scheduled Castes, Scheduled Tribes and other backward classes. Explanation.- For the purpose of this section-

(i) "Scheduled Caste" means any caste, race or tribe or part of or group with a caste, race or tribe specified as such in relation to the State of Madhya Pradesh under article 341 of the Constitution of India.

(ii) "Scheduled Tribe" means any Tribe, Tribal community or part of or group within a tribe or tribal community specified as such in relation to the State of Madhya Pradesh under Article 342 of the Constitution of India." Sub-section (5) - as applicable to Chhattisgarh only

(5) There shall be a President/Chairman and two Vice-Presidents/ViceChairman in a resource society. Out of the two offices of VicePresidents/Vice-Chairman-

(i) One shall be held by a woman member, and

(ii) One shall be held, if the chairman is not elected from amongst

persons belonging to Scheduled Castes, Scheduled Tribes and other Backward Classes, by a person belonging to these categories and otherwise, by any person: Provided that in case of such resource society other than a Nagrik Co-operative Bank or Urban Co-operative Credit Society or thrift society, operating in a Scheduled area, the chairman or president shall be elected only from amongst persons belonging to Scheduled Tribes. Explanation.- For the purpose of this section-

(i) "Scheduled Caste" means any caste, race or tribe or part of or group within a caste, race or tribe specified as such in relation to the State of Madhya Pradesh under article 341 of the Constitution of India.

(ii) "Scheduled Tribe" means any Tribe, Tribal community or part of or group within a tribe or tribal community specified as such in relation to the State of Madhya Pradesh under Article 342 of the Constitution of India."

(5-A) There shall be a President or Chairman and Vice President or Vice Chairman in consumer society of whom one shall be a woman.

(6) No person who is individual member in a Central Co-operative bank shall hold any specified office in the Central or Apex Society.

(8) Provided that in case of Co-operative Bank, there shall be at least three Directors (Professional) with full voting right in the Board of Directors of Cooperative Bank having special knowledge or experience in the field of accountancy, law, banking, management, agricultural or rural economy as specified by the Reserve Bank: Provided further that if the required number of Directors (Professional) are not elected, the Board of Directors of Co-operative Bank shall co-opt them. Explanation.- A non-borrowing member shall be one who never borrowed from such a Bank or a society in which he is a member: Provided that the provisions of this sub-section shall apply to the society from the date it commences its lending operations: Provided further that the provisions of this sub-section shall not apply to the society in so far as its first provisional committee/nominated committee is concerned.

48A. Disqualification For Holding Specified Office :-

(1) No person shall at the same time hold the specified office of more than one Apex Society, one Central Society and one Primary Society: Provided that the provisions of this sub-section shall be applicable in case of societies of the same classification.

(2) If any person who is holding a specified office in one Apex Society, one Central Society and one Primary Society is elected or appointed to a specified office in any

other Apex or Central or Primary society, he may, by a letter in writing signed by him and addressed to the registrar, within a period of 38 one month from the date of his election or appointment to such specified office resign from the specified office in all except one Apex Society and or one Central Society and or one Primary Society as the case may be.

(3) If any person required to resign under sub-section (2), fails to resign within the period specified therein, then at the expiration of such period he shall be deemed to have resigned from the specified office in all except one Apex Society & one Central Society and one Primary Society, as the case may be, in which he was already holding the specified office prior to such subsequent election or appointment to specified office in other Apex or Central or Primary Society.

(4) No person shall be eligible to be elected as President or Chairman or as representative in other society if he is a Member of Parliament or Member of Legislative Assembly or holds any post in District Panchayat, Janpad Panchayat, Urban Local Bodies, Mandi Board or Mandi Committee.

(5) No person shall be eligible to be elected or appointed to any specified office in a society, and shall cease to hold his office as such, if he has, including the period of his Co-option or appointment or both, held specified office in the society for two consecutive terms or for a continuous period of eleven years, whichever is less: Provided that a person shall not be re-elected or re-appointed to such specified office till a period equal to one full term has expired.

48AA. Disqualification For Membership Of Board Of Directors And For Representation :-

No person shall be eligible for election as a member of the Board of Directors of a society, and shall cease to hold his office as such, if he suffers from such disqualification as may be prescribed, and no society shall elect any member as its representative to the Board of Directors of any other society or to represent the society in other society, if he suffers from such disqualification as may be prescribed : Provided that, if a member suffers from any of the disqualifications prescribed under this section,-

(i) it shall be lawful for the Board of Directors of the society to disqualify such member where he is elected as a Director , being a member of that society, after giving him a reasonable opportunity of being heard, within two months from the date of coming to the notice of the society, from holding the post.

(ii) if, the member incurs a disqualification in the higher level society, for his actions as a representative, such higher level society shall take action to disqualify him for holding the post in the higher level society, and if the society fails to take action, the Registrar shall disqualify such member from holding such post by an order in writing, after giving him reasonable opportunity of being heard.
Explanation.-For the purpose of this section, the expression "disqualification" shall not include the disqualification specified in Section 50-A for election as a member of the Board of Directors or a representative of a society.

48B. Representatives And Delegates :-

(1) Every committee of society shall at the time of election of Chairman or Vice-Chairman, also elect representative who shall represent it in other society and the representative so elected shall not be withdrawn by the Committee till the next election of the committee.

(2)(a) In a society where not less than half of the members belong to Scheduled Castes and Scheduled Tribes, the representative shall be only from amongst the members belonging to such castes or tribes; and

(b) In a society where not less than two-third of the members belong to other Backward Classes, the representative shall be from amongst the members belonging to such classes.

(3) If the byelaws of a society provide for the constitution of its general body by

the elections of the delegates, the society shall reserve seats in the general body for the members belonging to Scheduled Castes, Scheduled Tribes and other Backward Classes in such a manner that the number of seats so reserved for each category shall as far as possible, be in the same proportion in which members of each category, shall bear to the total membership of the society.

48C. Powers Of Committee :-

The Board or the Committee of a society shall in accordance with the byelaws, have power to-

- (a) admit and terminated membership;
- (b) elect the Chairman and other office bearers;
- (c) remove from office the Chairman and office bearers;
- (d) fix staff strength with the approval of the Registrar;
- (e) frame policies concerning-
 - (i) organization and provisions for services to members;
 - (ii) qualifications, recruitment, service conditions of the staff and other matters relating to staff with the approval of the Registrar;
 - (iii) mode of custody and investment of funds;
 - (iv) manner of keeping accounts;
 - (v) mobilization, utilization and investment of funds;
 - (vi) monitoring and management of information system including statutory returns to be filed;
- (f) place the annual report, annual financial statements, plan and budget for the approval of the general body;
- (g) consider audit and compliance reports and place the same before the general body; and
- (h) undertake such other functions as specified in the byelaws: Provided that the policies concerning the qualifications, recruitment, service conditions of the staff and other matters relating to staff of co-operative credit structure shall be framed according to the guidelines issued by the Registrar in accordance with the criteria specified by the National Bank.

49. Annual General Meeting :-

(1) Every Society shall within three months before the close of financial year call a general meeting of its members for the following purposes of-

- (a) approval of the programme of the activities of the society prepared by the committee for the ensuing year;
- (b) Election, if fallen due, of the members of the committee. Explanation.- Election of the committee shall be deemed to have fallen due, if the term of the committee comes to an end within a period of three months from the date of the annual general meeting.
- (c) consideration of the audit report, if received and the annual report;
- (d) disposal of the net profit;
- (e) consideration of any other matter which may be brought forward in accordance with the byelaws; and
- (f) presenting the budget for the next co-operative year; Provided that the Registrar may, save the meeting in which elections are to

be held on expiration of the term of the committee specified in sub-section

(7-A), extend the period for holding such meeting, by a further period not exceeding three months: Provided further that in respect of a society where an order of liquidation has been issued under Section 69, annual general meeting shall not be necessary to be called.

(1-A) The election of the members of the Committee, Chairman, Vice-Chairman, President, Vice-President and representatives, if any shall be conducted by the Returning Officer in the prescribed manner.

(2) Notice of such meeting shall be sent to the Deputy/Assistant Registrar of the district in which the society is situate, at least fourteen clear days before the date of the meeting.

(3) The Deputy/Assistant Registrar may himself attend such meeting or depute any officer subordinate to him to attend it.

(4) The Deputy/Assistant Registrar or the officer deputed by him, shall have the right to address the meeting in respect of any matter pertaining to the subjects specified in clauses (a), (c), (d) and (e) of sub-section (1).

(5) If default is made in calling general meeting within the period prescribed therefor under sub-section (1) or in complying with the requirement of sub-section (1), the Registrar may, by order, declare any officer whose duty it was to call such meeting or comply with the provisions of sub-section (1) and who without reasonable excuse failed to comply with any of the provisions of aforesaid sub-section, to be disqualified for being elected or being in office for such period not exceeding three years, as he may specify in such order and if the officer is an employee of the society impose a penalty on him of any amount not exceeding five thousand rupees: Provided that no order shall be made under this sub-section unless the person concerned is given a reasonable opportunity of being heard by an officer not below the rank of Joint Registrar of Co-operative Societies.

(6) If the byelaws of a society provides for election of all or some members of the committee on territorial basis, such members of the committee shall be elected from the area in a meeting of the members of that area in accordance with the provisions of the byelaws on a date prior to that of general meeting. The results thereof shall be affixed on the notice board of the society and also at the place of the general meeting prior to the commencement of the proceedings in annual general meeting.

(7) At every annual general meeting of a society, the committee shall lay before the society a statement showing details of loans or advances, if any, outstanding during the proceeding years, in the name of the members of the committee, their family members and near relations. Explanation.-For the purpose of sub-section(7) family members shall include wife, husband and dependent children. (7-A)(i) The term of the committee shall be five years from the date on which first meeting of the committee is held: Provided that where a committee superseded, suspended or removed under the Act is reinstated as a result of any order of any court or authority, the period during which the committee remained under supersession, suspension out of office as the case may be, shall be excluded in computing the period of the term aforesaid.

