

Kerala Co-Operative Societies Act, 1969

21 of 1969

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER 2 :- REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar
4. Societies which may be registered
5. Registration with limited liability only
6. Application for registration of co-operative societies
7. Registration
8. Registration Certificate
9. Co-operative Societies to be bodies corporate
- 9A. Publication of name by a co-operative society
10. Change of Name of society
11. Change of liability
12. Amendment of bye-laws of a Society
13. When amendment of bye-laws come into force
- 13A. Subject matter of bye-laws
14. Amalgamation, transfer of assets and liabilities and division of society
- 14A. Promotion of subsidiary institutions for the economic welfare of members
- 14B. Partnership of co-operative societies
15. Cancellation of registration certificates of societies in certain cases

CHAPTER 3 :- MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. Persons who may become members
- 16A. Ensuring participation of members in the management of societies
17. Expulsion of members
18. Nominal or associate members
19. Member not to exercise rights till due payment made
- 19A. Member participation
- 19B. Right of a member to get information
20. Votes of members

21. Manner of exercising vote
22. Restrictions of holding of shares
23. Restrictions on transfer of share or interests
24. Restriction on withdrawal of shares
25. Transfer of interest on death of members
26. Liabilities of past member or of estate of deceased member

CHAPTER 4 :- MANAGEMENT OF CO-OPERATIVE SOCIETIES

27. Final authority in a Society
28. Appointment of Committee
- 28A. Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the Committee
- 28 A A . Reservation for persons with banking experience or professional qualification in the committees of Urban Co-operative Banks
- 28AB. Election and Removal of President, Vice President, etc
- 28B. State Co-operative Election Commission
29. Annual general body meeting
30. Special general body meetings
31. Nominees of Government on committee of an apex or a central society
32. Supersession of Committee
33. Appointment of new committee or Administrator on failure to constitute committee, etc
34. Securing possession of Records etc

CHAPTER 5 :- PRIVILEGES OF CO-OPERATIVE SOCIETIES

35. First charge of society on certain assets
36. Charge on land owned or held by members borrowing loans from certain societies
- 36A. Charge on movable or immovable property of borrower by creating Gehan
37. Deduction from salary to meet societys claim in certain cases
38. Charges and set off in respect of shares or interest of members in the capital of a society
39. Shares or interest or reserve fund not liable to attachment
40. Exemption from certain taxes, fees and duties
41. Exemption from compulsory registration of instruments

CHAPTER 6 :- STATE AID TO CO-OPERATIVE SOCIETIES

42. Direct partnership of Government in societies
43. Indirect partnership of Government in societies
44. Principal State Partnership Fund
45. Subsidiary State Partnership Fund
46. Approval of Government for purchase of shares
47. Liability to be limited in respect of certain shares
48. Restrictions on amount of dividend
49. Indemnity of apex and central societies

- 50. Disposal of share capital and dividend, etc
- 51. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society
- 52. Agreement by Government and apex societies
- 53. Order forms of State aid to societies
- 54. Provisions of S.43 to 52 to over ride other laws

CHAPTER 7 :- PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

- 55. Funds not to be divided
- 56. Disposal of net profit
- 56A. Disposal of non-banking assets
- 57. Investment of funds A society may invest or deposit its funds
- 57A. The Co-operative Development and Welfare Fund
- 57B. Deposit Guarantee Scheme
- 57C. Consortium Lending Scheme
- 57D. Co-operative Risk Fund Scheme
- 58. Restrictions on borrowing
- 59. Restrictions on loans
- 60. Restrictions on other transactions with members
- 61. Provident Fund
- 62. Gratuity

CHAPTER 8 :- AUDIT, INQUIRY, INSPECTION AND SURCHARGE

- 63. Audit
- 64. Communication of defects in audit to societies
- 65. Inquiry by Registrar
- 66. Supervision and Inspection
- 66A. Powers of Registrar to give directions
- 66B. Suspension of Officers
- 66C. Submission of returns to the Registrar
- 67. Cost of inquiry or inspection
- 68. Surcharge
- 68A. Vigilance Officer

CHAPTER 9 :- SETTLEMENT OF DISPUTES

- 69. Disputes to be referred to Registrar
- 69A. Co-operative Ombudsman
- 70. Decision and award on disputes
- 70A. Co-operative Arbitration Courts
- 70B. Provisions as to pending proceedings

CHAPTER 10 :- WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

- 71. Winding up of Societies
- 72. Liquidator
- 73. Powers of liquidator

74. Cancellation of Registration of a Society

CHAPTER 10A :- INSURED CO-OPERATIVE BANKS

74A. Insured co-operative banks

CHAPTER 10B :-SPECIALPROVISIONS RELATING TO CO-OPERATIVE SOCIETIES, THEIR OFFICE BEARERS AND EMPLOYEES

74B. Opening of Branches

74C. Inspection in certain Co-operatives

74D. Duty of Chief Executive to supply confirmation certificate

74E. Manner of acceptance of deposits and lending of money

74F. Write off of loans

74G. Library in Co-operative Societies

CHAPTER 11 :-EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

75. Enforcement of charge

76. Execution of orders, etc

77. Registrar or person empowered by him to be a civil court for certain purposes

78. Attachment of property before award or order

79. Recovery of sums due to Government

CHAPTER 12 :- ESTABLISHMENT

80. Officers, etc., of Co-operative Societies

80A. Pension Scheme

80B. Co-operative Service Examination Board

80C. The Kerala Co-operative Employees Welfare Scheme

80D. The Kerala State Co-operative Employees Welfare Board

80E. Transfer of assets and control of the existing Kerala State Co-operative Employees Welfare Board

CHAPTER 13 :- APPEALS REVISION AND REVIEW

81. Tribunal

81A. Provisions as to certain pending Proceedings

82. Appeals to Tribunal

83. Appeals to other authorities

84. Revision by Tribunal

85. Review of orders by Tribunal

86. Interlocutory orders by Tribunal

87. Powers of revision of Registrar and Government

CHAPTER 14 :- CO-OPERATIVE UNIONS

88. Establishment of Circle Co-operative Unions

88A. Appointment of officer on default or negligence of members of a Circle Co-operative Union

- 88B. Appointment of officer on failure to constitute the Circle Co-operative Union
- 88C. Removal of Chairman
- 89. Establishment of State Co-operative Union
- 89A. Appointment of officer or committee of default on negligence of the managing committee of the State Co-operative Union
- 89B. Appointment of officers or committee on failure to constitute the managing committee of the State Co-operative Union
- 89C. Removal of Chairman, Vice Chairman etc
- 90. Co-operative Societies to affiliate to State Co-operative Union
- 91. Functions of State Co-operative Union
- 92. Assets, liabilities etc., of Regional Union
- 93. Assets, liabilities etc., of State Union

CHAPTER 15 :- OFFENCES AND PENALTIES

- 94. Offences
- 95. Cognizance of offences
- 95A. Offences by Companies

CHAPTER 16 :- MISCELLANEOUS

- 96. Address of a society
- 97. Copy of Act, rules and bye-laws to be open to inspection
- 98. Tribunal, Registrar, etc, to have certain powers of civil court
- 99. Orders to be pronounced
- 100. Bar of jurisdiction of courts
- 101. Power to exempt societies
- 102. Register of members
- 103. Proof of entries in societys books
- 104. Service of notice
- 105. Acts of societies not to be invalidated by certain defects
- 106. Immunity for acts done or purporting to be done in good faith
- 107. Companies Act, 1956, not to apply
- 108. Duties of Police Officer
- 109. Power to make rules
- 110. Repeal and savings

SCHEDULE 1 :- THE SCHEDULE

Kerala Co-Operative Societies Act, 1969

21 of 1969

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

WHEREAS with a view to providing for the orderly development of the co-operative movement in the State of Kerala in accordance with the relevant directive principles of State policy enunciated in the Constitution of India, it is expedient to consolidate, amend and

unify the law relating to co-operative societies in that State;
Be it enacted in the Nineteenth Year of the Republic of India as follows.--

* Date of commencement: 15-5-1969 by Notification No. 24314/C3/ 69 AD dated 12-5-1969, published in K.G.Ex. No. 102 dated 11-4-1969.

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Kerala Co-operative Societies Act, 1969.

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

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the

2. Definitions :-

In this Act, unless the context otherwise requires-

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

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

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

¹[(d) "central society" means a society having Jurisdiction over one or more Revenue Districts but not the whole of the State as its area of operation, and having as its members only other societies and declared as such by the Registrar or the Government].

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

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

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

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

- (ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;
- (h) "co-operative society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;
- (i) "dispute" means any matter touching the business, constitution, establishments or management of a society capable of being the subject of litigation and includes a claim in respect of any sum payable to or by a society, whether such claim be admitted or not;
- (j) "financing bank" means a co-operative society having as its members only other co-operative societies and the main object of which is to raise money and lend the sum to its members;
- (k) "general body meeting" means a meeting of the members who are entitled to vote in the affairs of the society;
- (l) "Member" means a person joining in the application for the registration of a co-operative society or a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal or associate member;
- (m) "nominal or associate member" means a member who possess only such privileges and rights of a member who is subject only to such liabilities of a member as may be specified in the bye-laws;
- (n) "Officer" means the President, Vice President, Chairman, Vice Chairman, Secretary, Manager, member of committee or Treasurer and includes a liquidator, administrator and any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;
- (o) "prescribed" means prescribed by rules made under this Act;
- ²[(oa) "Primary credit society" means a society other than an apex or central society which has its principal object the raising of funds to be lent to its members].
- (p) "Registrar" means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom all or any of the powers of the Registrar under this Act are conferred;
- (q) "rules" means the rules made under this Act;
- ³[(qa) "Scheduled Castes" means the Scheduled Castes in relation to the State of Kerala as specified in the Constitution (Scheduled Castes) Order, 1950;
- (qb) "Scheduled Tribes" means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled

Tribes) Order, 1950];

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

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

(t) "Tribunal" means the Tribunal constituted under section 8;

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

1. Substituted by Act 19 of 1987 Published in K.G.Ex.No.711 dt.25-8-1987.

2. Inserted by Act 29 of 1986 published in K.G.Ex.No.1078 dt.28-11-1986.

CHAPTER 2 REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar :-

(1) The Government may appoint a person to be the Registrar of Cooperative Societies for the State.

