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**MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960**

**24 of 1961**

**[9th May, 1961]**

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**MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960**

**24 of 1961**

**[9th May, 1961]**

An Act to consolidate and amend the law relating to co-operative societies in the State of Maharashtra. WHEREAS, with a view to providing for the orderly development of the co-operative

movement in the State of Maharashtra in accordance with the relevant Directive Principles of State Policy enunciated in the Constitution of India, it is expedient to consolidate and amend the law relating to co-operative societies in that State ; It is hereby enacted in the Eleventh Year of the Republic of India as follows :-

## **CHAPTER 1** Preliminary

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Maharashtra Co-operative Societies Act, 1960.

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

(3) It shall come into force on <sup>1</sup> such date as the State Government may, by notification in the Official Gazette, appoint.

1. 26th day of January 1962, vide G. N., C. and R.D.D. No. SCL. 1061/135-G, dated 24th January 1962.

### **2. Definitions :-**

In this Act, unless the context otherwise requires ,-

(1) "agricultural marketing society" means a society -

(a) the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production, and

(b) not less than three-fourths of the members of which are agriculturists, or societies formed by agriculturists ;

<sup>1</sup>[

(2) "apex society" means a society ,-

(a) the area of operation of which extends to the whole of the State of Maharashtra,

(b) the main object of which is to promote the principal objects of the societies affiliated to it as members and to provide for the facilities and services to them, and

(c) which has been classified as an apex society by the Registrar;]

<sup>2</sup>(3)\*\*\*\*]

(4) "bonus" means payment made in cash or kind out of the profits of a society to a member, or to a person who is not a member, on the basis of his contribution (including any contribution in the form of labour or service) to the business of the society, and in the case of a farming society, on the basis both of such contribution and also the value or income or, as the case may be, the area of the lands of

the members brought together for joint cultivation as may be decided by the society <sup>3</sup>[but does not include any sum paid or payable as bonus to any employee of the society under the Payment of Bonus Act, 1965 ;]

(5) "bye-laws" means bye-laws registered under this Act and for the time being in force and includes registered amendments of such bye-laws ;

<sup>4</sup>[(6) "Central Bank" means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies ; but does not include the urban co-operative bank ;].

<sup>5</sup>[(7) "committee" means the committee of management or board of directors or other directing body, by whatever name called, in which the management of the affairs of a society is vested under section 73 ;].

(8) "Company" means a company as defined in the Companies Act, 1956 and includes a Banking Company and also any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any industry ;

(9) "consumers society" means a society the object of which is -

(a) the procurement, production or processing, and distribution of goods to, or the performance of other services for, its members as also other customers and

(b) the distribution among its members and customers, in the proportion prescribed by rules or by the bye-laws of the society, of the profits accruing from such procurement, production or processing, and distribution ;

<sup>6</sup>[

(10) "co-operative bank" means a society which is doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949 and includes any society which is functioning or is to function as <sup>7</sup>[an Agriculture and Rural Development Bank] under Chapter XI] ;

<sup>8</sup>[(10-ai) "Co-operative Appellate Court" means the Maharashtra State Co-operative Appellate Court constituted under this Act;

(10-a ii) "Co-operative Court" means a Court constituted under this Act to decide <sup>9</sup>[disputes referred to it under any of the provisions of the Act]];

<sup>10</sup>[(10-a iii) "co-operative year" means a year ending on the <sup>11</sup>[31st day of March] or on such other day in regard to a particular society or class of societies <sup>12</sup>[as may have been fixed by the

Registrar, from time to time] for balancing its or their accounts ;]

**13**[(10-A) "crop protection society" means a society the object of which is protection of the crops, structures, machinery, agricultural implements and other equipment such as those used for pumping water on the land;]

(11) "dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him ;

(12) "farming society" means a society in which, with the object of increasing agricultural production, employment and income and the better utilisation of resources, lands are brought together and jointly cultivated by all the members, such lands (a) being owned by or leased to the members (or some of them), or (b) coming in possession of the society in any other manner whatsoever;

(13) "federal society" means a society -

(a) not less than five members of which are themselves societies, and

(b) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meeting of such society ;

(14)"firm" means a firm registered under the Indian Partnership Act, 1932 ;

(15) "general society" means a society not falling in any of the classes of societies defined by the other clauses of this section ;

**14**[(16) "housing society" means a society, the object of which is to provide its members with open plots for housing, dwelling houses or flats ; or if open plots, the dwelling houses or flats are already acquired, to provide its members common amenities and services ;].

**15**[(16-A) "lift irrigation society" means a society the object of which is to provide water supply, by motive power or otherwise to its members, for irrigation and otherwise ;]

(17) "Liquidator" means a person appointed as liquidator under this Act;

(18) "local authority" includes a school board and an agricultural produce market committee constituted by or under any law for the time being in force ;

(19)

(a) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered, or a person duly admitted to membership of a society after registration, and includes a nominal, associate or sympathiser member ;

(b) "associate member" means a member who holds jointly a share of a society with others, but whose name does not stand first in the share certificate;

(c) "nominal member" means a person admitted to membership as such after registration in accordance with the bye-laws ;

(d) "sympathiser member" means a person who sympathises with the aims and objects of the society and who is admitted by the society as such member.

(20) "officer" means a person elected or appointed by a society to any office of such society according to its bye-laws ; and includes a Chairman, Vice-Chairman, President, Vice-President, Managing Director, Manager, Secretary, Treasurer, Member of the Committee, and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society ;

**16**[(20-A) "Official Assignee" means a person or body of persons appointed by the Registrar under sub-section (2) of section 21-A ;]

(21) "prescribed" means prescribed by rules ;

(22) "processing society" means a society the object of which is the processing of goods ;

(23) "producers society" means a society the object of which is, the production and disposal of goods or the collective disposal of the labour of the members thereof;

(24) "Registrar" means a person appointed to be the Registrar of Co- operative Societies under this Act;

(25) "resource society" means a society the object of which is the obtaining for its members of credit, goods or services required by them ;

(26) "rules" means rules made under this Act;

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

(28) "society with limited liability" means a society having the liability of its members limited by its bye-laws ;

(29) "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 its obligations and to contribute to any deficiency in the assets of the society ;

**17** [(30)\*\*\*\*\*]

(31) "working capital" means funds at the disposal of a society inclusive of paid-up share capital, funds built out of profits, and money raised by borrowing and by other means.

1. Clause (2) was inserted by Mah. 20 of 1986, s. 2 (a).
2. Clause (3) was deleted by Mah. 20 of 1986, s. 2 (b).
3. This portion was added by Mah. 27 of 1969, s. 2 (a).
4. Clause (6) was substituted for the original by Mah. 20 of 1986, s. 2 (c).
5. Clause (7) was substituted, *ibid.*, s. 2 (d).
6. Clause (10) was substituted by Mah. 33 of 1963, s. 2.
7. These words were substituted for the words "a Land Development Bank" by Mah. 10 of 1988, s. 2.
8. Clauses (10-ai) and (10-a ii) were inserted by Mah. 3 of 1974, s. 2 (b).
9. These words were substituted for the words "disputes referred to it by the Registrar" by Mah. 18 of 1982, s. 2.
10. Clause (10-a iii) was inserted by Mah. 20 of 1986, s. 2 (e).
11. These words were substituted for the words "30th day of June" by Mah. 13 of 1994, s. 2 (a).
12. These words were substituted for the words "as may have been fined, with the previous approval of the Registrar" *ibid.*, s. 2 (b).
13. Clause (10-A) was inserted by Mah. 27 of 1969, s. 2 (b).
14. Clause 16, was substituted by Mah. 20 of 1986, s. 2 (f).
15. Clause (16-A) was substituted by Mah. 3 of 1974, s. 2 (c).
16. Clause (20-A) was inserted by Mah. 20 of 1986, s. 2 (g).
17. Clause (30) was deleted by Mah. 3 of 1974, s. 2 (d).

## **CHAPTER 2 Registration**

### **3. Registrar and his subordinates :-**

The State Government may appoint a person to be the Registrar of Co-operative Societies for the State ; and may appoint one or more persons to assist such Registrar, <sup>1</sup>[with such designations, and in such local areas or throughout the State, as it may specify in that behalf,] and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under

this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar. <sup>2</sup> [They shall be subordinate to the Registrar, and subordination of such persons amongst themselves shall be such as may be determined by the State Government.]

1. These words were inserted by Mah. 27 of 1969, s. 3 (a).
2. These words were added *ibid.*, s. 3 (b).

### **3A. Temporary vacancies :-**

<sup>1</sup> If the Registrar or a person appointed to assist such Registrar is disabled from performing his duties or for any reason vacates his office or leaves his jurisdiction or dies, then -

(a) in the case of the Registrar, the Additional or Joint Registrar, in the office of the Registrar, and

(b) in the case of a person appointed to assist the Registrar, the senior-most officer holding the next higher post, in the respective office, shall, unless other provision has been made in that behalf, hold temporarily the office of the Registrar or, as the case may be, of the person appointed to assist the Registrar in addition to his own office and shall be held to be the Registrar or the person appointed to assist the Registrar under this Act, until the Registrar or the person appointed to assist the Registrar resumes his office, or until such time as the successor is duly appointed and takes charge of his appointment.]

1. Section 3-A inserted by Mah. 20 of 1986, s. 3.

### **4. Societies which may be registered :-**

A society, which has as its objects the promotion of the economic interests or general welfare of its members, or of the public, in accordance with co-operative principles, or a society established with the object of facilitating the operations of any such society, may be registered under this Act:

Provided that, no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development <sup>1</sup> [of the co-operative movement, or the registration of which may be contrary to the policy directives which the State Government may, from time to time, issue.]

1. These words were substituted for the words "of the co-operative movement," by Mah. 20 of 1986, s.4

## **5. Registration with limited or unlimited liability :-**

A society may be registered with limited or unlimited liability .

## **6. Conditions of registration :-**

(1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons <sup>1</sup>[or such higher number of persons as the Registrar may, having regard to the objects and economic viability of a society and development of the co-operative movement, determine from time to time for a class of societies], (each of such persons being a member of a different family), who are qualified to be members under this Act, and who reside in the area of operation of the society:

<sup>2</sup>[Provided that, a lift irrigation society consisting of less than ten but of five or more such persons may be registered under this Act.]

(2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same town or village, or in the same group of villages.

<sup>3</sup>[(2A) No crop protection society shall be registered, unless the Registrar is satisfied, after such inquiry as he thinks necessary, that a draft of the proposal made by the society for protecting the crops, structures, machinery, agricultural implements and other equipment such as those used for pumping water on the land, was duly published for inviting all owners of lands likely to be affected by the proposal and all other persons likely to be interested in the said lands to join the proposal or to send their objections or suggestions and that the objections and suggestions received, if any, have been duly considered by the society and that the owners in possession of not less than 66 per cent, in the aggregate of the lands included in the proposal have given their consent in writing to the making of the proposal and that the proposal made is feasible. For this purpose, the society shall submit to the Registrar :-

(a) a plan showing the area covered by the proposal and the surrounding lands as shown in the map or maps of the village or villages affected ;

(b) an extract from the record of rights duly certified showing the names of the owners of the lands and the areas of the lands included in the proposal;

(c) statements of such of the owners of the lands as consented to the making of the proposal signed by owners before two witnesses ;

(d) a detailed estimate of the cost of implementing the proposal;

(e) a detailed statement showing how the cost is proposed to be met. When such society is registered, the cost of implementing the proposal shall be met wholly or in part by contribution to be levied by the society from each owner of the land included in the proposal, including any such owner who may have refused to become a member of the society. The owner of every land included in the proposal shall also be primarily liable for the payment of the contribution leviable from time to time in respect of such land.]

(3) No federal society shall be registered, unless it has at least five societies as its members.

(4) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.

(5) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act.

Explanation :- For the purposes of this section and section 8, the expression "member of a family" means a wife, husband, father, mother, <sup>4</sup> [son or unmarried daughter.]

1. These words were inserted by Mah. 20 of 1986, s. 5.

2. This proviso was added, by Mah. 27 of 1969, s. 4 (a).

3. Sub-section (2A) was inserted, *ibid.*, s. 4 (b).

4. These words were substituted for the portion beginning with "grand-father, grand-mother" and ending with "wife of brother or half-brother" by Mah. 33 of 1963, s. 3.

## **7. Power to exempt societies or class of societies from conditions as to registration :-**

Notwithstanding anything contained in this Act, the State Government may, <sup>1</sup> [by general or special order, exempt any society or class of societies from any of the requirements of this Act as to registration, subject to such conditions (if any) as it may impose.]

1. This portion was substituted for the original portion by Mah. 27

of 1969, s. 5 (a).

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

(1) For the purposes of registration, an application shall be made to the Registrar in the prescribed form, and shall be accompanied by four copies of the proposed bye-laws of the society <sup>1</sup> [and such registration fee as may be prescribed in this behalf. Different registration fees may be prescribed for different classes of societies, regard being had to the service involved in processing an application for registration]. The person by whom, or on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.

(2) The application shall be signed,-

(a) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of a different family), who are qualified under this Act, and

(b) in the case of a federal society, by at least five societies. No signature to an application on behalf of a society shall be valid, unless the person signing is a member of the committee of such a society, and is authorised by the committee by resolution to sign on its behalf the application for registration of the society and its bye-laws ; and a copy of such resolution is appended to the application.

1. These words were inserted by Mah. 3 of 1974, s. 3.

## **9. Registration :-**

(1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, <sup>1</sup>[or any other law for the time being in force, or policy directive is issued by the State Government under section 4,] and that its proposed bye-laws are not contrary to this Act or to the rules, he <sup>2</sup>[shall, within two months], from the date of receipt of the application register the society and its bye-laws.

<sup>3</sup>[(2) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its

receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the society and its bye-laws shall be deemed to have been registered <sup>4</sup> [and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days].]

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

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under this Act.

1. These words and figures were inserted by Mah. 20 of 1986,6 (a) (i).

2. These words were substituted for the words "may, within six months," *ibid.*, s. 6 (a) (ii).

3. Sub-section (2) was substituted for the original, by Mah. 20 of 1986, s. 6 (b).

4. These words were inserted by Mah. 7 of 1997, s. 2.

## **10. Evidence of Registration :-**

A certificate of registration signed by the Registrar, shall be conclusive evidence that the society therein mentioned, is duly registered, unless it is proved that the registration of the society has been cancelled.

## **11. Power of Registrar to decide certain questions :-**

When,<sup>1\*</sup> \*\*\*\*\* any question arises whether a person is an agriculturist or not, or whether any person resides in the area of operation of the society or not, <sup>2</sup>[or whether a person is or is not engaged in or carrying on any profession, business or employment, or whether a person belongs or does not belong to such class of persons as declared under sub-section (1A) of section 22 and has or has not incurred a disqualification under that sub-section,] such question shall be decided by the Registrar <sup>3</sup> [and his decision shall be final, but no decision adverse to any such person shall be given without giving him an opportunity of being heard.]

1. The words "for the purpose of the formation, or registration or

continuance, of a society," were deleted by Mah. 20 of 1986, s. 7 (a).

2. These words were inserted, *ibid.*, s. 7 (b).

3. These words were inserted by Mah. 3 of 1974, s. 4.

## **12. Classification of societies :-**

(1) The Registrar shall classify all societies into one or other of the classes of societies defined in section 2, and also into such sub-classes thereof as may be prescribed by rules.

(2) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another ; and may, in the public interest and subject to such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.

(3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the State Government may, from time to time, direct.

## **13. Amendment of bye-laws of society :-**

(1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the <sup>1</sup>[Every application for registration of an amendment of the bye-laws shall, <sup>2</sup>\* \* \* be disposed of by the Registrar within a period of two months from the date of its receipt.] <sup>3</sup>\*\*\*\*\*

<sup>4</sup>[(1A) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the amendment of the bye-laws shall be

deemed to have been registered.

(1B) No amendment of the bye-laws of a society shall be registered by the Registrar under this section or in the case of the bye-laws which are deemed to have been registered shall have effect, if the amendment is repugnant to the policy directives, if any, issued by the State Government under section 4.]

(2) When the Registrar registers an amendment of the bye-laws of a society <sup>5</sup>[or where an amendment of the bye-laws is deemed to have been registered], he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

(3) Where the Registrar refuses to register <sup>6</sup> [such amendment] of the bye-laws of a society, he shall communicate the order of refusal, together with his reasons therefor, to the society.

1. This portion was added by Mah. 27 of 1969, s. 6.

2. The words "as far as possible," were deleted by Mah. 20 of 1986, s. 8 (a) (i).

3. The proviso was deleted, *ibid.*, s. 8 (a) (ii).

4. These sub-sections were inserted, *ibid.*, s. 8 (a) (iii).

5. These words were inserted, *ibid.*, s. 8 (b) (a).

6. These words were substituted for the words "the amendment", *ibid.*, s. 8 (b) (b).

#### **14. Power to direct amendment of bye-laws :-**

(1) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting such State federal society as may be notified by the State Government register such amendment, and issue to the society a copy of such amendment certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly ; and the bye-laws as amended shall, subject to appeal (if any), be binding on the society

and its members.

**15. Change of name :-**

(1) A society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name ; but such change shall not affect any right or obligation of the society, or of any of its members, or past members, or deceased members ; and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name.

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

**16. Change of liability :-**

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

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

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

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

(a) all members and creditors have assented, or deemed to have assented, thereto as aforesaid ; or

(b) all claims of members and creditors, who exercise the option, given by sub-section (2), within the period specified therein, have met in full or otherwise satisfied.

**17. Amalgamation, transfer, division or conversion of societies :-**

(1) A society may, with the previous approval of the Registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide -

(a) to amalgamate with another society ;

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

(c) to divide itself into two or more societies ; or

(d) to convert itself into another class of society ;

Provided that, when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that -

(i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so

amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted ; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.

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

**18. Power to direct amalgamation, division and reorganisation in public interest, etc. :-**

(1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganised then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government by order notified in the Official Gazette, provide for the amalgamation, division or reorganisation of those societies into a single society, or into societies with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations, as may be specified in the order.

(2) No order shall be made under this section, unless -

(a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned ;

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society or from any member or class of members thereof, or from any creditor or class of creditors.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in

the opinion of the Registrar, be necessary to give effect to the amalgamation, the division or reorganisation.

(4) Every member or creditor of <sup>1</sup>[, or other person interested in,] each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation his share or interest, if he be a member, and the amount in satisfaction of his dues if he be a creditor.

(5) On the issue of an order under sub-section (1), the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.

<sup>2</sup>[(6) Nothing contained in this section shall apply for the amalgamation of <sup>3</sup> [two or more co-operative banks or two or more primary agricultural credit societies].]