(ii) The term of the representative elected by the committee of the society shall be co-terminus with the term of the committee of the society for which representative is elected: Provided that the representative of a committee shall continue to hold his office till the expiry of the term of the committee of which he is a member.

(7-AA) The State Government may, by notification, for reasons to be stated therein, extend the term of the committee of a society or a class of societies from time to time, for a total period not exceeding twelve months/thirty six months.

(7-AAA) Notwithstanding the expiry of the maximum period of eighteen months specified in sub-section (7-AA), in respect of the committees between the period commencing on the 7th May, 1988 (hereinafter referred to as the said date) and ending on the date of publication of the Madhya Pradesh Cooperative Societies (Amendment) Ordinance, 1988, in Gazette the period in respect of such Committees shall be deemed to have been extended for a period of six months with effect from the said date as if the notification for the extension of the period were issued under sub-section (7-AA) on the said date. (8)(i) It shall be obligatory on the outgoing committee of the society to hold elections prior to the expiration of the term under sub-section (7-A) or extended term under sub-section (7-AA). The outgoing committee shall apply to the Registrar for holding election within a reasonable time which shall not be in any case less than ninety days before expiration of the term of the committee: Provided that if the outgoing committee has resolved and requested the Registrar to hold election at least ninety days in advance and the Registrar has failed to conduct elections on its request, the Registrar shall not assume charge of the committee and the members of the committee shall continue to

hold the offices: Provided further, that if the Registrar fails to conduct elections of the committee within ninety days from the date of expiry of the term of the committee, the committee of the society shall appoint returning officer who shall conduct the election of the committee within 180 days from the date of the expiry of the term.

(ii) If the committee fails to hold election and has not handed over the charge on expiration of the term, under sub-section(7-A) or extended term under sub-section (7-AA) to the Registrar or any officer authorized by him on his behalf, all the members of the committee shall be deemed to have vacated their seats and the Registrar shall assume charge and hold election as early as possible.

(9)(a) Every society shall record in the minutes book, the minutes of all the proceedings of every general meeting and all other meetings of its committee.

(b) Such minutes shall be circulated to all the persons invited for the meeting, within thirty days from the conclusion of the meeting.

(c) The minutes so recorded shall be signed by the person who presided over the said meetings.

(10) Omitted

49A. Section 49A :-

Omitted

49B. Annulment Of Proceedings Of Society By Successor Committee :-

Notwithstanding anything contained in this Act or the rules made thereunder and byelaws of a society, any resolution passed by a committee shall not be modified or annulled by the successor committee without the previous sanction in writing of the Registrar.

49C. Governments Powers To Give Directions In Public Interest, Etc :-

(1) If the State Government, on receipt of a report from the Registrar or otherwise is satisfied that in the public interest or for the purpose of securing proper implementation of cooperative production and other development programmes approved or under taken by Government, or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the State Government may issue directions to them from time to time, and all societies or the societies concerned, as the case may be, shall be bound to comply with such directions.

(2) The State Government may modify or cancel and directions issued under sub-

section (1), and in modifying or canceling such directions may impose such conditions as it may deem fit.

(3) Where the Registrar is satisfied that any person or committee responsible for complying with any directions or modified directions issued to a society under subsection (1) or (2) has failed without sufficient reason or justification to comply with the directions, the Registrar may-

(i) in case of a committee, proceed against such committee in accordance with the provisions of section 53; and

(ii) in case of a person, if the person is a member of committee of the society or an employee of the society, proceed against such person in accordance with the provisions of Section 53-B or the rules framed under subsection (1) of section 55 as the case may be: Provided that directions involving financial losses to the societies will be given only with prior consent of the committee, of such society and, where necessary, of National Financial Institutions, as well as after making the provision and advance allotment for compensating such losses fully.

49D. Registrars Power To Give Directions To Make Regulations :-

(1) If the Registrar is of the opinion that, having regard to the financial condition of the society and financial interest of Government therein, it is necessary to regulate the manner of carrying on its trade or business, he may, subject to any rules made in this behalf, direct such society to make regulations in that behalf and forward them to him for approval.

(2) On receipt of the regulations made by the society, the Registrar may approve them with or without modifications. On approval of such regulations, the society shall carry on its business in accordance with regulations.

(3) If any society fails to forward such regulations to the Registrar when directed by him under sub-section (1) within a period of three months from the date on which the direction is given, the Registrar shall himself make or cause to be made such regulations and require the society to carry on its business in accordance with such regulations and thereupon the society shall be bound to comply with such requirement: Provided that the provisions of this section shall be applied to the co-operative credit structure by the Registrar in accordance with the guidelines laid down by the National Bank for this purpose.

49E. Appointment Of Managing Director And Chief Executive Officer In Certain Circumstances :-

(1)(a) Notwithstanding anything contained in this Act or rules or byelaws made thereunder for any Apex Society where the State Government has contributed to it share capital or has given loans or financial assistance or has guaranteed the repayment of loans granted in any other form, there shall be a Managing Director, not below the rank of class I Officer, who shall be selected by a committee constituted at the State level consisting of the Agriculture Production Commissioner, Chairman of the Apex Society, Registrar Co-operative Societies and one Director nominated by the Board of Apex Society : Provided that if the committee fails to select the Managing Director unanimously, the matter shall be referred to the State Government whose decision thereon shall be final: Provided further that in case of State Co-operative Bank, the Chief Executive Officer shall be appointed by the Board of Directors of the Bank as per the guidelines issued by the Registrar in accordance with the criteria stipulated by the Reserve Bank.

(b) The Managing Director shall be ex-officio member of the committee.

(2)(a) Notwithstanding anything contained in this Act, or the Rules or byelaws made thereunder for every Central society where the State Government has contributed to its share capital or has given loans or financial assistance or has

guaranteed the repayment of loans, debentures, or advances or has given grants in any other form, there shall be a Managing Director or a General Manager not below the rank of Class II Officer who shall be the Chief Executive Officer of the society and ex-officio member of the committee:

(b) The Chief Executive Officer shall be appointed:-

(i) from among the Officers of the cadre maintained under Section 54 if such a cadre has been created;

(ii) in other cases with the prior approval of the Registrar: Provided that in case of a Central Co-operative Bank, the Chief Executive Officer shall be appointed by the Board of Directors of the Bank as per the guidelines issued by the Registrar in accordance with the criteria stipulated by the Reserve Bank.

(c) The Chief Executive Officer shall perform such duties and exercise such powers as may be prescribed.

(3) The Chief Executive Officer of a Co-operative Bank shall have such qualifications as may be specified by the Registrar in accordance with the guidelines issued by the Reserve Bank.

50. Special General Meeting :-

(1) The Committee 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 one-tenth of total number of members.

(2) If a special general meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorized by him in this behalf, shall be deemed to be a meeting called by the Committee.

(2-a) Where any officer whose duty it was to call such a meeting in accordance with the provisions of this Act, or the rules or byelaws made thereunder fails without reasonable excuse to call such meeting, the Registrar may, by order, declare such officer to be disqualified for being a member of the committee for such period not exceeding (seven years) as he may specify in such order and if the officer is an employee of the society impose on him a penalty not exceeding (five thousand) rupees: Provided that no order shall be made under this sub-section unless the person concerned is given a reasonable opportunity of being heard.

(3) The matters before a special general meeting may include all or any of the matters specified in Section 49.

50A. Disqualification For Being Candidate Or Voter For Election To Board Of Director Or Representative Or Delegate Of Society :-

(1) No person shall be qualified to be a candidate for election as member of the Board of Directors, representative or delegate of the society if he is in default for a period exceeding 12 months to the society or any other society for any loan or advance taken by him.

(2) A person elected to an office of a society shall cease to hold such office, if he is in default for a period exceeding 12 months to the society or any other society for any loan or advance taken by him, and the Registrar shall declare his seat vacant: Provided that a person elected to an office of a co-operative bank from a society other than co-operative credit structure, shall cease to hold such office, if such society commits default for any loan or advance for a period exceeding three months, and the Registrar shall declare his seat vacant.

(3) No person shall be entitled to vote at any election of the Board of Directors, representative or delegate of the society, if he is in default for a period exceeding 12 months to the society or any other society for any loan or advance taken by him.

50AA. Omitted :-

51. Validation of acts :-

No act of a society or of any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in procedure or in the constitution of the society or of the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

52. Power to appoint Government nominees :-

(1) Where the State Government has subscribed to the share capital of a co-operative society, the State Government, as the case may be, or any person, authorized by the State Government, shall have right to nominate in the Board of Directors, such number of persons, as its member on the following basis, namely:-

(a) where the total amount of issued equity share capital held by the State Government is less than twenty-six per cent. of the total issued equity share capital, one member of the Board of Directors;

(b) where the total amount of issued equity share capital held by the State Government is twenty-six per cent. or more but less than fifty one per cent. Of the total issued equity share capital, two members of the Board of Directors; where the total amount of issued equity share capital held by the State Government is fifty-one per cent. Or more of the total issued share capital, three members of the Board of Directors: Provided that the number of such nominated persons shall not exceed one-third of the total number of members of the Board of Directors: 45 Provided further that where the State Government has guaranteed the repayment of Principal and Payment of interest on debentures issued by a Cooperative society or has guaranteed the repayment of Principal and payment of interest on loans and advances to a Co-operative society or has given any assistance by way of grants or otherwise

to a Co-operative Society, the State Government as the case may be, or any person authorized by the State Government, shall have the right to nominate person on the Board of Directors of such a society in the manner as may be prescribed.

(2) A person nominated under sub-section shall hold office during the pleasure of the State Government.

(3) Notwithstanding anything contained in this Act, every person nominated on the Board of Directors of a society under sub-section (1), shall have one vote in such committee: Provided that the nominated person and Ex-officio directors from other societies shall not be entitled to vote in any election or removal of the office bearers of the committee of the society.

