

## **Gujarat Co-Operative Societies Rules, 1965**

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**Gujarat Co-Operative Societies Rules, 1965**

GUJARAT CO OPERATIVE SOCIETIES RULES, 1965

**CHAPTER 1 CHAPTER**

**1. Short title :-**

These rules may be called the Gujarat Co-operative Societies Rules, 1965.

**2. Definitions :-**

In these rules unless there is anything repugnant to the subject or context-

(1) "the Act" means the Gujarat Co-operative Societies Act, 1961;

(ii) "Adjudicating authority" means in relation to any dispute under this Act the Registrar or his nominee or board of nominees appointed for the settlement of such dispute under the Act;

(iii) "Form" means a form appended to these rules:

(iv) "Recovery Officer" means a person subordinate to Registrar who is empowered to exercise the powers of the Registrar under section 159 ;

(v) "Sale Officer" means an Officer empowered by the Registrar by a general or special order to attach and sell the property of defaulter or to execute any decree by attachment and sale under section 159 or a person effecting a sale in pursuance of the provisions of section 134 , as the case may be;

[(va) "Schedule" means Schedule appended to these rules;]

## **CHAPTER 2 REGISTRATION**

### **3. Application for registration :-**

Every application for registration of a society under sub-section (1) of section 8 shall be in Form A and shall be accompanied by--

(a) a certificate, from the bank or banks stating the credit balance in favour of the proposed society therein.

(b) a list of persons who have contributed to the share capital together with the amount contributed by each of them, and the entrance fee paid by them, and

(c) the scheme showing the details explaining how the working of the society will be economically sound and. where the scheme envisages the holding of immovable property by the society, the description of immovable property proposed to be purchased acquired or transferred to the society.

(d) Period of amendment of bye-laws under Section 9 (1)(b). -The period for the purpose of amendment of bye-laws under clause (b) of sub-section (1) of section 9 shall be three months from the date of the order of the Registrar under the said clause (b).

### **4. Maintenance of register :-**

(1) The register to be maintained by the Registrar under section 10 shall be in Form B.

(2) The Registrar shall divide the register into parts, one for each district in the State. A society shall be registered in that part for a district in which its head office is situate.

(3) The Registrar shall assign for each district and each class or sub-class of societies, a code of symbol, for giving registration number to the societies and the societies shall be registered from

the dates specified by him.

## **5. Bye-laws :-**

(1) Where a society has been registered, the bye-laws submitted under sub-section (1) of section 8 shall, subject to any modifications approved by the Registrar and adopted at a general meeting having a quorum by a majority of not less than third of the members present and voting, become the bye-laws of the society.

(2) Every society shall make bye-laws on the matters mentioned below:-

(a) the name and address of the society and its branches, if any;

(b) the class or occupation of its members, if membership is proposed to be so restricted.

(c) the area of its operation;

(d) the objects of the society and its liability limited or unlimited;

(e) the terms and qualifications for admission to membership, and their rights and liabilities the consequences of default in payment of any sum due by a member; and in case of credit societies, the conditions on which loans may be granted; the rate of interest; the system of calculation of interest; and in case of non-credit societies, the mode of conducting business, purchase, sale. stock-taking and other like matters;

(f) the privileges, rights and liabilities of nominal, associate and sympathiser member;

(g) payments and acquisition of interest in the society before the rights of membership are exercised by the member;

(h) rights of voting by a nominal, associate or sympathiser member and the voting rights of a federal society;

(i) restrictions on borrowing from members and non-members;

(j) the manner in which the loss of the society will be determined and its re-imburement by the member who has not disposed of his produce through the society and who is found, guilty of a breach of the bye-laws or of any such contract;

(k) the scale of remuneration to be paid to a member who has rendered any service to the society;

(l) appropriation of profit for any other purpose which is not prescribed in sub-section (2) of section 66 ;

(m) the manner of summoning general meetings under section 73 and the manner of making, altering abrogating bye-laws.

[(n) the constitution and election of the Managing Committee and its powers and duties;]

(p) the number of members required for the requisition of a special general meeting;

(q) the utilisation of surplus assets of the society under section 115 ;

(r) the manner in which capital may be raised:

(s) the mode of custody and investments of funds;

(t) the distribution of profits.

## **6. Amendment of bye-laws :-**

Bye-laws may be made, altered or abrogated by a resolution passed at a general meeting of the society:

Provided that-

(a) due notice of any proposal to make, alter or abrogate the bye-laws is given in accordance with the bye-laws to the members of the society;

(b) the resolution is passed by not less than two thirds of the members present, and voting at the general meeting at which a quorum shall be present or at an adjourned general meeting at which if a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall form quorum a copy of the resolution is forwarded to the Registrar within the period of two months from the date of the meeting:

(c) a copy of the existing bye-law or bye-laws so marked as to show the alternations proposed to be made, and four copies of the proposed amendments signed by the chairman of the society, shall be attached to the copy of the resolution along with a copy of the notice and other information required by the Registrar.

## **7. The manner of calling upon a society to make amendments under section 14 :-**

(1) For the purposes of sub-section (1) of section 14 , the Registrar may call upon a society to make the amendment by serving upon it a notice in Form C. Such notice shall contain a draft of the

amendment proposed by the Registrar.

(2) The society thereupon shall call a special general meeting for the purpose of such amendments and if the amendments are approved by the special general meeting it shall be forwarded to the Registrar who shall register the amendment and issue to the society a certified copy thereof.

### **8. Procedure for change of name :-**

Where a society proposes to change its name under section 15, it shall do so by an amendment of its bye-laws.

### **9. Procedure for obtaining sanction under section 17(1) :-**

(1) Where a society proposes .to amalgamate itself with another society or to transfer its assets and liabilities, in whole or in part. to any other society or to divide itself into two or more societies or to convert itself into another class of society or to change its object, it shall prepare a draft scheme in that behalf having regard to the provisions of sub-section (2) of section 17 and place the same before a special general meeting of its members.

(2) If the special general meeting approves of the draft scheme, with or without modifications by a resolution passed by two thirds majority of the members present and voting at the meeting, the society shall forward a copy of the resolution and a copy of the draft scheme as approved by the special general meeting to the Registrar requesting him to accord his sanction to the proposal.

(3) If the Registrar accords his previous sanction to the proposal, the society shall proceed to take further steps in accordance with the provisions of section 17 .

### **10. Reconstruction of a Society :-**

(1) An application for reconstruction of a society under section 19 may be made in form D. On receipt of such application the Registrar may, taking into consideration the compromise or arrangement for reconstruction of the society. if he thinks fit, prepare a draft order indicating:-

(i) the manner in which the amounts payable by the society to its creditors should be paid and the amounts recoverable from its debtor members should be recovered;

(ii) the manner in which the share capital, if any, of such members should be reduced;

(iii) the manner in which the scheme of reconstruction should be implemented: and

(iv) the manner in which the bye-laws of the society will stand amended in order to give effect to the scheme of reconstruction.

(2) After taking into consideration the objections and suggestions (if any received, the Registrar may issue an order approving such reconstruction or staying further proceedings in respect of such reconstruction. On issue of an order approving the reconstruction, the society shall stand reconstructed and the bye-laws of the society shall stand modified to that effect and to that extent.

### **CHAPTER 3 Members And Their Right And Liabilities**

#### **11. Person who may become member :-**

A firm or a company may be admitted as a member only of a society which is a federal society or an urban society or which conducts or intends to conduct an industrial undertaking.

Explanation.-For the purpose of this rule, an urban Society means a society, the business of which mainly falls within the limits of municipal Corporation, municipality, nagar panchayat, cantonment

or notified area Committee.

## **12. Open membership :-**

(1) No Seva Sahakari Mandali or Consumers Society or Co-operative Milk Producers Society, shall without sufficient cause refuse admission to membership to any person duly qualified therefor under the provisions of the Act and the bye-laws.

[(2) No co-operative housing society shall without sufficient cause, refuse admission to its membership to any person, duly qualified therefor under the provisions of the Act, and its bye-laws to whom an existing member of such society wants to sell or transfer his plot of land or house and no such society shall without sufficient cause, refuse to give permission to any existing member thereof to sell or transfer his plot of land or house to another person who is duly qualified as aforesaid to become its member. ]

Explanation.-A Seva Sahakari Mandali includes a multipurpose society and a primary agricultural credit society.]

## **13. Classes of societies eligible for admitting nominal, associate or sympathiser members :-**

(1) A society of any class may admit any person as a nominal member.

(2) A society formed for the uplift of backward classes or scheduled tribes, a labour contract society, a forest labourers society, a processing society or an industrial society may admit any person as an associate or sympathiser member.

## **14. When right of membership can be exercised :-**

Subject to the provisions of the Act, no person shall exercise the rights of a member of a society unless-

(1) he has paid on entrance fees as laid down in the bye-laws of the society;

(2) he has subscribed for at least one share and made the payment towards the share money as laid down in the bye-laws of the society.

(3) he has fulfilled all such conditions as are laid down in the bye-laws of the society for exercising the rights of membership.

### **15. Voting rights of Individual members in a federal society**

:-

(1) In the case of Federal Societies, other than the Gujarat State Co-operative Land Development Bank and such other societies, as the Registrar, may by general or special order, direct, the voting, rights of individual members (which term shall include a firm, company or body Corporate, society, registered under the Societies Registration Act, 1860 and the State Government, but shall not include a society) shall be regulated as follows:-

(a) Immediately after the date of drawing up of the accounts of the societies as prescribed in rule 36 and as soon as possible before the annual general meeting, individual members admitted to membership upto the date of drawing up of the accounts of the societies (hereinafter referred to as "the relevant date") shall elect delegates equal to one tenth of the number of societies admitted to membership up to the relevant date or one delegate for every twenty five individual members (fraction being neglected), whichever is less. The delegates so elected shall continue in office till their successors are elected after the next date of drawing up of the accounts:

Provided that where the total number of individual members is less than twenty five, they shall elect atleast one delegate.

(b) Subject to the provisions of this rule, the election of delegates shall be held in accordance with the provisions of the bye-laws.

(c) Any vacancy of a delegate caused on account of cessation of membership shall be filled by the delegates by Co-opting one of the individual members.

(d) The quorum for the general meeting shall be one third of the total members of the representative of the societies and delegates. All members on the general body shall have equal voting rights and a motion shall be carried out. if it is supported by a majority of total number of representatives of the societies and delegates present in the meeting and voting:

Provided that where a motion is supported by 2/3rds of the number of representatives of the societies. Present and voting It shall be carried out notwithstanding that it is not supported by a majority of. the total number of representatives of the societies and delegates present in the meeting and voting:

(e) Notwithstanding anything contained in the bye-laws of the societies regarding the mode of retirement of the members of the board of directors or the committee, the delegates of individual members on the board or the managing committee shall retire every year.

(2) The delegates on the committee or the board of directors, as the case may be shall not at any time exceed one third of the number of representatives of societies (fraction being neglected) or the total number of delegates elected under clause (a) of sub-rule (1) whichever is less.]

**16. Restriction on holding of shares :-**

No member other than co-operative society or the State Government shall hold more than one fifth of the paid up share capital of the society.

**17. Restrictions on transfer of share or Interests :-**

(1) Where the transfer of or charge on the share or interest of a member in the capital of a society is intended to be made to the society, the society may acquire such share or interest by making payment for it by ascertaining the value of such share or interest in the manner laid down in sub-rule (2):

Provided that the total refund of share capital of such society shall not exceed in any one year 10 per cent of the paid up share capital of the society on the last day of the preceding year.

(2) The value of share or interest shall be,-

(a) in the case of a society with limited liability, the actual amount received by the society in respect of such share or interest.

(b) in the case of a society with limited liability, the amount arrived at by a valuation based on the financial position of the society as shown in the latest audited balance sheet:

Provided that such valuation shall not exceed the actual amount received by the society in respect of such share or interest.

**18. Procedure for transfer of share :-**

(1) No transfer of share shall be effective unless,-

(a) It is made in accordance with the provisions of the bye-laws;

(b) a clear fifteen days notice in writing is given to the society indicating therein the name of the proposed transferee, his consent, his application for membership, where necessary, and the value proposed to be paid by the transferee:

(c) all liabilities of the transferor due to the society are discharged; and

(d) the transfer. is registered in the books of the society.

(2) Any charge in favour of the society on the share so transferred will continue unless discharged otherwise.

### **19. Transfer of interest on death of member :-**

(1) Every member of the society who is permitted by or under this Act to transfer his share or interest on death to any person shall, by a statement signed by him in the register of members kept under section 39 , nominate any person to whom under section 31 , the value of his share or interest in the society or so much thereof as may be specified in the nomination, shall be paid or transferred on his death.

(2) A nomination so made may be revoked or varied by a subsequent nomination similarly made.

(3) In case the nominee of the member dies, the member shall report the death to the society.

(4) The value of the share or interest for the purpose of sub-section (3) of section 31 shall be the amount as ascertained under sub-rule (2) of rule 17.

## **20. Rights of members to see books, etc. :-**

(1) A society shall furnish on an application by a member, a certified copy of any of the documents mentioned in sub-section (1) of section 33 on payment of fees according to the following scale, namely:-

(a) for the first 200 words or less-

(i) in English 25 Ps.

(ii) in regional language 25 Ps.

(b) for every additional 100 words or fraction thereof-

(1) in English 15 Ps.

(ii) In regional language 15 Ps.

(2) A uniform extra copying fee of Re. 1 per copy shall be charged on an application for a copy required urgently.

(3) An application under sub-rule (1) shall be accompanied by a deposit of an amount to cover the cost of preparation of certified copies according to the scale prescribed in the said sub-rule (1).