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

4. Societies which may be registered :-

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

5. Registration with limited liability only :-

(1) A co-operative society shall be registered only with limited liability:

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

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

with limited liability.

6. Application for registration of co-operative societies :-

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

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

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

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

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

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

7. Registration :-

(1) If the Registrar is satisfied-

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

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

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

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

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

he may register the society and its bye-laws.

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

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

8. Registration Certificate :-

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

9. Co-operative Societies to be bodies corporate :-

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

9A. Publication of name by a co-operative society :-

Every co-operative society,-

(a) shall paint or affix its name, register number and the address of its registered office and keep the same painted or affixed in conspicuous position, in letters easily legible to members in vernacular language and in English language, on the outside of every office or place in which its business is carried on;

(b) shall have its name engraved in legible characters on its seal with common emblem; and

(c) shall have its name and address of its registered office, mentioned in legible characters in all its business letters in all its bill heads and letter paper, and in all its notices and other official publications, and also have its name so mentioned in all bills of exchange, hundies, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the co-operative society, and in all bills of parcels, invoices, receipts and letters of credit of the co-operative society.

10. Change of Name of society :-

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

(2) Where a society changes its name, the Registrar shall enter the

new name in the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

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

11. Change of liability :-

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

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

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

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

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

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

12. Amendment of bye-laws of a Society :-

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

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

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

(a) The State Co-operative Union if the bye-laws to be amended are that of an apex society or a central society; or
(b) the circle co-operative union if the bye-laws that are to be amended are that of any other society; and
(c) the financing bank if the society is indebted to the financing bank.

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

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

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

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

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

13. When amendment of bye-laws come into force :-

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

13A. Subject matter of bye-laws :-

Every co-operative society shall make its bye-laws consistent with

the provisions of this Act and Rules and no provision in the bye-laws of a co-operative society shall be contrary to the provisions of the Act and the Rules.

14. Amalgamation, transfer of assets and liabilities and division of society :-

(1) A society may, with the previous approval of the Registrar and by a resolution passed by a two thirds majority of the members present and voting at a general body meeting of the society;

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

(b) divide itself into two or more societies.

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

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

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

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

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

(a) the assent thereto of all the members and creditors has been given or deemed to have been given; or (b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein have been met in full.

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

(8) (i) Where, in the opinion of the Registrar, the amalgamation of

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

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

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

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

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

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

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

(9) (i) Where, in the opinion of the Registrar it is desirable for increasing the usefulness of a society by restricting the area of its operation, he may, after consulting in the manner prescribed, the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order call upon the society to divide

itself into two or more societies within such time as may be specified in the order in accordance with the provisions of subsections (2) to (7).

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

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

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

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

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

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

14A. Promotion of subsidiary institutions for the economic

welfare of members :-

(1) A co-operative society may by a resolution passed at general meeting by a majority of members present and voting, promote, one or more subsidiary institutions, which may be registered under any law for the time being in force, for the furtherance of its stated objects.

(2) Any subsidiary institution promoted under sub-section (1) shall exist only as long as the general body of the co-operative society deems its existence necessary:

Provided that a co-operative society, while promoting such a subsidiary institution shall not transfer or assign its substantive part of business or activities undertaken in furtherance of its stated objects to such subsidiary institutions.

Explanation:-For the purpose of this section,-

(a) an institution shall be deemed to be a subsidiary institution where the co-operative society,-

(i) controls the management or board of directors or members of governing body of such institutions; or

(ii) holds more than half in nominal value of equity shares of such institutions.

(b) a subsidiary institution shall not include a partnership firm.

(3) The annual reports and audited accounts of any such subsidiary institution shall be placed each year before general body meeting of the promoting co-operative society.

14B. Partnership of co-operative societies :-

(1) Any two or more co-operative societies with prior permission of the Registrar, may by resolution passed by the majority of the members present and voting at a general body meeting of each of such co-operative societies, may enter into partnership to carry out anyone or more specific business. Written notice of the general body meeting shall be given to each member before fifteen clear days of such meeting.

(2) The partnership shall be in the interest of the members of the co-operative society or the co-operative societies or shall be in the public interest or shall be in the interest of the co-operative movement in general and it does not mean to be a partnership firm registered under Indian Partnership Act, 1932 (Central Act 9 of 1932).]

15. Cancellation of registration certificates of societies in

certain cases :-

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

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

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

CHAPTER 3 MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. Persons who may become members :-

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

(a) an individual-

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

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

(ii) who is not of unsound mind;

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

(b) any other society;

(c) the Government; and

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

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

admission is permitted specifically by rules:

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

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

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

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

16A. Ensuring participation of members in the management of societies :-

(1) No member shall be eligible to continue to be a member of a co-operative society if he,-

(a) is not using the services of the society for two consecutive years or using the services below the minimum level as may be prescribed in the rules or the bye-laws;

(b) has not attended three consecutive general meetings of the society and such absence has not been condoned by the members in the general meeting.

(2) Where any person becomes ineligible for continuing as a member as per sub-section (1), the committee of the society may remove the person from membership after giving him an opportunity for making his representation, if any, and the person concerned shall thereupon cease to be a member of the society:

Provided that no member of the society removed as above shall be

eligible for re-admission as a member of that society for a period of one year from the date of such removal.]

17. Expulsion of members :-

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

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

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

18. Nominal or associate members :-

(1) A society may admit any individual as a nominal or associate member.

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

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

19. Member not to exercise rights till due payment made :-

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

19A. Member participation :-

No member of a society shall exercise the right of a member unless he has attended the minimum required general body meeting and minimum level of services as may be prescribed.

19B. Right of a member to get information :-

Every society shall keep open to inspection for its members, free of

charge, at all reasonable times, at the registered address of the society,-

- (a) an up-to-date copy of the Kerala Co-operative Societies Act, 1969;
- (b) an up-to-date copy of the Kerala Co-operative Societies Rules, 1969;
- (c) an up-to-date copy of the bye-laws of the society;
- (d) a register of members;
- (e) the latest audited balance sheet of the society; and
- (f) the accounts of the society in so far as they relate to his or her transaction only.]

20. Votes of members :-

Every member of a society shall have one vote in the affairs of the society:

Provided that-

- (a) a nominal or associate member shall not have the right to vote;
- (b) where the Government is a member of the society, each person nominated by the Government on the committee of the society shall have one vote except when the right to vote is to be exercised for election of office bearers of the society;
- (c) in the case of an equality of votes, the chairman shall have and exercise a second or casting vote.

21. Manner of exercising vote :-

(1) Every member of a society shall exercise his vote in person.

(2) Notwithstanding anything contained in sub-section (1), a society or corporation or a statutory or non-statutory Board, Committee or other body of persons which is a member of another society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

22. Restrictions of holding of shares :-

In any society no member other than the Government, any statutory or non-statutory Board, Committee or Corporation approved by the Government in this behalf or any other society, shall-

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

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

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

23. Restrictions on transfer of share or interests :-

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

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

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

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

24. Restriction on withdrawal of shares :-

Subject to the other provisions of this Act, no withdrawal by a member of his share in a society shall be valid unless-

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

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

25. Transfer of interest on death of members :-

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

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

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

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

interest of the deceased member ascertained in accordance with the rules or the bye-laws and the society shall pay the amount to the nominee, heir or legal representative, as the case may be, on receipt of such requisition.

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

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

26. Liabilities of past member or of estate of deceased member :-

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

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

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

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

CHAPTER 4 MANAGEMENT OF CO-OPERATIVE SOCIETIES

27. Final authority in a Society :-

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

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

(2) Notwithstanding anything contained in sub-section (1), where the area of operation of a society is not less than such area as may

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

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

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

28. Appointment of Committee :-

(1) The general body of a society shall ¹[constitute a committee, for a period not exceeding three years], in accordance with the bye-laws and entrust the management of the affairs of the society to such committee:

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

²[Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the first committee, including the President or Chairman, for a period not exceeding. ¹[twelve months]].

³[Provided also that the committee of a society already constituted and in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992, shall,--

(a) if that Committee has completed three years or more, cease to be in existence at such commencement; and
(b) if that Committee has not completed three years or the term as provided in the bye-laws, cease to be in existence on the expiry of three years or the term as provided in the bye-laws, whichever is earlier;]

(1A) Where the committee of a society has ceased to be in existence as provided in the third proviso to sub-section (1), the Registrar shall appoint-

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

(ii) one or more administrator or administrators, who need not be a member or members of the society, to manage the affairs of the society for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till the new committee enters upon office, whichever is earlier.

⁴[(1AA) Notwithstanding anything contained in sub-section (1A), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of a society before the expiry of the term of office of the committee, administrator or administrators, as the case may be, appointed by him under subsection (1A) and that it is necessary in the public interest, to manage the affairs of the society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded, permit the Registrar to extend the term of office of such committee, administrator or administrators for a further period not exceeding three months in the aggregate or till a new committee enters upon office, whichever is earlier.]

(1B) The Committee or administrator or administrators appointed under ⁵[sub-sections (1A) and (1AA)] shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee of the society under sub-section (1) or of any officer of the society under sub-section(1) or of any officer of the society and take all such action as may be required in the interest of the society and shall arrange for the constitution of a new committee.