(4) When the Government has subscribed to the share capital or, has guaranteed the repayment of principal and payment of interest on loans and advances to, a society to the extent of rupees five lacs or more and the society has incurred loss to the extent of twenty-five per cent. or more of its own capital, the State Government on its satisfaction after receiving a report from the Registrar may notwithstanding anything contained in this Act, the rules made thereunder or byelaws of the society, nominate one of the members nominated by it under sub-section (1) as Chairman of the Board of Directors of the Society and further appoint one of the nominated members as Managing Director, General Manager or Manager of the Society. Explanation.-The replaced Chairman shall continue to be a Director in the Board. Explanation.-For the purposes of this sub-section, if any person holding a specified office mentioned in this sub-section resigns such office at any time during any term, he shall on his resignation be deemed to have completed his term of office.

(5) Notwithstanding anything contained in this section,-

(a) in the case of co-operative credit structure the share capital of the State Government shall not be more than twenty five percent of the issued equity share capital;

(b) in the case of Co-operative Bank, if the State Government has contributed to the share capital of the bank, there shall be only one nominee of the State Government in the Board of Directors of the Bank;

(c) there shall be no nominee of the State Government in the Board of Directors of Primary Agriculture Credit Co-operative Society.

52A. Xxx :-

52B. Representation Of Women Members On Committee :-

If in the opinion of the State Government, it is necessary to provide adequate representation to women members on a committee of such society or class of societies, as it may, by general or special order, specify it may direct such society to provide reservation of seat for women on its committee: Provided that the number of seats so reserved shall not exceed

(four) in such committee: 46 Provided further that in the event of a society failing to elect the requisite number of women members in its committee or to elect less than such number of women members, the remaining members of the committee shall coopt the requisite number of women members, from amongst women members of such society entitled to such representation and in the event of committee failing to co-opt requisite renumber of women members the Registrar shall nominate the requisite number of members from amongst women members of such society entitled to such representation.

53. Supersession of committee :-

(1) If, in the opinion of the Registrar, the committee of any society-
(a) (xxx) is negligent in the performance of the duties imposed on it by or under this Act or bye-laws of the society or by any lawful order passed by the Registrar or is unwilling to perform such duties; or

(b) commits acts which are prejudicial to the interests of the society or its members; or

(c) violates the provisions of this Act or the rules made thereunder or byelaws of the society or any order passed by the Registrar: the Registrar may, by order in writing, remove the committee and appoint a person or persons to manage the affairs of the society for a specified period not exceeding two years in the first instance: Provided that if, in the opinion of the Registrar, the Board of Directors of any Primary Agriculture Credit Co-operative Society-

(i) incurs losses for three consecutive years; or

(ii) commits serious financial irregularities or fraud is identified; or

(iii) there is perpetual lack of quorum in the meetings of the Board of Directors, the Registrar may, by order in writing, remove the Board of Directors and appoint a person or persons to manage the affairs of the society for two months which may be extended by him for such period not exceeding six months for the reasons to be recorded in writing: Provided further that in case of a Co-operative Bank, the order of supersession shall not be passed without previous consultation with the Reserve Bank: Provided further that if no communication containing the views of the Reserve Bank of India, on action proposed is received within thirty days of the receipt by that Bank of the request soliciting consultation, it shall be presumed that the Reserve Bank of India agrees with the proposed action and the Registrar shall be free to pass such order as may be deemed fit: Provided also that in case of a Co-operative

bank, if so required by the Reserve Bank in the public interest or for preventing the affairs of the Cooperative Bank being conducted in a manner, detrimental to the interest of the depositors or for securing the proper management of a Co-operative Bank, the Registrar shall pass an order for the supersession of its committee or managing body by whatever name called and for appointment of an Administrator therefor for such period or periods not exceeding 5 years in the aggregate, as may from time to time be specified by the Reserve Bank and on such appointment, the provisions of sub-section (4), (5), (6) and (8) shall apply as if orders were passed under sub-section (1):

Provided also that if a non-official is appointed in the committee of a primary society, he shall be from amongst the members of that society, entitled 47 for such representation and in case of Central or Apex society, if a person is appointed in the committee of such society, he shall be a member of one of its affiliated societies entitled for such representation.

(2) No order under sub-section (1) shall be passed unless a list of allegations, documents and witnesses in support of charges leveled against it has been provided and the committee has been given a reasonable opportunity of showing cause against the proposed order and representation, if any, made by it, is considered.

(3) The period specified in the order under sub-section (1) may, at the discretion of the Registrar, be extended, from time to time: Provided that no such order shall remain in force for more than three years in the aggregate.

(4) The person or persons so appointed, shall subject to the control of the Registrar and to such instructions as he may, from time to time, give, have power to exercise all or any of the powers and to discharge all or any of the functions of the committee or of any officer of the society, and to take all such actions, as may be required in the interest of the society.

(5) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and other costs, if any, incurred in the management of the society shall be payable from its funds.

(6) The person or persons so appointed shall, (before) the expiry of the period of his or their appointment, arrange the constitution of a new committee in accordance with the bye-laws of the society: Provided that where the Board of Directors of a co-operative credit structure has been superseded, the person so appointed shall arrange for the constitution of new Board of Directors in accordance

with the bye-laws of the society within two months, and if the Registrar has extended the period under the first proviso to sub-section (1), the person so appointed shall arrange the constitution of new Board of Directors within the extended period.

(7) Before taking action under sub-section (1) in respect of a financing Bank or in respect of a society indebted to a financing bank, the Registrar shall consult, in the former case, the Madhya Pradesh State Cooperative Bank Limited and, in the latter case, the financing bank concerned, regarding such action. If the Madhya Pradesh State Co-operative Bank limited or the financing bank, as the case may be, fails to communicate its views within thirty days of the receipt by such bank of the request soliciting consultation, it shall be presumed that the Madhya Pradesh State Co-operative Bank Limited, or the financing bank concerned, as the case may be, agreed with the proposed action.

(8) Notwithstanding anything contained in Sections 48, 49 and 50, if there is a difference of opinion between the general body of society and the person or persons appointed under sub-section (1) in respect of any matter, it shall be referred to the Registrar for decision and his decision thereon shall be final: Provided that if the Registrar fails to take any decision within three months of the general body meeting, the decision of the general body of the society shall prevail.

(9) Nothing in this section shall be deemed to affect the power of the Registrar to direct the winding up of the society.

(10) During the period between the issuance of notice and the passing of an order removing the committee, the committee may be required by the Registrar to function under the supervision, and with the approval of such authority as the Registrar may specify in this behalf and no order made or resolution passed or any other act performed by the committee, shall be effectual unless it is approved by such specified authority: Provided where the Registrar, while proceeding to take action under sub-section (2), is of the opinion that the supersession of the committee during the period of proceeding is necessary in the interest of the society he may suspend the committee, which shall thereupon cease to function and make such arrangement as he thinks fit, of the affairs of the society till the proceedings are completed and order issued under sub-section (1): Provided further that the period of suspension shall not exceed six months and on the expiry of said period the suspension of the Committee shall stand revoked. Provided also that, if the committee so suspended, is not superseded after

undergoing the proceeding mentioned above, it shall be re-instated and the period during which it has remained suspended shall not count towards its term. Provided also that no order of suspension shall be made unless the committee of the society has been given a reasonable opportunity of being heard.

(11) Notwithstanding anything contained in this Act, the Registrar shall, in case of Central Co-operative Banks, Urban Co-operative Banks and Primary Co-operative Land Development Banks, if the recovery continuously in three co-operative years is less than 60 per cent of the demand or if the overdues exceed 40 per cent. pass an order for removal of the committee or the Managing Committee by whatever name it is called of the Bank and for appointment of a administrator therefor for such period or periods not exceeding five years in the aggregate, as may be specified by the Registrar and on such appointment, the provisions of sub-sections (4), (5) and (6) shall apply thereto as if an order was passed under sub-section (1): Provided that in case of a co-operative bank, the order of removal shall not be passed without previous consultation with the Reserve Bank Provided further that if no communication containing the views of the Reserve Bank of India, on action proposed is received within thirty days of the receipt by that bank of the request soliciting consultation, it shall be presumed that the Reserve Bank of India agrees with the proposed action and the Registrar shall be free to pass such order as may be deemed fit: Provided also that no such order shall be made unless the Board of Directors has been given a reasonable opportunity of showing cause against the proposed order and representation, if any, made by it is considered.

(12) When a committee of a society has been superseded under subsection (1) any member of the committee, notwithstanding anything contained in this Act, rules made thereunder or byelaws of the society, shall not be eligible for contesting the election as a member of the committee nor he shall be eligible for cooption or nomination in that society for a period of seven years: Provided that nothing in this sub-section shall apply to a member of the committee of a society who was not a party of such a decision of the committee which led to the supersession of it.

(13) Notwithstanding anything contained in this Act, or rules made thereunder or byelaws of society, if the committee of society ceases to function due to order of any Court or otherwise, the Registrar may appoint a person or committee of persons temporarily till the Court order is vacated or the new elections are held and the

committee takes charge: Provided that in case of a Co-operative Bank, no person or committee of persons shall be appointed by the Registrar without previous consultation with the Reserve Bank: Provided further that if no communication containing the views of the Reserve Bank of India, on action proposed is received within thirty days of the receipt by that bank of the request soliciting consultation, it shall be presumed that the Reserve Bank of India agrees with the proposed action and the Registrar shall be free to pass such order as may be deemed fit.