1. These words were inserted by Mah. 2 of 1986, s. 9.

2. Sub-section (6) was added by Mah. 5 of 1976, s. 2.

3. These words were substituted for the words "two or more co-operative banks" by Mah. 4 of 1977, s.2.

### **18A. Amalgamation of co-operative banks :-**

<sup>1</sup> (1) Where the Registrar is satisfied that it is essential in the public interest, or in order to secure the proper management of one or more co-operative banks that two or more such banks should be amalgamated, then notwithstanding anything contained in section 17, the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in the Official Gazette, by order provide for the amalgamation of those banks into a single bank, with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order. Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in or against any bank to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that bank, having due regard to the proportion of the assets of such bank, to its liabilities. Such order may also

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

(2) No order shall be made under sub-section (1), unless -

(a) a copy of the proposed order has been sent in draft to each of the banks concerned;

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the banks) as the Registrar may fix in that behalf, either from the banks or any members, depositors, creditors, employees or other persons concerned.

(3) On the issue of an order under sub-section (1), notwithstanding anything contained in this Act or in any law for the time being in force or in any contract, award or other instruments for the time being in force, the provisions thereof, shall be binding on all banks and their members, depositors, creditors, employees and other persons having any rights, assets, or liabilities in relation to all or any of the banks concerned.

(4) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Registration Act, 1908, the order issued under sub-section (1) shall be sufficient conveyance for transfer or vesting the rights, assets and liabilities of the banks concerned as provided in the order.

(5) The amalgamation of banks under this section shall not affect any rights or obligations of the banks so amalgamated or render defective any legal proceedings which might have been continued or commenced by or against any such banks ; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated bank.

(6) Where two or more banks have been amalgamated, the registration of the bank in which the other banks are amalgamated may be continued and the registration of the other banks may be cancelled, or where the amalgamated bank is newly registered, the registration of all the amalgamating banks shall be cancelled.

(7) Any order made by the Registrar under this section shall be final and conclusive, and shall not be called in question in any Court.]

1. Section 18-A was inserted by Mah. 5 of 1976, s. 3.

## **18B. Amalgamation of primary agricultural credit societies**

:-

- <sup>1</sup> (1) Where the Registrar is satisfied that it is essential -
- (a) for ensuring economic viability of one or more primary agricultural credit societies ;
  - (b) for avoiding overlapping or conflict of jurisdictions of such societies in any area ;
  - (c) in order to secure the proper management of one or more such societies ;
  - (d) in the interest of the credit structure or co-operative movement in the State as a whole ;
  - (e) in the interest of the depositors ; or
  - (f) for any other reason in the public interest,
- (2) No order shall be made under sub-section (1), unless -
- (a) a copy of the proposed order has been sent in draft to each of the societies concerned ;
  - (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the societies) as the Registrar may fix in that behalf, either from the societies or any members, depositors, creditors, employees or other persons concerned.
- (3) When any order is made by the Registrar under sub-section (1) the provisions of sub-section (3) to (7) (both inclusive) of section 18-A shall, mutatis mutandis, apply to such order, in the same manner as they are applicable to any order made by him under sub-section (1) of that section.]

1. Section 18-B was inserted by Mah. 4, of 1977, s. 3.

## **18C. Reorganisation of societies on account of alteration of limits of local areas in which they operate :-**

- <sup>1</sup>(1) Where the area of operation of any society or societies is restricted to any district, taluka, municipal area or any other local area and such area is divided into two or more areas, or merged in any other area, or is diminished or increased or otherwise altered, under any law for the time being in force, and the State Government is satisfied that in the public interest, or in the interest

of the co-operative movement, or in the interest of the society or societies, or for the purpose of proper demarcation of area of operation for the societies in each area, it is essential to reorganise any such society or societies, the State Government may by an order, published in the Official Gazette, and in such other manner as it deems fit, provide for division of any existing society into two or more societies, amalgamation of two or more existing societies into one society, dissolution of any existing society or reconstitution of any existing society, affected by the territorial changes.

(2) An order made under sub-section (1) may provide for all or any of the following matters, namely :-

(a) the division of an existing society into two or more societies and the area of operation of each society ;

(b) the amalgamation of two or more existing societies into one society and the area of its operation ;

(c) the dissolution of any existing society ;

(d) the reorganisation of any existing society and the area of its operation;

(e) the removal of the committee of any existing society and the appointment of an administrator or an interim committee of management, to manage the affairs of the existing society or of the new society or societies, under the control and direction of the State Government, for a period not exceeding two years, as may be specified in the order or until the successor committee of the concerned society is duly constituted, whichever is earlier :

<sup>2</sup>[Provided further that, it shall be competent for the State Government from time to time, so however that the total period does not exceed three years in the aggregate ;]

<sup>3</sup> [Provided further that, it shall be competent for the State Government to alter and appoint, from time to time, during the said period or extended period and for any reason whatsoever, any other Administrator or an interim committee of management or any or all the members of such committee, as it deems fit, notwithstanding that the term or extended term of office of the Administrator or an interim committee of management or of any or all the members of such committee has not expired.]

(f) in the case of an existing federal society, the transfer of any of its member societies as members of another federal society named in the order ;

(g) the transfer, in whole or in part, of the assets, rights and liabilities of any existing society, including the rights and liabilities under any contract made by it, to one or more societies, and the

terms and conditions of such transfer ;

(h) the substitution of any such transferee for the existing society, or the addition of any such transferee, as a party to any legal proceeding or any proceeding pending before an officer or authority, to which the existing society is a party ; and the transfer of any proceedings pending before the existing society or its officer or authority to any such transferee or its officer or authority;

(i) the transfer or re-employments of any employees of the existing society to, or by, such transferee and the terms and conditions of service applicable to such employees after such transfer or re-employment:

Provided that, the terms and conditions of any such employees shall not be made less favourable than those applicable to him while in the service of the existing society, except with the previous approval of the State Government;

(j) the application of the bye-laws of the existing society to one or more societies without any modifications or with such modifications as may be specified in the order ;

(k) all incidental, consequential and supplementary matters as may be necessary or expedient to give effect to the order made under this section.

(3) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Registration Act, 1908 the order issued under this section shall be sufficient conveyance for transfer of the assets, rights and liabilities of the existing society as provided in the order.

(4) Any order made by the State Government under this section shall be final and conclusive and shall not be called in question in any court.

(5) Except as otherwise provided by this section or by any order issued thereunder, the provisions of this Act and the rules and orders issued thereunder, shall in all other respects apply to the existing societies and the new or reorganised societies formed under this section.]

1. Section 18-C was inserted by Mali. 7 of 1982, s. 2.

2. This proviso was added by Mah. 9 of 1985, s. 2.

3. This proviso was inserted by Mah. 10 of 1988, s. 3.

## **19. Reconstruction of societies :-**

Where a proposal for a compromise or arrangement,-

(a) between a society and its creditors, or  
(b) between a society and its members, is approved at a special general meeting called for the purpose, the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the Liquidator, order reconstruction in the prescribed manner, of the society.

## **20. Partnership of societies :-**

(1) Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member has had clear ten days written notice of the resolution, and the date of the meeting.

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

## **20A. Collaboration by societies :-**

<sup>1</sup>(1) Any society or societies may with the prior approval of the State Government, <sup>2</sup> [and subject to such terms and conditions as the State Government may impose and in such manner as may be prescribed] enter into collaboration with any Government undertaking or any undertaking approved by the State Government for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.

(2) Before approving any such scheme of collaboration by any society or societies under sub-section (1), the State Government shall have due regard to the following matters, namely :-

(a) that the scheme is economically viable ;

(b) that it can be implemented without, in any way, eroding the co-operative character of the society or the societies concerned ;

(c) that the scheme is in furtherance of the interests of the members of the society or societies concerned, or is in the public interest, and in the interest of the co-operative movement in general.]

1. Section 20-A was inserted by Mah. 20 of 1986, s. 10.

2. This portion was inserted by Mah. 10 of 1988, s. 4.

## **21. Cancellation of registration :-**

The Registrar shall make an order cancelling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, <sup>1</sup>[or it is de-registered under the provisions of sub-section (1) of section 21-A] <sup>2</sup>[or winding up proceedings in respect of the society are closed or terminated under section 109.] <sup>3</sup> \* \* \* \* \* The society shall, from the date of such order of cancellation, be deemed to be dissolved, and shall cease to exist as a corporate body.

1. These words, brackets, figures and letter were inserted, *ibid.*, s. 5.
2. This portion was inserted by Mah. 33 of 1963, s. 4.
3. The portion beginning with "or it has not commenced business" and ending with "be cancelled" was deleted by Mah. 3 of 1974, s. 5.

## **21A. De-registration of societies :-**

<sup>1</sup>(1) If the Registrar is satisfied that any society is registered on mis-representation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the Chief Promoter, the committee and the members of the society, de-register the society :

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the proceedings of the de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the Chief Promoter and the members of the Committee of the Society, and no proceeding in respect of the de-registration of the society shall be called in question in any Court merely on the ground that individual notice is not served on any such member.

(2) When a society is de-registered under the provisions of sub-

section (1), the Registrar may, notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.

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

(4) The Official Assignee shall be paid such remuneration and allowances as may be prescribed ; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any <sup>2</sup> [officer below the rank of a Joint Registrar of Co- operative Societies.]

1. Section 21-A was inserted by Mah. 20 of 1986, s. 11.

2. These words were substituted for the portion beginning with the word "person" and ending with the word and figure "section 3" by Mah. 10 of 1988, s. 6

### **CHAPTER 3** Members and their Rights and Liabilities

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

(1) Subject to the provisions of section 24, no person shall be admitted as a member of a society except the following, that is to say-

(a) an individual, who is competent to contract under the Indian Contract Act, 1872 ;

(b) a firm company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860;

(c) a society registered, or deemed to be registered, under this Act;

<sup>1</sup>[(d) the State Government or the Central Government;]

(e) a local authority ;

(f) a public trust registered under any law for the time being in force for the registration of such trusts :

Provided that, the provisions of clause (a) shall not apply to an

individual seeking admission to a society exclusively formed for the benefit of students of a school or college :

Provided further that, subject to such terms and conditions as may be laid down by the State Government by general or special order, a firm or company may be admitted as a member only of a society which is a federal or urban society or which conducts or intends to conduct an industrial undertaking :

Provided also that, any firm or company, which is immediately before the commencement of this Act a member of a society deemed to be registered under this Act, shall have, subject to the other provisions of this Act, the right to continue to be such member on and after such commencement.

Explanation :- For the purposes of this section, an "urban society" means a society, the business of which mainly falls within the limits of a municipal corporation, municipality, cantonment or notified area committee.

<sup>2</sup>[(1-A) Notwithstanding anything contained in sub-section (1), the State Government may, having regard to the fact that the interest of any person or class of persons conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order, published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified society or class of societies, so long as such person or persons are engaged in or carry on that profession, business or employment, <sup>3</sup>[as the case may be ; and the question whether a person is or is not so engaged in or carrying on any profession, business or employment or whether a person belongs or does not belong to such class of persons as declared under this sub-section and has or has not incurred a disqualification under this sub-section shall be decided by the Registrar under section 11.]

<sup>4</sup>[(1B) Not withstanding anything contained in sub-section (1), where the Registrar has decided under section 11 that a person has incurred a disqualification under sub-section (1A), the Registrar or the person not below the rank of District Deputy Registrar of Co-operative Societies, authorised by him in this behalf, may, by order, remove such person from the membership of the society ; and such person shall cease to be a member of the society on expiration of a period of one month from the date of receipt of such order by him.]

(2) Where a person is refused admission as a member of a society, the decision (with the reasons therefor) shall be communicated to that person within fifteen days of the date of the decision, or within three months<sup>5</sup> [from the date of receipt of the application for admission, whichever is earlier. If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been<sup>6</sup> [admitted] as a member of the society].<sup>7</sup> [If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all concerned parties.]

1. Clause (d) was substituted for the original by Mah. 27 of 1969, s. 7 (a).

2. Sub-section (1A) was inserted by Mah. 27 of 1969, s. 7 (b).

3. This portion was substituted for the words "as the case may be" by Mah. 20 of 1986, s. 12 (a).

4. Sub-section (IB) was inserted *ibid.*, s. 12 (b).

5. These words were substituted for the words "from the date of the application for admission,- whichever is earlier" by Mah. 27 of 1969, s. 7 (c).

6. This word was substituted for the words "refused admission" by Mah. 20 of 1986, s. 12 (c).

7. These words were inserted by Mah. 7 of 1997, s. 3.

### **23. Open membership :-**

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

<sup>1</sup>[(1A) Where a society refuses to accept the application from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any so paid, to the society concerned within thirty days from the date of receipt of such application and the amount; and thereupon if the society fails

to communicate any decision to the applicant within sixty days from the date <sup>2</sup>[If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.]

(2) Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar. <sup>3</sup>[Every such appeal, as far as possible, be disposed of by the Registrar within a period of three months from the date of its receipt:

Provided that, where such appeal is not so disposed of within the said period of three months, the Registrar shall record the reasons for the delay.]

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

<sup>4</sup> [(4) Without prejudice to the foregoing provisions of this section, in the case of agro-processing societies or any other society for which a definite zone or an area of operation is allotted by the State Government or the Registrar, it shall be obligatory on the part of such society to admit, on an application made to it, every eligible person from that zone or the area of operation, as the case may be, as a member of such society, unless such person is already registered as a member of any other such society, into the same zone or the area of operation].

1. Sub-section (1A) was inserted by Mah. 20 of 1986, s. 13 (a).

2. These words were inserted by Mah. 7 of 1997, s. 4.

3. This portion was inserted by Mah. 20 of 1986, s. 13 (b).

4. Sub-section (4) was added *ibid.*, s. 13 (c).

#### **24. Nominal, associate and sympathiser member :-**

(1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate or sympathiser member.

(2) A nominal member or sympathiser member shall not be entitled to any share in any form whatsoever in the profits or assets of the society as such member. A nominal or sympathiser member shall ordinarily not have any of the privileges and rights of a member,

but such a member, or an associate member, may, subject to the provisions of sub-section (8) of section 27, have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the bye-laws of the society.

### **25. Cessation of membership :-**

A person shall cease to be a member of a society on his resignation from the membership thereof being accepted, or on the transfer of the whole of his share or interest in the society to another member, or on his death, removal or expulsion <sup>1</sup> [from the society, or where a firm, company, any other corporate body, society or trust is a member, on its dissolution or ceasing to exist.]

1. These words were substituted for the words "from the society" by Mah. 20 of 1986, s. 14.

### **25A. Removal of names of members from membership register :-**

<sup>1</sup> The committee of a society shall remove from the register of its members the name of a person who has ceased to be a member or who stands disqualified by or under the provisions of this Act for being the member or continuing to be the member of a society :  
Provided that, if the society does not comply with the requirement of this section, the Registrar shall direct such society to remove the name of such person, and the society shall be bound to comply with such direction].

1. Section 25-A was inserted, by Mah. 20 of 1986, s. 15.

### **26. No rights of membership to be exercised till due payments are made :-**

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

### **27. Voting powers of members :-**

<sup>1</sup>(1) Save as otherwise provided in sub-sections (2) to (7), both inclusive, no member of any society shall have more than one vote

in its affairs ; and every right to vote shall be exercised personally, and not by proxy :

Provided that, in the case of an equality of votes the Chairman shall have a casting vote.]

(2) Where a share of a society is held jointly by more than one person, <sup>2</sup>[the person whose name stands first in the share certificate, if present, shall

(3) A society, which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of that other society ; and accordingly such member shall have the right to vote on behalf of the first society :

<sup>3</sup>[~~4~~\*\*\*\*\*

<sup>5</sup>[Provided that,] where the election is to a reserved seat under section 73-B, no person shall have more than one vote].

(4) A company or any other body corporate, constituted under any law for the time being in force, which has invested any part of its funds in the shares of a society, may appoint any of its directors or officers to vote on its behalf in the affairs of such society ; and accordingly, such director or officer shall have the right to vote on behalf of the company or body corporate.

(5) Where a firm has invested any part of its funds in the shares of a society, any one of its partners <sup>6</sup>[appointed by the firm] shall be entitled to vote in the affairs of the society on behalf of the firm.

(6) A local authority or public trust which has invested any part of its funds in the shares of a society, may appoint any of its members or trustees, to vote on its behalf in the affairs of that society ; and accordingly such person shall have the right to vote on behalf of the local authority or the public trust, as the case may be.

(7) In the case of a federal society, the voting rights of individual members thereof shall be such as may be regulated by the rules made under this Act and by the bye-laws of the society.

(8) No nominal, <sup>7</sup>\* \* or symphiser member shall have the right to vote <sup>8</sup>[and no such member shall be eligible to be a member of a committee or for appointment as a representative of the society on any other society].

<sup>9</sup>[(9) No nominee of the Government or any financing bank on the committee of any society shall be entitled to vote at any election of officers of such committee such as the President, Vice-President, Chairman, Vice- Chairman, Secretary, Treasurer or any other officer by whatsoever designation called, who holds the office by virtue of his election to the office].

**10** [(10) In the case of an agricultural credit society, if a member has taken a loan from the society, such member shall, whenever he is a defaulter in paying two or more consecutive installments towards repayment of the loan on the due dates, have no right to vote in the affairs of the society :

Provided that, a member shall not be deemed to be a defaulter, if he has discharged his obligation to deliver his marketable produce to the marketing or processing society and the value of such produce is not less than the amount of his dues, even if the actual settlement of his dues, either in whole or in part, takes place at a later stage.

(11) The agricultural credit society may, issue suitable orders for the purpose of carrying out the provisions of sub-section (10)].

1. Sub-section (1) was substituted for the original by Mah. 45 of 1983, s. 2 (a).

2. These words were substituted for the words "only the person whose name stands first in the share certificate, shall have the right to vote" by Mah. 27 of 1969, s. 8 (b).

3. These provisos were added by Mah. 45 of 1983, s. 2 (b).

4. The first proviso was deleted by Mah. 10 of 1988, s. 7 (a).

5. These words were substituted for the words "Provided further that" *ibid.*, s. 7 (b).

6. These words were inserted by Mah. 33 of 1963, s. 5.

7. The word "associate" was deleted by Mah. 27 of 1969, s. 8 (c).

8. These words were added, *ibid.*, s. 8 (c).

9. Sub-section (9) was substituted by Mah. 7 of 1997, s. 5.

10. Sub-section (10) and (11) were added by Mah. 3 of 1974, s. 6.

## **28. Restrictions on holding of shares :-**

In any society, <sup>1</sup>[no member, other than the Government, or any other society, or with the previous sanction of the State Government, a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall -]

(a) hold more than such portion of the total share capital of the society (in no case exceeding one-fifth thereof) as may be prescribed ; or

(b) have or claim any interest in the shares of the society exceeding <sup>2</sup>[twenty thousand rupees];

Provided that, the State Government may, by notification in the Official Gazette, specify in respect of any class of societies a higher or lower maximum than one fifth of the share capital or, as the case may be, a higher or lower amount than <sup>2</sup> [twenty thousand rupees].

1. This portion was substituted for the words "no member other than the State Government or any other society, shall" by Mah. 27 of 1969, s. 9.