(4) The copies shall be certified and signed as true copies by the chairman, vice-chairman, secretary or a member or any other person authorised by the bye-laws of the society.

## **CHAPTER 4 Incorporation, Duties and Privileges of Societies**

### **21. Procedure for registering the address of a society and**

## **the change of its address :-**

(1) Every society shall incorporate in its bye- laws its address at the time of registration of its bye-laws. When the address of the society is subsequently changed, the bye-laws shall be amended so as to incorporate therein such changed address.

(2) The address specified in the bye-laws shall be the registered address of the society.

## **22. Register of members :-**

The society shall where the liability of the members is limited by shares, enter in the register kept under section 39 , the total number of shares and the amount paid towards the capital by the members.

## **23. Manner of certifying of copy entry as evidence :-**

A copy of entry in any book, register or list. regularly kept in the course of business and in the possession of the society, for purposes specified in sub-section (1) of section 41 shall be certified,-

(a) by any officer of the society duly authorised in that behalf by the committee under the seal of the society;

(b) where an order has been passed under section 107 and a liquidator has been appointed under section 108 by the liquidator and shall bear the societys seal;

(c) where an administrator is appointed under section 81 , by the administrator or where a committee consisting of one or more members is appointed under section 81 , by one member only where the committee consists of one member, or by two members where the committee consists of more than one member and shall bear the societys seal.

**24. Restrictions on borrowing by societies, etc. :-**

(1) Except with the previous sanction of the Registrar, no society shall incur liability exceeding in total the following limits, that is to say-

(a) if it be a land development bank twenty times the total amount of its paid up share-capital, accumulated reserve fund and building fund minus accumulated losses.

(b) if it be the Gujarat State Co-operative Bank or Gujarat Housing Finance Society, fifteen times the total amount of its paid up-share capital and all accumulated reserve and other Funds minus accumulated losses, actual bad debts if any, and over due interest.

(c) If It be a central bank, [x x x] or producers society, twelve times the total amount of Its paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

[(ca) if it be an Urban bank twenty-five times the total amount of its paid up share capital, accumulated reserve Fund and building Fund minus accumulated losses.]

(d) if it be a society with limited liability but not falling under clause (a), (b) or (c) above, ten times the total amount of its paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

(2) In calculating the total amount of liability under sub-rule (1)-

(a) In the case of the Gujarat State Co-operative Bank, a sum equal to the amount borrowed by the Bank on the security of agricultural produce or other goods belonging to the members of the Bank shall be excluded from the amount of the liability actually

incurred.

(b) in the base of any other society the bye-laws of which permit borrowing or granting credit facilities on the pledge of agricultural produce or other goods specified in that behalf by the Registrar by general or special order, a sum equal to the amount borrowed by the society on the security of agricultural produce or other goods belonging to it or Its members shall be excluded from the amount of the liability actually incurred.

(3)

(i) Notwithstanding anything contained in sub-rule (1) a society, other than a society referred to in clause (d) of sub-rule (1) may incur liability in excess of the limit specified in sub-rule (1) by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or loans in excess of the said limit shall not be utilised in the business of the society but shall be invested in Government Securities which shall be deposited.

(a) in the case of the Gujarat State Co-operative Bank. with the Reserve Bank of India,

(b) in the case of a central bank; with the Gujarat State Co-operative Bank, and

(c) in the case of any other society, with the central bank.

(ii) No society shall borrow against the Government securities in which it has invested any amount under clause (1).

(4) Every society with unlimited liability may from time to time, fix in a general meeting the extent to which it may receive loans and deposits from person other than members. The maximum so fixed shall be subject to the sanction of the Registrar, who may at any

time reduce It for reasons to be communicated by him to the society in writing, and may specie a period not less than four months, within which the society shall comply with his orders.

**24A. Restrictions on borrowing from more than one credit Society :-**

(1) Every person who is member of more than one society (other than a Land Development Bank or a Central Bank or a Marketing society) dispensing credit shall unless he has already done so, make a declaration in form DD that he will borrow from, or accept the responsibility of a surety in one society only to be mentioned in the declaration and shall send a copy of such declaration duly attested to all other societies through such society.

(2) Any person, who continues to be member of more than one society without complying with the provision of sub-rule (1) shall be liable to be removed from the membership of any or all such societies upon receiving a written requisition from the Registrar to that effect:

Provided that the societies in whose favour declaration as per sub-rule (1) has been made by a member, may with the prior approval of the Central Financing Agency to which it is affiliated permit him to borrow from any other society of which he is a member to such extent and subject to such conditions as may be laid down by it.

(3) The Registrar may, for reasons to be recorded in writing, exempt any person or persons for the operation of this rule, or prohibit any person or persons from borrowing from more than one society notwithstanding that permission of the society under proviso to sub-rule (2) has been obtained by him.]

**25. Regulations regarding debentures and bonds :-**

Any society, which is authorised under its bye-laws to raise funds

by the issue of debentures and bonds, may, with the sanction of the Registrar, frame regulations regarding the maximum amount to be raised by the issue of debentures and bonds, the class or classes of debentures and bonds, the face value of each debenture or bond, the date on which the debentures or bonds are to be redeemed, the rate at which interest is payable, the terms and conditions regarding transfer of debentures and bonds and other incidental matters.

**26. Maintenance of liquid resources and distribution of assets :-**

Every society which obtains any portion of its working capital by deposits shall-

(1) maintain such liquid resources and in such form as may be specified from time to time by the Registrar, and

(2) utilise only such portion of its working capital in lending business and distribute its assets in accordance with such standards as may be specified from time to time by the Registrar.

**27. Form of declaration under section 49(1)(a) :-**

The declaration to be made in clause (a) of sub-section (1) of section 49 shall be in Form E.

**CHAPTER 5 Property and Funds of Society**

**28. Honorarium :-**

The honorarium to be paid under sub-section (2) of section 65 shall not exceed 5 per cent of net profits or Rs. 1.000 in a year whichever is less.

**29. Investment of Funds :-**

(1) With the previous sanction of the Registrar any society may invest its fund or a portion thereof-

(a) [x x x]

(b) in loans raised by a local authority in the State under the authority of the Local Authorities Loans Act, 1914 (IX of 1914).

(c) in the purchase or leasing of land or buildings, and in the construction of buildings:

Provided that the purchase of such land or the construction of such building is likely to be advantageous to the society in the conduct of its business.

(2) Notwithstanding anything contained in sub-rule (1). an urban co-operative bank-

(a) which has a paid up share capital of not less than Rs. 50,000. and a reserve fund of not less than Rs. 50,000.

(b) which has completed ten years from the date of its registration, and

(c) which is classed A or B at the last audit made under section 84. may invest its surplus funds in such shares or debentures of any company registered under the Companies Act, 1956 as may be approved by the Registrar.

### **30. Restrictions on investment :-**

(1) The investment under rule 29 shall not at any time exceed 5 per cent of the deposit liabilities or 15 per cent of the surplus fund of the bank whichever is less.

(2) The investment in shares or debentures under rule 29 shall not

exceed-

(a) in the case of preference shares. 10 per cent

(b) in case of ordinary shares 5 per cent

(c) in the case of debentures. 15 per cent

Provided that no investment shall be made under this sub-rule if it is likely to affect the ordinary business of the bank.

Explanation. -For the purpose of this sub-rule "fund" shall mean such portion of the funds as are available for advancing loans to members but not so advanced.

### **31. Contribution to Educational Fund :-**

Every Society mentioned in column (2) of schedule B shall contribute to the Education Fund of the Gujarat State Co-operative Union at the rates specified in column (3) of the said Schedule B.]

### **32. Qualifications for the members of the committee :-**

(1) Every member of a society who is entitled to vote shall be eligible for appointment as a member of a committee thereof if-

(a) he is not in default in respect of any loan taken by him for such period as is specified in the bye-laws, or

(b) he has not directly or indirectly any interest in any subsisting contract made with the society or in any property sold or purchased by the society or any other transaction of the society except in any investment made in or any loan taken from the society, or

(c) if he is not otherwise disqualified for appointment as such member or

(d) he is not held responsible under section 82 or

(e) no order for recovery of costs is made against him by a magistrate under section 91 , or,

(f) no order is made against him under section 93 , or

(g) If he is not found guilty of any of the offences under section 147 or any offence under Section 403 of the Indian Penal Code, 1860 in respect of the property of any society.

(1A) A member of the committee who incurs any of the disqualifications specified in sub-rule (1) shall vacate the office and if he does not vacate such office, he shall be removed by Registrar as such member:

Provided that the Registrar, shall before making such order of removal, give the person concerned an opportunity of being heard.

(2) Notwithstanding anything contained in sub-rule (1).

(a) in case of societies dispensing with credit, on person who does money lending business shall be eligible for appointment as a member of the Managing Committee of the society.

(b) a member of a society, who carries on business of the kind carried on by the societies of which he is the member, shall not be eligible to be the member of any committee of that society without the sanction of the Registrar.

(3) Where any person becomes a member of a Committee of a

society in contravention of sub-rule (2) he shall be removed from office as a member of such committee by the Registrar:

[Provided that the Registrar shall, before making order of removal, give the person concerned an opportunity of being heard. ]

### **33. Powers of the managing committee :-**

The managing committee of a society shall have among other powers, power-

(i) to admit new members;

(ii) to raise and invest funds:

(iii) to appoint the salaried or non-salaried staff for the conduct of the business of the society and to define their duties:

(iv) to dispose of application for shares;

(v) to dispose of applications for loans and to determine the security to be taken;

(vi) to appoint sub-committees, and to define the powers to be delegated to them.

### **34. Duties of the managing committee :-**

it shall be the duty of the managing committee-

(i) to receive and disburse money;

(ii) to maintain accounts of money received and expended and the accounts of assets and liabilities;

(iii) to prepare for submission for the annual general meeting an annual report of the working of the society and all such annual statements of accounts required to be placed before the general meeting under the Act, rules and bye-laws:

(iv) to prepare the statements of accounts and other statements required by the auditor for the purpose of audit;

(v) to prepare and submit all statements, returns and periodicals required by the Registrar;

(vi) to maintain an up-to-date register of members:

(vii) to facilitate the inspection of books by those entitled to inspect;

(viii) to convene general meetings on requisition;

(ix) to convene annual general meeting in due time;

(x) to watch the recovery of loans and examine the application of loan;

(xi) to examine and take prompt action in cases of all arrears and defaults in repayment of loans and advances;

(xii) to perform such other duties as may be entrusted in the general meeting.

**34A. Restriction on rates of sitting fees and travelling and daily allowances of members of the committee and other conditions and limitations :-**

(1) Subject to the provisions of sub-rules (2) and (3) no society shall prescribe nor a member of the committee thereof shall be entitled to sitting fees and travelling and dally allowances while touring on public business, at the rates exceeding the maximum rates specified for the category of the society in the Table below :-

TABLE				
Sr. No.	Category of the Society	Maximum Rate of Sitting fees	Maximum rate of daily allowance	Travelling Expenses.
(1)	(2)	(3)	(4)	(5)
(1)	All Apex Societies	Rs.40/-	(1) for Ahmedabad City Rs. 60/-	(1) 1st class railway fare actual or bus fare
			(2) Elsewhere in the State Rs. 40/-	(2) If a member travels by owned, private hired or borrowed Vehicle, the road mileage shall be limited to single first class fare for to and fro journey.
				(3) Where a member uses in connection with the business of an institution the care of another institution, the latter institution shall be reimbursed by the first mentioned institution the cost of use of the

				Vehicle at the rate of Rs. 1.30 per K.M. and this payment shall be made by a cheque drawn in favour of the institution of which car is used by such member.
(2)	All co-operative societies having area of operation in more than one district.	Rs. 25/-	(1) For Ahmedabad City Rs. 40/- (2) Elsewhere in the State Rs. 251/-	Same as above.
(3)	All Co-operative Societies and Urban Cooperative Banks having area of operation in the District and the Cooperative sugar factories.	Rs. 25/-	(1) For Ahmedabad City Rs. 401/- (2) Elsewhere in the State Rs. 25/-	(1) 1st class railway fare or actual bus fare. (2) If a member travels by owned, private hired or borrowed vehicle, the road mileage shall be limited to single first class fare for to and fro journey. (3) where a member uses in connection with the business of an institution, the car of the another institution, the latter institution shall be reimbursed by the first mentioned institution. The cost of use of the vehicle, at the rate of Rs. 1.30 per K.M.

				and
				this payment shall be
				made by a cheque
				drawn in favour of the
				institution of which the
				car is used.
(4)	All Cooperative Societies having area of operation in one or more talukas	Rs. 15/-	(1) For Ahmedabad City Rs. 30/-	Same as above.
			(2) Elsewhere in the state Rs. 201-	
(5)	All types of Primary co-operative societies and other co-operative societies which are not covered under any of the above categories.	Rs. 10/-	(1) For Ahmedabad City Rs. 101-	2nd class railway fare or actual bus fare.
			(2) Elsewhere in the State Rs. 10/-	

(2)

(i) A member of the committee shall be entitled to 50% increase in the rate of dally allowance prescribed by the societies, for touring outside the Gujarat State:

Provided that where suitable accommodation is not available and the member is compelled to pay the cost of accommodation higher than the rate of dally allowance, the member shall be entitled to actual cost of accommodation subject to a maximum of Rs. 200/-.

(ii) An Officer of a Apex Society specified at Sr. No. 1. 2 and 3 in the Table, shall be entitled to undertake Air Journey for touring outside the Gujarat State on public business, if he is permitted by

resolution of the Board of Directors of such society.