53A. Taking Over Of Charge :-

- (1) If-
- (i) the committee of a society is reconstituted at a general meeting of the society under section 49; or
 - (ii) the term of the committee of a society expires in pursuance of an order issued under clause (iii) of sub-section (7-A) of section 49; or
 - (iii) the committee of a society is removed or suspended or ceases to function under section 53; or
 - (iv) the society is ordered to be wound up under section 69, the person or persons entitled to receive the charge of the committee or society, as the case may be, shall assume charge-
- (a) from the date of election of a committee at the general meeting in case of (i) above;
 - (b) from the date of order issued by the State Government under clause (iii) of sub-section (7-A) of section 49 in case of (ii) above;
 - (c) from the date of order of the Registrar appointing him/them to manage the affairs of the society in case of (iii) above, and
 - (d) from the date of order of the Registrar appointing a liquidator in case of (iv) above: and outgoing members of the committee shall be bound to handover charge, the records and property of the society to those assuming charge on the date as herein provided.
- (2) The person entitled to receive charge of the committee or society, as the case may be, under sub-section (1) shall be deemed to have assumed charge of his office as from the date mentioned in sub-section (1), whether such charge has been actually handed over or not.

53B. Powers Of The Registrar To Remove An Officer Of A Society In Certain Circumstances :-

- (1) If in the opinion of the Registrar, any officer of the cooperative society has been grossly negligent in the discharge of his duties imposed on him by or under this Act, the rules made thereunder or byelaws or has, by a fraudulent Act, caused financial loss to the society the Registrar may without prejudice to any other action that may or can be taken against him, call upon the Board of Directors of the Society to remove within a specified period such officer from the office held by him and where necessary also to disqualify him from holding any office under that society for a period not exceeding six years, whereupon the Board of Directors of the society shall after affording opportunity to the officer concerned of being heard, pass the order of removal.
- (2) On the failure of the society to take action under sub-section (1), the Registrar may after affording opportunity to the officer of being heard and for reasons to be recorded, and communicated to the officer and the society concerned, remove or remove and disqualify for a period not exceeding three years, the officer from

holding any office under that society for the period specified in the order.

(3) An officer removed under the sub-section (1) or sub-section (2) shall with effect from the date of communication of the order, cease to hold that office and if disqualified shall not be eligible to hold any office under that society for the period specified in the order.

53C. Removal Of Officer Of Co-Operative Bank :-

Where any officer of the Co-operative Bank does not fulfill the eligibility criteria stipulated by the Reserve Bank, the Registrar by his own or on the request of the Reserve Bank for removal of the officer, shall remove the officer concerned, after affording opportunity to the officer of being heard and for reasons to be recorded and communicated to the officer and the Co-operative Bank concerned.

54. Appointment of Managers, Secretaries and other officers :-

(1) No society shall appoint a Manager, Secretary, Accountant or other paid officer unless he holds such qualifications as may be prescribed.

(2) The Apex and Central Societies shall maintain such cadres of officers and other servants as the State Government may, by order, direct and the conditions of service of members of such cadre shall be such as the Registrar may, by order, determine.

(3) The State Government may, by notification, specify the class of societies which shall employ officers from such cadres maintained by the Apex or Central Societies under sub-section (2) as may be specified therein and it shall be obligatory on the part of such class of societies to accept and appoint such cadre officers on the cadre posts as and when deputed by the Apex or Central Societies.

55. Registrars power to determine conditions of employment in societies :-

(1) The Registrar may, from time to time, frame rules governing the terms and conditions of employment in a society or class of societies and the society or class of societies to which such terms and conditions of employment are applicable shall comply with the order that may be issued by the Registrar in this behalf. Provided that in the case of co-operative credit structure, the Registrar may frame rules governing the terms and conditions of employment on the basis of the guidelines specified by the National Bank.

(2) Where a dispute, including a dispute regarding terms of employment working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding

on the society and its employees: Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of order sought to be impugned: Provided further that in computing the period of limitation under the foregoing proviso, the time requisite for obtaining copy of the order shall be excluded.

56. Registrars power to enforce performance of obligation

:-

(1) every society shall maintain such records, registers and books of accounts and shall furnish to the Registrar such information and such returns as may be required by him from time to time.

(2) Every society shall fix specific responsibility on the officer or employee of, the society to maintain such records, registers, books of accounts and to furnish to the Registrar such information and such returns as may be required by order by him, from time to time within the period specified in such order.

(3) If any officer or the employee of the society, on whom specific responsibility has been fixed under sub-section (2), fails to maintain the records, registers, books of accounts and to furnish to the Registrar, such information and such returns as may be required by the Registrar within the specified time, the Registrar may, by order, declare such officer to be disqualified for being a member of the committee for such period not exceeding three years as he may specify in such order and if the officer is an employee of the society, impose on him a penalty not exceeding five thousand rupees: Provided that no order shall be made under this sub-section unless the person concerned is given a reasonable opportunity of being heard.

57. Registrars power to seize records, etc :-

(1) Where the Registrar is satisfied that-

(a) the records, registers or the books of accounts of a society are likely to be tampered with or destroyed and the funds and property of a society are likely to be misappropriated or misapplied, or

(b) If the committee of a society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 53 or if the society is ordered to be wound up under section 69 and the outgoing members of the committee refuse to handover charge of the records and property of the society to those having to, or entitled to, receive such

charge. the Registrar may issue an order directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the society and the officer or officers of the society responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorized.

(2) In order to secure compliance of the orders under clause (b) of sub-section (1) the Registrar may take or cause to be taken such steps and use or cause to be used such minimum force including Police Force as may be considered necessary.

57A. Taking Possession Of Record And Property :-

(1) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar or the person authorized by him may apply to the Executive Magistrate within whose jurisdiction the society is functioning, for seizing and taking possession of the records and property of the society.

(2) On receipt of the application under sub-section (1), the Magistrate may authorize any police officer not below the rank of a sub-52 inspector to enter and search any place where the records and property are kept are likely to be kept and to seize them and handover possession thereof to the Registrar or the person authorized by him, as the case may be.

CHAPTER 6

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

58. Audit and audit-fee :-

(1) Every society shall get the accounts audited once at least every year by the person authorized by the Registrar in writing, by general or special order in this behalf, and shall pay the audit fee as may be prescribed: Provided that-

(i) the State Government may, by notification, for reasons to be specified therein, exempt any class of societies;

(ii) the Registrar may, for reasons to be recorded in writing, exempt any society from the payment of audit fees or part thereof, under this subsection: Provided further that a Central Society or an Apex Society or an Urban Co-operative Bank may get the accounts audited by a Chartered Accountant approved by the Registrar: Provided further that Co-operative Bank may get the accounts audited by a Chartered Accountant approved by the National Bank, and the audit fees shall be paid by the Bank as may be determined by them: Provided further that the Primary Agriculture Credit Co-operative Society shall have option to get the accounts audited by

the Chartered Accountant or the Registrar: Provided also that after the completion or issuance of the audit report, the Registrar has reason to believe or the Reserve Bank has instructed that the accounts be audited again or if there is complaint of financial irregularities or embezzlement, he may order special audit for the purpose.

(2) The audit under sub-section (1) shall include an examination of the accounts and the overdue debts, if any compliance of the instructions and orders of the Registrar issued under this Act, Rules made thereunder and Byelaws of the society, the verification of cash balance and securities and valuation of the assets and liabilities of the societies and such other items as may be specified by the Registrar.

(3) The Registrar or the authorized person 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 of, or responsible for, the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

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

58A. Audit Board :-

For the purpose of conducting audit and supervision of any society or class of societies, the State Government may constitute an Audit Board which may exercise such powers of the Registrar as the State Government may, by notification specify in this behalf and the Audit Board shall exercise these powers to the exclusion of the Registrar.

58B. Procedure For Making Good, Losses Caused To A Society :-

(1) If in the course of an audit, inquiry, inspection or the winding up of a society or otherwise, it is found that any person, who is or was entrusted with organization or management of such society or any deceased, past or present chairman, secretary, member of Board of Directors, officer or employee of the society has made any payment contrary to the provisions of this Act or the rules made thereunder or byelaws of a society or has caused any deficiency or loss by gross negligence or misconduct or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may on his own motion or on the application of the Board of Directors, liquidator or any creditor

may make an order requiring such person or in the case of a deceased person, his legal representative who inherits his estate, to repay or restore the money or property or any part thereof, with interest at such rate or to pay contribution and costs or compensation to such extent as the Registrar may consider just and equitable : Provided that no order under this sub-section shall be made unless the person concerned is given a reasonable opportunity of being heard in the matters. Provided further that the liability of a legal representative of the deceased shall be to the extent of the property of the deceased, which has come to the hands of such legal representative.

(2) Any person aggrieved by the order made under sub-section (1), may within thirty days from the date of communication of the order to him, appeal to the Tribunal: Provided that in computing the period of limitation, the time requisite for obtaining a copy of the order appealed against shall be excluded.

(3) Any order made under sub-section (1) or sub-section (2) shall be enforced in accordance with the provisions of Section 85.

(4) In the Registrar is satisfied on affidavit, enquiry or otherwise that any person with intent to delay or obstruct the enforcement of any order that may be made against him under this Section-

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, he may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary.

59. Inquiry :-

(1) The Registrar may on the application of,-

(i) a society to which the society is affiliated; or

(ii) a creditor to whom the society is indebted; or

(iii) not less than one third of the members of the committee; or

(iv) not less than one-tenth of the total number of members of the society hold an enquiry or cause an inquiry to be made into the specific matters raised in the application relating to the constitution, working and financial condition of the society.

(2) The Registrar shall order an inquiry only on the receipt of a fee from the applicant or applicants, as the case may be, as determined by him to be sufficient to meet the costs of the inquiry to be conducted.

(3) The inquiry shall be completed within a period of four months from the date of ordering the inquiry.

(4) The Registrar shall, as early as possible after the completion of inquiry, communicate the report of the inquiry.-

(i) to the society concerned;

(ii) to the applicants or the person designated by the applicants to receive such a report;

(iii) to any member of a society;

(iv) to a federation of which the society is a member; or

(v) to a creditor; as the case may be.

59A. Duty Of Certain Person To Assist Enquiry :-

(1) All officers, members and past members of the society in respect of whom an inquiry is held, and any other person who, in the opinion of the officer holding the inquiry is in possession of the information, books and papers relating to the society, shall furnish such information as is in their possession and produce all books and papers relating to the society which are in their custody or power, and otherwise give to the officer holding an inquiry all assistance in connection with the enquiry which they can reasonably give.