2. These words were substituted for the words "five thousand rupees" by Mah. 20 of 1986, s. 16.

## **29. Restrictions on transfer or charge of share or interest :-**

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(1) Subject to the provisions of the last preceding section as to the maximum holding of shares and to any rules made in this behalf, a transfer of, or charge on, the share or interest of a member in the share capital of a society shall be subject to such conditions as may be prescribed.

(2) A member shall not transfer any share held by him or his interest in the capital or property of any society, or any part thereof, unless -

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

(b) the transfer is made to a member of the society or to a person whose application for membership has been accepted <sup>1</sup>[by the society, or to a person whose appeal under section 23 of the Act has been allowed by the Registrar ; or to a person who is deemed to be a member under sub-section (1A) of section 23].

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Act, or by the rules made thereunder or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed, provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten per cent of the paid-up share capital of the society on the last day of the financial year immediately preceding.

Explanation <sup>2</sup>[I] :- The right to forfeit the share or interest of any

expelled member in the share capital by virtue of any bye-laws of the society, shall not be affected by the aforesaid provision.

Explanation II :- In this section, the expression "financial year" means the year ending on the <sup>3</sup> [31st day of March] or in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day, the year ending on such day].

(4) Where the State Government is a member of a society, the restrictions contained in this section shall not apply to any transfer made by it of its share or interest in the capital of the society ; and that Government may, notwithstanding anything in this Act, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

1. This portion was substituted for the words "by the society" *ibid.*, s. 17.

2. The Explanation was renumbered as Explanation I and Explanation II was added by Mah. 33 of 1963, s. 6.

3. Substituted by Mah. 13 of 1994, s. 3.

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

(1) On the death of a member of a society, the society shall transfer the share or interest of the deceased member to a person or persons nominated in accordance with the rules 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 duly admitted as a member of the society :

Provided further that, nothing in this sub-section or in section 22, shall prevent a minor or person of unsound mind from acquiring by inheritance or otherwise, any 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.

(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 duly 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.

### **31. Share or interest not liable to attachment :-**

The share or interest of a member in the capital of a society, or in the loan stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposit, shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member ; and accordingly, neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a Receiver under the Provincial Insolvency Act, 1920, nor any such person or authority under any corresponding law for the time being in force, shall be entitled to, or have any claim on, such share or interest.

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

(1) Every member of a society shall be entitled to inspect, free of cost, at the societys office during office hours, or any time fixed for the purpose by the society, a copy of the Act, the rules and the bye-laws, the last audited annual balance sheet, the profit and loss account, a list of the members of the committee, a register of members, the minutes of general meetings, minutes of committee meetings and those portions of the books and records in which his transactions with the society have been recorded.

(2) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefor, a copy of any of the documents mentioned in the foregoing sub-section within one month from the date of payment of such fees.

### **32A. Certain societies to give pass books to members and entries in such book evidence of amount due :-**

<sup>1</sup> (1) A society which gives loans to its members, <sup>2</sup>[or a society or class of societies which the State Government may notify in the Official Gazette, from time to time], shall furnish each member with a pass book, which shall contain an account of the transactions with

the member, such as, the date of the transaction, the amount of loan advanced, the rate of interest, the repayment made by the member, the amount of the principal and interest due and such other particulars as may be prescribed. The necessary entries shall be made in the pass book, from time to time, which shall be counter-signed by such office-bearer of the society as may be authorised in this behalf by the committee. For this purpose, <sup>3</sup> [the member] shall be bound to present the pass book to such office-bearer and if the pass book is required to be kept for some time, for making the necessary entries, the member shall be granted a receipt therefor, by such office-bearer.

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

1. Section 32-A was inserted by Mah. 3 of 1974, s. 7.

2. These words were inserted by Mah. 20 of 1986, s. 18 (a).

3. These words were substituted for the words "the depositor", *ibid.*, s. 18 (b).

### **33. Liability of past member and estate of deceased member :-**

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

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

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

(2) Where a society is ordered to be wound up under any provisions of this Act, the liability of a past member or of the estate of a deceased member, who ceased to be a member or died, within two years immediately preceding the date of the order 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 stood on the date of his ceasing to be a member or death, as the case may be.

### **34. Insolvency of members. III of 1909. V of 1920 :-**

Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceeding against him, shall rank in order of priority next to the dues payable by him to Government or to a local authority.

### **35. Expulsion of members :-**

(1) A society may, by resolution passed <sup>1</sup> [by a majority of not less than three-fourths] of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society :

Provided that,, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body and no resolution shall be effective unless it is approved by the Registrar.

(2) No member of a society who has been expelled under the foregoing sub-section, shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of one year from the date of such expulsion :

Provided that, the Registrar may, on an application by the society and in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

1. These words were substituted for the words "by three-fourths majority" by Mali. 33 of 1963.

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

### **36. Societies to be bodies corporate :-**

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

### **37. Address of societies :-**

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

**38. Register of members :-**

(1) Every society shall keep a register of its members and enter therein the following particulars, that is to say ,-

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

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

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

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

(e) such other particulars as may be prescribed :

Provided that, where a society has by or under this Act, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member, and the date on which the nomination was recorded.

(2) The register shall be prima facie evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

**39. Copy of Act, etc., to be open to inspection :-**

Every society shall keep, at the registered address of the society, a copy of this Act and the rules and of its bye-laws and a list of members, open to inspection to the public, free of charge, during office hours or any hours fixed by the society therefor.

**40. Admissibility of copy of entry as evidence :-**

(1) A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society, shall, if duly certified in such manner as may be prescribed, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.

(2) In the case of such societies, as the State Government may by

general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the societys books, the contents of which can be proved under the foregoing sub-section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

**41. Exemption from compulsory registration of instruments relating to shares and debentures of society :-**

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

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

(b) to any debentures issued by any 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) to any endorsement upon, or transfer of, any debentures issued by any society.

**42. Power to exempt from taxation; Power to refund :-**

.

<sup>1</sup>[(1)] The State Government, by notification in the Official Gazette may, in the case of any society or class of societies <sup>2</sup>[reduce or remit whether prospectively or retrospectively, in the whole of the State or any part thereof] , -

(a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar <sup>3</sup>[or Co- operative Court] under this Act, are respectively chargeable.

(b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to Court fees, for the time being in force, and

(c) any other tax or fee or duty (or any portion thereof), payable by or on behalf of a society under any law for the time being in force, which the State Government is competent to levy.

<sup>4</sup> [(2) The State Government may, refund the amount of any tax, fee or duty paid in pursuance of any law referred to in sub-section (1) in such circumstances, to such extent and subject to such terms and conditions, if any, as the State Government may by order determine].

1. Section 42 was re-numbered as sub-section (1) and sub-section (2) was added by Mah. 40 of 1972, s.2(1) and (2).

2. These words were substituted for "remit", *ibid.*, s. 2 (1).

3. These words were substituted for the words "or his nominee or board of nominees" by Mah.3 of 1974, s. 8.

4. Section 42 was re-numbered as sub-section (1) and sub-section (2) was added by Mah. 40 of 1972, s. 2(1) and (2).

#### **43. Restrictions on borrowings :-**

<sup>1</sup>[(1)] A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the bye-laws of the society.

<sup>1</sup> [(2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and bye-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extend upto which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.]

1. Section 43 was re-numbered as sub-section (1) and sub-section (2) was added by Mah. 33 of 1963, s.8.

#### **44. Regulation of loan making policy :-**

.

(1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of

any person who is not a member :

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

( 2 ) Notwithstanding anything contained in the foregoing subsection, a society may make a loan to a depositor on the security of his deposit.

(3) If in the opinion of the State Government, it is necessary in the interest of the society or societies concerned to do so, the State Government may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property :

<sup>1</sup> [Provided that, the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules, and bye-laws, with the approval of the Apex Bank, by general, or special order, regulate further the extent, conditions and manner of making loans by any society or class of societies to its members or other societies.

1. This proviso was added *ibid.*, s. 9.

#### **44A. Limit on interest in certain cases :-**

<sup>1</sup>Notwithstanding anything contained in any agreement or any law for the time being in force, a society (including a Co-operative Bank but excluding <sup>2</sup> [an Agriculture and Rural Development Bank, shall not for any loan (including rehabilitation loan but excluding long term loan for irrigation or agricultural development purposes or loan exceeding rupees three thousand for non-agricultural or commercial purposes) given by it to any member (including a member-society) for a period not exceeding 15 years, whether the loan was given before or is given after the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985, recover, in any manner whatsoever, on account of interest, a sum greater than the amount of the principal of the loan.

1. Section 44-A was substituted by Mah. 20 of 1986, s. 19.

2. These words were substituted for the words "a Land Development Bank" by Mah. 10 of 1988, s.8.

#### **45. Restrictions on other transactions with non-members :-**

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

**46. Charge and set-off in respect of share or interest of member :-**

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 upon any dividend, bonus or profits payable to such member, in respect of any debt due from such member or his estate to the society ; and the society may set-off any sum credited or payable to such member in or towards payment of any such debt:

Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 71, or its reserve fund ; and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

**47. Prior claim of society :-**

(1) Notwithstanding anything in any other law for the time being in force, but subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue and to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908.

(a) any debt or outstanding demand, owing to a society by any member or past member or deceased member, shall be a first charge,-

(i) upon the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by such member or past member or deceased member ;

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or workshop, godown or place of business supplied to or purchased by such member or past member or deceased member, in whole or in part, from any loan whether in money or goods made to him by the society ; and

(iii) upon any movable property which may have been hypothecated, pledged or otherwise mortgaged by a member with

the society and remaining in his custody ;

(b) any outstanding demands or dues payable to a society by any member or past member or deceased member, in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society.

Explanation :- The prior claim of Government in respect of dues other than land revenue, shall be restricted for the purpose of sub-section (1) to the assets created by a member out of the funds in respect of which the Government has a claim.

(2) No property or interest in property, which is subject to a charge under the foregoing sub-section, shall be transferred in any manner without the previous permission of the society ; and such transfer shall be subject to such conditions, if any, as the society may impose.

(3) Any transfer made in contravention of sub-section (2) shall be void.

(4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has one of its objects, the disposal of the produce of its members, may provide in its bye-laws, or may, otherwise contract with its members , -

(a) that every such members shall dispose of his produce through the society, and

(b) that any member, who is found guilty of a breach of the bye-laws or of any such contract, shall reimburse the society for any loss, determined in such manner as may be specified in the bye-laws.

#### **48. Charge on immovable property of members, borrowing from certain societies :-**

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

(a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the form prescribed. Such declaration shall state that the applicant thereby, creates, a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances (if any), required by him which the society may make to him as such member, subject to such maximum as may be

determined by the society, together with interest on such amount of the loan and advances ;

(b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a) ; and no such person shall, unless and until he has made such declaration, be entitled to exercise any right, as a member of the society ;

(c) a declaration made under clause (a) or (b) may be varied at any time by a member, with the consent of the society in favour of which such charge is created;

(d) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (a) or (b) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that, it shall be lawful to a member to execute a mortgage bond <sup>1</sup>[in respect of such land or any part thereof in favour of <sup>2</sup>[an Agriculture and Rural Development Bank] or of the State Government] under the Bombay Canal Rules made under the Bombay Irrigation Act, 1879 or under any corresponding law for the time being in force for the supply of water from a canal to such land, or to any part thereof:

Provided further that, if a part of the amount borrowed by a member is paid <sup>3</sup>[the society with the approval of the Central Bank to which it may be indebted] may, on an application from the member, release from the charge created under the declaration made under clause (a) or (b), such part of the movable or immovable property specified in the said declaration, as it may deem proper, with due regard to the security of the balance of the amount remaining outstanding from the member :

(e) any alienation made in contravention of the provisions of clause (d) shall be void ;

(f) <sup>4</sup>[subject to all claims of the Government in respect of land revenue or any money recoverable as land revenue, and all claims of the <sup>5</sup>[Agriculture and Rural Development Bank] in respect of its dues, in either case whether prior in time or subsequent], and to the charge (if any) created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 or any corresponding law for the time being in force in any part of the State, there shall

be a first charge in favour of the society on the land or interest specified in the declaration made under clause (a) or (b), for and to the extent of the dues owing <sup>6</sup>[by the member] on account of the loan ;

(g) and in particular, notwithstanding anything contained in <sup>7</sup>[Chapter X of the Maharashtra Land Revenue Code, 1966], the Record of Rights maintained thereunder shall also include the particulars of every charge on land or interest created under a declaration under clause (a) or (b), <sup>8</sup> [and also the particulars of extinction of such charge].

Explanation :- For the purposes of this section, the expression "society" means -

(i) any resource society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members, or

(ii) any society, or any society of the class of societies, specified in this behalf by the State Government, by a general or special order.

1. These words were substituted for the words "in favour of a mortgage bank or the State Government in respect of such land or any part thereof, by Mah. 33 of 1963, s. 10 (a) (i).

2. These words were substituted for the words "a Land Development Bank" by Mah. 10 of 1988, s. 9 (a).

3. These words were substituted for the words "the Central Financing Agency" by Man. 33 of 1963, s. 10 (a) (ii).

4. These words were substituted for the portion beginning with "subject to" and ending with "in respect of its dues" by Mah. 12 of 1966, s. 2 (a).

5. These words were substituted for the words "Land Development Bank" by Mah. 10 of 1988, s. 9 (b).

6. These words were substituted for the words "by him" by Mah. 12 of 1966, s (2) (b).

7. These words were substituted by Mah. 20 of 1986, s. 20 (a).

8. These words were added, *ibid.*, s. 20 (b).

#### **48A. Deductions from sale price of certain agricultural produce to meet societys dues :-**

<sup>1</sup>( 1 ) <sup>2</sup>[Where a loan has been advanced by any society in

accordance with the last preceding section for the growing of any <sup>3</sup>[an Agricultural and Rural Development Bank] for any of the purposes enumerated in clause (a) of section 111 and if in either case any agricultural produce is tendered by the person who has taken any such loan] for sale at a collection centre under section 30-A of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, on any day then the price agreed to be paid therefor shall be paid by the purchaser to the tenderer after deducting the dues of <sup>4</sup>[the societies mentioned] aforesaid <sup>5</sup>\* \* \* \* and the the amount so deducted shall be paid to the Market Committee constituted under that Act as provided in that section. On making payment to the tenderer and the Market Committee in the manner provided in the aforementioned section 30-A the purchaser shall be discharged of his liability to pay the price to the tenderer. <sup>6</sup>[The amount of the deduction on account of loans advanced by societies shall <sup>7</sup>[be made at such rate as may be notified by the State Government in this behalf by general or special order, so, however, that such rate shall] not in the aggregate exceed the following percentage of the total amount to be paid by the purchaser as the price, namely :- (i) if the produce tendered for sale is sugarcane .. ..100% (ii) if the produce tendered for sale is <sup>3</sup>[cotton] .. .. 60% (iii) in any other case .. .. .. 40%]

(2) The Market Committee on receiving the amount from the purchaser shall arrange to pay " [to the societies concerned] the amount of dues due from the tenderer within a reasonable time to be prescribed for the purpose. If the Market committee does not pay such dues within 8 days, after the realisation of the cheque, the Market Committee shall be liable to pay interest on such dues <sup>8</sup>[to the societies concerned] at a rate prescribed in this behalf, such rate not being in excess of the maximum rate of interest: fixed for unsecured loans under the Bombay Money-lenders Act, 1946.]

<sup>9</sup>[(3) Where any such purchaser is the State Government or an agent or officer appointed by that Government, or is a processing factory notified by the State Government, in this behalf by general or special order or a.n agent or officer appointed by such factory, the purchaser shall pay the price

Provided that, where loans have been taken by the tenderer from more than one society, the purchaser may, keeping in view the extent of the dues, on account of financing of crop or seasonal finance or finance for other agricultural purposes, repayable during

a period of not less than eighteen months and not more than five years and the extent of the dues of any <sup>10</sup>[Agricultural and Rural Land Development Bank] and subject to such directions (if any) as may be issued by the State Government from time to time, determine the proportion in which the amount of deduction made shall be apportioned between the different leading societies.]

<sup>11</sup> [Explanation :- For the purposes of this section, "purchaser" shall include any person who pays the purchase price of any agricultural produce tendered for sale, or by whom payment of such price is made, whether on his own account or as an agent or on behalf of another person.]

1. This section was inserted by Mah. 2 of 1972, s. 12.
2. This portion was substituted by Mah. 44 of 1973, s. 2 (a) (i).
3. These words were substituted for the words "a Land Development Bank" by Mah. 10 of 1988, s. 10 (a).
4. These words were substituted for the words "the co-operative society mentioned" by Mah. 44 of 1973, s. 2(a)(ii).
5. The words "and to the extent hereinafter stated" were deleted by Mah. 50 of 1977, s. 3 (a) (i).
6. This portion was substituted by Mah. 44 of 1973, s. 2 (a) (iii).
7. These words were inserted by Mah. 50 of 1977, s. 3 (a) (ii).
8. These words were substituted for the words "to the society" by Mah. 44 of 1973, s. 2 (b).
9. Sub-section (3) was added, *ibid.*, s. 2 (c).
10. These words were substituted for the words "a Land Development Bank" by Mah. 10 of 1988, s. 10 (b).
11. This Explanation was added by Mah. 50 of 1977, s. 3 (b).

#### **49. Deduction from salary to meet societys claims in certain cases :-**

<sup>1</sup>[(1) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such total amount payable to the society and in such installments as may be specified in the agreement, and to pay to the society the

amounts so deducted in satisfaction of any debt or other demand of the society against the member. A copy of such agreement duly attested by an officer of the society shall be forwarded by the society to the employer.]

(2) <sup>2</sup>[On receipt of a copy of such agreement], the employer shall, if so required by the society by a requisition in writing, and so long as the <sup>3</sup>[total amount shown in the copy of the agreement as payable to the society has been deducted and paid to the society,] make the deduction in accordance with the agreement, and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the Payment of Wages Act, 1936 on the day on which he makes payment.

(3) If after the receipt of a requisition made under the foregoing sub-section, the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer <sup>4</sup> [payment of such amount or where the employer has made deductions but the amount so deducted is not remitted to the society, then such amount together with interest thereon at one and half times the rate of interest charged by the society to the member for the period commencing on the date on which the amount was due to be paid to the society and ending on the date of actually remitting it to the society ; and such amount together with the interest thereon, if any, shall, on a certificate issued by the Registrar, be recoverable from him as an arrear of land revenue, and the amount and interest so due shall rank in priority in respect of such liability of the employer as wages in arrears.]

(4) Nothing contained in this section shall apply to persons employed in any railways (within the meaning of the Constitution) and in mines and oil fields.

1. Sub-section (1) was substituted by Mah. 20 of 1986, s. 21 (a).

2. These words were substituted for the words "on the execution of such agreement", *ibid.*, 21(b)(i).

3. These words were substituted for the words "society does not intimate that the whole of such debt or demand has been paid", *ibid.*, s. 21 (b)(ii).

4. This portion was substituted for the portion beginning with the words "payment thereof" and ending with the words "wages in arrears" by Mah. 20 of 1986, s. 21 (c).