(iii) in the case of travelling abroad in the public interest, a member shall be entitled to draw travelling and Daily allowance as decided by the Board of Directors and after obtaining prior approval thereto from the State Government before the member proceeds for such travel.

(3) A member of Committee of a society in relation to touring on public business shall be subject to the following conditions and limitations:

(a) The Journeys in connection with the performance of functions of the Committee shall have to be approved by the Resolution of the Committee. No member shall be entitled to claim travelling or daily allowance from more than one society when he attends any functions or attends meeting of the committees of more than one society on the same day.

(b) For the purpose of dally allowance, if absence from the place of ordinary residence of the member exceeds 12 hours, full daily allowance shall be admissible and if such absence is for less than 12 hours at half the rate of full dally allowance shall be admissible.

(c) No daily allowance shall be admissible for the journeys within the radius of 8 K.M.s from the place of headquarters or ordinary residence of the member.

(d) in case of journeys by rail, the fare of actual class of accommodation availed of shall only be admissible.

(e) in case the journey is performed by vehicle borrowed from any Co-operative Society or any other institution no travelling expenses shall be admissible and only dally allowance shall be admissible.

(f) The dally allowance shall be admissible only for the days on which the member actually attends the meeting or attends any other functions of the Committee and for the time required for, to and fro journey from Head Quarters of the Society or the place of ordinary residence of member.

(g) The travelling allowance bill of the members shall be preferred in such form as the Registrar may by General or Special order specify Such bill shall be countersigned by the Chief Executive and Chairman of the Society.)

**35. Servant of Society not to have interest in transaction, etc. :-**

(1) No officer or servant of a society shall have any interest directly or indirectly otherwise than as such officer or servant-

(a) in any contract made with the society, or

(b) in any property sold or purchased by the society, or

(c) in any transaction of the society except as investment made or as loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.

(2) No officer or servant of a society shall purchase, directly or indirectly any property of a member of the society sold for the recovery of his dues to the society.

(3) No person who carries on business of the kind carried on by the society shall be eligible to be appointed as a servant or officer of the society without the sanction of the Registrar.

(4) Where any person is appointed as a servant or officer of the

society in contravention of this sub-rule (3) shall be removed from the office as a servant or officer of the society by the Registrar:

Provided that the Registrar, shall, before making such order of removal, give the person concerned an opportunity of being heard.

**36. Date of making up of accounts, etc :-**

The date of drawing up the accounts of a society shall be-

(1) in the case of a farming society, 30th day of April, every year.

(2) in the case of a forest labourers society 30th day of September, every year.

[(2A) in the case of a co-operative electricity society 31st March, every year. ]

(3) in the case of cotton sale society or a multipurpose society or a service society during the business of cotton sale 31st day of October, every year, and

(4) in the case of any other class of society, 30th day of June, every year:

[Provided that the registered Cooperative Societies which are liable to be assessed under the income Tax Act, can opt for 31st March as the day of the year for the purpose of drawing-up of accounts. Such option once exercised shall not be altered and shall be treated as final. The society which has exercised such option, and in respect of which the date for drawing up of accounts in any date after the 31st March, 1988. The period for which the accounts will be drawn up shall be deemed to be extended upto next 31st March.]

### **37. Books of accounts, etc. :-**

Every society shall keep the following books of accounts:-

(a) A register of members (including persons nominated) under section 39 .

(b) A register of shares (where capital is raised by shares).

(c) A register of debentures (where capital is raised by debentures).

(d) A register of declaration made under section 49 .

(e) A share transfer register (where capital is raised by shares).

(f) A debenture transfer register (where capital is raised by debentures).

(g) Cash Account.

(h) General Ledger.

(i) Stock Register.

(j) Members Loan Register.

(k) Deposit Account.

(l) Loan Register.

(m) interest Account.

(n) Expense Account.

(o) Bank Account.

(p) Minute Book, recording the proceedings of general meetings.

(q) Minute Book, recording the proceedings of the committee.

(r) Register of members credit worthiness.

(s) Such other accounts and Books as may from time to time be specified by the Registrar.

**37A. Appointment of an Administrator :-**

Notwithstanding anything contained in the bye-laws of the societies the Registrar shall appoint an Administrator from amongst the following :-

(1) A Federal Society having interest.

(2) A Federal Society, which in the opinion of the Registrar is competent to administer the affairs of the society sought to be brought under administration.

(3) Officer of the Co-operative Department.

(4) Auditors who are on the panel of certified auditors and retired officers of the Co-operation. Revenue and Judicial Department, where names stand included on the panel of Administrator as approved and prepared by the Registrar from time to time for the purpose.]

### **38. Qualifications for auditors :-**

A person shall be qualified for being authorised by the Registrar under sub-section (1) of section 84 if-

(a) he is a Chartered Accountant within the meaning of the Chartered Accountants Act. 1949, or

(b) he holds a Government Diploma in co-operative accounts or a Government Diploma in co-operation and accountancy, or

(c) he has served as an auditor in the Co-operative Department of the State Government and,

whose name has been included by the Registrar in panel of auditors maintained by him and published in the Official Gazette at least once every three years.

### **38A. Scale of audit fees :-**

The scale of audit fees payable by the societies shall be as specified in Schedule A appended to these rules.

### **38B. Auditors to award audit classification :-**

(1) The Registrar may, from time to time. keeping in view the efficiency of management, financial position and such other factors, prepare the guide-lines for

(2) Every auditor shall, after completing the audit of a society determine and award the audit classification to the society in accordance with the guidelines prepared by the Registrar, from time to time, under sub-rule (1).]

### **39. Requisition of a federal society for enquiry of its member society :-**

A federal society in respect of a society which is its member may,

on an application properly supported by a resolution of its managing committee, and after giving an opportunity of being heard to such member society, demand an enquiry by the Registrar under section 86 .

**39A. Constitution of the Committee under section 95 for supervision of Milk Co-operative Societies in the State :-**

(1) For supervision of Milk Co-operative Societies in the State. The State Government may constitute a Committee consisting of [four persons] as follows, namely:-

(a) One person nominated from amongst officers of the State Government not below the rank of the Registrar, who in the opinion of the State Government have knowledge of the working of the Co-operative Societies;

(b) One person nominated from amongst persons, who in the opinion of the State Government have adequate knowledge and experience in relation to the conduct of dairying Cooperative Societies in the State while being senior executives of such societies;

(c) One person nominated by virtue of his office from amongst officers having experience of not less than 10 years of accounts and audit of Government Departments, Public Undertakings and such other Bodies.

[(d) the Registrar of Cooperative Societies himself and not any other persons on whom the powers of Registrar are conferred.]

(2)

(a) A person nominated under clause (a) of sub-rule (1) shall be the Chairman of the Committee;

[(b) A person nominated under sub-rule (1) shall hold office for a period of three years:

Provided that the persons nominated under clauses (a) and (b) and (d) shall be eligible for renomination;]

(3) The Committee may make rules for-

(a) its internal working;

(b) recruitment of staff;

(c) regulating conditions of service of the staff so recruited, and

(d) any other matter necessary for carrying out its function.

The Committee shall carry out its function subject to the supervision and control of the Secretary to Government, Agriculture, Forests and Co-operation Department and shall comply with such directions as may be given to it from time to time by the State Government.

Explanation. For the purposes of this rule the Milk Co-operative Society shall mean any Milk Co-operative Society irrespective of whether it is a Primary Union or Federal Society."

**39B. Constitution of Committee under section 95 for supervision of Federal Societies in the State :-**

(1) For the supervision of Federal Cooperative Societies registered under the Act specified in the Table below this rule, the State Government may constitute a Committee consisting of three persons as follows, namely :-

(a) One person nominated from amongst the officers of the State Government who is holding or has held the office of the Secretary to Government in the Cooperation Department, Agriculture Department or the Legal Department or has held the office of the Registrar of Cooperative Societies in any State Government.

(b) One person nominated from amongst the officers of the State Government who is holding or has held the office of Joint Secretary or has held the office as a Head of the Department in the State of Gujarat or has held the office of a senior executive in any of the Federal Societies who in the opinion of the State Government has adequate knowledge and experience relating to agricultural production, processing, marketing, consumer activity or public distribution system.

(c) One person who has been an officer not below the rank of Deputy Secretary in the Cooperation Department for a period not less than two years or has been an officer not below the rank of the Joint Registrar of the Cooperative Societies for a period not less than two years.

(2)

(a) The person nominated under clause (a) of sub-rule (1) shall be the Chairman of the Committee,

(b) The persons nominated under sub-rule (1) shall hold office for such period not exceeding three years as the State Government may by order specify:

Provided that the persons so nominated shall on the expiry of the period be eligible for renomination.

(3) The Committee may make rules for,-

(a) its internal working: and

(b) any other matter necessary for carrying out its function.

(4) The committee shall carry out its function subject to the supervision and control of the Government in Cooperation Department and shall comply such direction as may be given to it from time to time by the State Government.

Table	
1.	Gujarat State Cooperative Urban Banks Federation;
2.	Gujarat State Cooperative Housing Finance Society Limited;
3.	Gujarat State Cooperative Cotton Federation;
4.	Gujarat State Cooperative Oil Seeds Growers Federation;
5.	Gujarat State Cooperative Marketing Federation Limited;
6.	Gujarat State Cooperative Oil Industry Ltd.,
7.	Gujarat Rajya Sahakari Khand Udyog Sangh Ltd.,
8.	Gujarat State Cooperative Paddy Growers Federation;
9.	Gujarat Cooperative Tobacco Growers Federation;
10.	Gujarat State Cooperative Consumers Federation.
11.	Gujarat Fisheries Central Co-operative Association.
12.	Gujarat State Cooperative Poultry Farmers Federation Ltd.

#### **40. Board of nominees :-**

Where the Registrar appoints a board of nominees under section 98 , he shall appoint one of the nominees to be chairman of the board. The chairman so appointed shall fix the date, time and place of hearing the dispute referred to the board and carry out the necessary correspondence in connection with the disposal of the dispute.

#### **41. Procedure of hearing and decision :-**

(1) The adjudicating authority shall record a brief note in English or in Gujarati language of the evidence of the parties and witnesses who attend and upon the evidence so recorded and upon consideration of any documentary evidence produced by either

side. a decision shall be given in accordance with justice, enquiry and good conscience and it shall be reduced to writing. Such a decision shall be given in open court either at once or on some future date of which due notice shall be given to the parties.

[(2) if any of the parties duly summoned or informed to attend, fails to appear, the dispute may be decided in accordance with the relevant provisions of Order 9 of the Code of Civil Procedure, 1908.]

(3) Where the adjudicating authority is a board of nominees consisting of the board of nominees of two nominees and if their opinions

(4) The decision shall be communicated to the parties by-

(a) pronouncement of the award; or

(b) registered post to any party which may be absent on [the date if due notice of the decision is not given to such party,]

[(c) Ordinary post with UPC to any party which may be absent on the date if due notice of the date of decision is given to such party.]

(5) After the decision of the case. if the adjudicating authority is a nominee or the board of nominees it shall return all the case papers to the Registrar.

#### **42. Reference of a dispute :-**

A dispute under section 96 shall be referred in writing in Form F with suitable modifications as may be necessary and shall be accompanied by, -

(a) a certified copy of the relevant portion of the loan ledger, if the

dispute is a money claim, and

(b) such other statements or records as are relatable to the dispute or as may be required by the Registrar.]

**43. Summonses, notices and the fixing of dates, place, etc.**

:-

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(1) in proceedings for the settlement of disputes an adjudicating authority shall fix the date, hour and the place for hearing the dispute.

(2) The adjudicating authority may issue summonses or notices atleast 15 days before the date fixed for hearing of the dispute requiring-

(i) the attendance of the parties concerned and of witness; and

(ii) the production of all books and documents relating to the matter in dispute.

(3)

[(i) Notices or summons issued by the adjudicating authority may be served personally on the party or its agent or through the Mamlatdar, Mahalkari, talati or any officer of the Panchayat. or any employee of the Co-operation Department or of a federal society or through the Chairman or Secretary of society or by registered post with acknowledgment due.]

(ii) The serving officer shall. in all cases in which summons or notice has been served, endorse, or annex or cause to be

(iii) The person issuing the summons or notice may examine the serving officer on oath or cause him to be so examined by the Mamlatdar or Mahalkari through whom it is served and make such further inquiry in the matter as he thinks fit; and shall either declare that the summons or notice has been duly served or order it to be served in such manner as he thinks fit.

(iv) if the summons or notice is issued by the adjudicating authority under section 99 shall, if sent for service to a Mamlatdar or a Mahalkari, be served by such officer.

(v) The mode of serving of summonses or notices under section 86 and section 94 or to make an inspection under section 87 or by the auditor acting under section 84 by the liquidator appointed under section 108 and acting under section 108 shall be the same as provided in the forgoing provision of this sub-rule.

[(vi) if the party or the witness evades service, of summons or notice or refuses to accept service, or whereabouts of the party or witness are not known, the summons or notice may be served by affixing a copy thereof at the last known residence of the party or witness and if such address is not known the summons or notice may be affixed at the office of the panchayat of a gram or nagar or municipal office of the town or city in which such party or witness is known to have last resided or by publication of the same in any local newspaper. ]

#### **44. Procedure for execution of awards :-**

(1) Every order or award passed by the adjudicating authority under section 100 or section 101 shall after the expiry of the period for appeal under section 102 , be forwarded by the Registrar to the society or to the party concerned with instructions that it should be executed forthwith according to the provisions of section 103 .

(2) if the amount due under the award is not forthwith recovered or the order is not carried out, the award or as the case may be, the

order shall be forwarded by the society or the party concerned to the Registrar with an application for execution alongwith all other information required by the Registrar for the issue of certificate under section 103 . The applicant shall state whether he desires to execute the award or as the case may be order by the civil court or through the Collector as provided under section 103 or through the Registrar as provided under section 159 .