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

for being, a member of a committee-

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

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

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

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

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

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

⁶[(5) The quorum for a meeting of a committee shall be such number of members just above fifty per cent of the total number of members of that committee.)

1. Substituted by Act No.5 of 1992 published in K.G.Ex. No.37 dated 12-4-92. w.e.f. 7-2-92

2. Substituted by Act 19 of 1987 published in K.G.Ex.No.711 dated 25-8-1987.

3. 3rd proviso omitted and substituted by Act 5 of 1992 published in K.G. Ex. No.37 dated 12-4-92 w.e.f. 7-2-92

4. Inserted by Act 16/1993 w.e.f. 6-2-93

5. Substituted by ibid

6. Inserted by Act 19 of 1987 published in K.G.Ex.No.711 dated 25-8-1987.

28A. Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the Committee :-

¹[(1) Notwithstanding anything contained in sub-section (1) of section 28 there shall be reserved ²(in the committee of every primary credit society, every District Co-operative Bank, the Kerala State Cooperative Bank Ltd., and the Kerala State Co-operative Agricultural and Rural Development Bank Ltd.) one seat for a

woman member and one seat for a member belonging to the Scheduled Castes or Scheduled Tribes and for that purpose. ³[the society or the bank, as the case may be may, if they consider it necessary so to do, increase the total number of members of the committee by two more members.

(2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee].

⁴[(3)Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes to the committee of a society or a Bank referred to in sub-section (1) at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992 or thereafter,-

(i) in the case of the Kerala State Co-operative Bank Ltd. and the Kerala State Co-operative Agricultural and Rural Development Bank Ltd., the Government, and

(ii) in the case of a primary credit society or a District Co-operative Bank, the Registrar,

may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the committee of such Bank or Society, if necessary, by increasing the total number of members of such committee by two more members.

(4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be.]

1. Inserted by Act 29 of 1986 published in K.G.Ex.No. 1078 dated 30-11-1986 (25-2-1985).

2. Substituted by Act No.5 of 1992 published in K.G.Ex.No. 37 dated 12-4-92 w.e.f.7-2-92.

3. Substituted by Act 5 of 1992 w.e.f 7-2-92.

4. Inserted by Act No.5 of 1992 published in K.G.Ex. No.37 dated 12-4-92 w.e.f. 7-2-92.

28AA. Reservation for persons with banking experience or professional qualification in the committees of Urban Co-operative Banks :-

Notwithstanding anything contained in the bye-laws of any Urban Co-operative Bank, there shall be reserved not less than two seats

in the committees of such banks for members who possess experience in banking or professional qualifications:

Provided that this section shall not be applicable to the committees of Urban Cooperative Banks constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2010.

Explanation:-For the purpose of this section,-

(i)"members who possess experience in banking" means members who are or were in paid service of a Commercial Bank, State Co-operative Bank, District Co-operative Bank, an Urban Cooperative Bank or a Service Co-operative Bank in the managerial cadre.

(ii)"professional qualifications" means membership in the Institute of Chartered Accountants of India or Masters Degree in Business Administration or Membership in the Institute of Cost and Works Accountants of India or Masters Degree in Commerce with experience in banking or experience in the inspection or audit of banks, including Co-operative Bank.

28AB. Election and Removal of President, Vice President, etc :-

(1) A committee constituted under sub-section (1) of section 28 shall elect from themselves a President, a Vice-President, a Treasurer or any other officer, by whatever name he is designated, in the manner as may be prescribed.

(2) A committee shall remove from office the President, Vice-President or the Treasurer or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.

28B. State Co-operative Election Commission :-

(1) [16. Notwithstanding anything contained in this Act or in the Rules, the Government shall by notification in the Gazette, constitute a State Cooperative Election Commission for the superintendence, direction and control of the preparation of electoral rolls and for the conduct of all elections to cooperative societies including election to the President/Vice President and Representative General Body]

[16. Omitted]

(2) [16. The State Co-operative Election Commission shall consist of not more than three members, one among them shall be the State Chief Co-operative Election Commissioner and others shall be

Commissioners. The State Chief Co-operative Election Commissioner shall be an officer not below the rank of Special Secretary to Government. The Commissioners shall be persons, who are or have been officers of the Department of Co-operation, not below the rank of Additional Registrar of Co-operative Societies. The appointment of State Chief Co-operative Election Commissioner and the Commissioners shall be for a period of five years from the date of assumption of office or sixty two years, whichever is earlier: Provided that, in the case of officers in service, the Chief Election Commissioner and the Commissioners shall vacate their offices on their date of superannuation:

Provided further that

(i) the State Co-operative Election Commission shall in consultation with the Registrar have power to fix, alter or revise the maximum and minimum limit of election expenses to be spent by different classes of societies by special or general order;

(ii) the Election Commission may fix fee or cost for election process, in accordance with rules made in this behalf;

(iii) the procedure for payment of election fee or cost shall be such, as may be prescribed.]

(3) The State Co-operative Election Commission shall, in consultation with the Government [14.and the Registrar] designate or nominate officers and employees of the Government to assist the Commission in the conduct of election to the committee [14.and Representative General Bodies] of such society.

(4) Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee [14. and Representative General Bodies] of a society.

29. Annual general body meeting :-

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

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

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

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

(d) disposal of the net profit; and

(e) consideration of any other matter which may be brought

forward in accordance with the bye-laws.

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

30. Special general body meetings :-

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

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

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

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

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

31. Nominees of Government on committee of an apex or a central society :-

¹[(1) Where the Government-

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

(b) have assisted indirectly in the formation or augmentation of the

share capital of an apex or a central society; or

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

(d) have guaranteed the repayment of principal and payment of interest on loans and advances to an apex or a central society; the Government or any authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society, whichever is less, to be members of the committee.

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

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

(4) Any person who holds office as a nominated member of the committee of a society, other than an apex or a central society, at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1987, shall cease to hold such office at such commencement].

1. Substituted by Act 19 of 1987 K.G. Ex.No. 711 dated 25-8-1987.

32. Supersession of Committee :-

(1) If the Registrar is satisfied that the committee of any society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or bye-laws or commits any act which is prejudicial to the interests of the society or willfully disobeys or willfully fails to comply with any lawful order or direction issued under this Act or the rules, the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing remove the committee and-

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

(b) appoint one or more administrator or administrators who need not be a member or members of the society, to manage the affairs of the society for a period not exceeding one year as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed two years.

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

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

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

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

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

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

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

33. Appointment of new committee or Administrator on failure to constitute committee, etc :-

(1) Where the term of office of a committee has expired and a new committee has not been constituted, or ¹[where a no confidence motion is passed by the general body against the existing committee or where the existing committee resigns enbloc or where vacancies occur in the committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied.]

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

(b) That a new committee is prevented from entering upon office or a new committee fails to enter upon office, on the date on which the term of office of the existing committee expires, the Registrar may, either suo motu or on the application of any member of the society after ¹(intimating) the Circle Co-operative Union, appoint.--

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

(ii) one or more administrator or administrators who need not be a member or members of the society to manage the affairs of the society ²[for a period not exceeding six months as may be specified in the order, which period may at the discretion of the Registrar and for reasons to be recorded in writing, be extended, from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier].

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

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

³[Provided also that, where a committee, administrator or administrators, as the case may be, is in office at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992, the Registrar may extend the term of such committee, administrator or administrators, as the case may be, for a further period not exceeding one year from the date of such commencement].

⁴[Explanation.-- For the purpose of this sub-section, a tender of resignation by a member of the committee shall have the effect of terminating his membership from the Committee.]

⁵[(1A) Notwithstanding anything contained in sub -section (1), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of the society before the expiry of the term of office of the committee, administrator or administrators, as the case may be, appointed by the Registrar under sub-section (1) and that it is necessary in the public interest to manage the affairs of the

society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded, permit the Registrar to extend the term of the said committee, administrator or administrators, as the case may be, for a further period not exceeding one year in the aggregate or till a new committee enters upon office, whichever is earlier].

(2) The committee or administrator or administrators appointed under ⁶[sub-sections (1) & (1A)] shall, subject to the control of the Registrar and to such Instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such action as may be required in the interest of the society.

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

1. Substituted by Act 33 of 1971, w.e.f. 23-12-71.

2. Substituted by Act 5 of 1992 published in K.G.Ex.No.37 dated 12-4-1992 w.e.f. 7-2-92

3. 3rd Proviso inserted by Act 5 of 1992 published in K.G. Ex. No. 37 dated 12-4-92, w.e.f. 7-2-92

4. Explanation inserted by Act 33 of 1971 w.e.f 23-12-1971

5. Inserted by Act 16 of 1993.

6. Substituted by *ibid*.

34. Securing possession of Records etc :-

(1) if the committee of a society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 32 or a new committee or administrator or administrators is or are appointed under section 33 or if the society is ordered to be wound up under section 71 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to the new committee or administrator or administrators or the liquidator, as the case may be, or if an outgoing president or secretary who is the custodian of the records and property of a society refuses to hand over charge of the records and property of the society to his successor, the new committee or administrator or administrators or the liquidator or the president or secretary may with the previous sanction of the

Registrar apply to the Magistrate within whose jurisdiction the society functions, for securing the records and properties of the society.

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

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

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

CHAPTER 5 PRIVILEGES OF CO-OPERATIVE SOCIETIES

35. First charge of society on certain assets :-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in

respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past member or deceased member shall be a first charge. -

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

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

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

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

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

36. Charge on land owned or held by members borrowing loans from certain societies :-

Notwithstanding anything contained in this Act or any other law for the time being in force.