## **CHAPTER 5 State Aid to Societies**

### **50. Direct partnership of State Government in societies :-**

The State Government may subscribe directly to the share capital of a society with limited liability, upon such terms and conditions as may be agreed upon.

### **51. Indirect partnership of State Government in societies :-**

. The State Government may, under appropriation made by law, provide moneys to a society for the purchase directly or indirectly of shares in other societies with limited liability. (A society to which money are so provided for the aforesaid purpose is hereinafter in this Chapter referred to as an "Apex Society").

### **52. Principal State Partnership Fund :-**

(1) An Apex society which is provided with moneys as aforesaid shall, with such moneys, establish a Fund to be called the "Principal State Partnership Fund".

(2) An Apex society shall utilise the Principal State Partnership Fund for the purpose of -

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

(b) providing money to a society to enable that society (hereinafter in this Chapter referred to as a "Central Society") to purchase shares in other societies with limited liability (the latter societies being hereinafter in this Chapter referred to as "Primary Societies");

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

### **53. Principal State Partnership Fund :-**

(1) A Central society which is provided with moneys by an Apex society from the Principal State Partnership Fund shall with such moneys, establish a fund to be called the "Subsidiary State Partnership Fund".

(2) A Central society shall utilise the Subsidiary State Partnership Fund for the purpose of -

(a) purchasing shares in Primary societies ;

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

**54. Approval of State Government for purchase of shares :-**

Shares shall not be purchased in a society from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund, except with the previous approval of the State Government.

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

. Where any shares are purchased in a society by -

(a) the State Government;

(b) an Apex society from the Principal State Partnership Fund, or a Central society from the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society of which the shares are purchased <sup>1</sup> [being wound up], be limited to the amount paid in respect of such shares.

1. These words were substituted for the words "is wound up" by Mah. 33 of 1963, s. 11.

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

. 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 shareholders of that society.

**57. Indemnity of Apex and Central societies :-**

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

(2) If a society in which shares are purchased from the Subsidiary

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

**58. Disposal of share capital and dividend, etc. :-**

(1) All moneys received by an Apex society in respect of shares of other societies, purchased from the moneys in the Principal State Partnership Fund on redemption of such shares, 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 and dividends referred to in sub-section (1) and (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 State Government.

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an Apex society under section 51.

**59. Disposal of Principal or 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 dissolved, all moneys, to the credit of, or payable to that Fund, shall be paid to the State Government.

(2) If a Central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub- section (2) of section 52.

**60. Principal or Subsidiary State Partnership Fund not to**

## **form part of assets :-**

Any amount to the credit of a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the Apex society or the Central society, as the case may be.

## **61. Agreement by State Government and Apex societies :-**

Subject to the foregoing provisions of this Chapter -

(a) the State Government may enter into an agreement with an Apex society setting out the terms and conditions on which it shall provide moneys to the Apex society for the purpose specified in section 51 ;

(b) an Apex society may, with the previous approval of the State Government, enter into an agreement with a Central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 52.

## **62. Other forms of State aid to societies :-**

. Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the State Government by general or special order may specify in this behalf, the State Government may ,-

(a) give loans to a society ;

(b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both, or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the State Government;

(c) guarantee the repayment of loans given by a Co-operative Bank to a society ;

(d) guarantee the repayment of the principal of, and payment of interest on, loans and advances given by the Reserve Bank of India, or the Industrial Finance Corporation of India or any other authority constituted under any law for the time being in force ; or

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

## **63. Provisions of this Chapter to override other laws :-**

The provisions of sections 51 to 61 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

## **CHAPTER 6 Property and Funds of Societies**

### **64. Funds not to be divided :-**

No part of the funds, other than <sup>1</sup> [the dividend equalisation or bonus equalisation funds as may be prescribed or] 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 remuneration on such scale as may be laid down by the bye-laws, for any services rendered by him to the society.

1. These words were inserted by Mah. 33 of 1963, s. 12.

### **65. Ascertainment and appropriation of profits :-**

<sup>1</sup>( 1 ) A society shall construct its relevant annual financial statements and arrive at its consequent net profit or loss in the manner prescribed.]

(2) A society may appropriate <sup>2</sup>[its net profits] to the reserve fund or any other fund, to payment of dividends to members on their shares <sup>3</sup>\* \* <sup>3</sup> \*\*\*\*\* to the payment of bonus on the basis of support received from members and persons who are not members to its business, to payment of honoraria and towards any other purpose which may be specified in the rules or bye-laws :

Provided that, no part of the profits shall be appropriated except with the approval of the annual general meeting and in conformity with the Act, rules and bye-laws.

1. Sub-section (1) was substituted by Mah. 20 of 1986, s. 22 (a).

2. These words were substituted for the words "its profits" by Mah. 33 of 1963, s. 13 (b).

3. The portion beginning with the words "to the contribution" and ending with the words "by the State Government", was deleted by Mah. 27 of 1969, s. 10 (b).

### **66. Reserve Fund :-**

(1) Every society which does, or can, derive a profit from its transactions shall maintain a reserve fund.

(2) <sup>1</sup>[Every society shall carry at least one-fourth of the net profits each year to the reserve fund ;] and <sup>2</sup>[such reserve fund may, subject to the rules made in this behalf, if any, be used] in the business of the society or may, subject to the provisions of section 70, be invested, as the State

<sup>3</sup> [Provided that, the Registrar may, having regard to the financial position of any society or class of societies, fix the contribution to be made to the reserve fund under this sub-section at a lower rate, but not lower than one-tenth of the net profits of the society or societies concerned].

1. These words were substituted for the portion beginning with "In the case of and ending with "to the reserve fund", by Mah. 33 of 1963, s. 14 (a).

2. These words were substituted for the words "such reserve fund may be used" by Mah. 3 of 1974, s. 10

3. This proviso was added by Mah. 33 of 1963, s. 14 (b).

### **67. Restrictions on dividend :-**

<sup>1</sup>No society shall pay dividend to its members at a rate exceeding <sup>2</sup> [15 per cent.] except with the prior sanction of the Registrar.]

1. Section 67 was substituted by Mah. 20 of 1986, s. 23.

2. These words and figures were substituted by Mah. 13 of 1994, s. 4.

### **68. Contribution to education fund of the State federal society :-**

<sup>1</sup>(1) Every society shall contribute annually towards the education fund of the State federal society which may be notified in this behalf by the State Government at such rate as may be prescribed, and different rates may be prescribed for different societies or classes of societies depending on their financial condition. <sup>2</sup>[\* \* \* \* \*]

(2) Every society shall pay its contribution to the said fund, <sup>3</sup>[within three months after the close of the co-operative year]. Any officer wilfully failing to comply with the requirement of this section,

shall be personally liable for making good the amount to the federal society notified as aforesaid].

<sup>4</sup> [(3) Where any society fails to pay the contribution within the period specified in sub-section (2), the amount of contribution due shall be recoverable as an arrear of land revenue and on the State Federal Society making a report of such failure to the Registrar, the Registrar shall, after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue.]

1. Section 68 was substituted for the original by Mah. 27 of 1969, s. 11.

2. The proviso was deleted by Mah. 3 of 1974, s. 11.

3. These words were substituted for the words "within two months from the date on which its accounts are adopted by the general body of members" by Mah. 20 of 1986, s. 24 (a).

4. This sub-section was added *ibid.*, s. 24 (b).

## **69. Contribution to public purposes :-**

. After providing for the reserve fund as provided in section 66, and for the educational funds as provided in section 68, a society may set aside a sum not exceeding twenty per cent, of its net profits, and utilise, with the approval of such federal society as may be notified by the State Government in this behalf from time to time, the whole or part of such sum in contributing to any co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

## **69A. Constitution of Co-operative State Cadre of Secretaries of certain societies and establishment of Kmployment Fund for such Cadre :-**

<sup>1</sup>(1) There shall be constituted a Co-operative State Cadre of Secretaries of primary agricultural credit societies, multi-purpose co-operative societies and service co-operatives and such other class of societies as may be prescribed in this behalf (hereinafter in this section referred to as "the Co-operative State Cadre"), consisting of persons recruited for this purpose by the Central societies notified in this behalf by the State Government. The

number of persons to be recruited and their conditions of service shall be determined by the Central societies in accordance with <sup>2</sup>[such general or special guidelines, if any], as may be issued by the State Government, from time to time.

(2) A Central society may, from time to time, depute any person appointed by it to that Cadre to work under any society referred to in sub-section (1), as it may consider necessary. Where any such person is posted to work under any society, his services shall be taken over by the society on such post, for such period and on such other terms and conditions, as the Central society may determine, but the person so posted shall draw his salary and allowances from the Fund established under <sup>3</sup>[sub-section (3). ]

<sup>4</sup>[(2A) The immediate initial supervisory control on the person appointed to the cadre and deputed or posted to work as secretary under each of the societies referred to in sub-section (1) shall be with the Taluka Supervision Society consisting of the societies, in each respective Taluka to which such persons are deputed, as members thereof and registered for the purpose. The Taluka Supervision Society, shall exercise such powers and discharge such functions or perform such duties as may be conferred or imposed on it by the bye-laws of such society.]

(3) An Apex society notified in this behalf by the State Government shall establish a Fund to be called "the Co-operative State Cadre Employment Fund", which, when established, shall be deemed to have been established with effect from the 1st day of July, 1973. It shall be utilised for meeting the expenses on the salaries, allowances and other emoluments to be paid to the persons appointed to the Co-operative State Cadre and the other expenditure relating to the Cadre.

<sup>5</sup> [(4)

(a) Every society or class or classes of societies, which in the opinion of the State Government, derive any benefit, directly or indirectly, from the services of any Secretary belonging to the Co-operative State Cadre of Secretaries, and

(b) Every other body corporate carrying on any trade, business or industry or class or classes of such corporate bodies, which in the opinion of the State Government, derive such benefit as aforesaid, and which are notified by the State Government in this behalf, from time to time, by general or special order, shall, with effect from the 1st day of July 1977, contribute annually to the said Fund, at such rate and in such manner as may be prescribed, and different rates

may be prescribed for different societies or other corporate bodies or class or classes of societies or class or classes of other corporate bodies. In determining the rate or rates of contribution, the State Government shall take into consideration the expenditure referred to in sub-section (3), the services likely to be rendered and the financial condition of the societies or other bodies concerned.

Explanation :- Notwithstanding anything contained in any law for the time being in force, for the purposes of levy and collection of the contribution to the said Fund by any other corporate body to which this section applies, such corporate body shall be deemed to be a society governed by this Act.]

(5) Where there is a failure to comply with the requirements of the last preceding sub-section, the Registrar may serve a demand notice on the society concerned to pay the contribution within two months from the date of demand. Such demand shall be a charge on the income of the society. If the contribution is not paid within the period aforesaid, the Registrar may direct any Bank or person having custody of the funds of the society to pay the amount of the contribution immediately, and such Bank or person shall comply with the orders of the Registrar. Every payment made pursuant to such direction shall be a sufficient discharge to such Bank or person from all liability to the society in respect of any sum so paid by it or him out of the moneys of the society in his custody.

(6) The State Government may make rules regulating all matters connected with or ancillary to the custody and maintenance of, the payment of moneys into, and the expenditure and withdrawal of moneys from, the said Fund.

1. Section 69-A was inserted by Mah. 36 of 1975, s. 3.

2. These words were substituted for the words "the general or special orders" by Mah. 5 of 1990, s. 2 (a).

3. These words, brackets and figures were substituted for the words "the next succeeding sub- section" *ibid.*, s. 2 (b).

4. Sub-section (2A) was inserted *ibid.*, s. 2 (c).

5. Sub-section (4) was substituted for the original by Mah. 30 of 1978, s. 3.

## **70. Investment of funds :-**

A society shall invest or deposit its funds in one or more of the following :-

- (a) in a Central Bank or the State Co-operative Bank ;
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882;
- <sup>1</sup>[(c) in the shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs :
- Provided that, no society shall invest more than such proportion of its paid up share capital as may be prescribed ;
- Provided further that, the provisions of this clause shall not apply to any investment made by any agricultural credit society in any processing society based on agricultural produce.]
- (d) <sup>2</sup> [in any co-operative bank (other than those referred to in clause (a) of this section) or banking company], approved for this purpose by the Registrar, and on such conditions as the Registrar may from time to time impose ;
- (e) in any other mode permitted by the rules, or by general or special order of the State Government.

1. Clause (c) was substituted for the original by Mah. 20 of 1986, s. 25.

2. These words were substituted for the words "in any banking company" by Mah. 33 of 1963 s.15

### **71. Employees provident fund :-**

(1) Any society may establish for its employees a provident fund, into which shall be paid the contributions made by its employees and by the society. Such provident fund shall not be used in the business of the society, nor shall it form part of the assets of the society ; but shall be invested under the provisions of the last preceding section, and shall be administered in the manner prescribed.

( 2 ) Notwithstanding anything contained in the foregoing subsection, a provident fund established by a society to which the Employees Provident Funds Act, 1952 is applicable, shall be governed by that Act.

### **71A. Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities :-**

<sup>12</sup>[(1)] No expenditure from the funds of a society shall be incurred

for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under sections 78, 96 or 144-T. If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

<sup>2</sup> [(2) If any person incurs expenditure in violation of sub-section (1), the Registrar shall direct the person to repay the amount to the society within one month and where such person fails to repay the amount as directed, such amount shall, on a certificate issued by the Registrar, be recoverable as arrears of land revenue.

(3) The person against whom action is taken by the Registrar under sub-section (2) shall be disqualified to continue to be the officer of any society or to be officer of any society at any next election including any next bye-election held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (2).]

1. Section 71-A was inserted by Mah. 3 of 1974, s. 12.

2. Section 71-A was renumbered as sub-section(1) of that section and sub-section (2) and (3) were added by Mah. 20 of 1986, s. 26.

## **CHAPTER 7 Management of Societies**

### **72. Final authority of society :-**

Subject to the provisions in this Act and the rules, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the bye-laws. [Where the bye-laws of a society so provide, the general meeting shall be attended by delegates appointed by the members, and such meeting shall be deemed to be the meeting of the general body, for the purpose of exercising all the powers of the general body.]

### **73. Committee, its powers and functions :-**

<sup>1</sup>[(1)] The management of every society shall vest in a committee, constituted in accordance with this Act, the rules and bye-laws which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the bye-laws.

<sup>2</sup>[(1A) Notwithstanding anything contained in this Act, the rules made thereunder or in the bye-laws of any society or class of societies,-

(a) the first general meeting of a society shall be convened within three months from the date of its registration to appoint a provisional committee and to transact other business as may be prescribed. The term of the members of such provisional committee shall be for a period of one year from the date on which it has been first appointed or till the date on which a regular committee is duly constituted in accordance with the provisions of the rules or bye-laws made under this Act, whichever is earlier ; and all the members of such provisional committee shall vacate office on the date of expiry of such period or such constitution of the committee :

(b) notwithstanding anything contained in clause (a), the provisional committees for the Co-operative Sugar Factories and Co-operative Spinning Mills and such other class of societies, as the State Government may, by special or general order, in the Official Gazette, specify in this behalf, shall be appointed by the State Government; and the members thereof shall hold office for a period of three years, which period may be extended by one year, at a time, so however that, the total period shall not exceed five year, in the aggregate ;

Provided that, the State Government shall have the power to change or reconstitute such committee or, any or all members thereof at its discretion even before the expiry of the period for which a member or members were nominated thereon :

Provided further that, the member or members assuming office on such change or re-constitution of the committee shall hold office for the period for which the provisional committee has been appointed under this clause.

(c) pending the first constitution of the committee of a society, the provisional committee of the society shall exercise the powers and perform the duties of the committee of such society as provided in this Act, the rules and bye-laws and make necessary arrangements for holding election of the committee, before the expiry of its term.]

<sup>3</sup>[(2) Notwithstanding anything contained in any bye-laws of a society or class of societies, the Registrar may, having regard to the area of operation, subscribed share capital or turnover of a society or class of societies, by general or special order, published in the Official Gazette, prescribe the maximum number of members on

the committee of such society or class of societies, as may be specified in such order.]

<sup>4</sup> [(3)

(a) Notwithstanding anything contained in this Act or the rules made thereunder or in the bye-laws of any society or any other law for the time being in force, in a general election of members of the committee of a society, on the election of two-thirds or more number of members, the returning officer or any other officer or authority conducting such election shall within seven days after the declaration of results of the election of such members, or where such election is held before the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1986, and such number of members have been elected but the committee has, for whatever reason, not been so far constituted, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office ; and upon such publication the committee of the society shall be deemed to be duly constituted. In determining two-thirds of the number of members, a fraction shall be ignored :

Provided that, such publication shall not be deemed -

(i) to preclude the completion of elections of the remaining members and the publication of their names and the permanent addresses of the elected members likewise as and when they are available ; or

(ii) to affect the term of the office of members of the committee under the Act;

(b) The names of the remaining members after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar].

1. Section 73 was renumbered as sub-section (1) of that section and sub-section (2) was inserted by Mah. 20 of 1986, s. 27.

2. Sub-section (1 A) was inserted by Mali. 13 of 1994, s. 5.

3. Sub-section (2) was inserted by Mah.20 of 1986, s.27

4. Sub-section (3) was inserted by Mah.37 of 1986, s.2

**73IA. Election to more than one seat on committee of society including specified society :-**

**1** If a person is elected to more than one seat on the committee of a society including a society belonging to any of the categories specified in section 73-G, then, unless within a period of fifteen days from the date of declaration of the result of the election he resigns all but one of the seats by writing under his hand addressed to the Election Officer, or as the case may be, the Collector, all the seats shall become vacant. On receipt of such resignation or on the seats becoming vacant as aforesaid, the Election Officer, or as the case may be, the Collector shall declare the candidate from the constituency or constituencies concerned securing the next higher number of votes as duly elected.]

1. Section 73-IA was inserted by Mah. 45 of 1983, s. 3.

### **73IB. Power of State Government to postpone election :-**

**1** Where due to scarcity, drought, flood, fire, or any other natural calamity or rainy season or any election programme, of the State Legislative Assembly or Council or the House of the People or a local authority, coinciding with the election programme of any society or class of societies or such other reasons as, in the opinion of the State Government, are exceptional, it is not in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act, or in any rules, or bye-laws made thereunder, or any other law for the time being in force, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time which period may further be extended so, however, that the total period shall not exceed one year in the aggregate.

1. Section 73-115 to 73-1D were inserted by Mah. 20 of 1986, s. 28.

### **73IC. Election to notified societies :-**

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(1) Where the State Government is satisfied that, having regard to the objects of the society or class of societies (other than the societies specified by or under section 73-G), or composition of membership thereof, or proper management and the interest of the

members, it is necessary in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act, or in any rules, or bye-laws made thereunder, or in any other law for the time being in force, by general or special order, notify in the Official Gazette, such society or class of societies and the election to such society or class of societies shall be held by the Registrar in the prescribed manner.