(3) Every order passed in appeal under section 102 shall also be executed in the manner prescribed under sub-rule (2).

[(4) Recovery of costs of execution when property is not sold. When recovery is made under section 103 in execution of any order referred to in the said section [or on the certificates issued under section 106 and section 136 ] and property is not sold in such execution, the Registrar may order the expenses of such recovery to be paid by the party in default according to a scale laid down by him not exceeding in aggregate 10 per cent of the amount of the dues.]

#### **45. Transfer of property :-**

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(1) When in the execution of an order sought to be executed under section 103 any property cannot be sold for of some person on his behalf or of some persons claiming it under a title event of buyers, and such property is in the possession of the defaulter, or created by the defaulter subsequently to the issue of the certificate by the Registrar or liquidator under the said section 103 the officer conducting the execution shall as soon as practicable report the fact to the Court or the Collector or the Registrar as the case may be, and to the society which applied for the execution of the said order.

(2) On receipt of a report under sub-rule (1) the society may within six months from the date of the receipt of the report or within such further period as may for sufficient reasons be allowed in any particular case by the Court or the Collector or the Registrar, as the

case may be, submit an application in writing to the Court or the Collector or the Registrar, as the case may be, stating the terms and conditions on which it agrees to take over such property.

(3) On receipt of an application under sub-rule (2) notices about the intended transfer shall be issued to the defaulter and to all persons known to be interested in the property including those whose names appear in the Record of rights as persons holding any interest in the property.

(4) On receipt of such a notice, the defaulter or any person owning such property, or holding an interest therein by virtue of a title acquired before the date of the issue of a certificate under section 103 . may within one month from the date of the receipt of such notice, deposit with the Court or the Collector or the Registrar, as the case may be, for payment to the society a sum equal to the amount due under the order sought to be executed together with interest thereon and such additional sum for payment of costs and other incidental expenses as may be determined in this behalf by the Court or the Collector

(5) On failure of the defaulter, or any person interested, or any person holding any interest in the property to deposit the amount under sub-rule (4) the Court or the Collector or the Registrar, as the case may be, shall direct the property to be transferred to the society on the conditions stated in the certificate in the Form G of such recovery to be paid by the party in default according to a scale laid down by him not exceeding in aggregate 10 per cent of the amount of the dues.

(6) The certificate granted under sub-rule (5) shall state whether the property is transferred to the society in full or partial satisfaction of the amount due to it from the defaulter.

(7) if the property is transferred to the society in partial satisfaction of the amount due to it from the defaulter, the Court or the Collector or Registrar as the case may be, shall on the production by the society of a certificate signed by the Registrar, recover the

balance due to the society in the manner prescribed in section 103

.

(8) The transfer of the property under sub-rule (5) shall be effected as follows-

(i) in the case of movable property-

(a) where the property is in the possession of the defaulter himself or has been taken possession of on behalf of the Court or the Collector or the Registrar it shall be delivered to the society;

(b) where the property is in the possession of some person on behalf of the defaulter, the delivery thereof shall be made by giving notice to the person in possession directing him to give actual peaceful possession to the society and prohibiting him from delivering possession of the property to any other person;

(c) the property shall be delivered to a person authorised by the society to take possession on behalf of the society.

(ii) in the case of immovable property,-

(a) where the property is a growing or standing crop. it may be delivered to the society before it is cut and gathered and the society shall be entitled to enter on the land and to do all that is necessary for the purpose of tending cutting and gathering it;

(b) where the property is in the possession of the defaulter or of some person on his behalf or some person claiming under a title created by the defaulter subsequent to the issue of a certificate under section 103 the Court or the Collector or the Registrar, as the case may be, shall order delivery to be made by putting the society or any person whom the society may appoint to receive delivery on its behalf in actual possession of the property and if need be by

removing any person who illegally refuses to vacate the same after holding an enquiry as provided in rules 13-A to 13-C of the rules regulating execution of decrees transferred to the Collector under Section 68 of the Code of Civil Procedure, 1908 ;

(c) where the property is in the possession of tenant or other person entitled to hold the same by a title acquired before date of issue of a certificate under section 103 , the Court or the Collector or Registrar, as the case may be, shall order delivery to be made by affixing a copy of the certificate of transfer of the property to the society on some conspicuous place on the property and proclaiming to such person by beat of drum or other customary mode at some convenient place, that the interest of the defaulter has been transferred to the society.

(9) The society shall be required to pay expenses incidental to sale including the cost of maintenance of live-stock, if any. according to such scale as may be fixed by the State Government from time to time.

(10) Where land is transferred to the society under clause(ii) (a) of sub-rule (8) before a growing or standing crop is cut and gathered the society shall pay the current years land revenue.

(11) The society shall forthwith report any transfer of property under clause (ii) (b) or (c) of sub-rule (8) to the village accountant for the information and entry in the Record of Rights.

(12) The society to which property is transferred under sub-rule (5) shall maintain for each such defaulter a separate account showing all the expenses incurred including payment to outside encumbrance, land revenue and other dues on the property and all the income derived from it.

(13) The society to which property is transferred under sub-rule (5) shall use its best endeavour to sell the property as soon as practicable to the best advantages of the society as well as that of

the defaulter, the first option being always to be given to the defaulter who originally owned the property. The sale shall be subject to confirmation by the Registrar. The proceeds of the sale shall be applied to defraying the expenses of the sale and other expenses incurred by the society and referred to in sub-rule (9) and (12) and to the payment of the arrears due by the defaulter under the order in execution and the surplus (if any) shall then be paid to the defaulter.

(14) Until the property is sold, the society to which the property is transferred under sub-rule (5) shall use its best endeavours to lease it or to make any other use that can be made of it so as to derive the largest possible income from the property.

(15) When the society to which property is transferred under sub-rule (5) has realised all its dues under the order in execution of which the property was transferred from the proceeds of management of the property, the property if unsold, shall be restored to the defaulter.

#### **46. Liquidation :-**

A copy of an interim order made on a ground specified in clause (a) or sub-clause (iv) of clause (c) of sub-section (1) of section 107 shall be communicated by the registered post.

#### **47. Appointment of Liquidator to be notified :-**

The appointment of a liquidator made under sub-section (1) of section 108 shall be notified by the Registrar in the Official Gazette.

#### **48. Functions and duties of Liquidator :-**

(1) After the receipt of the final order from the Registrar confirming the interim order, the liquidator shall publish by such means as he may think proper a notice requiring all claims against the society to be notified to him within two months of the publication of the notice.

[(1A) The liquidator shall, within thirty days after the receipt of the final order referred to in sub-rule (1), give notice of his appointment of such and of the claim, if any, of the State Government against the society to the concerned department of the State Government and if, the society is a dealer within the meaning of the term as defined in the Bombay Sales Tax Act, 1959, the notice of his appointment as such shall be given to the commissioner of Sales Tax also within the said period as aforesaid.]

(2) The liquidator shall make separate orders against various members, past members and others, noting the amount to be realised from each as a contribution under clause (h) of section 110 and as cost of liquidation under clause (k) of the said section. These orders shall be submitted for approval to the Registrar, who may modify them or refer them back to the liquidator for further inquiry or other action or may forward them for execution under section 103 of the Act.

(3) if the sum assessed against any member is not recovered, the liquidator may frame subsidiary orders against any other member to the extent of the liability of each for the debts of the society, until the whole amount due from members is recovered, and these orders shall be dealt in the same way as orders under sub-rule (2).

(4) The liquidator shall submit a quarterly progress report to the Registrar in such form as the Registrar may require.

(5) All funds incharge of the Liquidator shall be deposited in the Post Office Saving Bank or in a Central Co-operative Bank or in the State Bank of india or any other bank appointed for the purpose by the Registrar and shall stand in his name.

(6) At the conclusion of the liquidation procedure, a general meeting of the members of the society shall be called at which the liquidator

#### **49. Cost of hearing an appeal :-**

No application under section 109 shall be entertained from a member unless it is accompanied by Rs. 25 or such higher amount not exceeding Rs. 500 in any case, as may be ordered by the appellate authority as security for the cost of hearing the appeal.

#### **50. Account to be submitted to the Registrar by the Liquidator :-**

The liquidator shall during the term of his office present to the Registrar at the expiry of every three months an account in Form H of his receipt and payments as liquidator.

#### **51. Time and manner for sending instrument under section 125 :-**

A copy of the instrument referred to in section 125 shall be sent to the Registering Officer Within a period of three months from the date of the execution of the instrument by registered post or by delivering the same by hand to the Registering Officer at any time during office hours.

#### **CHAPTER 6 Procedure for distraint and sale under section 133.**

#### **52. Appointment of a distrainer :-**

(1) On receipt of an application under section 133 the Registrar shall, if he is satisfied that the particulars set forth in the application are correct appoint a person to distraint and sell the produce of the mortgaged land including standing crops thereon (hereinafter referred to in this chapter as the "distrainer").

(2) The distrainer on appointment shall serve upon the defaulter a written demand specking the amount for which the distraint is made. The demand shall be dated and signed by the distrainer and shall be served on the defaulter by delivering a copy to him or some adult male member of his family at his usual place of abode; or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

### **53. Service of notice :-**

The distrainer on appointment shall deliver to the defaulter a list of the property distrained and shall give him intimation in writing of the place, and the day and hour at which the distrained property will be sold:

Provided that where owing to the absence of the defaulter it is not possible to deliver such list to the defaulter, the distrainer shall deliver such list to some adult male member of the defaulters family or to the authorised agent of the defaulter and when such delivery is not possible, shall affix the list on some conspicuous part of his residence endorsing thereon the place where the property will be sold:

Provided further that where the defaulter does not reside in the village in which the land. the standing crops or the produce of which is distrained is situated, the list shall be affixed on the land and a copy of it shall be sent by registered post to the defaulter to his last known place of residence.

### **54. Appointment of Receiver :-**

The distrainer may, with the prior approval of the Registrar, appoint a receiver for the custody and preservation of property distrained during the interval between the distraint and sale.

### **55. Time of distraint :-**

The distress shall be made after sunrise and before sunset and not at any other time.

### **56. Manner of dealing with distrained crop :-**

If crops or ungathered products of the land belonging to a defaulter are distrained, the distrainer may cause them to be sold when fit for reaping or gathering or at his option may cause them to be reaped or gather. in due season and stored in proper place until sold.

### **57. Places which distrainer may force open :-**

(1) it shall be lawful for the distrainer to force open any stable, cow-house, granary, outhouse or other building, and he may also enter any dwelling house the out door of which may be open, and may break open the door of any room in such dwelling house for the purpose of distraining the produce of the mortgaged land therein, provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the zanana or residence of women except as hereinafter provided.

(2) Where a distrainer may have reason to suppose that the produce of the mortgaged lands is lodged within a dwelling house the other door of which may be shut, or within any apartment appropriated to women, which by the usage of the country, are considered private, the distrainer shall represent the fact to the officer in charge of the nearest police station.

(3) On such representation, the officer in charge of the said station shall send a police officer to the spot. in the presence of whom the distrainer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zanana.

(4) The distrainer may also in the presence of the police officer, after due notice given for the removal of women, within a zanana and after furnishing means for the removal. in a suitable manner enter the zanana apartments for the purpose of distraining the produce of the mortgaged land, if any. deposited therein but such property if found, shall be immediately removed from such apartments, after which they shall be, left free to the former occupants.

**58. Proclamation of time and place of sale and of property to be sold :-**

The distrainer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village or town in which the defaulter

resides or the produce is kept and in such other place or places as the distrainer may consider necessary to give due publicity to the sale:

Provided that no sale shall take place until the expiration of a period of 15 days from the date of the service of the demand referred to in rule 56:

Provided further that where the property seized is subject to speedy and natural decay the distrainer may sell it at any time before the expiry of the said period of 15 days.

### **59. Procedure for sale :-**

(1) At the appointed time and place the distrainer shall sell in public auction the distrained property or such part thereof as may be necessary. in one or more lots as the distrainer may consider desirable and dispose of the same to the highest bidder.

(2) The distrainer may in his discretion adjourn the sale to a specified day and hour, recording the reasons for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under rule 61 shall be made unless the defaulter consents to waive it.

### **60. Payment on purchase of distrained property :-**

The property shall be paid for in cash at the time of sale, or at such time as the distrainer shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full.

### **61. Resale in case of default :-**

If the purchaser fails in the payment of the purchase money the property shall be resold. Any deficiency of price which may happen on the resale and all expenses attending such resale shall at the instance of either the applicant or the defaulter be recoverable from

the defaulting purchaser.

**62. Penalty for forcible or clandestinely taking away distrained property :-**

Where on an application made in this behalf it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under the rules, has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the distrainer.

**63. Withdrawal of distress on tender of moneys due and expenses prior to sale :-**

If prior to the day fixed for sale the defaulter or any person acting in this behalf, or any person claiming an interest in the property distrained pays the full amount due, including interest and other expenses incurred in the distraining and proclaiming the sale, the distrainer shall not proceed with the sale and shall release the property forthwith.

**64. Investigation of claims to any right or interest in distrained property :-**

(1) Where any claim is preferred by any person other than the defaulter to any right or interest in the distrained property, the distrainer shall investigate the claim and dispose of it on its merits:

Provided that no such investigation shall be made where the distrainer considers that the claim was designedly or unnecessarily delayed.

(2) Where the property to which the claim applies has been advertised for sale, the distrainer may postpone the sale pending the investigation of the claim.