(i) a member who makes an application for a loan to a society of which the majority of the members are agriculturists shall, if he owns any land or holds any land as a tenant entitled to fixity of tenure, make a declaration in the prescribed form, which shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein, for the payment of the amount of the loan which the society may make to the member on the application and future loans if any, that may be made to him, from to time, by the society together with interest on such loan or loans;

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

(iii) no member shall alienate the whole or any part of the land or his interest in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount

borrowed by the member together with interest thereon is paid to the society in full:

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

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

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

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

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

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

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

Explanation -In this section.--

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

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

36A. Charge on movable or immovable property of borrower by creating Gehan :-

Notwithstanding anything contained in any other provisions of this Act, charge on movable or immovable property of a borrower in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society [14. or an Urban Cooperative Bank or any Primary Co-operative Societies dealing with credit activities] may be created by Gehan in respect of which the provisions of sections 10 to 15 (both inclusive) of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words "State Co-operative Bank or District Co-operative Banks", "Primary Agricultural Credit Society or Primary Housing Society", [14. or an Urban Cooperative Bank or any Primary Co-operative Societies dealing with credit activities] "Society" and "said Bank or Society", respectively, for the words "Agricultural and Rural Development Bank", "primary bank", "bank" and "said banks" occurring in the said sections.

Explanation.-For the purposes of this section, Gehan means a special charge on movable or immovable property, in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society [14. or an Urban Cooperative Bank or any Primary Co-operative Societies dealing with credit activities] by a mere declaration in writing by the borrower, for securing the payment of money advanced or to be advanced by way of loan, which will have all the characteristics of a valid mortgage."

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

(1) Notwithstanding anything contained in any law for the time being in force, a member of a society, may execute an agreement in favor of the society providing that his employer or the officer disbursing his salary or wages shall be competent to deduct from the salary or wages payable to him by the employer, such amount

as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the Society.

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

38. Charges and set off in respect of shares or interest of members in the capital of a society :-

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

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

39. Shares or interest or reserve fund not liable to attachment :-

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

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

40. Exemption from certain taxes, fees and duties :-

(1) The Government may, by notification in the Gazette, remit in respect of any class of societies-

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

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

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

(a) agricultural income;

(b) sale or purchase of goods; and

(c) professions, trades, callings, and employments.

41. Exemption from compulsory registration of instruments

:-

Nothing in clause (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908) or sections 54 and 59 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), shall apply to

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

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

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

CHAPTER 6 STATE AID TO CO-OPERATIVE SOCIETIES

42. Direct partnership of Government in societies :-

(1) The Government may subscribe directly the share capital of a society with limited liability.

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

43. Indirect partnership of Government in societies :-

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

44. Principal State Partnership Fund :-

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

(2) An apex society shall utilize the Principal State Partnership Fund for the purpose of.--

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

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

(c) making payments to the Government in accordance with the provisions of this Chapter, and for no other purpose.

45. Subsidiary State Partnership Fund :-

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

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

(a) purchasing shares in primary societies; or

(b) making payments to the apex society in accordance with the provisions of this Chapter, and for no other purpose.

46. Approval of Government for purchase of shares :-

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

47. Liability to be limited in respect of certain shares :-

Where any shares in a society are purchased by-

(a) the Government; or

(b) the apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society being wound up, be limited to the amount paid in respect of such shares.

48. Restrictions on amount of dividend :-

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

49. Indemnity of apex and central societies :-

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

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

50. Disposal of share capital and dividend, etc :-

(1) All moneys received by an apex society in respect of shares of other societies purchased from the moneys in the Principal State Partnership Fund or redemption of such share or by way of

dividends or otherwise shall be credited to that Fund.

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

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

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

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

51. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society :-

(1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the Government.

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

52. Agreement by Government and apex societies :-

Subject to the foregoing provisions of this Chapter,

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

(b) an apex society may, with the previous approval of the

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

53. Order forms of State aid to societies :-

Notwithstanding anything contained in any law for the time being in force, the Government may- (a) give loans or makes advances to societies;

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

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

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

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

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

54. Provisions of S.43 to 52 to over ride other laws :-

The provisions of Ss.43 to 52 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER 7 PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

55. Funds not to be divided :-

No part of the funds other than the net profits of a society shall be paid by way of bonus or dividend or otherwise distributed among its members;

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

56. Disposal of net profit :-

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

(a) transfer an amount not being less than fifteen per cent of the

net profits to the reserve fund; and

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

(2) The balance of the net profits may be utilized for all or any of the following purposes, namely.--

(a) payment of dividends to members on their paid up share capital at such rate ¹(not exceeding twenty per cent] as may be prescribed.

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

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

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

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

1. Substituted by Act 16 of 1993 w.e.f. 6-2-1993.

56A. Disposal of non-banking assets :-

The immovable property acquired by a society through a sale by the sale officer or through any legal proceedings for realisation of loan amount shall be disposed of by the society within seven years from the acquisition thereof with the prior sanction of the Registrar

57. Investment of funds A society may invest or deposit its funds :-

(a) in Government Savings Bank, or

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

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

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

(e) in any other prescribed manner

57A. The Co-operative Development and Welfare Fund :-

(1) The Government may, by notification in the Gazette, frame a

scheme to be called the Co-operative Welfare and Development Scheme for the establishment of a Fund under this Act and there shall be established, as soon as may be after the framing of the scheme, a Fund to be called the Co-operative Development and Welfare Fund, in accordance with the provisions of this Act and the scheme.

(2) [A society shall contribute to the Fund at such rates as may be specified in the scheme.]

(3) There shall be credited to the fund,--

(a) the contribution to be paid by the society under sub-section (2); and

(b) any other amount which, under the provisions of the scheme shall be credited to the Fund.

(4) Subject to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilized for payment of grant or loans to societies for the following purposes namely:-

for the purpose of safeguarding the interests of the societies against any loss or damage to their assets and properties, despite reasonable precautions to prevent such loss or damage;

for utilizing for the developmental activities of the societies; and

for any other purpose, as may be specified in the scheme.

(5) Subject to the provisions of this Act the scheme may provide for the following matters, namely:-

(i) the time and manner in which contribution shall be made to the Fund by the societies;

(ii) the rate of contribution;

(iii) the administration of the Fund;

(iv) the purposes for which the Fund may be utilized for developmental activities of the societies;

(v) the conditions under which the Fund may be expended for payment of reliefs to the societies;

(vi) the manner in which the accounts of the Fund shall be kept; and

(vii) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

57B. Deposit Guarantee Scheme :-

(1) The Government may, by notification in the Gazette, frame a scheme to be called "the Deposit Guarantee Scheme" specifying the

purpose of the scheme and shall be administered in such manner, as may be specified therein.

(2) A society may contribute to the Deposit Guarantee Scheme at such rates as may be provided in the said scheme.

(3) All societies covered under the Deposit Guarantee Scheme shall enroll and contribute towards the Scheme within six months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to accept deposit from depositors and the Registrar shall be competent to issue prohibition order, restraining the society from accepting deposits for such period specified in the order:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action.

(4) Notwithstanding anything contained in sub-section (3) the Registrar may exempt any society for a period upto one year by a general or special order from enrolling such societies under the Deposit Guarantee Scheme with reasons to be recorded:

Provided that if any society violate the prohibition order under sub-section (3) the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (16 of 1968). If the violation is a continuing one, a further penalty of rupees one thousand for every day shall be levied, after the first day, during which the violation continues.]

57C. Consortium Lending Scheme :-

(1) The Government may, by notification in the Gazette, frame a scheme to be called the "Consortium Lending Scheme" for the purpose of providing loans for infrastructure development, to societies, local authorities, development authorities or similar institutions, on government guarantee subject to such terms and conditions, as may be specified in the said scheme.

(2) A society may contribute to the Consortium Lending Scheme, at such rates, as may be specified in the scheme.]

57D. Co-operative Risk Fund Scheme :-

(1) The Government may, by notification in the Gazette, frame a scheme to be called the "Co-operative Risk Fund Scheme" for the establishment of a Fund for meeting the loan liability of those members who have availed loans from the co-operative societies and died within the repayment period of such loans.

(2) The types of societies and the types of loans covered by the scheme, the rate and manner of contribution towards the fund by the societies, the manner of administration and utilization of the fund and the maintenance of books of accounts in respect of the fund and its audit shall be such as may be specified in the scheme.]

(3) All societies covered under the Co-operative Risk Fund Scheme shall contribute towards the scheme at the rate specified in the scheme within three months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to issue loans to members and general public and the Registrar shall be competent to issue prohibition order, restraining the society from providing loans:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action:

Provided further that if any society violate the prohibition order, the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (16 of 1968).]

58. Restrictions on borrowing :-

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

59. Restrictions on loans :-

(1) A Society shall not make a loan to any person or a society other than a member:

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

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

deposit.

60. Restrictions on other transactions with members :-

Save as is provided in Ss.58 and 59, the transactions of a society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

61. Provident Fund :-

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

¹[Provided that the contributory provident fund established under this sub-section shall not apply to the employees of such society to which the provisions of the Self Financing Pension Scheme framed under sub-section (1) of section 80A are made applicable and such society shall establish a Provident Fund in such manner and subject to such conditions or restrictions, as may be prescribed, for the benefit of such employees.

(2) A fund established by a society under sub-section UK

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

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

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

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

1. Inserted by Act 16/93.

62. Gratuity :-

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

CHAPTER 8 AUDIT, INQUIRY, INSPECTION AND SURCHARGE

63. Audit :-

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

(2) The audit under sub section (1) shall include an examination of over due debts, if any, the verification of the cash balance and

securities, and a valuation of the assets and liabilities of the society.

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

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

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

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

64. Communication of defects in audit to societies :-

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

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

65. Inquiry by Registrar :-

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

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

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

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

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

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

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

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

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

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

(5) When an inquiry made under this section reveals only minor defects which, in the opinion of the Registrar, can be remedied by the society, he may communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He may also direct the society or its officers to take such action within the time specified therein to remedy the defects disclosed in such inquiry.