(2) The Registrar shall recover the expenses of holding election to any such society or class of societies as is referred to in sub-section (1), in the prescribed manner.

### **73ID. Election to notified societies :-**

(1) A President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer by whatever designation called who holds office by virtue of his election to that office shall cease to be such President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer, as the case may be, if a motion of no-confidence is passed at a meeting of the committee by <sup>1</sup>[simple majority] of the total number of committee members who are <sup>2</sup>[entitled to vote at the election of such President, Vice President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer] and the office of such President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer, as the case may be, shall thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are <sup>3</sup>[entitled to elect the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer, or any other officer, as the case may be, of the committee] and shall be delivered to the Registrar. The requisition shall be made in such form and in such manner as may be prescribed :

Provided that, no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office.

(3) The Registrar shall, within seven days from the date of receipt of the requisition under sub-section (2), convene a special meeting of the committee. The meeting shall be held on a date not later

than fifteen days from the date of issue of the notice of the meeting.

(4) The meeting shall be presided over by the Registrar or such officer not below the rank of an Assistant Registrar of Co-operative Societies authorised by him in his behalf. The Registrar or such officer shall, when presiding over such meeting, have the same powers as the President or Chairman when presiding over a committee meeting has, but shall not have the right to vote.

(5) The meeting called under this section shall not, for any reason, be adjourned.

(6) The names of the committee members voting for and against the motion shall be read in the meeting and recorded in the minute book of committee meetings.

(7) If the motion of no confidence is rejected, no fresh motion of no-confidence shall be brought before the committee within a period of <sup>4</sup> [one year] from the date of such rejection of the motion.]

1. These words were substituted for the words "two-third majority" by Mail. 7 of 1997, s. 6 (a)(i).

2. These words were substituted for the words "for (he time being entitled to sit and vote at any meeting of the committee" *ibid.*, s 6 (a) (ii).

3. These words were substituted for the words "for the time being entitled to sit and vote at any meeting of the committee" *ibid.*, s. 6 (b)

4. These words were substituted for the words six months *ibid.*, s. 6 (c).

**73A. Disqualification for being designated officer simultaneously of certain categories of societies or for being designated officer of the same society for more than ten years :-**

. <sup>1</sup>(1) In this section and in sections 73-C, 73-D and 73-E, "a designated officer" means the Chairman and the President, and includes any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated officer, but does not include any officer appointed or nominated by the State Government or by the Registrar.

(2) No person shall, at the same time, be or continue to be a

designated officer of more than one society falling in Category I or Category II or Category III of the Categories mentioned below ; and shall not be or continue to be a designated officer in more than two societies in the aggregate in the three Categories :-

Category I:- Societies the area of operation of which extends to the whole of the State.

<sup>2</sup>[Category II :- Societies the area of operation of which does not extend to the whole of the State.

(a) but extends to at least one whole district irrespective of their authorised share capital: or

(b) but extends to areas comprised in part or parts in one or more districts and the authorised share capital of which is more than Rs. 10 lakhs.

Category III :- Societies, the area of operation of which does not extend to the whole of a district but extends at least to one whole taluka, or the authorised share capital of which is not more than Rs. 10 lakhs but is not less than Rs. 5 lakhs.]

<sup>3</sup>[Explanation :- For the purposes of this sub-section, the expression "society" shall not include a society with no share capital and a society not engaged in commercial activities.]

<sup>4</sup>[(2A) If any question arises whether or not a society falls under any of the categories referred to in sub-section (2), such question shall be referred to and decided by the Registrar and his decision shall be final.]

<sup>5</sup>[(3) \*\*\*\*\*]

(4) If any person becomes, at the same time <sup>6</sup>\* \* \* \* a designated officer of societies, in excess of the number prescribed under subsection (2), unless he resigns his office in the society or societies in excess of the said number within a period of 162 [ten] days from the date on which he is elected or appointed a designated officer of more than the permissible number of society or societies, or if the elections or appointments are held or made simultaneously, from the date on which the result of last of such elections or appointments is declared, he shall, at the expiration of the said period of <sup>7</sup>[ten] days, cease to be a designated officer of all such societies, <sup>8</sup>[and thereupon, notwithstanding anything contained in any other provisions of this Act, a person so resigning or ceasing to be a designated officer of any or all such societies shall not be eligible for being re-elected or re-appointed as a designated officer of such society or societies during the remainder of the term of office for which he was so elected or appointed ; and

at no point of time such person shall be a designated officer of societies in excess of the number prescribed under sub-section (2).]

**9**[(5) No person shall be, or shall continue to be, a designated officer of any society of any of the categories referred to in sub-section (2), **10**[for a period of more than ten years in the aggregate] and at the expiration of that period any such person shall cease to be a designated officer of that society, and shall not be eligible for being re-elected or re-appointed as a designated officer, until **11**[a period of one term of the committee has elapsed after completion] of the aforesaid period of **12**[ten years].

Explanation :- For the purposes of this sub-section ,-

(a) in calculating the **13**[aggregate], period of **12**[ten years] in office, any period for which the person concerned may have been such officer, before the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1969, shall be ignored ;

(b) if any person resigns his office as a designated officer at any time within twelve months of the date on which the **13**[aggregate], period of **12**[ten years] would, but for his resignation, have been completed, he shall be deemed to have completed the period **12**[ten years] on his resignation]

**18** [(6) No member of the Council of Ministers shall be, or continue to be, a designated officer of any society of any of the categories referred to in sub-section (2):

Provided that, nothing in this sub-section shall affect any member of the Council of Ministers who is a designated officer of any such society on the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985 ; and he shall continue to hold office till completion of his term, unless he resigns or vacates the office of such designated officer for any reason whatsoever before the expiry of his term as such designated officer.]

1. Sections 73-A to 73-G were inserted by Mah. 27 of 1969, s. 12.
2. Category II and III were substituted by Mah. 27 of 1996, s. 2 w.e.f. 5.9.1996,
3. This explanation was inserted by Mah. 20 of 1986, s. 29 (a).
4. Sub-section (2A) was inserted by Mah. 3 of 1974, s. 14.
5. Sub-section (3) was deleted by Mah. 20 of 1986, s. 29 (b).

6. The words "after the commencement of the said Act" were deleted *ibid.*, s. 29 (c).
7. This word was substituted by Mah. 10 of 1988, s. 11 (a).
8. This portion was inserted, *ibid.*, s. 11 (b).
9. Sub-section (5) and Explanation were substituted for the original by Mah. 29 of 1971, s. 4 (a).
10. These words were substituted for the words "for a consecutive period of more than ten years" by Mah. 20 of 1986, s. 29 (d) (i).
11. These words were substituted for the words "a period of three years has elapsed after the expiry" *ibid.*, s. 29 d (ii).
12. These words were substituted for the words "six years" by Mah. 45 of 1983, s. 4 (g).
13. This word was substituted for the word "consecutive" by Mah. 20 of 1986, s. 29 (d) (iii) (A).
18. Sub-section (6) was added by Mah. 20 of 1986, s. 29(e)

**73AA. Designated officer who is associate Councillor to cease to be designated officer on ceasing to be such Councillor etc. :-**

<sup>1</sup> Where, after the commencement of the Maharashtra Zilla Parishads and Panchayat Samitis (Fourth Amendment) Act, 1974, (Mah. VI of 1975) designated officer of any society of any of the categories referred to in sub-section (2) of section 73-A who is also an associate Councillor of any Zilla Parishad, ceases to be the associate Councillor of such Zilla Parishad by operation of the provisions of section 82 of the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961, he shall also cease to be a designated officer of the said society from the date on which he so ceases to be an associate Councillor of the Zilla Parishad.]

1. Section 73-AA was inserted by Mah. 6 of 1975, Sch.

**73AAA. Constitution of committee :-**

(1) The Committee shall consist of such number of members as may be provided in the by-laws : Provided that, the maximum number of members of the committee shall not exceed twenty-one :

Provided further that, the provisions of the Banking Regulation Act, 1949, shall apply to all the societies carrying the business of banking.

(2) The Committee may co-opt "expert directors" relating to the objects and activities undertaken by the society :

Provided that, the number of expert directors shall not exceed two, which shall be in addition to the maximum number of members of the committee as specified in the first proviso of sub-section (1) :

Provided further that, the committee may, in case of the committee having not more than seventeen members, nominate a person as a functional director; and in case of the committees having more than seventeen members and not more than twenty-one members may nominate such number of functional directors, not exceeding two :

Provided also that, in respect of the society having contribution of the Government towards its share capital, the members of the committee shall include two officers of the Government nominated by the State Government, which shall be in addition to the number of members specified in the first proviso to sub-section (1) :

Provided also that, in case the committee consists of two functional directors, one of such functional directors shall be an employee of the concerned society who is workman or is a representative of the recognized union of the employees of such society :

Provided also that, the functional directors and the members nominated by the State Government under the third proviso of a society shall also be the members of the committee and such members shall be excluded for the purposes of counting the total number of members of the committee specified in the first proviso to sub-section (1) :

Provided also that, such expert directors shall not have the right to vote at any election of the society and shall not be eligible to be elected as office bearers of the committee.

(3) The term of the office of the elected members of the committee and its office bearers shall be five years from the date of election and the term of the office bearers shall be co-terminus with the term of the committee.

(4) Any casual vacancy in the committee may be filled in from amongst the members belonging to the same category of persons in respect of which a casual vacancy has arisen.

(5) (a) If, at any general election of members of the committee, the committee could not be constituted after declaration of results, then notwithstanding anything contained in this Act or the rules or the by-laws of the society, the returning officer or any other officer

or authority conducting such election shall, within seven days of the declaration of two-thirds or more number of members, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office; and upon such publication the committee of the society shall be deemed to be duly constituted. In determining two-thirds of the number of members, fraction shall be ignored :

Provided that, such publication shall not be deemed,-

(i) to preclude the completion of elections of the remaining members and the publication of their names and the permanent addresses of the elected members likewise as and when they are available ; or

(ii) to affect the term of the office of members of the committee under the Act ;

(b) the names of the remaining members after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar."

**73AB. Cessation of membership of committee held by virtue of office under Government, etc. :-**

<sup>1</sup> Where a person is elected, co-opted, appointed or nominated as a member of committee of any society by virtue of his holding office under the Central Government or the State Government or in any local authority in any body corporate or in any organisation, he shall cease to be such member on the date on which he ceases to hold such office.]

1. Section 73-AB was inserted by Mah. 20 of 1986, s. 30.

**73B. Reservation of seats on committees of certain societies for Scheduled Castes, Scheduled Tribes and for members of weaker section and election thereto :-**

<sup>1</sup>(1) Notwithstanding anything contained in this Act or in the rules made thereunder or in any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, two seats shall be reserved ,-

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes; and

(b) one for the members belonging to the weaker section.

(2) The two reserved seats referred to in sub-section (1), shall <sup>2</sup>[unless where the bye-laws of the society already provide for the reserved seats], be in addition to the strength of the members of the committee of such a society or class of societies.

(3) Any individual member of the society, or any elected member of the committee of a member-society, or any member of the committee of a member-society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes, or as the case may be, weaker section, shall be eligible to contest the election to reserved seat and every person who is entitled to vote at the election to the committee shall be entitled to vote at the election to any such reserved seat.

<sup>3</sup> [(4) Where no person is elected to any of the two reserved seats, then ,-

(a) in the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer such as the Chairman, Secretary or Manager or any other Officer by whatever designation called ;

(b) in the case of a society notified under section 73-IC, the Registrar; and

(c) in the case of a society specified under section 73-G, the Collector ; shall call a meeting of the elected members of the committee to co-opt a member or, as the case may be, members on the committee from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Collector or any other officer authorised by him, if it is a specified society, or by the Registrar or any other officer authorised by him, if it is a notified society. If no member is co-opted at such meeting, the Chairman or the Collector or, where the meeting is presided over by an officer authorised by the Registrar, such officer, as the case may be, shall, within a period of seven days from the date of such meeting, report the fact to the Registrar, and thereupon the Registrar shall, within a period of seven days from the date of receipt of such report by him or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting, appoint on the committee a person or persons, as the case may be, from amongst the persons entitled to contest the election to the reserved seats under sub-

section (3).]

Explanation :- For the purposes of this section ,-

(a) a general or special order, if any, issued by the State Government under section 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983 shall be deemed to have been issued under sub-section (1) of this section and shall continue to be in force until duly repealed or amended ;

(b) the expression "Scheduled Castes" includes "Nav Boudhas", and the expression "Scheduled Tribes" includes "Denotified Tribes and Nomadic Tribes" ;

(c) the expression "members belonging to weaker section" means a member or such class of members as the State Government may, by general or special order from time to time, declare].

1. Section 73-B was substituted for the original by Mah. 45 of 1983, s. 5.

2. These words were inserted by Mah. 18 of 1984, s. 3 (a).

3. Sub-section (4) was substituted by Mah. 10 of 1988, s. 12.

### **73BB. Reservation of seats for employees on committees of certain societies :-**

**12**(1) On the committee of such society or class of societies as the State Government may, by general or special order, direct where the number of permanent salaried employees of the society is 25 or more ,-

(a) if the number of members of the committee thereof is 11 or less - one seat; and

(b) if the number of such members is 12 or more - one additional seat for every 10 members over and above the first 11 members.

**2**[union or unions recognised under the Bombay Industrial Relations Act, 1946, or the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, from amongst such employees. Where there is no such **4**[recognised union or unions and where there is no union at all or where there is a dispute in relation to such

**5**[Explanation :- For the purposes of this section the members of the committee shall mean and include elected, appointed, nominated, co-opted as well as ex-officio members of the committee but it shall not include the representatives of the

employees.]

<sup>6</sup> [(2) No employee who is under suspension shall be eligible for being selected or elected or for being continued as a member under subsection (1).

(3) Subject to the provisions of sub-section (2), the term of a member representing the employees shall be co-terminus with the term of the committee as provided under the bye-laws of the society and after every fresh election of the members of the committee a fresh selection or election, as the case may be, of a member under sub-section (1), shall be necessary.]

1. Section 73-BB was inserted and was deemed always to have been inserted by Mah. 3 of 1974, s. 15.

2. Section 73-BB was renumbered as sub-section (1) of that section and the portion was substituted for the portion beginning with the words "recognised union or Unions" and ending with the word "nominated as" by Mah. 20 of 1986, s. 31 (a).

4. These words were substituted by Mah. 7 of 1997, s. 7 (a).

5. This Explanation was inserted, by Mah. 7 of 1997, s. 7 (b).

6. These sub-sections were inserted, by Mah. 20 of 1986, s. 31 (b).

**73BBB. Reservation of seats on committees of societies for women members and elections thereto :-**

<sup>1</sup>(1) Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the bye-laws of any society, there shall be reserved seats for women on the committee of each society to represent the women members in the following manner, namely :-

(a) one seat on the committee consisting of not more than 9 committee members ;

(b) two seats on the committee consisting of 10 or more, but not exceeding 19 committee members ; and

(c) three seats on the committee consisting of 20 or more committee members.

<sup>2</sup>[Explanation :- For the purpose of determining the number of committee members under this sub-section, committee members who are elected co-opted, nominated, appointed or otherwise occupying the position on the committee under section 73-B, 73-BB and under this sub-section shall not be included.]

(2) The reserved seats referred to in sub-section (1) shall be in

addition to the strength of the members of the committee of a society :

<sup>3</sup>[Provided that, where the bye-laws of a society already provide for reservation of seats for women on the committee thereof, the total number of seats to be so reserved for women be equal to exceed the number of seats specified in sub-section (1).]

(3) Any individual woman member of the society, or any woman member of the committee of a member society, whether elected, co-opted or appointed, shall be eligible to contest the election to a reserved seat on a <sup>4</sup>[and every person who is entitled to vote at the election of the committee shall be entitled to vote at the election to any such reserved seat;]

(4) Where no woman member or, as the case may be, women members are elected to the reserved seats, then , -

(a) in the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer such as the Chairman, Secretary or Manager or any other Officer, by whatever designation called (hereinafter in this section collectively referred to as "the Chairman");

(b) in the case of a society notified under section 73-IC, the Registrar; and

(c) in the case of a society specified under section 73-G, the Collector ; shall call a meeting of the elected members of the committee to co-opt a woman member or, as the case may be, women members on the committee from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Registrar or any other officer authorised by him, if it is a notified society or by the Collector or any other officer authorised by him, if it is a specified society. If no woman member is co-opted at such meeting, the Chairman or the Collector or, where the meeting is presided over by an officer authorised by the Registrar or the Collector, such officer, as the case may be, shall, within a period of seven days from the date of such meeting, report the fact to the Registrar, and thereupon the Registrar shall, within a period of seven days from the date of receipt of such report by him, or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting, appoint on the committee a woman member or women members, as the case may be, from amongst the women members entitled to contest the election to the reserved seats under sub-section (3).

(5) Nothing in this section shall apply to a committee of any society which exclusively of men members, or as the case may be, of women members.

<sup>5</sup> [(6) Where election to the committee of any society has been held without holding election to such additional reserved seats or where election to such additional reserved seat could not be held on or before the 30th September, 1992 on account of any directions issued under section 157, then unless the process for election to the committee including such additional reserved seats for women members has already commenced, or election to the committee is or will be due and will be held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1992, such additional reserved seats of the committee shall be filled in by co-option of women members by the committee of the society.]

(7) Notwithstanding anything contained in sub-section (6), no election to such additional reserved seats shall be held where the term of the committee of a society is to expire within six months from the date of the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1991.

(8) The term of office of such women members elected, co-opted or as the case may be, appointed on a committee, shall be co-terminus with the terms of the committee as provided under the bye-laws of the society and at the time of every fresh election thereafter, election shall be held to the additional reserved seats for women members in accordance with the provisions of this section.

1. This section was inserted by Mah. 30 of 1991, s. 2.

2. This Explanation was inserted by Mah. 7 of 1997, s. 8 (a).

3. This proviso was substituted *ibid.*, s. 8 (b).

4. This portion was added by Mah. 20 of 1992, s. 2 (a).

5. This sub-section was inserted by Mah. 20 of 1992, s. 2 (b).

**73C. Restrictions on representation of certain class of members on committees of certain societies and for being designated officers :-**

(1) In the case of a District Central Co-operative Bank or an Apex Co-operative Bank of the District Central Co-operative Banks, there shall not be more than one <sup>1</sup>[ representative to be elected by

individual members from amongst themselves], on the committee of such Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.

(2) In the case of <sup>2</sup>[an Agricultural and Rural Development Bank or an Apex Agriculture and Rural Development Bank] there shall not be more than one representative on the committee of such Bank, of members, who have not taken any loans from the Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.

(3) In the case of an Agricultural Credit Society which gives loans to individuals for the raising of crops, there shall not be more than one representative on the committee of such society , of members who have not taken any loans from the society ; and that representative shall be elected <sup>3</sup>\* \* \* \* only from amongst members, who have not taken loans. Such representative shall not be eligible for being elected <sup>3</sup> \* \* \* \* as a designated officer.