**CHAPTER 7 Sale of mortgaged property under section 134**

**65. Procedure when defaulter neglects to pay :-**

If before the expiration of the time allowed in the notice issued under clause (a) of sub-section (2) of section 134 the amount specified in such notice is not paid, the Sale Officer shall, after giving notice to the bank on whose behalf the application is made, proceed to sell the mortgaged property.

**66. Proclamation before sale :-**

The Sale Officer shall for the purpose of the sale of the mortgaged property make a proclamation. Such proclamation shall be published by affixing it in the office of the principal officer of the Co-operative Department in the district and in the taluka office at least ten days before the date fixed for the sale and also by beat of drum in the village or town where the mortgaged property to be sold is situated on two consecutive days previous to the date of sale and the day of sale, prior to the commencement of the sale. The proclamation shall state the time and place of the sale and specie as fairly and accurately as possible :-

(i) the property to be sold;

(ii) the revenue or rent payable in respect thereof;

(iii) the amount for the recovery of which the sale is brought;

(iv) every other matter which the Sale Officer considers material for a purchaser to know in order to Judge the nature and value of property.

**67. Sale to be by public auction :-**

(1) When any mortgaged immovable property is sold under these rules, the sale shall be by public auction to the highest bidder.

(2) The Sale Officer, may in his discretion adjourn the sale to a specified day and hour, recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than seven days, a

fresh proclamation under rule 66 shall be issued unless the mortgagor consents to waive it.

**68. Deposit by purchaser and resale on default :-**

A sum of money equal to 15 per cent of the price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase and in default of such deposit the property shall forthwith be resold:

Provided that where the bank at whose instance the property is sold is the purchaser and is entitled to set off the purchase money against the amount due under rule 73, the Sale Officer shall dispense with the requirements of this rule.

**69. Time for payment of balance of purchase money :-**

The remainder of the purchase money and the amount required for the general stamps for the certificate under section 138 shall be paid within 15 days from the date of sale:

Provided that the time for payment of the amount required for general stamp may for good and sufficient reasons be extended at the discretion of the Sale Officer upto 30 days from the date of sale:

Provided further that in calculating the remainder of the purchase money to be paid under this rule, the purchaser shall have the advantage of any set off to which he may be entitled, under rule 73.

**70. Procedure in default of payment :-**

In default of payment within the period mentioned in rule 69 the deposit may, if the Sale Officer thinks fit, after defraying all costs, charges and expenses of sale, be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to

any part of the sum for which it may subsequently be sold.

**71. Defaulting purchaser answerable for loss on resale :-**

Any deficiency of price which may happen on the resale by reason of the purchasers default and all expenses attending such resale, shall, at the instance of either the applicant or the mortgagor, be recoverable from the defaulting purchaser.

**72. Notification of resale :-**

Every resale of mortgaged immovable property in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

**73. Procedure when applicant bank purchases property :-**

Where the mortgage bank at whose instance the property is sold purchases the property, the purchase money and the amount due shall be set off against one another and the Sale Officer shall enter up satisfaction of payment of the mortgage money in whole or in part accordingly.

**74. Resale of property on payment of arrears due :-**

Where prior to the day fixed for sale the mortgagor or any person acting on his behalf or any person claiming an interest in the mortgaged property tenders payment of the full amount due including interest, costs, charges and expenses incurred in the connection with the sale of the property, the Sale Officer shall not proceed with the sale.

**75. Report of Sale :-**

The Sale Officer shall, on the conclusion of the sale make a report to the mortgage bank at whose instance the property was brought to sale regarding the results of the sale.

**76. Report under section 136 :-**

The report to be submitted by the primary land mortgage bank shall contain amongst all other details, the following particulars, namely:-

(a) Name of the Sale Officer;

(b) Place of sale;

(c) Date of sale;

(d) Description of property sold;

(e) Name of purchaser and his address;

(f) Value realised;

(g) Amount of claim of the Bank including interest;

(h) Cost of sale.

**77. Certificate to purchaser :-**

The certificate to be granted to the purchaser under sub-section (1) of section 138 shall be in Form 1 .

**CHAPTER 8 (1) Qualifications of Members of Tribunal**

**78. Qualification of members of Co-operative Tribunals :-**

[(1) Subject to the provision of sub-rule (2)

(a) The president of the Tribunal shall be a person who :-

(i) has been a judge of the High Court, or

(ii) has held the office of the Secretary to the Government in the

Department of Cooperation, or

(iii) has been a District Judge, or

(iv) has held the office of the Registrar of Co-operative Societies in any State.

[(b) a member other than the President shall be a person who-

(i) holds or has held a class post in Government in the Cooperation Department in the pay scale of Rs. 3500- 5000 or above for a period of at least three years, or.

(ii) holds or has held a class post in the Judicial services in the pay scale of Rs. 3000-5000 or above for a period of atleast three years.]

(2) No person shall be qualified for being appointed as the President or member of the Tribunal if he is a member of the Managing Committee of any society other than an educational society, propagandist society or a federal society which is not carrying business for gain.

### **79. Procedure of appeal :-**

(1) Every appeal under section 153 shall be in the Form of memorandum, which shall-

(a) be either type written or written in ink in legible hand,

(b) specify the name and address of the appellant and also the name and address of the respondent or the opponent, as the case may be,

(c) state whether the order complained of was made by the Registrar or by any person other than the Registrar on whom the powers of the Registrar are conferred,

(d) clearly state the grounds on which the appeal is made,

(e) state precisely the relief which the appellant claims,

(f) state the date of the order or decision appealed against.

(2) An appeal shall be presented in person by the appellant or by his duly appointed agent to the appellate authority during the office hours or sent by registered post.

### **80. Procedure after presentation of appeal :-**

(1) On receipt of an appeal, the appellate authority shall examine it and if it is found that it is in order as provided in sub-rule (1) of rule 79 it shall be registered in the appropriate register maintained for this purpose.

(2) if the appeal is found to be defective in certain respects, the Appellate authority may call upon within such time not more than 15 days in any case to remedy the formal defects pointed out in the appeal.

(3) if the party concerned or his agent fail to remedy the defects within the prescribed time the appellate authority shall fix a date for preliminary hearing of the appeal of which due notice shall be given to the party concerned.

(4) On the date fixed under sub-rule (3) the appellate authority shall hear the party or his agent. if present, and pass orders either

directing that the appeal be admitted or rejecting the appeal. Where the appeal is rejected, the appellate authority shall record its reasons for doing so.

**81. Notice to respondent or opponent :-**

After an appeal is admitted, a notice shall be delivered or sent by registered post to the respondent or opponent calling upon him to appear before the appellate authority on the date specified in the notice. The notice shall also declare that if he does not appear before the appellate authority either in person or through an agent on the date specified in notice or on any subsequent date to which the hearing may be adjourned, the appellate authority shall hear and decide the appeal ex-parte.

**82. Procedure at the hearing :-**

On the date fixed for hearing or on any other date to which the hearing may be adjourned, the appellant or his agent, or if permitted by the appellate authority, his pleader shall ordinarily be heard first in support of his appeal. The respondent or the opponent or his agent or, if permitted by the authority, his pleader, shall if necessary be heard next: and in such case the appellant or his agent or his pleader shall be entitled to reply.

**83. Hearing in absence of the parties :-**

(1) if, on the date fixed for hearing or on any other day to which the hearing may be adjourned the appellate does not appear either in person or by his agent or pleader when the appeal is called for hearing, the appellate authority may dismiss the appeal or may decide it on merits, after hearing the respondent or opponent or his agent or pleader, if present.

(2) if, on the day fixed for hearing or any other day to which the hearing may be adjourned, the respondent or opponent does not appear either in person or through his agent or pleader. if permitted when the appeal. is called for hearing, the appellate authority may decide the same on merits after hearing the appellant or his agent or pleader if he be present.

#### **84. Restoration of appeals decided ex-parte :-**

If any of the parties was absent at the date of hearing and the appeal was heard and decided ex-parte, the party concerned may apply for restoration of appeal and if the party satisfies the appellate authority that he had no notice of the date of hearing or that he was prevented from any sufficient cause from appearing when the appeal was called for hearing the appellate authority may restore the appeal to its file:

Provided that where the other party has appeared in the appeal. such party shall be given notice and an opportunity of being heard before the order for restoration of the appeal is made.

#### **85. Fresh evidence and witnesses :-**

(1) No party to an appeal shall be entitled to adduce fresh evidence whether oral or documentary before the appellate authority. The appellate authority may accept documents tendered by a party or call for the same if it is of opinion that they are necessary for deciding the appeal, provided that the other party shall in that case be entitled to produce rebutting evidence.

(2) if the Appellate Authority is of opinion that any witness should be examined, it may do so. if it is necessary for deciding the appeal.

(3) Where fresh evidence has been adduced under sub-rule (1) or a witness has been examined as provided in sub-rule (2) the parties may. if they so desire address the appellate authority on points arising out of the fresh evidence or the deposition of the witness.

#### **86. Adjournment :-**

The Appellate Authority may on such terms as it thinks fit and at

any stage, adjourn the hearing of any appeal.

**87. Procedure in case of death of one of several appellant or of sole appellant :-**

If an appellant dies, while the appeal is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal the appellate authority shall adjourn further proceedings to enable his legal representative to appear and apply for being made a party. if the legal representative falls to do so within 90 days from the date on which the appellant dies. the appeal shall abate as regards the deceased and if he be the sole appellant the appeal shall be dismissed. it shall be proceeded with as regards the remaining appellants.

**88. Procedure in case of death of one of several respondents or opponents or sole respondent or opponent :-**

If respondent or opponent dies while the appeal is pending, and it cannot be proceeded with unless his legal representative is made a party to the appeal, the appellant shall apply to the appellate authority for making the legal representative of such a respondent or opponent a party to the appeal within 90 days from the date on which the respondent or opponent died. if the appellant fails to do so, the appeal shall abate as regards the deceased. if the deceased be the sole respondent or opponent, the appeal shall be dismissed. in any other case it shall be proceeded with as regards the remaining respondents or opponents.

**89. No abatement by reason of death after hearing :-**

Notwithstanding anything contained in rule 87 and section 88 , there shall be no abatement by reason of the death of any party, between the conclusion of the hearing and the pronouncement of the judgment, but the judgment may in such case be pronounced notwithstanding the death, and shall have the same force and effect as if it had been pronounced before the death took place. No legal representative need be made party in such case.

**90. Determination of legal representative :-**

If a question arises in any appeal where a person is or is not a legal representative of a deceased party, such question may be determined by the appellate authority in a summary way after

taking evidence if necessary.

**91. Procedure in case of assignment :-**

In any case where the business of a party to an appeal before the appellate authority is, during the pendency of it, assigned or devolves wholly or in part to or upon some other person or society, the appeal may, by leave of the appellate authority, be continued by or against such person or society.

**92. Abatement or dismissal for failure of legal representative to apply in time may be set aside :-**

A person claiming to be a legal representative of a deceased appellant or assignee or receiver of an insolvent appellant may apply within 60 days from the date of abatement or dismissal of the appeal to have the abatement or dismissal set aside, and if it is proved to the satisfaction of the appellate authority that he was prevented by, sufficient cause from appearing within time, the abatement or dismissal shall be set aside by the appellate authority and the appeal proceeded with.

**93. Procedure in case of insolvency :-**

If a party to an appeal becomes insolvent and his estate, becomes vested in the assignee or receiver, the latter may, by leave of the appellate authority be made a party to the appeal.

**94. Pronouncement of judgment and costs of appeal :-**

(1) When the hearing of the appeal is complete, the appellate authority shall pronounce its judgment forthwith or shall fix a date for the same. Such date shall be notified on the notice board of the appellate authority.

(2) Every judgment of the appellate authority shall be in writing.

(3) The appellate authority shall in its judgment state at the end, whether the appeal is dismissed or allowed wholly or in part and mention, the relief if any, granted to the appellant.

(4) The costs of the appeal shall be in the discretion of the appellate authority in its final order. The appellate authority shall state who shall bear the cost and in what proportion. if any.

**95. Supply of certified copies :-**

Certified copies of the judgment shall be supplied free of cost on application to the parties concerned.

**CHAPTER 9** Procedure for recovery of certain sums by attachment and sale of property of defaulter under section 159.

**96. Application :-**

(1) Any decree-holder desiring to recover any amount or sum mentioned in sub-section (1) of section 159 may make an application to the Recovery Officer and shall deposit the necessary costs on a scale specified by the Registrar.

(2) Every such application shall be made in the form specified by the Registrar and shall be signed by the decree-holder. The decree-holder may indicate whether he wishes to proceed against the immovable property mortgaged to the decree-holder or other immovable property or to secure the attachment of movable property.

(3) On receipt of such application, the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the record, if any. in the office of Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar, setting forth the name of the defaulter and the amount due and forward it to the Sale Officer.

**97. Order in which proceedings shall be taken :-**

Unless the decree-holder has expressed a desire that proceedings should be taken in a particular order, the execution shall ordinarily be taken in the following manner:-

(i) Movable property of the defaulter shall be first proceeded against but this shall not preclude the Immovable property being proceeded against simultaneously in case of necessity.

(ii) If there is no movable property, or if the sale proceeds of the movable property attached and sold are insufficient to meet in full the demand of the decree-holder, the immovable property mortgaged to the decree-holder, or other immovable property belonging to the defaulter may be proceeded against.