66. Supervision and Inspection :-

(1) (a) The Registrar shall supervise or cause to be supervised by a person authorized by him by general or special order in writing in this behalf, the working of every society as frequently as he may

consider necessary.

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

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

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

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

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

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

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

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

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

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

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

(8) An officer of a financing bank inspecting the books of a society shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information,

statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

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

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

66A. Powers of Registrar to give directions :-

Subject to the provisions of the Act and the Rules made thereunder the Registrar may issue general directions and guidelines to any or all of the cooperative societies in furtherance of the purposes of the Act or for implementing Government policies for the benefit of the members and the general public.]

66B. Suspension of Officers :-

If the Registrar, in the course of any inquiry under section 65 or on inspection under section 66 or on audit under section 64 or on the report of Vigilance Officer appointed under section, 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society, has done any act, detrimental to the interest of the society or its members and that there is reason to believe that such officer has indulged in misappropriation, manipulation of accounts, forgery, destruction or tampering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.

66C. Submission of returns to the Registrar :-

Every co-operative society shall file returns, within six months of the closure of every financial year, before the Registrar, containing the following particulars, namely :-

- (a) a comprehensive annual report of its activities ;
- (b) its audited statements of accounts ;

- (c) plan for surplus disposal as approved by the general body of the co-operative society ;
- (d) list of amendments to the bye-laws of the co-operative society, if any ;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due ; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of this Act or the Rules.]

67. Cost of inquiry or inspection :-

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

Provided that.--

- (a) no order of apportionment of the cost shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;
- (b) the Registrar shall state in writing the grounds on which the cost are apportioned.

68. Surcharge :-

(1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organization or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act and the rules or the bye-laws, or has caused any deficiency in the assets of the society by breach of trust or willful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorized by him by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being

heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

68A. Vigilance Officer :-

(1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to inquire into and investigate the cases of misappropriation, corruption and any other major irregularity in the societies as may be referred to him by the Registrar.

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Cooperative Societies:

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person.

CHAPTER 9 SETTLEMENT OF DISPUTES

69. Disputes to be referred to Registrar :-

(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises.

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

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

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

(d) between the society any other society; or

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

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

(g) between the society and a surety of a member, past member,

deceased member, or employee or a person other than member who has been granted a loan by the society whether such a society is or is not a member of the society; or

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

[Explanation;- In this section and in S.70, the term "Registrar" means the Registrar of Co-operative Societies appointed under sub-section (1) of S.3 and includes any person on whom the powers of the Registrar under this Section and S.70 are conferred].

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

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

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

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

¹[Explanation.-- A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election shall be deemed to be a dispute arising in connection with the election.

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

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

1. Explanation inserted by Act 29 of 1986 published in K.G.Ex.No.1078 dt .30-11-1986 w.e.f. 15-5-1969.

69A. Co-operative Ombudsman :-

(1) The Government may, by notification in the official Gazette, frame a scheme to be called the "Kerala Co-operative Ombudsman

Scheme" with the object of enabling redressal of complaints relating to deficiency in banking or other services rendered by co-operative societies dealing with banking business.

(2)The Government may appoint one or more persons as Ombudsman or Ombudsmen to carry out the functions entrusted to them by or under the scheme.

(3)The term of office of the Ombudsman or Ombudsmen, as the case may be, shall be three years from the date of their entering office or [17.Attaining the age of sixty five years], whichever is earlier.

(4) The Ombudsman or Ombudsmen so appointed under subsection (2) shall be a person or persons having minimum of fifteen years of Bar practice and having experience and expertise in banking or co-operative field.

(5)The functions, powers, duties etc. of the Ombudsman shall be such, as may be specified in the scheme.

(6)The Ombudsman shall be under the control of the Government.

70. Decision and award on disputes :-

(1) The Registrar may, on receipt of the reference of a dispute under Section 69.--

(a) elect to decide the dispute himself; or

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

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

¹[Provided that a transfer under clause (b) or a reference under clause (c) shall not be made to a person equal or superior to him in rank].

(2) The Registrar may withdraw any reference transferred under clause

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

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

(a) the nature of the allegations showing that the elections were vitiated.

(b) the existence of prima facie case which means whether respondents have a chance of success and

(c) whether the interest of justice require that an interlocutory order must be made.

1. Proviso inserted by Act 29 of 1986 published in K.G.Ex.No. 1078 dt.30-11-1986 w.e.f. 15-5-1969.

70A. Co-operative Arbitration Courts :-

(1) The Government shall constitute such number of Co-operative Arbitration Courts as are necessary to exercise the powers and discharge the functions conferred on it under this Act.

(2) The qualifications, term salary and allowances and other conditions of service of the person to be appointed as the Co-operative Arbitration court shall be such as may be decided by the Government from time to time.

(3) The Government shall make rules for regulating the procedure and disposal of business of the Co-operative Arbitration Court.

(4) The Government or Registrar shall appoint as many officers and employees as may be necessary, to assist the Co-operative Arbitration Court.

(5) The officers and employees referred to in sub-section (4) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

70B. Provisions as to pending proceedings :-

On the constitution of Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, in respect of non-monitory disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it under section 69".

CHAPTER 10 WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

71. Winding up of Societies :-

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

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

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

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

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

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

72. Liquidator :-

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

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

(3) Where an appeal is preferred under section 83 ¹against order of winding up of a society made under section 71 such order shall not operate thereafter until it is confirmed in appeal:

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

(4) Where an order of winding up of a society is set aside in appeal,

the property, effects and actionable claims of the society shall vest in the society.

1. Substituted by Act 38 of 1971.

73. Powers of liquidator :-

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

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

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

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

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

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

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

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

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

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

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and

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

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

74. Cancellation of Registration of a Society :-

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

CHAPTER 10A INSURED CO-OPERATIVE BANKS

74A. Insured co-operative banks :-

¹CHAPTER XA

INSURED CO-OPERATIVE BANKS

Notwithstanding anything contained in this Act, in the case of an insured co-operative bank.--

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganization), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the

circumstances referred to in section 13D of the Deposit Insurance corporation Act, 1961 (Central Act 47 of 1961):

(iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession (removal) of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefore for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;

(iv) no appeal, revision or review shall lie or be permissible against an order referred to in clause (i),(ii) or (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called, in question in any manner;

(v) The liquidator or the insured co-operative bank or transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance corporation Act, 1961, in the circumstances, to the extent and In the manner referred to in section 21 of that Act.

Explanation.-- For the purposes of this section.--

(i) "co-operative bank" means a bank as has been defined in the Deposit Insurance corporation Act, 1961;

(ii) "insured co-operative bank" means a society which is an insured bank under the provisions of the deposit Insurance Corporation Act, 1961;

(iii) "transferee bank" in relation to an insured co-operative bank, means a co-operative bank.--

(a) with which such insured co-operative bank is amalgamated; or

(b) to which the assets and liabilities of such insured cooperative bank are transferred; or

(c) into which such insured co-operative bank is divided or converted under the provisions of section 12 or section 14 of the Kerala Co-operative Societies Act, 1969 (21 of 1969).

1. Chapter XA inserted by Act 8 of 1974 w.e.f., 13-3-1974.

CHAPTER 10B SPECIAL PROVISIONS RELATING TO CO-OPERATIVE SOCIETIES, THEIR OFFICE BEARERS AND EMPLOYEES

74B. Opening of Branches :-

(1) The State Co-operative Bank, The State Co-operative Agricultural and Rural Development Bank and District Co-operative Banks may open branches in the area of operation of their member credit societies if such member credit societies are weak and not functioning enough to provide service to the members or to the public.

(2) All primary credit societies including Primary Agricultural Credit Societies may open branches in their area of operation with the prior written permission of the Registrar.

74C. Inspection in certain Co-operatives :-

Notwithstanding anything contained in section 66, the Registrar shall inspect or cause to inspect the "affairs" of all apex, federal and central societies every year and the power of inspecting officers shall be as specified under sub-section (4) of section 66.

Explanation:-Inspection conducted under this section shall be in addition to and not in derogation of the inspection conducted under any other law for the time being in force.

74D. Duty of Chief Executive to supply confirmation certificate :-

It shall be the duty of the chief executive of a society to supply confirmation certificate correctly and within the time limit required by the auditor in respect of any accounts maintained in that society by another society in whose favour the Auditor requires certificate.

74E. Manner of acceptance of deposits and lending of money :-

Acceptance of deposits and lending of money by all co-operative societies and banks shall be in such manner, as may be prescribed.

74F. Write off of loans :-

Notwithstanding anything contained in any Act or Rules, no Authority or Commission, other than the Government or Registrar, shall have the power to write off agricultural or non-agricultural debts of borrowers of any society.

74G. Library in Co-operative Societies :-

Every co-operative society shall establish a library :
Provided that nothing contained in this provision shall apply to a society which is working on loss for a continuous period of five years.

CHAPTER 11 EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

75. Enforcement of charge :-

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

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

76. Execution of orders, etc :-

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

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

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

Provided that any application for such recovery shall be made--

(i) to the Collector and shall be accompanied by a certificate signed

by the Registrar or by any person authorized by him in this behalf;
(ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, within twelve years from the date of the order, decision or award, as the case may be, or
(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed.

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

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

78. Attachment of property before award or order :-

If the Registrar is satisfied on an application, report, inquiry, or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provision of this Act.--

(a) is about to dispose of the whole or any part of his property ; or
(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator, or the liquidator, as the case may be, he may, unless adequate security is furnished, by order in writing direct the attachment shall have the same effect as if made by a competent civil court.