1. These words were substituted for the words "representative of individual members" by Mah. 20 of 1986, s. 32 (a).

2. These words were substituted for the words "a Land Development Bank or an Apex Land Development Bank" by Mah. 10 of 1988, s. 13.

3. The words "or appointed" were deleted, by Mah. 20 of 1986, s. 32 (b).

### **73CA. Disqualification of committee and its members :-**

(A1)

(a) In the case of a society which gives loans to members for purchasing machinery, implements, equipments, commodities or other goods or which deals in such goods, no member who, or whose near relation is a dealer in such goods, or is a director of a company, or in a partner in a firm carrying on business in such goods, in the area of operation of the society, shall be eligible for being elected or nominated as a member of the committee of such society;

(b) Any member who desires to carry on the business of the kind carried on by the society outside the area of operation of the society may apply to the society for permission to carry on such business. The society may grant such permission subject to such conditions as may be prescribed;

(1) Without prejudice to the other provisions of this Act or the rules made there under, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of committee, if he-

(i) is a defaulter of any society;

Explanation -for the purposes of this clause, the term "defaulter" includes-

(a) In the case of a primary agricultural credit society, a member who defaults the repayment of the crop loan on the due date;

(b) In the case of term lending society; a member who defaults the payment of any installment of the loan granted to him;

(c) In the case of any society,

(i) A member who has taken animate or advance; or

(ii) A member who has purchased any goods or commodities on credit or availed himself of any services from the society for which charges are payable; and fails to repay the full amount of such animate or advance or pay the price of such goods or commodities or charges for such service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of withdrawal of animate or advance by him or from the date of delivery of goods to him or availing of services by him, whichever is earlier;

(d) In the case of non-agricultural credit societies, a member who defaults the payment of any installment of the loan granted; \_

(e) in the case of housing societies, a member who defaults the payment of dues to the society within three months front the date of service of notice in writing served by post under certificate of posting demanding the payment of dues;

(f) In the case of District Central Co-operative Bank or of the State Co-operative Bank, a member, if he,-

(i) is a person who represents a society other than a primary agricultural credit co-operative society on the board of a District Central Co-operative Bank or the State Co-operative Bank, if the society to whom he represents has committed a default towards the payments of such bank for a period exceeding 90 days

(ii) is a person who is a defaulter of a primary agricultural credit co-operative society or is an office bearer of a defaulting primary agricultural credit co-operative society

(iii) is a person who represents a society whose managing committee is superseded;

(ii) has, in the opinion of the Registrar, deliberately committed

breach of co-operative discipline with reference to linking up of credit with co-operative marketing or co-operative processing  
(ii-a) has been classified as a non-active member under sub-section (2) of section 26; or

(iii) Has been held responsible under section 79 or 88 or has been held responsible for payment of costs of inquiry under section 85; or

(iv) Has incurred any disqualification under this Act or the rules made there under; or

(v) carries on business of the kind carried on by the society either in the area of operation of the society or in contravention of the provisions of clause (b) of sub-section (A1), or

(vi) is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is nominated as functional director on the committee of a society under sub-section (2) of section 73A;

(vii) Has more than two children:

Provided that, a person having more than two children on the date of commencement of the Maharashtra Co-operative Societies (second Amendment) Act, 2001 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that, a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause

Explanation- For the purposes of this clause,-

(a) Where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity;

(b) "Child" does not include an adopted child or children.

(viii) is held guilty for any offence under section 146 and convicted under section 147; or

(ix) is convicted with imprisonment of not less than one year for an offence under the provisions of any law for the time being in force;

(2) A member, who has incurred any disqualification under subsection (1), shall cease to be a member of the committee and his seat shall thereupon be deemed to be vacant.

(3) A member of a committee who has ceased to be a member thereof, on account of having incurred disqualification under sub-section (A1) and clauses (i) to (ix) of sub-section (1) shall not be eligible to be re-elected, re-co-opted or re-nominated as a member of the committee till the expiry of the period of next term of five years of the committee from the date on which he has so ceased to be a member of the committee.

(4) A member of a committee who has ceased to be a member thereof, other than disqualification referred to in sub-section (3), shall, unless otherwise specifically provided in this Act, be eligible to be re-nominated, re-co-opted or re-elected as a member of the committee as soon as such disqualification ceases to exist.

### **73CB. State Co-operative Election Authority :-**

(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society shall vest in the authority called as the State Co-operative Election Authority, as may be constituted by the State Government in that behalf. Every general election of the members of the committee and election of the office-bearers of a society including any casual vacancy, to the extent applicable, shall be held as per the procedure prescribed.

(2) The State Co-operative Election Authority shall consist of a State Co-operative Election Commissioner, who has held the post not below the rank of Secretary to the State Government. The State Co-operative Election Commissioner shall be appointed by the Governor. The State Co-operative Election Commissioner shall hold the office for a period of three years and he may be re-appointed for a further period of two years. The office of the State Co-operative Election Authority shall be at such place as may be notified by the State Government:

Provided that, a person appointed as the State Co-operative Election Commissioner shall retire from the office on completion of the age of sixty-five years.

(3) The State Government shall appoint on deputation, any person holding a post not below the rank of Additional Registrar, as a Secretary to the State Co-operative Election Authority.

(4) Subject to the provisions of sub-section (2), other conditions of service, including the salary and allowances, of the State Co-operative Election Commissioner shall be such as may be prescribed. Subject to the provisions of sub-section (6), the State

Co-operative Election Commissioner shall be removed from his office only by an order of the Governor on the ground of proved misbehaviour or incapacity after an inquiry ordered by the Governor and conducted by a retired Judge of the High Court, who has on inquiry, reported that the State Co-operative Election Commissioner ought to be removed on such ground.

(5) The Governor may suspend the State Co-operative Election Commissioner from his office, and if deemed necessary, also prohibit him from attending the office during inquiry, if an inquiry has been ordered under sub-section (4), until the Governor has passed the orders on receipt of the report of the retired High Court Judge.

(6) Notwithstanding anything contained in sub-section (5), the Governor may, by order, remove the State Co-operative Election Commissioner from his office, if he, -

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor involves moral turpitude; or

(c) has engaged during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Co-operative Election Commissioner.

(7) The State Government, after consultation with the State Cooperative Election Commissioner, shall provide the officers and employees for his office, to assist him in performing his functions under this Act.

(8) The State Government shall, when so requested by the State Co-operative Election Commissioner make available to the State Co-operative Election Authority such staff as may be necessary for discharge of the functions conferred on the State Co-operative Election Authority by sub-section (2).

(9) (a) If any person to whom sub-section (8) applies is, without reasonable cause, guilty of any act or omission in discharge of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(b) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

Explanation.-For the purposes of this sub-section, the expression

"persons to whom sub-section (8) applies" are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

(10) Notwithstanding anything contained in any law for the time being in force, the election of the committee of each society shall be conducted by the State Co-operative Election Authority before the expiry of the term of the existing committee so as to ensure that the newly elected members of the committee assume office immediately on the expiry of the office of the members of the outgoing committee.

(11) The State Co-operative Election Authority shall hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed:

Provided that, the State Government may, considering the objects of the society, class of societies, area of operation and norms of business and for proper management and interest of members, may by general or special order, classify the societies in such manner as may be prescribed.

(12) The State Co-operative Election Authority shall conduct elections to the committee and also to office of President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected as per the by-laws of the society, within fifteen days from the constitution of the committee after a general election.

(13) There shall be an Election Fund maintained at level of the State Co-operative Election Authority. Every society shall deposit in advance, the estimated amount of expenditure on its election, as may be prescribed and required by the State Co-operative Election Authority towards the Election Fund. The State Co-operative Election Authority shall incur the necessary expenses, for the conduct of the elections of the societies, including the election of the office bearers, from the said fund. The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be incurred from the said fund and the expenditure

shall be made in the manner prescribed. The Registrar, on requisition by the State Co-operative Election Authority, shall recover expenses of holding election from any such society or class of societies:

Provided that, if any society fails to pay the election expenses, the Registrar may issue the recovery certificate for recovery of the amount due and such amount shall be recovered as arrears of land revenue.

(14) The committee of every co-operative society shall, -

(a) inform the State Co-operative Election Authority about the expiry of its term of office at-least six months before the date of expiry of such term;

(b) inform any casual vacancy occurred in the committee or its office bearers, within fifteen days of the occurrence of such vacancy;

(c) furnish such books, records and information as the State Co-operative Election Authority may require as per the calendar specified by the State Co-operative Election Authority;

(d) provide all necessary help, assistance and co-operation for the smooth preparation of electoral rolls for the conduct of elections.

(15) Notwithstanding anything contained in this Act, the rules or the by-laws of any co-operative society, the election to the committee and consequent election of the office-bearers which is due on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013, or may become due after such date, until 31st March 2013 shall be held before the 31st December 2013."

### **73CC. Power of State Government to postpone election :-**

Where due to scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme, of the State Legislative Assembly or Council or House of the People or a local authority, coinciding with the election programme of any society or class of societies, in the opinion of the State Government, it is not in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act or the rules, or bye-laws made thereunder, or any other law for the time being in force, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time, which period may further be

extended so, however, that, the total period shall not exceed one year in the aggregate.

**73D. Societys nominee on other society not eligible to be designated officer except in federal society :-**

No member of a society who is nominated to represent it on any other society, shall be eligible for being elected or appointed as a designated officer of the other society, unless the other society is its federal society.

**73E. In specified societies members not having minimum number of transactions of certain monetary limits not entitled to be designated officers :-**

In the case of such class or classes of societies as may be specified by the State Government, by notification in the Official Gazette, no member shall be eligible for being elected or appointed as a designated officer, if he does not fulfill the minimum qualification relating to his transactions with the society of such monetary limits as may be laid down, from time to time, in such notification.

**73F. Member who or whose near relation is dealing in goods for purchase of which loans are given by a society not eligible to be on its committee :-**

In this case of a society, which gives loans to members for purchasing machinery, implements, equipments, commodities or other goods, <sup>1</sup> [or which deals in such goods], no member, who or whose near relation is a dealer in such goods or is director of a company or a partner in a firm carrying on business in such goods, shall be eligible for being elected or appointed as a member of the committee of such society.

Explanation :- For the purposes of this section, the expression "near relation" means a wife, husband, father, mother, son, daughter, son-in-law, or daughter-in-law.

1. These words were inserted, by Mah. 20 of 1986, s. 33.

**73FF. Disqualification for membership of committee :-**

<sup>1</sup> (1) Without prejudice to the other provisions of this Act or the rules made thereunder, in relation to the disqualification of being a

member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of committee, if he -

(i) is a defaulter of any society ;

Explanation :- For the purposes of this clause, the term "defaulter" includes -

(a) in the case of a primary agricultural credit society, a member who defaults the repayment of the crop loan on the due date ;

(b) in the case of term lending society, a member who defaults the payment of any installment of the loan granted to him ;

(c) in the case of any society ,-

(i) a member who has taken anamat or advance ; or

(ii) a member who has purchased any goods or commodities on credit or availed himself of any services from the society for which charges are payable ; and fails to repay the full amount of such anamat or advance or pay the price of such goods or commodities or charges for such service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of withdrawal of anamat or advance by him or from the date of delivery of goods to him or availing of services by him, whichever is earlier;

(d) in the case, of non-agricultural credit societies, a member who defaults the payment of any installment of the loan granted ;

(e) in the case of housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues ;

(ii) has, in the opinion of the Registrar, deliberately committed breach of co-operative discipline with reference to linking up of credit with co-operative marketing or co-operative processing ; or

(iii) has been held responsible under section 79 or 88 or has been held responsible for payment of costs of inquiry under section 85 ;  
or

(iv) has incurred any disqualification under this Act or the rules made thereunder; or

(v) carries on business of the kind carried on by the society either in his name or in the name of any member of his family or he or any member of his family as a partner in a firm or a director in a company which carries on business of the kind carried on by the society ;

Explanation :- For the purposes of this clause, the expression "family" means a wife, husband, father, mother, brother, sister,

son, daughter, son-in-law or daughter-in-law.

(vi) is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is selected or elected to any reserved seat on the committee of a society under section 73-BB.

(2) A member who has incurred any disqualification under subsection (1), shall cease to be a member of the committee and his seat shall thereupon be deemed to be vacant.

1. Sections 73-FF and 73-FFF were inserted *ibid.*, s. 34.

**73FFF. Eligibility for reappointment or Re-election as member of committee :-**

.

(1) A member of a committee, who has ceased to be a member thereof, on account of having incurred disqualification under clause (ii) of sub-section (1) of section 73-FF shall be eligible to be re-appointed, re-nominated, re-co-opted or re-elected as a member of the committee after the expiry of the period of two years from the date on which he has so ceased to be a member of the committee.

(2) A member of a committee, who has ceased to be a member thereof, on account of having incurred disqualification under clause (iii) of sub-section (1) of section 73-FF, shall be eligible to be re-appointed, re-nominated, re-co-opted, or re-elected as a member of the committee after the expiry of the period of five years from the date on which he has so ceased to be a member of the committee.

(3) A member of a committee, who has ceased to be a member thereof on account of having incurred any disqualification other than disqualifications referred to in sub-sections (1) and (2), shall, unless otherwise specifically provided in this Act, be eligible to be re-nominated, re-co-opted, re-appointed or re-elected as a member of the committee, as soon as such disqualification ceases to exist.]

**73G. Provision for conduct of elections to committees and of officers of certain societies and term of office of member of such committees :-**

<sup>1</sup>(1) The election of the members of the committees <sup>2</sup>[and the officers by the committees], of the societies of the categories mentioned below, shall be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter :-

(i) such Apex <sup>3</sup>[societies], which the State Government may, by general or special order published in the Official Gazette, from time to time, specify in this behalf, regard being had to the financial position and share capital of such <sup>4</sup>[societies];

(ii) all District Central Co-operative Banks ;

<sup>5</sup>[(iii) all Primary Agriculture and Rural Development Banks ;]

(iv)

(a) all District Co-operative Sale and Purchase Organisations ;

(b) all Taluka Co-operative Sale and Purchase Organisations ;

(v) all Co-operative Sugar Factories ;

(vi) all Co-operative Spinning Mills ;

(vii) any other societies or class of societies, which the State Government may, by general or special order published in the Official Gazette from time to time, specify in this behalf, regard being had to the financial position and share capital of such <sup>6</sup>[societies or class of societies].

<sup>7</sup>[<sup>8</sup>(2) When the election of all the members of the committee or any such society is held at the same time, the members elected on the committee at such general election shall hold office for a period of five years from the date on which the first meeting is held, unless the period is extended by the State Government, for reasons to be recorded in writing, for a period not exceeding one year so however that the total period does not exceed six years in the aggregate.

(2A) The term of office of the members who are appointed or nominated or co-opted or selected or elected on the committee including to fill the vacancy shall be co-terminus with the terms of office of the elected members under sub-section (1), notwithstanding the date of their such appointment, nomination, co-option, selection or election including to fill the vacancy.

(2B) Where, for any reason whatsoever, the election of the members of the committee was not held or could not be held before the expiry of the term or the extended term, as the case may be, of the existing committee, the members including the officers of the committee shall cease to hold office on the expiry of its term or extended term, as the case may be, and they shall be

deemed to have vacated their offices : <sup>9</sup> [\*\*\*\*]

(3) Notwithstanding anything in the bye-laws of any such society, only the committee of management shall be elected by a general body of members of the society ; and all other committees authorised by or under the bye-laws may be constituted only by electing or appointing persons from among the persons who are members of the committee of management, and all such committees shall be sub-committees of the committee of management, and shall be subordinate to it.]

1. Sub-section (1) was substituted by Mah. 24 of 1972, s. 2.

2. These words were inserted by Mah. 3 of 1974, s. 16 (a).

3. This word were substituted for the words "Co-operative institutions" by Mah. 20 of 1986, s. 35 (a) (i) (A).

4. This word was substituted for the word "institutions" *ibid.*, s. 35 (a) (i) (B).

5. Clause (iii) was substituted by Mah. 10 of 1988, s. 14.

6. These words were substituted for the word "institutions" by Mah. 20 of 1986, s. 35 (a) (ii).

7. Sub-sections (2) and (3) were substituted for sub-sections (2) to (5) and the explanation by Mah. 27 of 1971, s. 4 (b) (ii).

8. Sub-sections (2), (2A), (2B) were substituted for sub-section (2) by Mah. 20 of 1986, s. 35 (b).

9. Proviso was deleted by Mah.27 of 1996, s. 3.

### **73H. Responsibility of committee to hold election before expiry of term :-**

<sup>1</sup>(1) It shall be the duty of the committee of every society to arrange for holding the election of its members before the expiry of its term.

(2) <sup>2</sup> [The Committee] shall cease to function on the expiration of its term and the members thereof shall cease to hold office and the Registrar may himself take over the management of the society or appoint an Administrator (who shall not be from amongst the members of the committee the term of which has so expired) and the Registrar or Administrator shall hold election within a period of six months and the committees shall be constituted before the

expiration of that period.]

1. Section 73-H was inserted by Mah. 20 of 1986, s. 36.

2. These words were substituted for the words "where there is a wilful failure on the part of the committee to hold election to the Committee before the expiration of its term, the committee" by Mah. 7 of 1997, s. 9.

**74. Qualification and appointment of Manager, Secretary and other officers of societies and Chief Executive Officer and Financial Officer for certain societies :-**

<sup>1</sup> (1) The qualifications for appointment of the Chief Executive Officer, Finance Officer, Manager, Secretary, Accountant or any other officer of a society or a class of societies and his emoluments and perquisites shall be such as may be determined by the Registrar, from time to time.

(2) In the society or class of societies, as the State Government may, from time to time, notify in the Official Gazette, there shall be a Chief Executive Officer and a Finance Officer, who shall be appointed by the society from a panel of persons selected by a body of such persons not exceeding five as may be prescribed.

(3) The Chief Executive Officer so appointed shall be ex-officio member of the committee but he shall have no right to vote at the meeting of the committee.

1. Section 74 was substituted by Mah. 20 of 1986, s. 37.

**75. Annual general meeting :-**

(1) Every society, shall within a period of three months next after the date fixed for making up its accounts for the year under the rules for the time being in force, call a general meeting of its members :

Provided that, the Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months;

Provided further that, if in the opinion of the Registrar, no such extension is necessary, or such meeting is not called by the society within the extended period (if any) granted by him, the Registrar or any person authorised by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a

general meeting duly <sup>1</sup>[called by the society, and the Registrar may order that the expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the general meeting.]

(2) At every annual general meeting of a society, the committee shall lay before the society <sup>2</sup>[a statement showing the details of the loans (if any) given to any of the members of the committee or any member of the family (as defined in the Explanation <sup>3</sup>[to clause (v) of sub-section (1) of section 73-FF of any committee-member (including a society or firm or company of which such member or members of his family is a member, partner or director, as the case may be), and the details of repayment of loan made, during the last preceding year and the amount outstanding at the end of that year], and ] a balance sheet and profit and loss account for the year in the manner, prescribed by the Registrar by general or special order for any class or classes of societies.