### **98. Distress by Sale Officer :-**

(1) The Sale Officer, shall after giving previous notice to the decree-holder, proceed to the village or town where the defaulter resides or the property to be distrained is situated and serve a demand notice upon the defaulter if he is present. If the amount due together with the expenses be not at once paid, the Sale Officer shall make the distress and shall immediately deliver to the defaulter a list of inventory of the property distrained and an intimation of place and day and hour at which the distrained property will be brought to sale if the amounts due are not previously discharged. If the defaulter is absent, the Sale Officer shall serve the demand notice on some male member of his family, or on his authorised agent, or when such service cannot be effected, shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix the list of the property the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.

(2) The distress shall be made after sunrise and before sunset and not at any other time.

(3) The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.

(4) It shall be lawful for the Sale Officer to force open any stable, cow-house, granary, godown, out-house or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property, belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriated for the zanana or residence of women except as provided in sub-rule (5).

(5) Where the Sale Officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women which by the custom or usage are considered private, the Sale Officer shall represent the fact to the Officer-In-charge of the nearest police station. On such representation the officer-In-charge of the said police station shall send a police officer to the spot in the presence of whom the Sale Officer may force to open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the Zanana. The Sale Officer may also, in the presence of a police officer, after due notice given for the removal of women within Zanana and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the custom or usage cannot appear in public) enter the Zanana apartments for the purpose of distraining the defaulters property. If any, deposited therein, but such property. If found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

### **99. Custody of distrained property :-**

(1) After the distress is made, the Sale Officer may arrange for the custody of the property attached with the decree-holder or otherwise.

(2) If the Sale Officer requires the decree-holder to undertake the

custody of the property he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree holder. If the attached property is live-stock, the decree-holder shall be responsible for providing the necessary food therefor.

(3) The Sale Officer may, at the instance of the defaulter or of any person claiming an interest in such property, leave it in the village or place where it was attached, in the charge of such defaulter or person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.

**100. Manner of dealing with distrained crops :-**

If crops or ungathered products of the land belonging to a defaulter are attached, the Sale Officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. The expense of reaping or gathered and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

**101. Distrained cattle or property not to be used :-**

The Sale Officer shall not work the bullocks or cattle or make use of the goods or effects distrained. He shall provide the necessary food for the cattle or livestock, but the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

**102. Proclamation regarding time and place of sale :-**

(1) The proclamation regarding sale shall be published atleast 15 days before the date fixed for sale by affixing a notice, in the office of the Sale Officer and the Taluka Office and in the Chavadi or some other public building in the village in which such property was seized. The Sale Officer shall, on the day prior to a fortnight before the date fixed for sale and a day prior to the day of sale and also on the day of sale cause the publication of proclamation regarding

the time and place of the intended sale to be made by beat of drum in the village or town in which the defaulter resides and in such other place or places as the Officer may consider necessary to give due publicity to the sale.

(2) No sale shall take place on Sunday or other public holiday as so declared by the State Government, nor until after the expiration of a period of fifteen days from the date on which the notice was served or affixed in the manner prescribed in rule 98:

Provided that where the property seized is subject to speedy and natural decay or where the expenses of keeping in custody are likely to exceed its value, the sale officer may cause the same to be sold any time before the expiry of the said period of fifteen days, unless the amount due is sooner paid.

### **103. Manner of conducting sale :-**

(1) At the appointed time the property shall be put up in one or more lots, as the Sale Officer may consider advisable, and shall be disposed of to the highest bidder:

Provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons.

(2) Where the property is sold for more than the amount due the excess amount, after deducting the interest and the expenses of process and the other charges, shall be paid to the defaulter.

(3) The Recovery Officer or the Sale Officer may in his discretion adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than 7 days, a fresh proclamation under rule 102 shall be made unless the judgment debtor consents to waive it.

**104. Payment of property purchased :-**

The property shall be paid for in cash at the time of sale or at such time as the Sale Officer may appoint and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser falls in the payment of purchase money, the property shall be resold.

**105. Restoration of property by Court :-**

Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under these rules, has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the Sale Officer.

**106. Cancellation of order of attachment on payment of money :-**

[(If before the auction has commenced), the defaulter or any person acting on his behalf or any person claiming an interest in the property attached pays the full amount due including interest, allowances and other cost incurred in attaching the property the sale officer shall cancel the order of attachment and released the property forthwith.)

**107. Property exempt from attachment :-**

. [-The movable properties mentioned as exempt from attachment in the proviso to Section 60 of the Code of Civil Procedure 1908, shall not be liable to attachment or sale under these rule.)

**108. Attachment of salary or allowances of public servant :-**

Where the movable property to be attached is the salary or allowance or wages of a public officer or of a servant of a railway company or local authority or a firm or a company, the Recovery Officer may, on receiving a report from the Sale Officer, order that the amount shall, subject to the provisions of section 60 of the Code of Civil Procedure, 1908, be withheld from such salary or as the said Recovery Officer may direct and upon notice of the order, the officer or other persons whose duty is to disburse such salary or

allowance or wages shall withhold and remit to the Sale Officer, the amount due under the order or the monthly instalment as the case may be.

**109. Attachment of share or interest in movables :-**

Where the property to be attached consist of the share or interest of the defaulter in movable property belonging to him and another a s co-owners the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the sale or interest or charging it in any way.

**110. Attachment of negotiable instruments :-**

Where the property to be attached is negotiable instrument not deposited in a Court, nor in custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of Recovery Officer ordering the attachment and be held subject to his further orders.

**111. Attachment of property in custody of court or public servant :-**

Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer, requesting that such property and any interest or divided becoming payable thereon may be held subject to the further orders of the Recovery Officer issuing the notice:

Provided that where such property is in the custody of a court or Recovery Officer of another district, any question of title or priority

**112. Attachment of decree :-**

(1) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made by the order of the Registrar.

(2) Where the Registrar makes an order under sub-rule (1) he shall, on the application of the decree holder who has attached the decree, proceed to execute the attached decree and apply the net

proceeds in satisfaction of the decree sought to be executed.

(3) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in sub-rule (1), shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

(4) Where the property to be attached in execution of a decree is a decree other than a decree of the nature referred to in sub-rule (1), the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.

(5) The holder of a decree attached under this rule shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.

(6) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer making an order of attachment under this rule shall give notice of such order to the judgment debtor bound by the decree attached, and no payment or adjustment of the attached decree made by the judgment debtor in contravention of such order after receipt of notice thereof, either through the said Recovery Officer or otherwise, shall be recognised so long as the attachment remains in force.

### **113. Attachment of debt etc :-**

(1) Where the movable property to be attached is a debt due to the defaulter in question, or a share in the capital of a corporation or a deposit invested therein, or other movable property not in possession of the defaulter, except property deposited in or in the custody of, any civil court, the attachment shall be made by a written order signed by the Recovery Officer.

(2) In the case of a debt, such order shall prohibit the creditor from recovering the debt and debtor from payment thereof.

(3) In the case of a share of deposit, such order shall prohibit the person in whose name the share or the deposit may be standing, from transferring the share or deposit or receiving any dividend or interest thereon.

(4) In the case of any other movable property such order shall prohibit the person in possession of it from giving it over to the defaulter.

(5) A copy of such order shall be sent in the case of the debt to the debtor, in the case of the share of deposit to the proper officer of the corporation and in the case of the other movable property (except as aforesaid) to the person in possession of such property. As soon as the debt or the deposit matures the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable, the said Recovery Officer shall arrange for its sale through a broker. When the share is withdrawal its value shall be paid to the said Recovery Officer or to the party concerned as soon as it becomes payable. In the case of other movable property the person concerned shall place it in the hands of the said Recovery Officer as it becomes deliverable to the defaulter.

**114. Attachment before sale :-**

Immovable property shall not be sold in execution of decree unless such property has been previously attached:

Provided that where the decree has been obtained on the basis of a mortgage of such property it shall not be necessary to attach it.

**115. Application to state description of immovable property**

:-

Where it is proposed to recover the amount by sale of immovable property, the application presented under rule 96 shall contain a description, of the immovable property to be prescribed against, sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement or survey, the specification of such boundaries or numbers and the specification of the defaulters share or interest in such property to the best of the knowledge of the decree-holder and so far as he has been able to ascertain it.

**116. Mode of service of demand notice :-**

The demand notice to be prepared by the Recovery Officer under rule 96 shall contain the name of the defaulter, the amount due, including the expenses if any and the batta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment, the particulars of the properties to be attached and sold or to be sold without attachment as the case may be. After receiving the demand notice the Sale Officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family and his usual place of residence, or upon his authorised agent or, If such personal service is not possible, shall affix a copy thereof on some conspicuous part of the immovable property, about to be attached and sold without attachment, as the case may be:

Provided that where the Recovery Officer is satisfied that a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property, the demand notice shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

**117. Procedure when defaulter neglects to pay :-**

If the defaulter falls to pay the amount specified in the demand notice within the time allowed the Sale Officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immovable property noted in the application for execution.

**118. Mode of attachment :-**

Where attachment is required before sale, the Sale Officer shall, if possible, cause a notice of attachment to be served on the defaulter personally. Where personal service is not possible, the notice shall be affixed in some conspicuous part of the defaulters last known residence, if any. The fact of attachment shall also be proclaimed by beat of drum or other customary mode at some place or adjacent to such property and at such place or places as the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due with interest and expense be paid within the date therein mentioned the property will be brought to sale. A copy shall be sent to the decree holder. Where the Sale Officer so directs the attachment shall also be notified by public proclamation in the Official Gazette.

**119. Proclamation before sale :-**

Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the Taluka Office at least thirty days before the date fixed for the sale and [the Recovery Officer shall cause the publication of the proclamation regarding the time and place of intended sale to be made by beat of drum in the village on the day prior to a fortnight and on two consecutive days previous to the date fixed for sale and on the date of sale prior to the commencement of the sale]. Such proclamation shall where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the decree-holder and the defaulter. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible:-

(i) The property to be sold,

(ii) any encumbrance to which the property is liable,

(iii) the amount, for the recovery of which sale is ordered, and

(iv) every other matter which the Sale Officer considers material for a purchaser to know in order to judge the nature and value of the

property.

**120. Sale by public auction :-**

When any immovable property is sold under these rules the sale shall be subject to the prior encumbrances on the property, if any. The decree holder shall, when the amount for the realisation of which sale is held exceeds Rs. 100 furnish to the Sale Officer within such time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in a case falling under the proviso to rule 114 prior to the date of attachment of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer as the case may be. The sale shall be by public auction to the highest bidder, provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons and provided also that the Recovery Officer or the Sale Officer may in his discretion, adjourn the Sale to a specified day and hour, recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than 7 days, a fresh proclamation shall be made, unless the judgment debtor consents to waive it. The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer:

Provided that in cases where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village Patwari in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in the place, of an encumbrance certificate.

**121. Deposit by purchaser and resale on default :-**

A sum of money equal to 15 per cent of the price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase, and in default of such deposit shall forthwith be resold:

Provided that, where the decree-holder is the purchaser and is entitled to set off the purchase money under rule 125 the Sale Officer shall dispense with the requirements of this rule.

**122. Time for payment of balance of purchase money :-**

The remainder of the purchase money and the amount required for general stamp for the sale certificate shall be paid within fifteen days from the date of sale:

Provided that the time for payment of the cost of stamp may for good and sufficient reasons, be extended at the discretion of the Recovery Officer up to thirty days from the date of sale:

Provided further that in calculating the amounts to be paid under this rule, the purchaser shall have the advantage of any set off to which he may be entitled under rule 125.

**123. Procedure in default of payment :-**

In default of payment within the period mentioned in rule 122, the deposit, may, if the Recovery Officer, thinks fit after defraying the expenses of the sale be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or any part of the sum for which it may subsequently be sold.

**124. Notification of resale :-**

Every resale of immovable property in default of payment of the amounts mentioned in rule 122 within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

**125. Procedure when decree-holder purchases property :-**

Where a decree-holder purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter up satisfaction of the decree in whole or in part accordingly.

**126. Release of property on payment of amount due :-**

Where prior to the date fixed for a sale the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, and other expenses incurred in bringing the property to sale, including the expenses of attachment. If any, the Sale Officer shall forthwith release the property after cancelling where the property has been attached the order of attachment.

**127. Application to set aside sale on depositing amount due :-**

(1) Where immovable property has been sold by the Sale Officer any person either owning such property or holding any interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer for payment to the decree-holder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount less amount which may since the date of such proclamation have been received by the decree- holder.

(2) If such deposit and application are made within thirty days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser, the purchase money so far as it has been deposited together with the 5 per cent deposited by the applicant:

Provided that if more persons than one have made deposit and application under this sub-rule, the application of the first depositor to the officer authorised to set aside the sale, shall be accepted.

(3) If a person applies under rule 128 to set aside the sale of immovable property, he shall not be entitled to make an application under this sub-rule.

**128. Application to set -aside sale on ground of irregularity or fraud :-**

(1) At any time within thirty days from the date of the sale of immovable property, the decree-holder or any person entitled to share in ratable distribution of the assets or whose interests are effected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it:

Provided that no sale shall be set aside on the ground of irregularity or fraud unless the said Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(2) If the application is allowed, the said Recovery Officer shall set aside the sale and may direct a fresh one.

(3) On the expiration of thirty days from the date of sale if no application to have the sale set aside is made or if such application has been made and rejected, the said Recovery Officer shall make an order confirming the sale:

Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing set aside the sale.

(4) Whenever, the sale of any immovable property is not so

confirmed or is set aside the deposit or the purchase money, as the case may be, shall be returned to the purchaser.

(5) After the confirmation of any such sale, the said Recovery Officer shall grant a certificate of sale bearing his seal and signature to the purchaser.

(6) Such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all courts and tribunals in which it may be necessary to prove it and so to all courts and tribunals in which it may be necessary to prove it and no proof of the seal or signature of the Recovery, Officer shall be necessary unless the authority before whom is produced shall have reason to doubt its genuineness.