(2) If any such person refuses to produce before the Registrar or any person authorized by him under sub-section (1) of section 59 any book or papers which it is his duty under sub-section (1) to produce or to answer any question which is put to him by the Registrar or the person authorized by the Registrar in pursuance of sub-section (1), the Registrar or the person authorized by the Registrar may certify the refusal and the Registrar may, after hearing, any statement which may be offered in defense punish the defaulter with a penalty not exceeding five thousand rupees. Any sum imposed as penalty under this section shall, on the application by the Registrar or the person authorized by him, to a Magistrate, having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by himself.

60. Inspection of books of society :-

(1) The Registrar may on his own motion, or on the application of creditor of a society inspect or direct any person authorized by him by general or special 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 communicate the results of any such inspection-

(a) where the inspection is made of his own motion, to the society; mad

(b) where the inspection is made on the application of a creditor, to the creditor and the society.

61. Rectification of defects :-

(1) If the result of the audit held under section 58 or an inquiry held under section 59 or an inspection held under section 60 discloses any defects in the constitution, working or financial condition or the books of a society, the Registrar may bring such defects to the notice of the society and if the society is affiliated to another society also to the notice of that other society.

(2) The Registrar may make an order directing the society or its officers or the society to which it is affiliated to take such action as

may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit, inquiry or inspection.

62. Costs of inquiry :-

Where an inquiry is held under section 59 or an inspection is made under section 60 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 society to which the society concerned is affiliated, the society concerned, the members or creditors demanding an inquiry or inspection, and the officers or former officers of the society: 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.

63. xxx :-

63A. Expenditure On Proceedings, Etc :-

No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or instituted in any court by any officer or committee of a society against any order made or purporting to have been made by the Registrar under Section 19-AA, Chapter V or Chapter VI: Provided that where the case is finally decided in favor of the officer or the committee, as the case may be, such cost as may be approved by the Registrar shall be reimbursed by the society.

CHAPTER 7

DISPUTES AND ARBITRATION

64. Disputes :-

(1) Notwithstanding anything contained in any other law for the time being in force, [any dispute touching the constitution, management or business, or the liquidation of a society shall be referred to the Registrar] by any of the parties to the dispute if the parties there to are among the following:-

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or a nominee, heirs or legal representatives of any deceased agent or deceased servant of the society, or the liquidator of the society ;

(b) a member, past member or a person claiming through a member, past member or deceased member of a society or of a

society which is a member of the society ;

(c) a person other than a member of the society who has been granted a loan by the society or with whom the society has or had business transactions and any person claiming through such a person. 56

(d) a surety of a member, past member or deceased member or a person other than a member who has been granted a loan by the society, whether such a surety is or is not a member of the society.

(e) any other society or the liquidator of such a society; and

(f) a creditor of a society.

(2) For the purposes of sub-section (1), a dispute shall include -

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

(ii) 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 be admitted or not;

(iii) a claim by a society for any loss caused to it by a member , past member or deceased member, any officer, past officer or deceased officer, any agent, past agent or deceased agent, or any servant , past servant or deceased servant or its committee, past or present , whether such loss be admitted or not ;

(iv) a question regarding rights, etc., including tenancy rights between a housing society and its tenants or members; and ¹ [(v) any dispute arising in connection with the election of any officer of the society or of composite society; Provided that the Registrar shall not entertain any dispute under this clause during the period commencing from the announcement of the election programmed till the declaration of the results].

(3) If any question arising whether a dispute referred to the Registrar is a dispute, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

65. Limitation :-

(1) Not with standing anything contained in the Indian Limitation Act, 1908 (IX of 1908), and subject to the specific provisions made in this Act, the period of limitation for referring the disputes mentioned below to the Registrar under section 64 shall -

(a) when the dispute relates to the recovery of any sum including interest thereon due to a society by a member thereof, be six years from the date on which such member dies or ceases to be a member of the society.

(b) when the dispute is between a society or its committee and any past committee, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or the legal representative of a deceased officer, deceased agent or deceased servant of the society, or the legal representative of a deceased member and when the dispute relates to any act, or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under Sec. 69 or in respect of which a nominated committee or a person or persons has or have been appointed under Sec. 53, be six years from the date of the order issued under Sec. 69 and Sec. 53, as the case may be; [(d) when the dispute is in connection with the election of any officer of a society, be forty-five days from the date of declaration of the result of such election.]

(2) The period of limitation in the case of any other dispute except those mentioned in sub-section (1) which are required to be referred to the Registrar under Sec. 64 shall be regulated by the provisions of the Indian Limitation Act, 1908 (IX of 1908), as if the dispute were a suit and the Registrar a Civil Court.

(3) Notwithstanding anything contained in sub-sections (1) and (2) the Registrar may admit a dispute after the expiry of the limitation period if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period.

66. Settlement of dispute :-

(1) The Registrar may, on receipt of the reference of dispute under section 64 (or sub-section (2) of Section 55) decide the dispute himself, or transfer it for disposal to a nominee or board of nominees to be appointed by the Registrar.

(2) When a dispute is transferred under sub-section (1) for disposal by a nominee or a board of nominees, the Registrar may at any time, for reasons to be recorded in writing, withdraw such dispute from such nominee or board of nominees and may decide the

dispute himself or transfer it again to any other nominee or board of nominees appointed by him for decision.

(3) The decision of a nominee or a board of nominees to whom any dispute is transferred for decision under this section shall, for the purposes of this Act, be deemed to be the decision of the Registrar

67. Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees :-

(1) The Registrar or his nominee or board of nominees shall have the power of making interlocutory orders including grant of a temporary injunction. In exercising this power, the Registrar or his nominee or board of nominees, as the case may be, shall follow the procedure laid down in the Code of Civil Procedure, 1908 (V of 1908), for the purpose of making such orders and granting an injunction.

(2) No party shall be represented at the hearing of the dispute by any legal practitioner, except with the permission of the Registrar or his nominee or board of nominees, as the case may be: Provided that where the permission is so granted, the other party to the dispute shall be entitled to be represented by a legal practitioner.

(3) The Registrar or his nominee, as the case may be, shall record a note in Hindi of the evidence of the parties and witnesses who attend and upon the evidence so recorded and after consideration of any documentary evidence produced by either side, shall give a decision or award, as the case may be, which shall be reduced in writing. If the applicant duly summoned is absent, the case may be dismissed in default. If the non-applicant is absent, the case can be decided ex parte. In cases, where three nominees are appointed, the majority shall prevail: Provided that where a dispute has been decided against any party, in default and if such party satisfies the Registrar within thirty days from the date of such default, that there was sufficient cause for its non-appearance, the Registrar shall make an order setting aside the decision and shall appoint a date for proceeding with case.

68. Attachment before award :-

Where the Registrar or a nominee or board of nominees, as the case may be, acting under section 66 is satisfied on affidavit, enquiry or otherwise that a party to any reference with intent to delay or obstruct the execution of any award that may be made.-

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar; the Registrar, a nominee or board of nominees may unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary through such agency authorized by him as he may deem fit and such attachment shall have the same effect as if it had been made by a competent Civil Court.

CHAPTER 8 LIQUIDATION

69. Winding up of societies :-

(1) If the Registrar, after an inquiry has been held under section 59, or an inspection has been made under section 60 or on receipt of an application made by no less than three-fourths of the members of a society, is of opinion that the society ought to be wound up, he may issue an order directing the winding up of a society.-

(a) where the society has not commenced working within a reasonable time of its registration or has ceased to work; or

(b) where in the opinion of the Registrar the society has been working mainly for promoting the interest of any individual or group of individuals and not of the members generally; or

(c) where the society has ceased to comply with any conditions as to registration or management under this Act, rules or bye-laws; or

(d) Where the primary credit society continues to be in default by not recovering its full overdue demand from members for continuous three cooperative years and even after super session, it fails to recover full overdue demand.

(3) No order under sub-section (1) or sub-section (2) shall be passed unless the society concerned has been given a reasonable opportunity of showing cause against the proposed order and representation, if any made by it is considered.

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

(5) Notwithstanding anything contained in this section, no co-operative bank shall be wound up, except with the previous sanction in writing of the Reserve Bank of India.

69A. Winding Up Of Co-Operative Bank :-

Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up of a Co-operative Bank, within one month, if so

required by the Reserve Bank of India in the circumstances mentioned in section 13-D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (No.47 of 1961) or otherwise.

69B. Reimbursement Of Deposit Insurance Corporation In Case Of Insured Bank :-

Where a co-operative Bank, being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (No.47 of 1961), is wound up, or taken into liquidation, and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed 59 in the circumstances, to the extent and in the manner provided in section 21 of the Deposit Insurance Corporation Act, 1961 (No.47 of 1961).

70. Appointment of Liquidator :-

(1) Where the Registrar has made an order under section 69 for the winding up of a society, he may appoint a liquidator for the purpose and fix his remuneration and may also remove at any time any person appointed as liquidator and appoint another instead: Provided that in respect of a co-operative bank ordered to be wound up on requisition from the Reserve Bank, the liquidator shall not be appointed or removed without the previous sanction of Reserve Bank.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss deterioration of, or damage to such, property, effects and claims.

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

70A. Control Of Liquidator :-

After the appointment of the liquidator, all powers of the Committee of a Society, whether elected or nominated, shall cease and the employees of the Society shall thereafter work under the control and supervision of the liquidator.