Explanation :- In the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account, and all references to profit and loss account, and to "profit" or "loss" in this Act, shall be construed in relation to such society as references respectively to the <sup>4</sup>[excess of] income over expenditure", and "excess of expenditure over income".

(3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its committee, with respect to (a) the state of the societys affairs ; (b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and (c) the amounts, if any, which it recommends, should be paid by way of dividend, bonus or honoraria to honorary workers. The committees report shall also deal with any changes, which have occurred during the year for which the accounts are made up, in the nature of the societys business. The committees report shall be signed by its Chairman, or any other member authorised to sign on behalf of the committee.

(4) At every annual general meeting the balance sheet, the profit and loss account <sup>5</sup>[the audit memorandum submitted by the auditor appointed under section 81] and the committees report, shall be placed for adoption, and such other business will be transacted as may be laid down in the bye- laws and of which due notice has been given.

(5) If default is made, in calling a general meeting within the period or, as the case may be, the extended period, prescribed under sub-section (1), or in complying with sub-section (2), (3) or (4), the Registrar may by order, declare any officer or member of the committee whose duty it was to call such a meeting or comply with sub-section (2), (3) or (4) and who without reasonable excuse failed to comply with any of the aforesaid sub-sections disqualified for being elected and for being any officer or member of the committee for such period not exceeding three years, as he may specify in such an order and, if the officer is a servant of the society, impose a penalty on him to <sup>6</sup>[pay] an amount not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

(6) Any penalty imposed under sub-section (5) or under <sup>7</sup>[section 76], may be recovered in the manner provided by the <sup>8</sup> [Code of Criminal Procedure, 1973], for the recovery of fines imposed by a Magistrate, as if such fine was imposed by the Magistrate himself.

1. This portion was substituted for the words "called by the society" by Mah. 33 of 1963, s. 16 (a).

2. This portion was inserted by Mah. 27 of 1969, s. 13.

3. This portion was substituted for the words, brackets and figure "to section (6) to any committee member, during the last preceding year" by Mah. 20 of 1986, s. 38 (a).

4. These words were inserted by Mah. 33 of 1963, s. 16 (b).

5. These words and figures were substituted for the words "the auditors report by Mah.33 of 1963, s.16(c)

6. This word was inserted, *ibid.*, s. 16 (d).

7. This was substituted for the words "the next succeeding section" by Mah. 20 of 1986, s. 38 (b) (i).

8. These words and figures were substituted for the words and figures "Code of Criminal Procedure, 1898", *ibid.*, s. 38 (b) (ii).

## **76. Special general meeting :-**

(1) A special general meeting may be called at any time by the

Chairman or by a majority of the committee and shall be called within one month -

(i) on requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the bye-laws for the purpose, whichever is lower, or

(ii) at the instance of the Registrar, or

(iii) in the case of a society, which is a member of a federal society, at the instance of the committee of such federal society.

(2) Where any officer or a member of the committee, whose duty it was to call such meeting without reasonable excuse, fails to call such meeting, the Registrar may, by order declare such officer or member disqualified for being a member of the committee for such period not exceeding three years, as he may specify in such order ; and if the officer is a servant of the society, he may impose on him a penalty not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

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

(4) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (3) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the meeting.

## **77. Acts of societies etc., not to be invalidated by certain defects :-**

(1) No act of a society or a committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society, or in the constitution of the committee, or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office.

(2) No act done in good faith by any person appointed under this Act, the rules and the bye-laws shall be invalid merely by reason of the fact that his appointment has been cancelled by or in

consequence of any order subsequently passed under this Act, rules and the bye-laws.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society ; and his decision thereon, shall be final.

**77A. Appointment of member of committee, new committee or Administrator, where there is failure to elect member, to constitute committee or where committee does not enter upon office :-**

<sup>1</sup>(1) Where the Registrar is satisfied that,-

<sup>2</sup>[(1-a) a provisional committee has failed to make necessary arrangements for holding election for the constitution of the first committee, before the expiry of its term as specified in sub-section (1A) of section 73.]

(a) at the first constitution of the committee of any society there is a failure to elect all or any of the members of the committee ;

(b) the term <sup>3</sup>[or extended term, as the case may be], of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies ;

(c) any committee is prevented from entering upon office ;

(d) a new committee has failed to enter upon office on the date on which the term of office of the existing committee expired ; or

(e) a new committee cannot for any reason be constituted before the expiry of their term of the existing committee ;

<sup>4</sup>[

(f) where more than one group of persons in a society is claiming to be elected as the committee members and proceedings in respect thereof have been filed in the Co-operative Court;] the Registrar may, either suo motu or on the application of any officer of the society, by order appoint -

(i) any member or members of the society to be the member or members of the committee to fill the vacancies ;

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

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed

order within a period specified in the notice and consider all objections and suggestions received by him within that period ;  
Provided further that, it shall not be necessary to publish such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

(2) The committee or administrator 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 discharge all or any of the functions of the committee or of any officer of the society and take all such actions as may be required to be taken in the interests of the society.

<sup>5</sup>[(3) The committee or administrator so appointed shall hold office for a period of six months from the date of assuming the management of the society and shall make necessary arrangements for constituting a new committee including any new committee referred to in clause (f) of sub-section (1), which is determined by the Court to have been legally elected, to enter upon office].

<sup>6</sup>[Provided that, if a new committee is not, or cannot be constituted at the expiry or termination of the term of office of the committee or administrator, for any reason beyond the control of the committee or administrator, the term of the office of the committee or administrator, as the case may be shall be deemed to be extended, until the new committee is duly constituted.]

<sup>7</sup> [(4) The Registrar shall have the power to change the committee or any or all members thereof or any or all the administrators appointed under sub-section (1) at his discretion even before the expiry of the period specified in the order made under sub-section (1).

(5) The provisions of sub-section (2A) of section 78 shall apply mutatis mutandis for fixation of remuneration to be paid to the members or administrators appointed under sub-section (1)].

1. Section 77-A was inserted by Mah. 36 of 1975, s. 5.
2. Clause (1-a) was inserted by Mah. 13 of 1994, s. 6.
3. These words were inserted by Mah. 20 of 1986, s. 39 (a) (i).
4. Clause (f) was inserted, *ibid.*, s. 39 (a) (ii).
5. Sub-section (3) was substituted *ibid.*, s. 39 (b).
6. This proviso was inserted by Mah. 7 of 1997, s. 10.

7. Sub-section (4) and (5) were added, by Mah. 20 of 1986, s. 39 (c).

**78. Power of removal of committee or member thereof :-**

<sup>1</sup>[(1) If, in the opinion of the Registrar, the committee of any society or any member of such committee makes default, or is negligent in the performance of the duties imposed on it or him by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members, or wilfully disobeys directions issued by the State Government, or by the Registrar for the purposes of securing proper implementation of Co-operative policy and development programme approved or undertaken by the State Government or is otherwise not discharging its or his functions properly and diligently <sup>2</sup>[or where a situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions] and the business of the society has or is likely to come to a stand still, or where any member of such committee stands disqualified by or under this Act for being a member, the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections, if any, within 15 days from the date of receipt of notice, and after consultation with the federal society to which the society is affiliated ; by order -

(a)

(i) remove the committee, and

(ii) appoint a committee consisting of three or more members (who shall not be the members of the committees so removed) of the society in its place, or appoint one or more administrators who need not be members of the society, but who shall not be the members of the committee so removed to manage the affairs of the society for a period not exceeding six months, which period, at the discretion of the Registrar, be extended by a further period not exceeding three months so, however, that the total period does not exceed nine months in the aggregate :

Provided that, the Registrar shall have the power to change the committee or any member thereof or the administrator or administrators appointed under paragraph (ii) at his discretion even before the expiry of the period specified in the order made under this sub-section ;

(b) remove the member and appoint any person as member of such committee in his place, or direct the society to elect or appoint a

member in his place, for the remainder of the term of office of the member so removed.]

<sup>3</sup>[Provided that the member who has been so removed, shall not be eligible to be re-elected, re-appointed, re-nominated or re-co-opted as a member of any committee till the expiry of the period of next one full term of the committee from the date on which he has been so removed or till such lesser period as may be laid down under the provisions of section 73-FFF or 144-E : as the case may be.]

<sup>4</sup>[(1A) When a notice is issued against any committee or member under sub-section (1), if resignation from any office is tendered by the committee or member, it shall not be valid or effective until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier.]

(2) The committee or administrator 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 actions as may be required in the interests of the society.

<sup>5</sup>[The committee or administrator appointed as aforesaid shall, notwithstanding anything contained in the bye-laws, have power to call a special general meeting of the society to review or to reconsider the decision or the resolution taken or passed at the general meetings called by the previous committee or to endorse action taken by it.]

<sup>6</sup>[(2A) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payments (except land revenue, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue) and he shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar].

(3) If at any time during any period, or extended period referred to in sub-section (1), it appears to the Registrar, that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, the Registrar may, <sup>7</sup>\* \* \* \* direct that the management shall terminate ; and on such order being made, the management

of the society shall be handed over to a new committee duly constituted.

(4) The committee or administrator shall, at the expiry or termination of its or his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society :

**8** [Provided that, if a new committee is not, or cannot be constituted at the expiry or termination of the term of office of the committee or administrator, for any reason beyond the control of the committee or administrator, the term of office of the committee or the administrator, as the case may be, shall be deemed to be extended, until the new committee is duly constituted.]

(5) All acts done or purported to be done by the committee or administrator during the period the affairs of the society are carried on by the committee or administrator appointed under sub-section (1), shall be binding on the new committee.

1. Sub-section (1) was substituted by Mah. 20 of 1986, s. 40.

2. This portion was inserted by Mah. 10 of 1988, s. 15.

3. This proviso was substituted by Mah. 7 of 1997, s. 11.

4. Sub-section (1 A) was inserted by Mah. 27 of 1969, s. 14 (b).

5. This portion was added by Mah. 33 of 1963, s. 17 (b).

6. Sub-section (2A) was inserted *ibid.*, s. 17 (c).

7. The words "published in the Official Gazette" were deleted by Mah. 27 of 1969, s. 14 (c).

8. This proviso was deemed always to have been added by Mah. 48 of 1972, s. 2.

## **79. Registrars power to enforce performance of obligations**

:-

(1)The Registrar may direct any society or class of societies, to keep proper books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and to produce such records as he may require from time to time ; and

the officer or officers of the society shall be bound to comply with his order within the period specified therein.

(2) Where any society is required to take any action under this Act, the rules or the bye-laws, or to comply with an order made under the foregoing sub-section, and such action is not taken -

(a) within the time provided in this Act, the rules or the bye-laws, or the order as the case may be, or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing, the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society ; and such expenses shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (2), the Registrar may call upon the officer or officers of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the bye-laws, or the order made under sub-section (1) and after giving such officer or officers an opportunity of being heard, may require him or them to pay to the society the expenses paid or payable by it to the State Government as a result of their failure to take action and to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrars directions are carried out.

### **79A. Governments power to give directions in the public interest, etc. :-**

<sup>1</sup>(1)<sup>2</sup>[If the State Government, on receipt of a report from the Registrar or otherwise, is satisfied] that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by Government, or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, <sup>3</sup>[the State Government may issue] directions to them from time to time, and all societies or the societies concerned as the case may be, shall be bound to comply with such directions.

(2) <sup>4</sup>[The State Government may] modify or cancel any directions issued under sub-section (1), and in modifying or cancelling such

directions may impose such conditions as <sup>5</sup>[it may deem fit].

<sup>6</sup> (3) Where the Registrar is satisfied that any person was responsible for complying with any directions or modified directions issued to a society under sub-sections (1) and (2) and he has failed, without any good reason or justification, to comply with the directions, the Registrar may by order -

(a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order ;

(b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order, remove the members, appoint other persons as members and declare them disqualified as provided in clause (a) above :

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated, Any order made by the Registrar under this section shall be final.]

1. Section 79-A was inserted by Mah. 27 of 1969, s. 15.

2. These words were substituted for the words "Subject to the rules made in that behalf, where the Registrar is satisfied" by Mah. 27 of 1971, s. 5 (a) (i).

3. These words were substituted for the words "he may issue" *ibid.*, s. 5 (a) (ii).

4. These words were substituted for the words "The Registrar may" by Mah. 27 of 1971,

5. These words were substituted for the words "he may deem fit", *ibid.*, s. 5 (b) (ii).

6. Sub-section (3) was added by Mah. 36 of 1975, s. 6.

### **79AA. Registrars powers to give directions to frame regulations :-**

<sup>1</sup> (1) If the Registrar or an officer not below the rank of District Deputy Registrar is of the opinion that, having regard to the

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

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

(3) If any society fails to forward such regulations to the Registrar or such officer when directed by him under sub-section (1) within a period of three months from the date on which the direction is given, the Registrar or such officer shall himself make or cause to be made such regulations and require the society to carry on its business in accordance with such regulations and thereupon the society shall be bound to comply with such requirement.

1. Section 79-AA was inserted by Mah. 20 of 1986, s. 41.

### **79B. Registrars power to remove member for failure to supply his agricultural produce to processing society :-**

<sup>1</sup> (1) Where any producer-member of a processing society fails to supply his agricultural produce to the society in accordance with the provisions of the bye-laws of the society, the Registrar may, on the complaint made by the society or suo motu, issue a notice to the member to show cause, within a period specified in the notice, why for such failure he should not be removed from the membership of the society.

(2) After holding such inquiry as he thinks fit and giving a reasonable opportunity of being heard to the member, if the Registrar is satisfied that the member has failed, without any good reason or justification to supply his agricultural produce to the society in accordance with the provisions of the bye-laws, the Registrar may by order remove the person concerned as a member of the society with effect from such date as may be specified in the order, and thereupon the person shall cease to be a member of the society on and from that date. Any order made by the Registrar under this section shall be final.]

1. Section 79-B was inserted by Mah. 36 of 1975, s. 7.

### **80. Registrars power to seize records etc. :-**

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

(2) On receipt of an application under sub-section (1) <sup>1</sup>[the Magistrate shall forthwith consider such application and, if satisfied that immediate action is required, shall authorise] any police officer, not below the rank of a sub-inspector, to enter and search any place where the records and property are kept or likely to be kept, and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

<sup>2</sup> (3) Where the Registrar or an officer not below the rank of District Deputy Registrar (hereinafter referred to in this section as "the said officer") is satisfied that immediate action is required to be taken or that the Executive Magistrate having jurisdiction is not likely to be available at the head quarters for a consecutive period of three days or the books and records of a co-operative society are in the immediate danger of being tampered with or funds and property of a society are in the immediate danger of being misappropriated or misapplied, the Registrar or the said officer may, notwithstanding anything contained in sub-sections (1) and (2), make an order to seize such books, records or funds of the society either himself or through an officer authorised by him in this behalf, and for that purpose the Registrar or the said officer or the officer so authorised may after reasonable notice at any reasonable time enter and search without warrant any premises where he believes such books, records or funds to be and inspect and seize such books, records or funds, and the officer or officers of the society responsible for the custody of such books, records and funds shall deliver such books, records or funds forthwith to the Registrar, the said officer or the officer so authorised, who shall acknowledge receipt of the books, records or funds of the society so seized. The Registrar, the said officer or the officer so authorised, may, for the purpose of execution of the said order, request the officer in-charge of the nearest police station to give him necessary assistance and such police officer shall thereupon give him such assistance.]

1. These words were substituted for the words "the Magistrate may authorise" by Mah. 3 of 1978,s.18.

2. Sub-section (3) was added by Mah. 20 of 1986, s. 42.

## **CHAPTER 8** Audit, Inquiry, Inspection and Supervision

### **81. Audit :-**

**1**(1)

(a) The Registrar shall audit, or cause to be audited, at least once in each co-operative year, by a person authorised by him by general or special order in writing in this behalf the account of every society which has been given financial assistance including guarantee by the State Government,<sup>2</sup>[or Government undertakings, from time to time, and the accounts of the apex societies, State and District Level Federal Societies, District Central Co-operative Banks, Co-operative Sugar factories, Urban Co-operative Banks, Co-operative Spinning Mills, District and Taluka Cooperative Sale and Purchase Organisations, and any such Society or class of Societies which the State Government may, from time to time, by notification in the Official Gazette, specify.]

(b) The societies other than the societies referred to in clause (a) shall arrange to get their accounts audited, atleast once in each co-operative year by any auditor from the panel of auditors maintained by the Registrar, or <sup>3</sup>\* \* \* \* \*

Provided <sup>4</sup>\* \* that, the Registrar may, for reasons to be recorded in writing, audit or cause to be audited accounts of any such societies of any year and at any time.]

**5**(2) The audit under sub-section (1) shall include examination or verification of the following items, namely :-

(i) overdues of debts, if any ;

(ii) cash balance and securites and a valuation of the assets and liabilities of the society ;

(iii) whether loan and advances and debts made by the society on the basis of security have been properly secured and the terms on which such loans and advances are made or debts are incurred are not prejudicial to the interest of the society and its members ;

(iv) whether transaction of the society which are presented merely by book entries are not prejudicial to the interest of the society ;

(v) whether loans and advances made by the society have been shown as deposits ;

(vi) whether personal expenses have been charged to revenue account;

(vii) whether the society has incurred any expenditure in furtherance of its objects ;

(viii) whether the society has properly utilised the financial assistance granted by Government or Government undertakings or financial institutions, for the purpose for which such assistance was granted ;

(ix) whether the society is properly carrying out its objects and obligations towards members.]

**6**[(2A) Where, in the opinion of the State Government, it is necessary in the public interest to do so in relation to any society or class of societies for ensuring management thereof in accordance with sound business principles or prudent commercial practices, the State Government may, by order, direct **7**[that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time to time and] that cost audit or performance audit or both, of such society or class of societies, as may be specified in the order, shall be conducted.

(2B) Where any order is issued under sub-section (2A), the Registrar shall cause such audit of such society or class of societies to be conducted by a cost accountant who is a member of the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959.]

(3) **8**[

(a)] The Registrar or the person authorised shall, for the purpose of audit, at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society, and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

**8**(b) The Registrar shall be competent to depute Flying Squad to a society or societies for examination of books, records, accounts, and such other papers and for verification of cash balance. The report of the Flying Squad shall be deemed to be an audit report for the purpose of taking further action, if necessary.

(c) The Registrar or the person authorised by him in this behalf may carry out or cause to be carried out the test audit of the accounts of any society. The test audit shall include the

examination of such items as may be prescribed.]

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

(5) The auditor appointed under sub-section (1) shall have the right to receive all notices and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.

**10** (5A) If, during the course of audit of any society, the auditor is satisfied that some books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society the auditor shall immediately report the matter to the Registrar and, with previous permission of the Registrar, may impound the books or documents and give a receipt thereof to the society.

(5B) The auditor shall submit an audit memorandum duly signed by him to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period upto which the

(6) If it appears to the Registrar, on an application by a society or otherwise, that it is necessary or expedient to re-audit any accounts of the society, the Registrar may by order provide for such re-audit and the provisions of this Act, applicable to audit of accounts of the society shall apply to such re-audit.