(7) An order made under this rule shall be final, and shall not be liable to be questioned in any suit or other legal proceedings.

### **129. Delivery of possession :-**

Where any lawful purchaser of immovable property is resisted and prevented by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property on his own account from obtaining possession of the immovable property purchased, any court of competent jurisdiction on application, and production of the certificate of sale provided for by rule 128 shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the immovable, property purchased has been decreed to the purchaser by a decision of the court.

### **130. Sale of immovable property to be proportionate to amount due :-**

It shall be lawful for the Sale Officer to sell the whole or any portion of the immovable property of a defaulter in discharge of money due:

Provided that so far as may be practicable, no larger section or

portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment. if any and sale.

**131. Private alienation of property after attachment to be void :-**

Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.-For the purpose of this rule, claim enforceable under the attachment includes claims for the ratable distribution of assets under rule 138.

**132. Process servers to be paid allowances :-**

Person employed in serving notice or in other process under these rules shall be entitled allowances at such rates as may from time to time be fixed by the Recovery Officer.

**133. Interest and other charges recoverable from sale proceeds :-**

Where the cost and charges incurred in connection with attachment and sale of movable property or the attachment and sale or sale without attachment of immovable property under these rules, exceeds the amount of the cost deposited by the decree-holder under rule 96. Such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by the defaulter, as the case may be, and the balance shall be made available to the decree-holder.

**134. Receipt for payment :-**

Every person making a payment towards any money due for the recovery of which application has been made under these rules shall be entitled to a receipt for the amount signed by the Sale

Officer or other officer empowered by the Recovery Officer in that behalf, such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made.

**135. Investigation of claims and objections to attachment of property :-**

(1) Where any claim is preferred to, or any objection is made in the attachment of, any property attached under these rules on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claim or objection and dispose of it on the merits:

Provided that no such investigation shall be made when the Sale Officer considers that the claim or objection is frivolous.

(2) Where the property to which the claim or objection relates has been advertised for sale, the Sale Officer may postpone the sale pending the investigation of the claim or objection.

(3) Where a claim or an objection is preferred to the party against whom an order is made may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute but, subject to the result of such suit, if any, order shall be conclusive.

**136. Deficiency of price on re-sale recoverable from defaulting purchaser :-**

(1) Any deficiency of price which may happen on a re-sale held under rule 124 by reason of the purchasers default and all expenses attending such re-sale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the decree holder or the defaulter be recoverable from the defaulting purchaser under provisions of these rules. The costs, if any, incidental to such recovery shall also be borne by the

defaulting purchaser.

(2) Where the property may on the second sale, sell for a higher price than the first sale, the defaulting purchaser at the sale, shall have no claim to the difference or increase.

**137. Determination of attachment :-**

Where any property has been attached in execution of a decree, but by reason of the decree- holders default the Recovery Officer is unable to proceed further with the application of execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application the attachment shall cease.

**138. Ratable distribution of assets :-**

(1) Where the Sale Officer attaches or has attached under these rules, any property not in the custody of any court, which is already under attachment made in execution of a decree of any court, such court shall receive and realise such property and shall determine claims thereto and any objections to the attachment thereof:

Provided that where the property is under attachment in the execution of decree of more courts than one, the court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the court of the highest grade, or where there is no difference in grade between such courts, the court under whose decree the property was first attached.

(2) Where assets are held by the Sale Officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decree against the same defaulting have been received from more than one decree-holder and the decree-holder have not obtained satisfaction, the assets after deducting the costs of realisation, shall be ratably distributed by the Sale Officer among all such decree-holders in the manner provided in section 73 of the

Code of Civil Procedure. 1908.

**139. Death of defaulter before execution :-**

Where a defaulter dies before the decree has been fully satisfied an application under rule 96 may be made against the legal representatives of the deceased and thereupon all the provisions of these rules shall, save as otherwise provided in this rule, apply as if such legal representatives were the defaulter where decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Recovery Officer executing the decree may, of his own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as he thinks fit.

**140. Agreement under section 158 :-**

An agreement under section 158 shall be in Form J.

**141. Repeal and savings :-**

(1) The Bombay Co-operative Societies Rules, 1937 are hereby repealed.

(2) Notwithstanding the said repeal anything done or any action taken under any of the provisions of the rule so repealed shall, in so far as it is not inconsistent with the provisions of these rules be deemed to have been done or taken under the corresponding provisions of these rules.

**SCHEDULE 1**

Scales of audit fees for Co-operative Societies

(See Rule 38A)

Scales of audit fees for Co-operative Societies			
Sr.	Type of Societies	Scale of Audit Fees	

No.	Type of Societies	State of Audit Fees	
1(A)	Agricultural Credit Co-operative Societies:	Working Capital.	
	(1) Service Credit Co-op. Societies.	Audit fees Will be assessed on the working capital of the societies at the end of the last co-operative year: .	
	(2) Multi-purpose Credit Co-operative Societies.	(1) For first Rs. 2/- lakhs of working capital. (2) For next Rs. 3/- lakhs of working capital	25 paise per cent 20 paise percent
	(3) Agricultural Credit Co-operative Societies.	(3) For next Rs. 5/-lakhs of working capital (4) For working capital exceeding Rs. 10 lakhs. .	15 paise per cent 10 paise per cent.
	(4) Farmers Service Societies/Large Sized Agricultural Multipurpose societies.	Turn Over: (1) For the first Rs. 5/-lakhs of turn over. (2) For next Rs. 5/-lakhs of turn over.	5 paise per cent 3 paise per cent
	Other Co-op. societies doing similar business for which, no independent provision made for assessment of audit fees.	(3) For next Rs. 40/- lakhs of turn over (4) For turn over exceeding Rs. 50/-lakhs	2 paise per cent 1 paise per cent
		If the society have undertaken any other kind of activities, such as processing etc. the audit fees for the such activities will be charged at the rate prescribed for the processing societies doing such work. The minimum audit fee chargeable will be Rs. 100/-and the maximum of Rs. 500/- for all types of activities.	
1(B)	Agricultural Credit Co-operative Societies	(A) Working Capital:	

	(1) District Co-op. Banks.	(1) For first Rs. 50/- lakhs of working capital	25 paise per cent
	(2) State Co-op. Bank.	(2) For next Rs. 150/-lakhs of working capital	20 paise per cent
	(3) Any other Central Co-op. Institutions doing credit business.	(3) For next Rs. 800/- lakhs of working capital	15 paise per cent
		(4) Addl. working capital over Rs. 10/- crore	10 paise per cent
		For every branch of the Bank in addition to the Head Office, an audit fee of Rs. 750/- would be charged.	
		Note.-Minimum fee chargeable will be Rs.2,000/-	
1(C)	Agricultural Credit Cooperative Societies	(A) Working Capital:	
	(1) Gujarat State Co-operative Land Development Bank.	(1) For the first Rs. 50/- lakhs of working capital	20 paise per cent
		(2) For next Rs. 150/-lakhs of working capital	15 paise per cent
		(3) For next Rs.800/- lakhs of working capital	10 paise per cent
		(4) Additional working capital over Rs. 10 crores.	6 paise per cent
		For every branch in addition to head office of Rs. 750/- will be charged.	
2 (A)	Agricultural Non-Credit Co-op. Societies:	Turn-over:	
	Societies other than Sale Societies (at least three years standing)	(1) For first Rs. 2/- lakh of turnover	10 paise per cent
	(1) Agricultural Farming Societies.	(2) For next Rs. 3/- lakhs of turnover.	8 paise per cent
	(2) Poultry Co-op. Socys.	(3) For next Rs. 5/-lakhs of turnover	6 paise per cent

	(3) Co-op. Lift Irrigation Societies.	(4) For next turn over exceeding Rs. 10/- lakhs	4 paise per cent
	(4) In addition, any other societies doing such business for which audit fees have not been prescribed independently.	Note-(1) Turnover means the total of receipts during year Minus opening balance and amount drawn form the Banks.	
		(2) If the societies have undertaken any types of special activities, audit fee for the said activities would be levied for such types of societies.	
		Minimum audit fee of Rs. 50/- and maximum audit fee of Rs. 2000/- respectively will be chargeable.	
2(B)	Agricultural Non-Credit Co-op. Societies:	Turn-over:	
	(1) Taluka Purchase and Sale Unions.	(1) For the first Rs. 5/- lakhs of turnover.	25 paise per cent
	(2) District Co-op. Purchase and Sale Unions	(2) For next Rs. 10/- lakhs of turnover.	20 paise per cent
	(3) State Co-op. Marketing Federation.	(3) For next Rs. 35/-lakhs of turnover	15 paise per cent
	(4) Fruits and Vegetable Growers and Sale Socys. and other societies doing such business.	(4) For next Rs. 50/-lakhs of turnover (5) For turn over exceeding Rs. 10 crores	10 paise per cent 5 paise per cent
		Audit fee for every branch or depot will be chargeable at the above rates, minimum and maximum audit fees chargeable will be for each branch/depot to the tune of Rs. 100/- and	

		Rs. 1,000/- respectively, but the turnover of every branch/depot would be deducted from	
		the turnover of Head Office for charging of the	
		audit fees. The rates of minimum audit fees	
		chargeable will be as follows:-	
		Sr. No. Particulars	Audit fee
			chargeable
		1. Taluka Co-op. Purchase and Sales Union	2500
		2. District Go-op. Purchase and Sales Union	5.000
		3. State Co-op. Marketing Federation	15,000
		Note: Turnover means sales.	
2(C)	Agricultural Non-Credit Co-op. Societies	Turn-over:	
	(1) Primary Milk Producers Co-op.	(1) For the first Rs. 3/-lakhs of turn over.	25 paise per cent
	Socys. (3 years old).	(2) For next Rs. 2/-lakhs of turn over	20 paise per cent
	(2) District Co-op Milk Producers	(3) For next Rs. 5/-lakhs of turn over	15 paise per cent
	Union.	(4) For next Rs. 90/-lakhs of turn over	10 paise per cent
	(3) Gujarat State Co-op. Milk	(5) For the turn over. in excess of Rs. 1/-crore	5 paise per cent.
	Marketing Federation, and other		
	societies doing such type of		
	business.		
		Sr. Particulars Minimum Maximum	
		No. audit fee audit fee	
		1. Primary Milk Producers Co- operative societies	250 5.000
		Note: Turn over means total amount	
		of sales amount.	
2(D)	Agricultural Non-Credit Co-op. Societies	Sugarcane crushing:	
	(1) Co-op. Sugar Factories	(1) Till the period, the societies/factories	

	Federations and any other societies doing such business.	start crushing of sugarcane, the audit fees at the flat rate of Rs. 2,000/- peryear will be charged.	
		(2) From the accounting year, the societies/factories start the crushing of sugarcane, audit fee would be charged on the average flat rate of expenditure for the total period spent for audit. If the audit fees chargeable at this rate, an amount less than Rs. 2000/- minimum audit fee will be charged.	
		Note: Audit fees should be recovered from the period spent for audit at that rate of expenditure or the whole year, for their audit staff.	
2(E)	Agricultural Non-Credit Co-op. Societies:	Turn-over :	
	(1) Cotton Sale Co-op. Socys.	(1) For the first Rs. 10/-lakhs of turn over	15 paise per cent
	(2) Cotton Ginning and pressing Co-op. Societies.	(2) For the next Rs. 10/- lakhs of turn over	10 paise per cent
	(3) Co-op. Rice Mills.	(3) For the next Rs. 80/- lakhs of turn over.	8 paise per cent
	(4) Co-op. Oil Mills.	(4) For the turn over exceeding Rs. 1 crore.	5 paise per cent.
	(5) Cotton Marketing Federation.	Note.-In case of Ginning and Pressing	
	(6) Oil Seeds Federation.	Societies, Rice Mills, Oil Mills, Audit Fee at	
	(7) Rice Mills Federation and other societies doing such type of business.	the rate of 2 % will be charged on receipt of the processing charges.	