71. Powers of Liquidator :-

(1) Subject to any rules made in this behalf the whole of the assets of a society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 70 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of

the Registrar-

- (a) to institute and defend suits and other legal proceedings on behalf of the society by the name of his office;
- (b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;
- (c) to investigate all claims against the society, and, subject to the provisions of this Act, to decide questions of priority arising between claimants;
- (d) to pay claims against the society including interest up to the date of winding up according to their respective priorities, if any, in full or ratably, as the assets of the society may permit: the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case:
- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;
- (f) to determine whether any person is a member, past member or nominee of deceased member;
- (g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society; 60
- (h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;
- (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and
- (j) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof: Provided that no liquidator shall determine the contribution, debt or dues to be recovered from a member or a past member or the nominee, heir or legal representative of a deceased member unless

opportunity has been given to such member or past member or to such nominee, heir or legal representative to explain his position.

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

72. Disposal of surplus assets of liquidated societies :-

After all the liabilities including the paid-up share capital of a wound up society have been met, the surplus assets shall not be divided amongst its members but they shall be applied to any object described in the bye-laws of the society and when no object is so described, to any object of public utility determined, by the general meeting of the society and approved by the Registrar or they may, in consultation with them either be assigned by the Registrar in whole or in part to any or all of the following:-

- (a) an object of public utility or local or civic interest; or
- (b) the Madhya Pradesh Co-operative Union Ltd., or any other institution or Union; or
- (c) may be placed on deposit with a Central Co-operative Bank until such time as a new society with similar conditions is registered when with the consent of the Registrar such surplus may be credited to the Reserve Fund of such new society; or
- (d) a charitable purpose as defined in Sec.2 of the Charitable Endowments Act, 1890 (VI of 1890); or
- (e) to each existing member in proportion to his paid up share capital. CHAPTERVIII - A (S.72-A to 72-E) (Applicable to M.P. only)

72A. Application Of Chapter :-

The provisions of this Chapter shall apply to all Co-operative Housing Societies registered under the Madhya Pradesh Cooperative Societies Act, 1960 (No.17 of 1961).

72B. Members Entitlement For Plot, House And Amenities And The Liability Of The Cost :-

(1)(a) Every member of a housing society shall be entitled to a plot for housing including low density housing, dwelling house or a flat, as the case may be, and in case dwelling houses or flat have already been acquired, the common amenities and services including housing finance. 61

(b) The list of seniority of a member comprising his name, his father and mothers name, his date of birth and permanent account number of income tax if any shall be maintained by the society and such list shall be prepared strictly in accordance with his admission in the society. The list so prepared shall be published at the end of every co-operative year by the housing society. The list shall be updated every

year by the society concerned and shall be sent to the Joint/Deputy/Assistant Registrar concerned of the district.

(c) Where a society gets any land from Government or any other agency on concessional rate for the housing purposes, it shall be compulsory for the member thereof to submit an affidavit to the effect that there is no plot/flat/house in his name or in the name of his family member in that Municipal area.

(d) Along with the seniority list of members prepared under clause

(b) every housing society shall submit its yearly balance sheet and particulars of assets and liabilities to the Joint/Deputy/Assistant Registrar concerned of the district. This information shall also be made available to general public on the web-site of the society. For this purpose service charge equivalent to 10% of the audit fee shall be recovered from the society, which shall be credited to the account of Housing Federation maintaining the web-site.

(e) Every member of a housing society shall pay his share of cost of land, development, construction, legal expenses, maintenance and services, as the case may be, within the specified time as decided by the committee of the society.

(f) If a member fails to pay such share of cost of land, development and construction within the prescribed time, the society shall charge interest at the rate at which the housing society is availing housing finance and in case the default continues beyond a period of two years, it shall cancel the allotment of plot, dwelling house or flat, as the case may be.

(g) If a member fails to pay his share of legal expenses, maintenance and services, as the case may be, within the prescribed time, the society shall impose a surcharge at the rate of 20% for a period not exceeding three months and if default continues beyond three months, the services shall be discontinued forthwith: Provided that such services shall not be discontinued unless the member concerned is given a reasonable opportunity of being heard by the committee in this behalf.

(2) Every member of a housing society shall attend every meeting of the general body of which he receives the intimation from the Secretary of the committee of the housing society and in case of his absence without prior intimation to the committee, he shall be liable to pay fine not exceeding Rs.200/- for each default, as may be decided by the general body: Provided that no fine shall be imposed unless the member concerned is given a reasonable opportunity of being heard.

72C. Restriction On Membership Of Housing Society :-

(1) Notwithstanding anything contained in this Act and the rules made thereunder, the membership of a housing society shall be restricted to a specific number, as may be prescribed in the byelaws.

(2) The housing society may increase its membership upto a maximum number, as specified in the byelaws, in such a manner that every 62 member of the society may get a plot /dwelling house/flat in order of his seniority and avail housing finance, common amenities and services.

72D. Offences :-

Any of the following acts shall amount to and be construed as an offence under Section 74, namely:-

(i) Transfer of a registered plot, dwelling house or flat to another person, in violation of the provisions of this Act, Rules, Byelaws of the society or any condition of allotment.

(ii) Tampering with the seniority of the members.

(iii) Admitting members in excess of the number prescribed in the byelaws.

(iv) Not developing the land in accordance with the development plans of the society.

(v) Allotment or sale of the land in violation of the approved layout plan of the society's

(vi) Non-development of the land which is reserved for general use of the society

such as for community hall, school or hospital, or for any other purpose specified in the byelaws.

(vii) Not maintaining or providing services paid for by the members without just and sufficient cause.

72E. Penalties For Offences :-

Every committee, officer or past officer or member or past member or an employee or a past employee of a society or any other person shall, without prejudice to any action that may be taken against him under any law for the time being in force, be liable to be punished:-

(a) For an offence mentioned in clause (i) of Section 72-D, with a fine which may extend to Rs.50, 000/- or with imprisonment for a term which may extend to one year or with both:

(b) For an offence mentioned in clause (ii) of Section 72-D with a fine which may extend to Rs.50, 000/-;

(c) For an offence mentioned in clause (iii) of Section 72-D with a fine which may extend to Rs.50, 000/-;

(d) For an offence mentioned in clauses (iv), (v), (vi) and (vii) with a fine which may extend to Rs.50, 000/- or with imprisonment for a term which may extend to one year or with both.

CHAPTER 9

Offences and Penalties

73. Prohibition of use of word "Co-operative" :-

(1) No person other than a society registered under this Act and a person or his successor in his interests of any name or title under which he traded or carried on business at the date on which this Act came into force, shall, without the sanction of the State Government, function, trade or carry on business under any name or title of which the word "Co-operative" or its equivalent in any Indian Language forms part.

(2) Every person who is a member of a society formed in contravention of sub-section

(2) of Sec. 14 and every person contravening the provisions of sub-section (1) shall be punishable with a fine which may extend to two hundred rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

74. Offences :-

It shall be an offence under this Act, if-

(a) a committee or an officer or member thereof willfully makes a false report or furnishes false information or dishonestly fails to maintain accounts or dishonestly maintains false accounts; or

(b) any person collecting share money for a society in formation does not deposit the same in the Madhya Pradesh State Co-operative Bank Ltd., a Central Co-operative Bank, an Urban Co-

operative Bank or a Postal Savings Bank, within fourteen days of its receipt; or

(c) a person collecting the share money for a society in formation makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise; or

(d) any officer of a society willfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested loan in the name of any other person; or

(e) an officer or any member destroys, mutilates, alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society; or

(f) an officer or a member who is in possession of information, books and records, willfully fails to furnish such information or produce such books and papers or does not give assistance to a person appointed or authorized by the Registrar under Sections.53, 58, 59, 60. (xx).67 and 70; or

(g) an officer willfully fails to hand over custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under Sec. 53 or 70; or

(h) a member fraudulently disposes of property over which the society has a prior claim or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise with the fraudulent intention of evading the dues of the society; or

(i) any employer and other director, manager, secretary or other officer or agent acting on behalf of such employer who, without sufficient cause, fails to comply with provisions of sub-section (2) of Sec. 42; or

(j) any person acquires or abets in the acquisition of any property which is subject to a charge under sub-section (1) of Sec.40; or

(k) an officer or member of a society or any person does any act or is guilty of omission declared by the rules to be an offence.

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

75. Penalties for offences :-

Every committee, officer or past officer or member or past member or an employee or past employee of a society or any other person

shall, without prejudice to any action that may be taken against him under any law for the time being in force, be liable to be punished:-

- (a) with fine not exceeding Rs.2, 000, provided that he is convicted of an offence referred to in Sec. 74(a);
- (b) with fine not exceeding Rs.1,000, provided that he is convicted of an offence referred to in Sec. 74(b); or
- (c) with fine not exceeding Rs.1, 000, provided that he is convicted of an offence referred to in Sec.74(c); 64
- (d) with fine not exceeding Rs.2,000, provided that he is convicted of an offence referred in sec.74(d); or
- (e) with fine not exceeding Rs.2000, provided that he is convicted of an offence referred to in section 74(e); or
- (f) with fine not exceeding Rs.250, provided that he is convicted of an offence referred to in section
- (f); or
- (g) with fine not exceeding Rs.250, provided that he is convicted of an offence referred to in Sec.74
- (g); or
- (h) with fine not exceeding Rs.2,000, provided that he is convicted of an offence referred to in sec. 74(h); or
- (i) with fine not exceeding Rs.500, provided that he is convicted of an offence referred to in section 74(i); or (j) with fine not exceeding Rs.1,000, provided that he is convicted of an offence referred to in Sec.74(j); or
- (k) with fine not exceeding Rs.250, provided that he is convicted of an offence referred to in sec. 74(k).

76. Cognizance of offences :-

(1) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction in writing of the Registrar and such sanction shall not be given without giving to the person concerned an opportunity to represent his case.

CHAPTER 10

Constitution of Tribunal

77. Madhya Pradesh State Co-operative Tribunal :-

(1) The State Government shall, by notification, constitute a Tribunal called the Madhya Pradesh State Co-operative Tribunal to

exercise the powers and to discharge the functions conferred or imposed on the Tribunal by or under this Act and the Madhya Pradesh Swayatta Sahkarita Adhiniyam, 1999 (N0.2 of 2000).