79. Recovery of sums due to Government :-

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

(2) Sums due from a society to the Government and recoverable

under subsection (1) may be recovered first, from the property of the society and secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members subject to the limit of their liability, and in the case of other societies, from the members, past members or the estates of the deceased members:

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

CHAPTER 12 ESTABLISHMENT

80. Officers, etc., of Co-operative Societies :-

(1) The Government shall classify the societies in the State according to their type and financial position,

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

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

²[(3A) Notwithstanding anything contained in this Act or the rules made or orders issued thereunder or in the bye-laws of any society-relating to the recruitment and conditions of service of officers and servants of societies, all appointments of officers and servants of the societies mentioned in the Schedule for which direct recruitment is resorted to shall be made from a select list of candidates furnished by the Kerala Public Service Commission.

(3B) All appointments made by direct recruitment to the societies referred to in sub-section (3A) on or after the 25th day of April, 1995 and before the date of publication of the Kerala Co-operative Societies (Amendment) Ordinance, 1995 (Ordinance No. 10 of 1995) shall be in valid.]

³[(4) Notwithstanding anything contained in sub-section (1) or subsection (2), ten percent of the posts of employees of every society shall be reserved for appointment from persons belonging to the Scheduled Castes and Scheduled Tribes where the method of

appointment to such posts is by direct recruitment.

1. Inserted by Act 7 of 1988 published in K.G.Ex, No.351 dt.21-4-1988 w.e.f. 15-2-1988.

2. Inserted by Act 6 of 1995 w.e.f. 25-4-1995.

3. Inserted by Act 29 of 1986 published in K.G. Ex. No. 1078 dt.30-11-1986.

80A. Pension Scheme :-

¹[(1) The Government may, by notification in the Gazette, frame a Self Financing Pension Scheme for the establishment of a pension Fund for payment of pension to the employees of the societies in the manner provided therein and may appoint different dates for the application of the scheme to different classes of societies.

(2) The Pension fund established under the Self Financing Pension Scheme framed under sub-section (1) shall vest in, and be administered by, such body or authority as may be specified in the said scheme.)

1. S.80A inserted by Act 16 of 1993.

80B. Co-operative Service Examination Board :-

(1) Notwithstanding anything contained in this Act or the rules or in the bye-laws of any society relating to the recruitment of officers and servants thereof, the Government shall, by notification in the Gazette, constitute a Co-operative Service Examination Board for the conduct of written examination for all direct recruitment to posts of and above the category of Junior Clerks in the Primary Agricultural Credit Societies Primary Credit Societies, Urban Cooperative Banks and Primary Agricultural and Rural Development banks in the State.

(1A) The Co-operative Service Examination Board shall also conduct competitive or qualifying examinations if any for promotion of employees in the societies, in such manner as may be prescribed.]

(2) The Examination Board shall consist of not more than three members and the term of the Board shall be five years. The powers and functions and other conditions of appointment of the members of the Board and the procedures to be followed by the Board for the conduct of examination and the preparation of list of candidates to be interviewed for appointment shall be such as may be prescribed.

(3) All appointments shall be made by the committee concerned from the list of candidates after conducting an interview of the candidates and making a select list therefrom in such manner as may be prescribed.

(4) Notwithstanding anything contained in sub-section (3A) of section 80 and in subsection (1) of this section, the committee of a society may, with the prior approval of the Registrar, appoint persons who are professionally or technically qualified or persons with experience and expertise to posts requiring such technical or professional qualifications on contract basis or by the method of deputation for such period, but not exceeding five years, as may be specified."]

80C. The Kerala Co-operative Employees Welfare Scheme :-

(1) The Government may, by notification in the Gazette, frame a Scheme to be called the Kerala Co-operative Employees Welfare Scheme for the establishment and management of a fund by name "the Kerala Co-operative Employees Welfare Fund" and there shall be established, as soon as may be, after framing of the Scheme, a fund in accordance with the provisions of this Act and the Scheme.

(2) The Welfare Fund established under the Scheme shall vest in the Kerala State Co-operative Employees Welfare Board and be administered by such body or authority as may be specified in the Scheme.

(3) Subject to the provisions of this Act, the Scheme may provide for the following matters, namely:-

(i) the management and administration of the Kerala State Co-operative Employees Welfare Fund;

(ii) powers and functions of the authority or body to be constituted thereunder; and

(iii) the composition and pattern of the establishment set-up of the Kerala State Co-operative Employees Welfare Board constituted under the Scheme.

80D. The Kerala State Co-operative Employees Welfare Board :-

(1) The Government shall, by notification in the Gazette, constitute a Board to be called "the Kerala State Co-operative Employees Welfare Board" for implementing the welfare schemes for the regular employees, commission agents and the persons working in the capacity of any other name on commission basis in a co-

operative society registered or deemed to be registered under this Act and coming under the administrative control of the Registrar of Co-operative Societies as well as other departments of the State Government in accordance with the provisions of this Act and the Scheme.

(2) The Board constituted under sub-section (1) shall provide for the constitution of a Welfare Fund and specify therein, the manner in which its fund shall be raised and administered for the welfare of the employees and the rates of contribution to be paid by the employees and the co-operative societies towards the fund.

(3) The Board may provide money and other aids to the employees in their indigent conditions and for the following purposes, namely:-

(i) for the payment of financial assistance to the family of the deceased employees ;

(ii) for the payment of medical assistance to the employees who have undergone treatment for diseases to be specified therein ;

(iii) for refund of the contributions made by the employees on their retirement or relief on other grounds ;

(iv) for the grant of advances to the employees for meeting their medical expenses ;

(v) for awarding cash prizes to the children of employees at such rates and subject to such conditions as may be prescribed therein ;

and

(vi) for any other purposes provided for in the Scheme or which may be found necessary or proper for the implementation of the Scheme.

(4) The Government may make Rules with regard to the terms and conditions of the services of the employees of the Kerala State Co-operative Employees Welfare Board.

80E. Transfer of assets and control of the existing Kerala State Co-operative Employees Welfare Board :-

(1) Notwithstanding anything contained in the Rules for the constitution and administration of the Kerala State Co-operative Employees Welfare Board issued under G.O. (Rt.) No.383/86/Co-op. dated 30th September, 1986, on and from the date of constitution of the Kerala State Co-operative Employees Welfare Board under sub-section (1) of section 80D, all assets and liabilities of the existing Kerala State Co-operative Employees Welfare Board shall be transferred to the Kerala State Co-operative Employees

Welfare Board constituted under the said sub-section.

(2) On and from the date of constitution of the Kerala State Co-operative Employees Welfare Board under sub-section (1) of section 80D, the existing Kerala State Co-operative Employees Welfare Fund constituted under G.O. (Rt.) No. 383/86/Co-op. dated 30th September, 1986 shall vest in the Kerala State Co-operative Employees Welfare Board constituted under the said sub-section and the control and supervision of the existing fund shall be with the said Board.

CHAPTER 13 APPEALS REVISION AND REVIEW

81. Tribunal :-

¹[(1) The Government shall constitute a single member Tribunal to exercise the powers and discharge the functions conferred on the Tribunal under this Act.

(2) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been holding the post of a District Judge in the State.

(3) The term, salary and allowances and other conditions of service of the member shall be such as may be decided by Government from time to time.

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

1. Substituted by Act 38 of 1971.

81A. Provisions as to certain pending Proceedings :-

Every proceeding pending before the Tribunal immediately before the commencement of this Act shall stand transferred to and will be decided by the Tribunal constituted under this Act:

Provided that all such proceedings relating to orders passed by the Registrar under Ss. 32 and 33 of the Act, shall be sent to the government for their decision.

Explanation.-- Proceeding includes any appeal, revision petition or application of review].

82. Appeals to Tribunal :-

(1) Any person aggrieved by.--

(a) an order of the Registrar made under clause (ii) of sub-section

- (8) or clause (ii) of sub-section (9) of S. 14; or
- (b) ¹[xxx]
- (c) ¹[xxx]
- (d) any decision of the Registrar made under sub-section (3) of S. 70; or
- (e) any decision under sub-section (3) of S. 70 of the person invested by the Government with powers in that behalf; or
- (f) any award of the arbitrator under sub-section (3) of S. 70, may, within sixty days from the date of such order, decision or award, as the case may be, appeal to the Tribunal and the Tribunal, may pass such order on the appeal as it may deem fit.
- (2) An order passed by the Tribunal under sub-section (1) shall be final.

1. Omitted by Act 38 of 1971.

83. Appeals to other authorities :-

- (1) An appeal shall lie under this section against.
- (a) an order of the Registrar made under sub-section (2) of S. 7 refusing to register a society; or
- (b) an order of the Registrar made under sub-section (4) and (6) of S. 12 refusing to register an amendment of the bye-laws of a society; or
- (c) a decision of a society refusing to admit any person as a member of the society or expelling any member of the society; or
- (d) an order made by the Registrar under S. 67 apportioning the cost of inquiry held under S.65 or an inspection made under S.66; or
- (e) an order of surcharge made by the Registrar under S.68, or
- (f) an order made by the Registrar under S71 directing the winding up of a society; or
- (g) any order made by the Liquidator of a society in exercise of the power conferred on him by S.73; or
- (h) any order made under S. 76; or
- (i) an order for attachment of any property made by the Registrar under S.78; or
- (j) any order for made by any person exercising all or any of the powers of the Registrar.
- (2) An appeal under sub-section (1) shall be made within sixty days from the date of the order or decision. -
- (a) if the order or decision was made by the Registrar, to the

Government; and

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

84. Revision by Tribunal :-

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

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

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

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

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

85. Review of orders by Tribunal :-

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

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

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

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

86. Interlocutory orders by Tribunal :-

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

87. Powers of revision of Registrar and Government :-

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

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

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

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

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

CHAPTER 14 CO-OPERATIVE UNIONS

88. Establishment of Circle Co-operative Unions :-

¹[(1) The Government shall, by notification in the Gazette, establish a Circle Co-operative Union for each circle in the State.