	(8) Primary Oil Seeds Coop. Societies		
(3)	Non-Agricultural Credit Co-op. Societies:	Working Capital:	
	(1) Urban Credit Co-operative Societies.	(1) For first Rs. 10/-lakhs of working capital.	20 paise per cent
	(2) Salary Earners Employees Co-op. Credit Societies.	(2) For next Rs. 10/-lakhs of working capital.	15 paise per cent
	(3) Factory Workers Co-operative Credit Societies.	(3) For next Rs. 50/-lakhs of working capital.	12 paise per cent
	(4) Urban Co-operative Banks.	(4) For turn over exceeding Rs. 1/- crore	10 paise per cent
	(5) Gujarat State Co-operative Housing Finance Societies, and other societies doing such type of business for which audit fees rate have not been prescribed independently.	Note: Urban Co-op. Credit Societies and Salary Earners Employees Co-op. Credit Societies which have undertaken distribution activities, they would be required to pay audit fees for the distribution activities at the rate, and it fee will be charged for consumers co-op. stores for such turn over subject to a minimum and maximum as laid down below:-	
		Sr. Particulars	Minimum Maximum
		No. audit fee	audit fee
		Rs.	Rs.
		(1) Urban Co-op. Credit Societies	50 3,000
		(2) Salary Earners Employees Co-op. Credit Societies	50 3,000
		(3) Factory Workers Co-op. Credit Societies	50 3,000
		Note.-Urban Cooperative Banks: For every branch in the State Rs. 750/- will be charged as audit fees; for every branch outside the State an audit fee of Rs. 1,150/-will be charged.	
4	Non-Agricultural	(A) Working Capital	

(A)	Non-Credit Co-op. Societies		
	(1) Primary Fisheries Co-op. Societies	(1) For the first Rs. 20,000/- working capital	25 paise per cent
	(2) Gujarat State Central Co-op. Fisheries Association, and other	(2) For the working capital exceeding Rs. 20,000/-	12 paise per cent.
	such types of non-Agricultural Non-Credit Societies for which,	(B) Turn-over:	
	audit fees rates not prescribed independently.	(1) For first Rs. 3/-lakhs of turn over	25 paise per cent
		(2) For next Rs. 2/-lakhs of turn over	20 paise per cent
		(3) For next Rs. 5/-lakhs of turn over	15 paise per cent
		(4) For next Rs. 90/- lakhs of turn over	10 paise per cent
		(5) For turnover exceeding Rs. 1/- crore	5 paise per cent
		Sr. Particulars Minimum Maximum	
		No. audit fee audit fee	
		(1) Primary Fisheries Co-operative societies 250 5,000	
		Note: Turn over means total sales amount.	
4(B)	Non-Agricultural Non-Credit Co-op. Societies	Working Capital:	
	(1) Labourers Co-op. Societies and any other such types of societies doing such business.	(1) For the first Rs. 1/-lakh of working capital.	25 paise per cent
		(2) For working capital exceeding Rs. 1/- lakh	20 paise per cent
		Turn-over:	
		(1) For the first Rs. 5/-lakhs of turn-over.	10 paise per cent
		(2) For turn over exceeding Rs. 5/- lakhs.	8 paise per cent
		Note .-In case of Labourers Co-op. Societies and any other societies doing such type of business, turn over means the total amount	

		of contract charges received during the year.	
		Total amount of audit fees chargeable on working capital and	
		turn over will be subject to a minimum of Rs. 50/- (Rupees fifty)	
		and maximum of Rs. 10,000/-	
4(C)	Non-Agricultural Non-Credit Co-op.	Working Capital:	
	Societies:		
	(1) Forest Labourers Co-op.	(1) For first Rs. 20,000/- of working capital	25 paise per cent
	Societies.	(2) For working capital exceeding Rs.	12 paise per cent
		20000/-	
		Turn-over: At rate of 50 paise (Fifty paise) per cent on sale.	
		Note. -Total audit fee would be chargeable on working capital and turn over, should be	
		subject to a minimum of Rs. 100/- and	
		maximum of Rs. 4,000/-.	
4(D)	Non-Agricultural Non-Credit Co-op.	(A) Turnover:	
	Societies:		
	(1) Primary Consumers Co-op.	(1) For the first Rs. 2/- lakhs of turn over	20 paise per cent
	Societies.	(2) For the next Rs. 3/- lakhs of turn over	15 paise per cent
	(2) Central Co-op. Consumers	(3) For next Rs. 45 lakhs of turn over	10 paise per cent
	Stores.	(4) For next Rs. 50/- lakhs of turn over	5 paise per cent
	(3) State Co-op. Consumers Federation	Subject to minimum rates stated as below:-	
	and any other societies doing	(1) Primary Co-operative Stores	Rs. 100/-
	such type of business.		
		(2) Central Co-operative Stores	Rs. 1,000/-
		(3) State co-op. Consumers Federation	Rs. 1,000
		Note: Turn over means the total amount of sales during the year.	
4(E)	Non-Agricultural Non-Credit Co-op.	Turn-over:	
	Societies:		

	Co-operative Housing Societies.	(1) For first Rs. 10/-lakhs of turn over	8 paise per cent
		(2) For next Rs. 40/- lakhs of turn over	5 paise per cent
		(3) For next Rs. 50/- lakhs of turn over	2 paise per cent
		Note: When the society doing construction work turn over means	
		total of debit side of the receipt and payment and after that,	
		total of credit side. The amount credited into the Bank or	
		withdrawn from the bank should not be included in the said	
		total respectively. The minimum audit fees chargeable will be	
		Rs. 100/- (rupees one hundred only) and maximum of Rs.	
		5,000/- respectively.	
5 (A)	Other Types of Co-op. Societies:		
	(1) District Co-operative Unions.	District Co-operative Unions and State co-operative Union and	
	(2) State Co-operative Union other societies	other societies doing educational work are exempted from the	
	doing educational work (Udaybhansinhji	audit fees.	
	Co-op. Training College, Gandhinagar)		
5(B)	Federal Societies:		
	Federation of Co-operative Societies:	The Federation of any class of Co-op. societies, which are doing the work	
		of co-ordination and supervision etc. other affiliated societies and which	
		do not undertake any profit earning business should be exempted from	
		the payment of audit fees.	
		Note: The Federation of any class or classes of Co-op. societies/	
		institutions which in addition to the normal work of co-ordination and	
		supervision have undertaken business which is likely to yield	

		profit should be levied audit fees in respect of such business done by them, as	
		per scale of audit fees laid down for the class of the societies affiliated to	
		them, subject to the condition that collection of subscription from the	
		members, supply of printing forms, standard etc. and such other	
		activities undertaken by any federation shall not be charged as activities,	
		for the purpose of levy of audit fees.	
5(C)	Societies in Liquidation.	All Co-op. Societies under liquidation shall pay audit fees at the rate of	
		25 paise per cent on turn over.	
		Note: Turn over means total of receipts and payments Minus	
		opening balance and closing balance and balances in the Bank: in the case of	
		societies in which, liquidation activities to be going on, but; in the case	
		of societies, in which liquidation proceedings have been completed. The	
		entries passed on for closing the accounts should be included in the turn	
		over.	
		Further provided that any activity undertaken by the societies in	
		liquidation for its beneficial liquidation audit fees should not be charged on	
		its activities at the rate of audit fee for such types of societies.]	

**SCHEDULE 2**  
SCHEDULE

(See rule 31)

Sr. No.	Category of the society	Rate of contribution to the Education Fund
(1)	(2)	(3)
1.	Gujarat State Co-operate Bank Ltd.	0.2% of the income of the Society subject to the condition that
		maximum amount of contribution shall be Rs. 5 lacs.
2.	Gujarat State Co-operate Land	0.2% of the income of the Society subject to the condition that the
	Development Bank Ltd.	maximum amount of the contribution shall be Rs. 3 lacs.
3.	Gujarat State Co-operate Housing	0.3% of the income of the Society subject to the condition that the
	Finance Society Ltd.	maximum amount of the contribution shall be Rs. 4 lacs.
4.	Gujarat State Co-operate Marketing	0.2% of the income of the Society subject to the condition that the
	Federation Ltd.	maximum amount of the contribution shall be Rs. 5 lacs.
5.	Gujarat State Co-operate Cotton	0.2% of the income of the Society subject to the condition that the
	Federation Ltd.	maximum amount of the contribution shall be Rs. 3 lacs.
6.	Gujarat State Co-operate Milk	0.2% of the income of the Society subject to the condition that the
	Marketing Federation Ltd.	maximum amount of the contribution shall be Rs. 5 lacs.
7.	Gujarat State Co-operative Oil Seeds	0.3% of the income of the Society subject to the condition that the
	Growers Federation Ltd.	minimum amount of contribution shall be Rs. 10,000 and the
		maximum amount of contribution shall be Rs. 1,50,000/-
8.	Gujarat State Co-operative Oil	0.3% of the income of the Society subject to the condition that the
	Industry Ltd.	minimum amount of contribution shall be Rs. 10,000/- and the
		maximum amount of contribution shall be Rs. 1,50,000/-.
9.	Gujarat State Co-operative	0.3% of the income of the Society subject to the condition that the
	Consumers Federation Ltd.	minimum amount of contribution shall be Rs. 10,000/- and the
		maximum amount of contribution shall be Rs. 25,000/-.
10.	Gujarat State Co-operative Industrial	0.3% of the income of the Society subject to the condition that the
	Federation Ltd.	minimum amount of contribution shall be

		Rs. 10,000/- and the maximum amount of contribution shall be Rs. 25,000/-.
11.	Gujarat State Co-operative Industrial Bank Ltd.	0.3% of the income of the Society subject to the condition that the minimum amount of contribution shall be Rs. 10,000/- and the maximum amount of contribution shall be Rs. 25,000/-.
12.	Gujarat State Co-operative Mitha Utpadak Sahakari Sangh Ltd.	% of the income of the Society subject to the condition that the minimum amount of contribution shall be Rs. 10,000/- and the maximum amount of contribution shall be Rs. 25,000/-.
13.	Gujarat State Co-operative Fruit and Vegetable Marketing Federation Ltd.	0.3% of the income of the Society subject to the condition that the minimum amount of contribution shall be Rs. 10,000/- and the maximum amount of contribution shall be Rs. 20,000/-.
14.	Gujarat State Co-operative Poultry Farmers Federation Ltd.	% of the income of the Society subject to the condition that the minimum amount of contribution shall be Rs. 10,000/- and the maximum amount of contribution shall be Rs. 20,000/-.
15.	State Level Co-operative Societies or Co-operative Federations not mentioned at Sr. Nos. 1 to 14.	% of the income of the Society subject to the condition that the minimum amount of contribution shall be Rs. 10,000/- and the maximum amount of contribution shall be Rs. 20,000/-.

<b>Part II</b>		
Sr. No.	Category of the society	Rate of contribution to the Education Fund
(1)	(2)	(3)
1.	Co-operative Sugar Factories.	0.5% of the income of the Society subject to the condition that the minimum amount of contribution shall be Rs. 25,000/- and the maximum amount of contribution shall be Rs. 2 lakhs.
2.	District Co-operative Banks.	% of the income of the Society subject to the condition that (a) the maximum amount of contribution shall be Rs. 75,000/-, where the

		income of the Society does not exceed Rs. 3 crores; and
		(b) the maximum amount of contribution shall be Rs. 1,25,000/- where
		the income exceeds Rs. 3 crores.
3.	District Co-operative Purchase and	0.3% of the income of the Society subject to the condition that the
	Sales Unions.	minimum amount of contribution shall be Rs. 2,000/- and the
		maximum amount of contribution shall be Rs. 20,000/-.
4.	Central Co-operative Consumers	% of the income of the Society subject to the condition that the
	Stores.	maximum amount of contribution shall be Rs. 10,000/-.
5.	District Co-operative Milk Producers	0.1% of the income of the Society subject to the condition that the
	Unions.	minimum amount of contribution shall be Rs. 20,000/- and the
		maximum amount of contribution shall be Rs. 75,000/-.
6.	Co-operative Spinning Mills.	% of the income of the Society subject to the condition that the
		maximum amount of contribution shall be Rs. 10,000/-.
7.	Urban Co-operative Banks.	% of the income of the Society subject to the condition,
		(a) that the maximum amount of contribution shall be Rs. 10,000/-
		where the income of the Society does not exceed Rs. 50 lakhs.
		(b) that the maximum amount of contribution shall be Rs. 30,000/-
		where the income of the Society exceeds Rs. 50 lakhs, but does not
		exceed Rs. 1 crore, and
		(c) that the maximum amount of contribution shall be Rs. 75,000/-
		where the income of the Society exceeds Rs. 1 crore.
8.	Taluka Purchase and Sales Unions.	% of the income of the Society subject to the condition that the
		maximum amount of contribution shall be Rs. 5000/-
9.	District Industrial Cooperative Bank.	% of the income of the Society subject to the condition that the
		maximum amount of contribution shall be Rs. 5000/-
10.	Co-operative Processing	% of the income of the Society subject to

	Societies.	the condition that the maximum amount of contribution shall be Rs. 2000/-
11.	Primary Marketing Societies.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 1000/-
12.	District Industrial Co-operative Association.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 500/-
13.	Primary Consumers Co-operative Societies.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 100/-
14.	Primary Agricultural Credit Societies.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 100/-
15.	Farmers Service Societies/(FSS) Large Area Multi-purpose Societies (LAMPS)	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 75/-
16.	Urban Credit/Salary Earners Societies.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 2000/-
17.	Primary Milk Societies	0.1% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 200/-
18.	Forest Labourers Co-operative Societies.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 100/-
19.	Labour Contract Societies.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 100/-
20.	Farming and Lift Irrigation Co-operatives.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 100/-
21.	Primary Industrial Cooperatives.	% of the income of the Society subject to the condition that the maximum amount of contribution shall be Rs. 100/-
22.	(a) Poultry Farmers	% of the income of the Society subject to

	Societies	the condition that the
	(b) Wool Producers Societies	maximum amount of contribution shall be Rs. 100/-
	(c) Live Stock Societies	
	(d) Cattle Grading Societies.	
23.	Primary Fisheries Cooperatives.	% of the income of the Society subject to the condition that the
		maximum amount of contribution shall be Rs. 100/-
24.	Housing Societies.	% of the income of the Society subject to the condition that the
		maximum amount of contribution shall be Rs. 250/-
25.	Primary Oil Seeds Growers	% of the income of the Society subject to the condition that the
	Cooperatives.	maximum amount of contribution shall be Rs. 500/-
26.	The Primary Co-operative Societies.	% of the income of the Society subject to the condition that the
		maximum amount of contribution shall be Rs. 250/-

Explanation-In this Schedule,- (a) the expressin "Income" in respect of a "Cooperative Bank" means:- (1) Interest and discount of loan, (2) Interest on investment in Government and trustee securities, (3) Commission exchange, (4) Income from rent, (5) Subsidies and donation, (6) Income from non-banking assets and profit from sale of or dealing with non-banking assets. (7) Other receipt. (b) the expression "income" in respect of a Society other than a Cooperative bank means the income specified in the credit side of Profit and Loss accounts of the Society and that in case of the non trading Cooperative Society, income side of Income and Expenditure accounts of the Society.)