(2) The Tribunal shall consist of the Chairman and two other members.

(3) (a) No person shall be qualified to be the Chairman of the Tribunal unless he had been a Judge of a High Court or has held the office of a District Judge for not less than five years.

(b) Of the other two members, one shall be an officer of Cooperative Department not below the rank of Joint Registrar and the other shall be non-official closely associated with the co-operative movement or an Advocate or a Pleader having practical experience in the co-operative movement for a period of not less than fifteen years: Provided that if the State Government thinks fit, the Tribunal may consist of a single person. Explanation. - For the purpose of this sub-section "non official" shall mean a person who on the date of his appointment as a member, does not hold any office of profit under the Government of India or the Government of any State.

(4) Notwithstanding anything contained in sub-section (1), a person shall be disqualified for being appointed as, or for being a Chairman or a member of the Tribunal, if he is a member of the committee of any society other than a general body of a society.

(5) (a) The Chairman and other members of the Tribunal shall hold office ordinarily for a period of not less than two years and not more than five years as the State Government may, by notification, specify in this behalf.

(b) A person who has held office as the Chairman or a member, for a period mentioned in clause

(a) shall be eligible for reappointment.

(c) The Chairman or a member of the Tribunal may, at any time, resign his office.

(d) The Chairman or a member of the Tribunal may with the permission of the State Government, held nay other office, appointment or employment not inconsistent with his position on the Tribunal.

(6) Notwithstanding anything contained in sub-section (4) the State Government may terminate at any time, the appointment of the Chairman or a member if, in its opinion, such Chairman or member is unable or unfit to continue to perform the duties of his office: Provided that no appointment shall be terminated under this sub-section unless the person whose appointment is proposed to be

terminated is given reasonable opportunity of showing cause against such termination.

(7) (a) If any vacancy occurs in the office of Chairman or member by leave, absence, deputation, death, resignation, expiry of the term of appointment, termination of the appointment or for any other cause, whatsoever, such a vacancy shall be filled by appointment of a person qualified for appointment under this section.

(b) Till the vacancy in the office of the Chairman is filled under sub-section (1), the senior most member shall act as the Chairman of the Tribunal.

(8) The head quarters of the Tribunal shall be at such place as may be notified by the State Government in the Gazette.

(9) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the Chairman from amongst the members of the Tribunal including himself: Provided that, any interlocutory application may be heard by one or more members who may be present.

(10) Such Benches shall consist of two or more members.

(11) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the Chairman be one of the members, the opinion of the Chairman shall prevail, and in other cases the matter shall be referred for hearing to the Chairman and shall be decided in accordance with his decision.

(12) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(13) The regulations made under sub-section (12), shall be published in the Gazette.

(14) The Tribunal may suo motu or on the application of a party, call for and examine the record of any proceedings in which no appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem just.

(15) Where an appeal or application is made to the Tribunal under this Act, it may, in order to prevent the ends of justice being

defeated, make such interlocutory orders pending the decision of the appeal or application, as the case may be, as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(16) An order in appeal revision or review passed under this Act by the Tribunal, shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

(17) The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and order XLI in the First Schedule to the Code of Civil Procedure, 1908 (No.V of 1908).

77A. Review :-

(1) The Tribunal may, either on the application of the Registrar, or on the application of any party interested, review its own order in any case and pass such order in reference thereto as it thinks just: Provided that, no such application made by the part interested shall be entertained, unless the Tribunal is satisfied that there has been the discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been mistake or error apparent on the face of the record, or any other sufficient reason: Provided further that no such order shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

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

77B. Tribunal To Exercise Powers Of A Civil Court :-

(1) In exercising the powers conferred on it by or under this Act, the Tribunal shall have all the powers as are vested in Civil Court while trying a suit under the Code of Civil Procedure, 1908 (No. V of 1908), in respect of the following matters, namely:-

(a) proof of facts by affidavits;

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

(c) compelling discovery or the production of any document; and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

78. Appeals before the Registrar and Tribunal :-

(1) Save where it has been otherwise provided, an appeal shall lie from every original order under this Act or the rules made thereunder:-

(a) if such order is passed by any officer subordinate to Registrar, other than Additional Registrar or Joint Registrar, whether or not

the Officer passing the order is invested with the powers of the Registrar, to the Registrar;

(b) if such order is passed by the Registrar, Additional Registrar or Joint Registrar, to the Tribunal.

(2) A second appeal shall lie against any order passed in the first appeal by the Registrar, to the Tribunal on any of the following ground, and no other namely:-

(i) that the order is contrary to law; or

(ii) that the order has failed to determine some material issue of law; or

(iii) that there has been a substantial error or defect in the procedure as prescribed by this Act which may have produced error or defect in the decision of the case upon merits.

(3) Every appeal shall be presented in the prescribed manner to the appellate authority concerned within thirty days of the date on which the order appealed against was communicated to the party affected by the order: Provided that in computing the period of limitation under this subsection the time requisite for obtaining a copy of the order appealed against shall be excluded.

78A. Extension Of Period Of Limitation By Appellate Authority In Certain Cases :-

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

79. No appeal or revision in certain cases :-

Notwithstanding anything to the contrary contained in this Act, where with previous sanction in writing or on the requisition of the Reserve Bank of India.

(i) an order for the winding up of a co-operative bank is made; or

(ii) a scheme of compromise or arrangement or of reconstruction or re-organization or amalgamation is made or is given effect to; or

(iii) an order for the supersession or suspension of the committee by whatever name called of a Co-operative Bank and the appointment of an Administrator therefor, has been made; no, appeal, revision or review there against shall lie or be permissible, and such order or the sanction or requisition of the Reserve Bank of India shall not be liable to be called in question.

80. Transfer or withdrawal of cases :-

Subject to the provisions of section 78, the Registrar, Additional

Registrar, Joint Registrar, or the Deputy Registrar may make over any case or cases arising under the provisions of this Act, for decision from his own file to any officer subordinate to him competent to decide such case or class of cases or may withdraw any case or class of cases from any such officer and may deal with such case or class of cases himself or refer the same to any other officer subordinate to him and competent to decide such case or class of cases.

80A. Extension Of Period Of Limitation By Appellate Authority In Certain Cases :-

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

80B. Transfer Or Withdrawal Of Cases :-

Subject to the provisions of section 77 and 78, the Registrar, Additional Registrar, Joint Registrar, or the Deputy Registrar may make over any case or class of cases arising under the provisions of this Act, for decision from his own file to any officer subordinate to him competent to decide such case or class of cases or may withdraw any case or class of cases from any such officer and may deal with such case or class of cases himself or refer the same for disposal to any other officer subordinate to him and competent to decide such case or class of cases.

80C. Power To Make Interlocutory Orders :-

When an application for appeal, revision or review is made to State Government, or Registrar under this Act, it may in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal or application, as the case may be, as may appear to it/him to be just and convenient, or make such orders as may be necessary for the ends of justice : or to prevent the abuse of the legal procedure.

80D. Stay Of Execution Of Orders :-

(1) An officer who has passed any order or his successor in office may, at any time before the expiry of the period prescribed for appeal or revision, direct the execution of such order to be stayed for such time as may be required for filing an appeal or revision and obtaining a stay order from the appellate or revisional authority.

(2) The authority exercising the powers conferred by section 77, section 78 or section 80 may direct the execution of the order under appeal or revision or review to be stayed for such time as it may think fit.

(3) The officer or authority directing the execution of an order to be stayed may impose such conditions or order such security to be furnished as he or it thinks fit.

80E. Transfer Of Pending Cases :-

Every appeal or revision or any other proceeding pending before the Madhya Pradesh State Co-operative Tribunal under the Principal Act, shall stand transferred to the State Government on the date on which the Chhattishgarh Co-operative

Societies (Amendment) Act, 2003 comes into force.

80F. Section 80F :-

Any officer or any authority shall exercise such powers, delegated to the State Government by or under this Act, in such areas and in such cases as the State Government may direct by special or general order.

CHAPTER 11

MISCELLANEOUS

81. Recovery of sums due to Government :-

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

(2) Sums due from a society to the State Government and recoverable under sub-section

(1) may be recovered-

(a) firstly, from the property of the society;

(b) secondly, in the case of a society the liability of the members of which is limited, from the members, past members, or estates of the deceased members subject to the limit of their liability: 71 Provided that the liability of a legal representative of the deceased shall be to the extent of the property of the deceased which has come to the hands of such legal representative; and

(c) thirdly, in the case of other societies, from the members or past members, or estates of the deceased members: Provided that the liability of past members or estate of deceased members in all cases shall be subject to the provisions of Sec.29.

81A. Power Of Financing Bank To Proceed Against Defaulting Members Of Co-Operative Society :-

(1) If a co-operative society is unable to pay its debts to a financing bank from which it has borrowed, by reasons of its members committing default in the payment of money due by them, the financing bank may direct the committee of such society to proceed against such members by taking action under section 64.

(2) If the committee of the Co-operative society fails to proceed against its defaulting members within a period of ninety days from the date of receipt of such direction from the financing bank, the financing bank itself may proceed against such defaulting members in which event, the provisions of this Act, the rules and byelaws made there under shall apply as if all references to the society or its committee in the said provisions, rules and byelaws were references to the financing bank.

(3) Where a financing bank has obtained a decree or award against a society

indebted to it, the bank may proceed to recover such moneys from the assets of the society to the extent of debts due from the society.

82. Bar of jurisdiction of Courts :-

(1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of-

(a) the registration of a society or of bye-laws or of an amendment of a bye-law;

(b) the removal of a committee and the management of the society after such removal;

(c) any dispute, required to be referred to the Registrar or his nominee or board of nominees;

(d) any matter concerning the winding up and the dissolution of a society. (2) While a society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with, or instituted against, the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever.