(2) Each Circle Co-operative Union shall consist of.--

(a) Eight members elected, in such manner as may be prescribed, by the members of the committees of the societies within the Circle, namely.--

(i) two members from among the members of the committees of the primary credit societies under the control of the Registrar of Co-operative Societies appointed under subsection (1) of S.3;

(ii) one member from among the members of the committees of the societies, other than the primary credit societies, under the control of the Registrar of Co-operative Societies appointed under sub-section (1) of S.3;

(iii) one member from among the members of the committees of the Dairy Co-operative Societies;

(iv) one member from among the members of the committees of the Fishery Co-operative Societies;

(v) one member from among the members of the committees of the Industrial Co-operative Societies;

(vi) one member from among the woman members of the committees of the societies referred to in items (i) to (v);

(vii) one member belonging to the Scheduled Castes or Scheduled Tribes from among the members of the Committees of the societies referred to in items (i) to (v);

Explanation: For the purposes of this clause, Daily Co-operative Society shall be a society under the control of the Dairy Department, Fishery Cooperative Society shall be a society under the control of the Fisheries Department and an Industrial Co-operative Society shall be a society other than a society specified in items (i) to (iv);

(b) two representatives elected in such manner as may be prescribed, by the employees of the societies within the circle from among themselves, of whom-

(i) one shall be by the employees of the societies under the control of the Registrar appointed under sub-section (1) of S.3; and

(ii) the other shall be by the employees of the societies other than those under the control of the Registrar appointed under sub-section (1) of S.3;

(c) one member elected from among themselves by the members of the Board of Directors of the District Co-operative Bank having

jurisdiction over the circle;

(d) the Taluk level officer of the Industries Department in charge of the Industrial Co-operative societies within the circle, Ex-officio;

(e) the Taluk level officer of the Dairy Development Department in charge of the Dairy Co-operative societies within the circle, Ex-officio;

(f) the Taluk level officer of the Fisheries Department in charge of the Fisheries Co-operative societies within the circle, Ex-officio; and

(g) the Assistant Registrar of Co-operative Societies (General), having jurisdiction over the circle, Ex-officio.

(3) The Assistant Registrar of Co-operative Societies (General), member Ex-officio, shall be the Secretary of the Circle Co-operative Union.

(4) Each Circle Co-operative Union shall elect one of the members, other than an Ex-officio member, to be its Chairman.

(5) The term of office of the members, other than the Ex-officio members, of the Circle Co-operative Union shall be for a period of three years from the date on which they enter upon office.

(6) The Ex-officio members shall have all the powers of the elected members".]

1. Substituted by Act 16 of 1993.

88A. Appointment of officer on default or negligence of members of a Circle Co-operative Union :-

If the Registrar is satisfied that the members of a Circle Co-operative Union persistently make default or are negligent in the performance of the duties imposed on them as per the provisions of this Act or the rules made thereunder or commit any act which is prejudicial to the interest of that Circle Co-operative Union or wilfully disobey or fail to comply with any lawful order or direction, the Registrar may, after giving the member an opportunity to state their objections, if any, by an order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Assistant Registrar to manage its affairs for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time; so, however, that the aggregate period shall not, in any case, exceed one year or till the said Circle Co-operative Union is reconstituted, whichever is earlier.

88B. Appointment of officer on failure to constitute the Circle Co-operative Union :-

Where the term of office of the Circle Co-operative Union has expired and a new union has not been constituted, or where the members of the existing Circle Co-operative Union resigns enblock or where vacancies occur in the Circle Co-operative Union either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the Circle Co-operative Union fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied,-

(i) that a new Circle Co-operative Union cannot be constituted before the expiry of the term of office of the existing Circle Co-operative Union ; or

(ii) on the date on which the term of office of the existing Circle Co-operative Union expires ; or

(iii) a new Circle Co-operative Union is prevented from entering upon office or the new Circle Co-operative Union fails to enter upon office, the Registrar may appoint an officer to manage the affairs of the Circle Cooperative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Registrar and for reasons to be recorded in writing be extended from time to time, so, however that the aggregate period shall not in any case exceed one year or till the said Circle Cooperative Union is reconstituted, whichever is earlier.

88C. Removal of Chairman :-

A committee shall remove from office the Chairman, or any other officer of the committee, if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.

89. Establishment of State Co-operative Union :-

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

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

(a) a general body; and

(b) a managing committee.

(3) Each of the Circle Co-operative Unions, apex societies, District Cooperative Banks and central societies other than the District

Cooperative Banks shall elect a delegate in such manner as may be prescribed and all such delegates, the employees representatives, the Ex-officio members and the Government nominee in the managing committee of the State Co-operative Union shall constitute the General Body of the State Co-operative Union.

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

(a) one member from each Revenue District in the State elected, in such manner as may be prescribed, by the members of the Circle Co-operative Unions in that District from among their delegates to the general body of the State Co-operative Union;

(b) one member elected, in such manner as may be prescribed, by the delegates of the apex societies other than the State Cooperative bank from among themselves;

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

(d) one member, elected in such manner as may be prescribed, by the woman members under item (vi) of clause (a) of sub-section (2) of S. 88 of the Circle Co-operative Unions, from among themselves;

(e) one member, belonging to the Scheduled Castes or Scheduled Tribes, elected in such manner as may be prescribed, by the members under item (vii) of clause (a) of sub-section (2) of S.88 of the Circle Co-operative Unions from among themselves;

(f) one member elected, in such manner as may be prescribed, by the representatives of the employees under item (i) of clause (b) of sub-section (2) of S. 88 from among themselves;

(g) one member elected, in such manner as may be prescribed, by the representatives of the employees under item (ii) of clause (b) of sub-section (2) of S.88 from among themselves;

(h) the Registrar of Co-operative Societies, Ex-officio;

(i) the Director, Industries and Commerce department, Ex-officio;

(j) the Director, Dairy Development Department, Ex-officio;

(k) the Director, Fisheries Department in charge of Fishery Cooperative Societies, Ex-officio;

(l) the President, Kerala State Co-operative Bank, Thiruvananthapuram, Ex-officio;

(m) the Secretary, State Co-operative Union, Ex-officio; and

(n) one member to be nominated by the Government.

(5) The Managing Committee shall elect one of its members others than an Ex-officio member, to be the Chairman of the State Co-

operative Union.

(6) The term of the office of the members, other than the Ex-officio members and the nominated member, of the general body, and of the managing committee of the State Co-operative Union shall be for a period of three years from the date on which they enter upon office. The nominated member shall hold office during the pleasure of the Government.

(7) The Registrar of Co-operative Societies appointed under sub section (1) of S. 3 or any other officer, not below the rank of an Additional Registrar of Co-operative Societies, nominated by him shall be the Secretary of the State Co-operative Union.

(8) The Ex-officio members and the nominated member shall have all the powers of the elected members of the managing committee".]

1. Substituted by Act 16 of 1993.

89A. Appointment of officer or committee of default on negligence of the managing committee of the State Co-operative Union :-

If the Government are satisfied that the managing committee of the State Co-operative Union persistently makes default or is negligent in the performance of the duties imposed on it by the provision of this Act or the rules made thereunder or commits any act which is prejudicial to the interest of the State Co-operative Union or wilfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules, the Government may, after giving the managing committee an opportunity to state its objections, if any, by order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Additional Registrar or a committee consisting of three members to manage its affairs for a period not exceeding six months, as may be specified in the order, which period, at the discretion of the Government and for reasons to be recorded in writing, be extended, from time to time; so, however, that the aggregate period shall not, in any case, exceed one year or till the State Co-operative Union is reconstituted, whichever is earlier.

89B. Appointment of officers or committee on failure to constitute the managing committee of the State Co-operative Union :-

Where the term of the managing committee of the State Co-operative Union has expired and a new managing committee has not been constituted or where the members of the existing managing committee resigns enblock or where vacancies occur in the managing committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the State Co-operative Union fails to hold its regular meeting consecutively for six months or where the Government are satisfied,-

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

(ii) that on the date on which the term of the existing managing committee expires ; or

(iii) that a new managing committee is prevented from entering upon office or a new managing committee fails to enter upon office, the Government may appoint an officer of the Co-operative Department to manage the affairs of the State Co-operative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Government and for reasons to be recorded in writing, be extended from time to time, so however that the aggregate period shall not in any case exceed one year or till the managing committee is reconstituted, whichever is earlier.

89C. Removal of Chairman, Vice Chairman etc :-

The committee shall remove from office the Chairman, the Vice-chairman or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.

90. Co-operative Societies to affiliate to State Co-operative Union :-

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

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

(3) The fees payable by a co-operative society for affiliation to the

State Co-operative Union or for the renewal of such affiliation shall be such as may be prescribed.

(4) If any co-operative Society fails to affiliate to the State Co-operative Union as required by sub-section (1) or to renew such affiliation as required by sub-section (2), such society shall not be entitled to any of the privileges conferred on a co-operative society¹[under Chapter V of this Act].

²[Transitory provision: Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court,-

(i) every Circle Co-operative Union in existence at the commencement of this Act shall continue for a period of four months from such commencement or till a new Circle Co-operative Union in accordance with the provisions of the principal Act as amended by this Act is constituted, whichever is earlier; and

(ii) the State Co-operative Union in existence at the commencement of this Act shall continue for a period of nine months from such commencement or till a new State Co-operative Union in accordance with the provisions of the principal Act as amended by this Act is constituted, whichever is earlier.

Validation.-- Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any Court, any order or notification issued by the Government before the commencement of this Act enabling or purporting to enable the Registrar to extend the period for which he may appoint a committee, administrator or administrators under Ss.28 or 33 of the principal Act beyond a total period of one year shall be and shall be deemed always to have been issued by the Government permitting the Registrar to extend the term of office of the committee, administrator or administrators appointed by him under the said provisions beyond total period of one year in accordance with the provisions of the principal Act, as amended by this Act, as if such provisions were in force at the relevant time and all notifications or orders issued or purported to have been issued by the Registrar before the commencement of this Act extending the term of office of such committee, administrator or administrators beyond a total period of one year shall be and shall be deemed always to have been issued by him in accordance with the provisions of the principal Act as amended by this Act, and the continuance in office of such committee, administrator, or administrators for the period as so extend by the Registrar shall be and shall be deemed always to have been in accordance with law and accordingly, all acts, proceedings or things done or taken or purported to have been done or taken by the

committee administrator or administrators in exercise of powers or discharge of duties shall, for all purposes be deemed to be always to have been done or taken in accordance with the provisions of the Principal Act as amended by this Act.]

1. Substituted by Act 16 of 1993.

2. Substituted by *ibid*.

91. Functions of State Co-operative Union :-

(1) The functions of the State Co-operative Union shall be.--

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

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

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

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

92. Assets, liabilities etc., of Regional Union :-

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

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

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

93. Assets, liabilities etc., of State Union :-

On a date to be notified by the Government after the formation of

the State Co-operative Union under S.89, all properties and all rights of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held by and all liabilities legally subsisting against the Kerala State Co-operative Union Ltd., shall subject to such directions as may be issued by the Registrar, vest in the State Co-operative Union so formed and all the employees of the Kerala State Co-operative Union Ltd., shall become the employees of the State Co-operative Union.

CHAPTER 15 OFFENCES AND PENALTIES

94. Offences :-

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

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

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

(3) Any member or past member or the nominee, heir, or legal representative of a deceased member of a society who contravenes the provisions of S.25 by disposing of any property in respect of which the society is entitled to have a first charge under that section or does any other act to the prejudice of such claim, shall be punishable with fine which may extend to two hundred rupees.

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

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

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

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

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

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

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

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

95. Cognizance of offences :-

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

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

95A. Offences by Companies :-

(1) If the person committing any offence under this Act is a company, the Company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offences shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributed to any neglect on the part of any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or other Officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:-For the purpose of this section,-

(a) Company means any body corporate and includes a firm or other association of individuals or a society or a co-operative society;

(b) Director in relation to firm, means partner in the firm.]

CHAPTER 16 MISCELLANEOUS

96. Address of a society :-

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

97. Copy of Act, rules and bye-laws to be open to inspection :-

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

98. Tribunal, Registrar, etc, to have certain powers of civil court :-

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

(a) summoning and enforcing the attendance of any person and

examining him on oath;

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

(c) receiving evidence on affidavits; and

(d) issuing commissions for examination of witnesses,

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

99. Orders to be pronounced :-

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

100. Bar of jurisdiction of courts :-

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

101. Power to exempt societies :-

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

102. Register of members :-

Any register or list of members or shares kept by any society shall be prima facie evidence of the following particulars entered therein.--

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

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

103. Proof of entries in societys books :-

(1) Notwithstanding anything contained in the Indian Evidence Act a copy of any entry in a book of a society regularly kept in the

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

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

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

104. Service of notice :-

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

105. Acts of societies not to be invalidated by certain defects :-

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

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

106. Immunity for acts done or purporting to be done in good faith :-

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

107. Companies Act, 1956, not to apply :-

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

108. Duties of Police Officer :-

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

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

109. Power to make rules :-

(1) The Government may, for the whole or any part of the State and for any class of societies, after previous publication, by notification in the Gazette, make rules ¹[either prospectively or retrospectively by] to carry out the purposes of this Act.

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

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

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

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

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

(v) the qualifications or disqualifications of individuals who may be

- admitted as members of societies;
- (vi) the payment to be made and the interests to be acquired before the exercise of the right of membership;
 - (vii) the appointment by a society of one of its members to represent and vote on its behalf at a meeting of another society of which it is a member;
 - (viii) the maximum number of shares or portion of the share capital of a society which may be held by an individual member;
 - (ix) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;
 - (x) the mode in which the value of a deceased members share shall be ascertained;
 - (xi) the election of members of the committee by the general body of a society;
 - (xii) the requisitioning of a general body meeting of a society;
 - (xiii) the remuneration payable to a new committee or administrator or administrators appointed by the Registrar under S.32 or S.33;
 - (xiv) the qualifications or disqualifications for membership of the committee of a society;
 - (xv) the qualifications of employees of societies;
 - (xvi) the prohibition against officers of a society being interested in contracts with the society;
 - (xvii) the matters connected with the direct and indirect partnership of the Government in societies;
 - (xviii) the rate at which dividend may be paid by societies;
 - (xix) the constitution of the Co-operative Education Fund, the payment to be made to the fund by a society out of its net profit and the mode of its investment;
 - (xx) the mode of investment of funds of a society;
 - (xxi) the objects of the reserve fund of a society and the mode of its investment;
 - (xxii) the mode of disposal of the reserve fund of a society on its winding up.
 - (xxiii) the extent to which and the conditions subject to which a society may receive deposits and loans;
 - (xxiv) the restrictions on transactions by a society against its shares;
 - (xxv) the restrictions on grant of loans by a society against its shares;
 - (xxvi) the form and standards of fluid resources to be maintained

by societies accepting deposits and granting cash credits;
(xxvii) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes;
(xxviii) the conditions subject to which the assets of a society shall vest in a liquidator and the procedure to be adopted in the winding up of a society;
(xxix) the procedure for the recovery of amounts due or payable to a society;
(xxx) the mode of making attachment before judgment;
(xxxi) the manner of registering the address of a society;
(xxxii) the account books and registers to be kept by a society, and power of the Registrar to call for any returns or to direct the accounts and books to be written up;
(xxxiii) the manner of certification of entries in the books of a society and of copies of documents kept by it in the course of its business;
(xxxiv) the statements and returns to be furnished by a society to the Registrar;
(xxxv) the restrictions on persons appearing as legal practitioners;
(xxxvi) the inspection of documents and the levy of fees for granting certified copies thereof.
(xxxvii) Procedure to be followed in, and the fees for, audit and arbitration under this Act, and
(xxxviii) any other matter required or allowed by this Act; to be prescribed.

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

1. Inserted by Act 7 of 1988 published in K.G. Ex. No.351 dated 21-4-1988 w.e.f. 15-2 1988.

110. Repeal and savings :-

(1) The Madras Co-operative Society Act, 1932 (vi of 1932). as in

force in the Malabar district referred to in sub-section (2) of S.5 of the State Reorganization Act, 1956 (Central Act 37 of 1956) and the Travancore Cochin co-operative Societies Act, 1951 (X of 1952) are repealed.

(2) Notwithstanding the repeal of the Madras Co-operative Societies Act, 1932 and the Travancore-Cochin Co-operative Societies Act, 1951 and without prejudice to the provisions of Ss.4 and 23 of the Interpretation and General Clauses Act, 1125 (VII of 1125).--

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

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

SCHEDULE 1

THE SCHEDULE

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[see section 80 (3A)]

1. The Kerala State Co-operative Bank Ltd., Thiruvananthapuram.
2. The Kerala State Co-operative Agricultural and Rural Development Bank Ltd., Thiruvananthapuram.
3. The Kerala State Federation of Scheduled Castes\Scheduled Tribes Development Co-operatives, Thiruvananthapuram.
4. The Kerala State Co-operative Housing Federation Ltd., No. 4330, Ernakulam.
5. The Kerala Co-operative Milk Marketing Federation Ltd., Thiruvananthapuram.
6. The Kerala State Co-operative Marketing Federation Ltd., Ernakulam.
7. The Kerala State Co-operative Rubber Marketing Federation Ltd., Ernakulam.
8. The Kerala Kera Karshaka Sahakarana Federation Ltd., No. 4370. (Kerafed), Thiruvananthapuram,
9. The Kerala State Co-operative Federation for Fisheries Development, Ltd., (Matsyafed), Thiruvananthapuram.
10. The Kerala State Co-operative Consumers Federation Ltd., Ernakulam.
11. The Kerala State Cashew Workers Apex Industrial Co-operative Society Ltd., [IND (ST)] 12, Kollam.
12. The Kerala State Handloom Weavers Co-operative Society Ltd., No. H.232, Thiruvananthapuram.
13. The Kerala State Handicraft Apex Co-operative Society Ltd., No. H. 231, Ernakulam.
14. The Kerala State Co-operative Coir Marketing Federation Ltd., Alappuzha.
15. The Kerala State Co-operative Textile Federation Ltd., IND MT(ST) I (TEXFED),

Trichur.

16. The Thiruvananthapuram District Co-operative Bank Ltd., No. 4312.
17. Kollam District Co-operative Bank Ltd., No. 4311.
18. The Pathanamthitta District Co-operative Bank Ltd., No. 4365.
19. The Alappuzha District Co-operative Bank Ltd., No. 4310.
20. Kottayam District Co-operative Bank Ltd., No. 4309.
21. Idukki District Co-operative Bank Ltd., No. 4334.
22. Ernakulam District Co-operative Bank Ltd., No. 4325.
23. Thrissur District Co-operative Bank Ltd., No. 60.
24. Palakkad District Co-operative Bank Ltd., No. P. 521.
25. Malappuram District Co-operative Bank Ltd., No. 4329,
26. Kozhikode District Co-operative Bank Ltd., No. F. 1635.
27. Wayanad District Co-operative Bank Ltd., No. 4357.
28. Kannur District Co-operative Bank Ltd., No. C. 266.
29. Kasaragod District Co-operative Bank Ltd., No. 4367.