83. Recovery of costs :-

Any sum awarded by way of costs under Sec.62, may be recovered, on an application by the Registrar to a Magistrate having jurisdiction in the place where person from whom the money is claimable resides, or carries on business, by sale of any property within the limits of the jurisdiction of such Magistrate, belonging to such, person, and such Magistrate shall proceed to recover the same, in the same manner as if it were a fine imposed by himself.

84. Enforcement of charge :-

Notwithstanding anything contained in Chapter VII or any other law for the time being in force, but without prejudice to any other mode of a recovery provided in this Act, the Registrar or any 72 person empowered by the Registrar in this behalf, may on an application of the society and subject to such rules as State Government may make in this behalf, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member by attachment and sale or transfer by any other mode for such period and subject to such terms and conditions as the Registrar or such other person may specify, of the property or any interest therein which is subject to a

charge under (sub-section(1) of section 40, sub-section (1) of section 41), and sub-sections (1), (2) and (3) of section 42: Provided that no order shall be made under this section unless the member, past member or nominee, heir or legal representative of the deceased member has been served with a notice of the application and has failed to pay the debt or outstanding demand within thirty days from the date of such service.

84A. Recovery Of Sums Due To Certain Societies :-

(1) Notwithstanding anything contained in sections 64, 69 and 78 on an application made by a cooperative society for recovery of arrears of its dues, the Registrar may, after making such enquiry as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as an arrear.

(2) The certificate granted by the Registrar shall be final and conclusive proof of the arrears stated therein, and the same shall be recoverable as arrears of land revenue.

85. Execution of orders, etc :-

Every order or award passed or decision given by the Registrar under any provision of this Act, every order passed by the Appellate or Revisional Authorities and every order made, decision given by the Liquidator, if not carried out-

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

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue; or

(c) be executed by the Registrar or any other person empowered by the Registrar in this behalf, by the attachment and transfer in the manner as may be prescribed or sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed: Provided that any application for the recovery under clause

(b) shall be made-

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

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

85A. Manner Of Executing Order To Deliver Possession Of Immovable Property :-

Where against any person an order to deliver possession of immovable property

has been passed under this Act, such order shall be executed in the following manner, namely:-

(a) by serving a notice on the person or persons in possession requiring him/them within such time as may appear reasonable after the receipt of the said notice, to vacate the same; and 73

(b) if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same; and

(c) if the officer removing any such person is resisted or obstructed by any person, appoint any of the officers specified in section 3, who shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance or obstruction still continues may, without prejudice to any proceeding to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, take or cause, to be taken such steps and use or cause to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the order.

86. Service of notice :-

(1) Every notice or order issued or made under this Act, the rules or bye-laws may be served on any person by properly addressing it to the last known place of residence or business of such person by registered post with acknowledgment due letter containing the notice or order: Provided that a notice relating to a meeting called by a co-operative society shall be issued under certificate of posting and/or be issued by hand delivery after obtaining acknowledgment of the receipt thereof.

(2) An acknowledgment purporting to be signed by such person or an endorsement by a postal employee that the person refused to take delivery may be deemed to be prima facie proof of service: Provided that if service of the notice cannot be effected by any manner provided under this Act, or rules made thereunder, or bye-laws of the society, a copy thereof shall be affixed at the last known place of residence of the person noticed or at some place of public resort in such place.

87. Registrar and other officers etc. to be public servants :-

Every officer or person as well as employee of a Co-operative Bank or a co-operative society or an authority exercising or authorized to exercise the powers under this Act or the Rules or bye-laws made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860)

88. Indemnity for acts done in good faith :-

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting under his authority, in respect of anything done or purporting to have been

done by him in good faith under this Act.

89. Powers of civil courts :-

(1) In exercising the powers conferred on him by or under this Act, the Registrar, his nominee or board of nominees, or any other person deciding a dispute and the liquidator of a society shall have all the powers of a civil court while trying a suit, under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) proof of facts by affidavits; and
- (d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer appointed by the Registrar, his nominee or board of nominees or the liquidator, as the case may be, may administer oath to the deponent.

90. Registrar or person empowered by him to be a civil court for certain purposes :-

The Registrar or any person empowered by him in this 74 behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step in aid of such recovery, to be a civil court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908 (IX of 1908).

91. xxx :-

92. Companies Act not to apply :-

The provisions of the Companies Act, 1956 (I of 1956) shall not apply to societies registered under this Act.

93. Certain other Acts not to apply to Co-operative Societies :-

Nothing contained in the Madhya Pradesh Shops and Establishments Act, 1958 (25 of 1958), the Madhya Pradesh Industrial Workmen (Standing Orders) Act, 1959 (19 of 1959) and the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960) shall apply to a society registered under this Act.

94. Notice necessary in suits :-

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

95. Power to make rules :-

(1) The Government may, for the whole or any part of the State and for any society or class of societies, make rules for the conduct and regulation of the business of such society or class of societies and for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

(a) subject to the provisions of Section 3 prescribe the delegation of powers vested in the Registrar to persons appointed to assist the Registrar and prescribe the manner of forwarding the copies of the proposed amendment of the byelaws to the Registrar.

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(c) prescribe the matters in respect of which a society may make or the Registrar may direct a society to make, bye-laws and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(c-1) prescribe the period for the training of a member of a society and the manner of calling upon a member of a society to attend the course of training;

(c-2) prescribe the manner of regulating the voting right of individual member of a federal society;

(d) prescribe the procedure to be followed and conditions to be observed for change of name or liability, reorganization or reconstruction of society;

(e) prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the election and admission of members and the payment to be made and the interest to be acquired before the exercise of the right of membership; 75

- (f) subject to the provisions of section 24, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- (g) provide for the withdrawal or removal of members and for the payments to them;
- (h) provide for the nomination of person to whom the share or the interest of a deceased member may be paid or transferred;
- (i) provide for ascertaining the value of a share or interest of a past member or deceased member;
- (j) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;
- (j-1) prescribe the proportions for reservation of seats for members belonging to scheduled castes, scheduled tribes and economically weaker sections on the committee of a resource society and provide for holding of an office of President/Chairman or Vice President/Vice-Chairman of resource society, by a member belonging to the aforesaid castes, tribes or section;
- (k) provide for the inspection of documents in the office of the Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same;
- (l) provide for the formation and maintenance of a register of members and where the liability of the members is limited by shares, of a register of shares and a list of members;
- (m) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and the necessary capital shall be available for the society as required;
- (n) prescribe the terms and conditions on which Government may make share capital contribution or give assistance, financial or other, to societies and the terms and conditions on which Government may guarantee the payment of the principal of and interest on debentures issued by societies or loans raised by them;
- (o) regulate the manner in which funds may be raised by a society or a class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;
- (p) prescribe the manner of giving intimation to the Tahsildar about the details of the debt or outstanding demand owing to the society from a member, past member or deceased member;
- (q) prescribe the procedure by which a society shall calculate and write off bad debts;

- (r) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied and for the investment and use of any fund including reserve fund under the control of a society;
- (s) prescribe the rate at which a society shall contribute towards the Madhya Pradesh State Co-operative Union;
- (t) prescribe the mode of investment of funds of a society under section 44 and the proportion of investment in any security or class of securities; 76
- (u) provide for the payment of contribution to any provident fund which may be established by a society for the benefit of officers and servants employed by them and for the administration of such provident fund;
- (v) provide for general meetings of the members and the procedure at such meetings and the powers to be exercised by such meetings;
- (w) provide for the appointment, suspension and removal of the members of the committee and other officers and for the appointment of a person or persons under section 53 and prescribe procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee, person or persons and other officers;
- (x) prescribe qualifications and disqualifications for members of the Board of Directors, representatives and employees or a society of class of societies and the conditions of service subject to which persons may be employed by societies;
- (y) prescribe the returns to be submitted by society to the Registrar and provide for the person by whom and the form in which such returns shall be submitted;
- (z) provide for the person by whom and the form in which copies of documents and entries in books of societies may be certified and the charges to be levied for the supply of copies thereof;
- (aa) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;
- (bb) provide for appointment of Registrars nominee or board of nominees, procedure to be followed in proceedings before the Registrar or his nominee or board of nominees, and for fixing and levying the expenses for determining the dispute and for enforcing the decisions or executing awards in such proceedings;
- (cc) provide for the issue and service of processes;

- (dd) prescribe the procedure for and the method of recovery of any sums due under this Act or the rules;
- (ee) prescribe the procedure to be followed for the custody of property attached under section 68;
- (ff) prescribe the procedure and conditions for the exercise of the powers conferred under Section 71 and the procedure to be followed by a liquidator and provide for the disposal of surplus assets; Clause
- (gg) - as applicable to M.P. only
- (gg) prescribe the procedure to be followed in presenting and disposal of appeals other than the appeals lying to the Tribunal; Clause (gg) - as applicable to Chhattisgarh only
- (gg) prescribe the procedure to be followed in presenting and disposal of appeals, revision and review.
- (hh) XXX
- (ii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules; and
- (jj) provide for all matters required or allowed by this Act to be prescribed by rules.
- (3) All rules made under this Act shall be laid on the table of Legislative Assembly.

96. Repeal and savings :-

(1) The Co-operative Societies Act, 1912 (II of 1912), in its application to Mahakoshal region, the Madhya Bharat Cooperative Societies Act, 1955 (9 of 1955), the Vindhya Pradesh Co-operative Societies Ordinance, 1949 (XXI of 1949), the Bhopal State Co-operative Societies Act, 1937 (XI of 1937) and the Rajasthan Co-operative Societies Act, 1953 (IV of 1953) in its application to the Sironj region are hereby repealed.

(2) Notwithstanding such repeal-

(i) any society registered or deemed to have been registered under the enactments specified in sub-section (1) shall be deemed to be registered under this Act and its bye-laws shall, so far as the same are not inconsistent with the provisions of this Act be deemed to be registered under this Act and continue in force until altered or rescinded;

(ii) all appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under any of the said enactments shall so far as may be, be deemed to have

been respectively made, issued and instituted under this Act.