1. Sub-section (1) was substituted *ibid.*, s. 43 (a).

2. These words were substituted for the words "Government undertakings or financial institution from time to time" by Mah. 13 of 1994, s. 8.

3. Proviso was deleted by Mah. 27 of 1996, s. 4 (a).

4. The word "further" was deleted *ibid.*, s. 4 (b).

5. Sub-section (2) was substituted by Mah. 20 of 1986, s. 43 (b).

6. Sub-sections (2A) and (2B) were inserted *ibid.*, s. 43 (c).

7. This portion was inserted by Mah. 10 of 1988, s. 16.

8. Sub-section (3) was re-lettered as clause (a) thereof and clauses

(b) and (c) were added by Mah,20 of 1986,s.43 (d).

10. Sub-sections (5A) and (5B) were inserted *ibid.*, s. 43 (e).

## **82. Rectification of defects in accounts :-**

If the result of the audit held under the last preceding section discloses any defects in the working of a society the society, shall within three months from the date of audit report, explain to the Registrar the defects, or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities, and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action, as may be specified in the order to remedy the defects within the time specified therein. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.

## **83. Inquiry by Registrar :-**

<sup>1</sup>(1)The Registrar may of his own motion, and shall on the application of one-third of the members of a society, himself or by a person duly authorised by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

(2) Before holding any such inquiry on an application, the Registrar may " <sup>2</sup> [having regard to the nature of allegations and the inquiry involved, require the applicant to deposit with him such sum of money as he may determine], towards the cost of the inquiry. If the allegations made in the application are substantially proved at the enquiry, the deposit shall be refunded to the applicant, and the Registrar may under section 85, after following, the procedure laid down in that section, direct from whom and to what extent the cost of the inquiry should be recovered. If it is proved that the allegations were false, vexatious or malicious, the Registrar may likewise direct that such cost shall be recovered from the applicant. Where the result of the inquiry shows that the allegations were not false, vexatious or malicious, but could not be proved, such cost may be borne by the State Government.]

(3)

(a) All officers, members and past members of the society in respect of which an inquiry is held, and any other person who, in

the opinion of the officer holding the inquiry is in possession of information, books and papers relating to the society, shall furnish such information as in their

(b) If any such person refuses to produce to the Registrar or any person authorised by him under sub-section (1), any book or papers which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar, after hearing any statement which may be offered in defence, punish the defaulter with a penalty under this section shall, on the application by the Registrar or the person authorised by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by himself.

(4) The result of an enquiry under this section shall be communicated to the society whose affairs have been investigated.

(5) It shall be competent for the Registrar to withdraw any inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.

1. Sub-sections (1) and (2) were substituted by Mah. 3 of 1974, s. 19.

2. These words were substituted for the words, letters and figures "require the applicant to deposit with him a sum of Rs. 100" by Mah. 20 of 1986, s. 44.

#### **84. Inspection of books of indebted society :-**

(1) On the application of a creditor of a society who,-

(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 reasonable time, and

(b) deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society. the Registrar may, if he thinks it necessary, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society.

(2) The Registrar shall communicate the result of any such inspection to the applicant, and to the society whose books have been inspected.

(3) It shall be competent for the Registrar to withdraw any order of

inspection from the officer to whom it is entrusted, and to inspect himself or entrust it to any other person as he deems fit.

<sup>1</sup> (4) The powers of inspection conferred on the Registrar by this section may be exercised by him of his own motion in respect of any society, which is indebted to Government or for which share capital (wholly or partly) is provided by Government or where any financial interest of Government is otherwise involved.]

1. Sub-section (4) was added by Mah. 3 of 1974, s. 20.

### **85. Inspection of books of indebted society :-**

(1) Where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs, as he may think just between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society :

Provided that ,-

(a) no order of apportionment of the costs shall be made under this section, unless the society or persons or the legal representative of the deceased person liable to pay the costs thereunder, has or have been heard, or has or have had a reasonable opportunity of being heard ;

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

(2) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under the foregoing subsection.

### **86. Recovery of costs :-**

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

### **87. Registrar to bring defects disclosed in inquiry or inspection to notice of society :-**

(1) If the result of any inquiry held under section 83 or an inspection made under section 84 discloses any defects in the constitution, working or financial condition or the books of society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.

(2) The society concerned may, within sixty days from the date of any order made by the Registrar under the foregoing sub-section, appeal against it to the State Government.

(3) The State Government may, in deciding the appeal, annul, reverse, modify or confirm, the order of the Registrar.

(4) If a society fails to rectify the defects disclosed in the course of or as a result of an audit under section 81 or fails to rectify the defects as directed by the Registrar, and where no appeal has been made to the State Government within the time specified in the order, or where on the appeal so made the State Government has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the cost from the officer or officers of the society, who in his opinion, has or have failed to rectify the defects.

### **88. Power of Registrar to assess damages against delinquent promoters, etc. :-**

(1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 83 or the person authorised to inspect the books under section 84 or the Liquidator under section 105 or otherwise that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to <sup>1</sup> [the date of commencement of such audit or date of order for inquiry, inspection or] winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or

persons and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

(2) The Registrar or the person authorised under sub-section (1) in making any order under this section, may provide therein for the payment of the cost or any part thereof, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.

1. These words were substituted for the words "date of such audit, inquiry, inspection or order for" by Mah. 33 of 1963, s. 18.

#### **88A. Deposit towards fees of inquiry :-**

<sup>1</sup> Where the Registrar on his own motion decides and orders an inquiry under section 83, or proceeds or authorises to make inquiry under section 88, he may, having regard to the nature of allegations, and the inquiry involved, require the society concerned to deposit with him such sum of money as he may determine, towards the cost of inquiry. If the sum so determined, is not deposited with the Registrar within 15 days from the date of receipt of the order requiring the society to deposit the sum, it shall on a certificate issued by the Registrar, be recoverable as an arrears of land revenue.

1. Section 88-A was inserted by Mah. 20 of 1986, s. 45.

#### **89. Power to enforce, attendance etc. :-**

The Registrar or the person authorised by him, when acting under section 83, 84 or 88 shall have the power to summon and enforce the attendance of any person <sup>1</sup> [and examining him on oath or affirmation or by affidavit] or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the

Code of Civil Procedure, 1908.

1. These words were substituted for the words "to give evidence" by Mah. 33 of 1963, s. 19.

**89A. Power to inspect working of society :-**

<sup>1</sup>(1) It shall be competent for the Registrar to inspect or cause to be inspected the working of any society to ensure that -

(a) the provisions of the Act, rules and bye-laws of the society are being properly followed by the society ;

(b) the records and books of accounts are kept in proper forms ;

(c) the business of the society is being run on sound business principles ;

(d) the society is following the co-operative principles and the directives or directions given by the State Government in accordance with the provisions of this Act and the rules made thereunder :

Provided that, inspection of the societies specified under section 73-G shall be undertaken by the Registrar or by the officer not below the rank of <sup>2</sup> [Deputy Registrar] of Co-operative Societies authorised by him in this behalf.

(2) For the purpose of supervision over the societies, the Registrar shall have the power -

(a) to inspect the records and books of the accounts of any society and for that purpose he shall have, at all times, access to all the records and books of accounts of the society ; and

(b) to summon any officer or employee who has the custody of the records or books of accounts of the society to produce them before him.

(3) The State Government may levy supervision fees on any society or class of societies at such rates, as the State Government may, having regard to the area of operation, the nature of business and the objects of the society, by notification in the Official Gazette, fix from time to time.

(4) Every society liable to pay the fees levied under sub-section (3) shall pay such fees by such date and in such manner as the State Government may specify in the notification issued under sub-section (3).

(5) The State Government may, having regard to the financial position of any society or class of societies, by general or special order published in the Official Gazette, exempt such society or class

of societies from payment of such fees for such period as may be specified in such order, or reduce or remit in whole or in part such fees.]

1. Section 89-A was inserted by Mah. 20 of 1986, s. 46.
2. These words were substituted by Mah. 13 of 1994, s. 9.

## **90. Constitution or recognition of federal authority to supervise working of societies :-**

(1)The State Government may constitute or recognise one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government may impose, for the supervision of a society or a class of societies and may frame rules for making grants to such an authority.

(2) The State Government may, by general or special order, require of a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment of expenditure which the State Government or any person authorised in that behalf has incurred or is likely to incur, in respect of supervision of societies.

(3) A society to which sub-section (2) is applicable shall pay to such authority such fees as may be prescribed within a reasonable time and, if it fails to pay such fee within a reasonable time, the authority may recover it as if it were an arrear of land revenue.

## **CHAPTER 9 Settlement of Disputes**

### **91. Disputes :-**

(1)Notwithstanding <sup>1</sup>[anything contained] in any other law for the time being in force, any dispute touching the constitution, <sup>2</sup>[elections of the committee or its officers other than elections of committees of the specified societies including its officer], conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated or by a creditor of the society, <sup>3</sup>[to a Co-operative Court] if both the parties thereto are not or either of the following :-

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present

servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society ; <sup>4</sup>[or the Official Assignee of a de-registered society];

(b) a member, past member or a person claiming through a member, past member or a deceased member of society, or a society which is a member of the society <sup>5</sup>[or a person who claims to be a member of the society];

<sup>6</sup>(c) a person other than a member of the society, with whom the society has any transactions in respect of which any restrictions or regulations have been imposed, made or prescribed under section 43, 44 or 45, and any person claiming through such person ;

(d) a surety of a member, past member or deceased member, or surety of a person other than a member with whom the society has any transactions in respect of which restrictions have been prescribed under section 45, whether such surety or person is or is not a member of the society ;]

(e) any other society, or the Liquidator of such a society <sup>7</sup>[or de-registered society or the Official Assignee of such a de-registered society] : <sup>8</sup>[Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947, or rejection of nomination paper at the election to a committee of any society other than a notified society under section 73-IC or a society specified by or under section 73-G, or refusal of admission to membership by a society to any person qualified therefor, <sup>9</sup>[or any proceeding for the recovery of the amount as arrear of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or sub-section (1) of section 137 or the recovery proceeding of the Registrar or any officer subordinate to him or an officer of society notified by the State Government, who is empowered by the Registrar under sub-section (1) of section 156] shall not be deemed to be a dispute for the purposes of this section.]

<sup>10</sup>[

(2) \*\*\*\*\*]

(3) Save as otherwise provided under <sup>11</sup>[sub-section (2) of section 93], no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

Explanation 1 :- A dispute between the Liquidator of a society <sup>12</sup>[or an Official Assignee of a de-registered society] and <sup>13</sup>[the members

(including past members, or nominees, heir or legal representative or deceased members)] of the same society shall not be referred <sup>14</sup> [to the Cooperative Court] under the provisions of sub-section (1).

Explanation 2:- For the purposes of this sub-section a dispute shall include -

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

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not ;

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

(iv) a refusal or failure by a member, past member or a nominee, heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of condition as the assignment.

1. These words were substituted for the words "anything containing" by Mah. 33 of 1963, s. 20 (a).

2. These words were substituted for the words "elections of the office bearers" by Mah. 20 of 1986, s.48 (a).

3. These words were substituted for the words "to the Registrar" by Mah. 18 of 1982, s. 3 (a).

4. This portion was inserted by Mah. 10 of 1988, s. 17 (a)(i).

5. These words were added by Mah. 27 of 1969, s. 16 (a) (i).

6. Clauses (c) and (d) were substituted for the original, *ibid.*, s. 16 (a) (ii).

7. These words were inserted by Mah. 10 of 1988, s. 17 (a) (ii).

8. This proviso was added by Mah. 20 of 1986, s. 48 (b).

9. This portion was inserted by Mah. 10 of 1988, s. 17 (a) (iii).

10. Sub-section (2) was deleted by Mah. 27 of 1969, s. 16 (b).

11. These words, brackets and figures were substituted for the words, brackets and figures "sub-section (3) of section 93" by Mah. 20 of 1986, s. 48 (c).

12. These words were substituted by Mah. 10 of 1988, s. 17 (b).

13. These words and brackets were substituted for the words "the members" by Mah. 33 of 1963, s. 20 (b).

14. These words were substituted for the words "to the Registrar" by Mah. 18 of 1982, s. 3 (b).

### **91A. Constitution of Co-operative Courts :-**

<sup>1</sup>(1) The State Government may, by notification in the Official Gazette, constitute one or more Co-operative Courts for the adjudication of dispute <sup>2</sup>[referred to them] under section 91 or section 105 or other provisions of this Act.

(2) A Co-operative Court shall consist of one member appointed by the State Government possessing such qualifications as may be prescribed.

(3) A Co-operative Court shall have jurisdiction over the whole State or any part thereof as may be specified in the notification under sub-section (1).

(4) All disputes and other proceedings pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, <sup>3</sup>[before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made thereunder have been delegated or] before any nominee or board of nominees appointed by the Registrar, shall be transferred by him, by general or special order, to any Co-operative Court specified by him in that behalf and shall be heard and disposed of by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing de novo. ]

<sup>4</sup> (5) All disputes and other proceedings pending, immediately before the commencement of the Maharashtra Co-operative Societies, (Amendment and Validation) Act, 1982, before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made thereunder, have been delegated shall be transferred by him, by general or special order, to any Co-operative Court specified by him and shall be heard and disposed of

by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing de novo.]

1. Section 91-A was inserted by Mah. 3 of 1974, s. 22.
2. These words were substituted for the words "referred to the Registrar," by Mah. 18 of 1982, s. 4 (a).
3. This was inserted by Mah. 64 of 1975, s. 2.
4. Sub-section (5) was added by Mah. 18 of 1982, s. 4 (b).

## **92. Limitation. XXXVI of 1963 :-**

(1) Notwithstanding anything contained in <sup>1</sup>[the Limitation Act, 1963], but subject to the specific provisions made in this Act, the period of limitation in the case of dispute referred to <sup>2</sup>[the Co-operative Court] under the last preceding section shall -

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

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

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated committee or an administrator has been appointed under <sup>3</sup>[section 77-A or 78], be six years from the date of the order issued under section 102, or <sup>3</sup>[section 77-A or 78] as the case may be ;

(d) when the dispute is in respect of an election of <sup>5</sup>[a committee or officers] of the society, be <sup>6</sup>[two months] from the date of the

declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to <sup>7</sup>[the Co-operative Court] under the last preceding section shall be regulated by the provisions of <sup>8</sup>[the Limitation Act, 1963], as if the dispute were a suit and <sup>6</sup>[the Co-operative Court] a Civil Court.

(3) Notwithstanding anything contained in sub-section (1) and (2), <sup>6</sup>[the Co-operative Court] may admit a dispute after the expiry of the limitation period, if the applicant satisfied <sup>6</sup> [the Co-operative Court] that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

1. These words and figures were substituted for the words and figures "the Indian Limitation Act, 1908" by Mah. 20 of 1986, s. 49 (c).

2. These words were substituted for the words "the Registrar" by Mah. 18 of 1982, s. 5 (a).

3. These words, figure and letter were substituted for the word and figures "Section 78" by Mah. 20 of 1986, s. 49 (a).

5. These words were substituted for the words "an office bearer" *ibid.*, s. 49 (b).

6. These words were substituted for the words "one month" by Mah. 18 of 1982, s. 5 (b).

7. These words were substituted for the words "the Registrar" *ibid.*, s. 5 (a).

8. These words were substituted for the words and figures "the Indian Limitation Act, 1908," by Mah. 20 of 1986, s. 49 (c).

### **93. Transfer of disputes from one Co-operative Court to another and suspension of proceedings in certain cases :-**

<sup>1</sup> (1) Where any dispute is referred to any Co-operative Court, the President of the Co-operative Appellate Court may, at any time, for reasons to be recorded in writing, withdraw such dispute from that Court and may refer it for decision to any other Co-operative Court as he deems fit.

(2) Notwithstanding anything contained in this Act, the Co-

operative Court, on an application made to it by any of the parties to the dispute, may, if it thinks fit suspend any proceedings in respect of any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted in a Civil Court within two months from the date of the order of the Co-operative Court, that Court shall continue the proceedings and decide the dispute.]

1. Section 93 was substituted by Man. 18 of 1982, s. 6.

#### **94. Procedure for settlement of disputes and power of Co-operative Court :-**

(1)<sup>1</sup>[The Co-operative Court], hearing a dispute under the last preceding section, shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

<sup>2</sup>[(1A) Save as otherwise provided in this Act, every dispute in relation to any election shall be heard and decided by the Co-operative Court as expeditiously as possible and endeavour shall be made to conclude the hearing and decision within six months from the date on which the dispute is filed before it.]

(2) Except with the permission of <sup>3</sup>[the Co-operative Court] no party shall be represented at the hearing of a dispute by a legal practitioner.

(3)

(a) If <sup>4</sup>[the Co-operative Court] is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to a dispute, <sup>5</sup>[it may order], that the person who has acquired the interest in the property may join as a party to the dispute ; and any decision that may be passed on the reference by <sup>5</sup>[the Co-operative Court] shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in name of the wrong person, or where all the defendants have not been included, <sup>7</sup>[the

Cooperative Court] may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as <sup>8</sup>[it thinks just.]

( c ) <sup>9</sup>[ T h e Co-operative Court may,] at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to <sup>10</sup>[the Co-operative Court], to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before <sup>9</sup>[the Cooperative Court], may be necessary in order <sup>12</sup>[ t o enable the Co-operative Court] effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs ; but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of <sup>13</sup>[the Cooperative Court.]

<sup>14</sup>[(3A) In any case in which a dispute is decided by the Co-operative Court ex-parte against any person, he may apply to the Court, within thirty days from the date of the decision, to set it aside. If he satisfied the Court that there was sufficient cause for his failure to appear when the dispute was called and heard, the Court shall make an order setting aside the decision as against him, upon such terms as to costs, payment into Court or otherwise, as it thinks fit, and appoint a day for hearing and deciding the dispute so far as it relates to him.]

<sup>15</sup> [

(4) Save as otherwise directed by the State Government in any case or class of cases, every dispute shall be decided in such summary manner as may be prescribed and as expeditiously as possible.]

1. These words were substituted for the words "the Registrar" or the Co-operative Court by Mah. 18 of 1982,s. 7(1).

2. Sub-section (1 A) was inserted by Mah. 20 of 1986, s. 50.

3. These words were substituted for the words ".the Registrar or the Co-operative Court as the case may be" by Mah. 18 of 1982, s. 7 (2).

4. These words were substituted for the words "the Registrar or the Co-operative Court", *ibid.*, s. 7 (3) (a) (i).
5. These words were substituted for the words "he may order", *ibid.*, s. 7 (3) (a) (ii).
7. These words were substituted for the words "the Registrar or the Co-operative Court", by Mah. 18 of 1982, s. 7(3) (b)(i).
8. These words were substituted for the words "he thinks just", *ibid.*, s. 7 (3) (b) (ii).
9. These words were substituted for the words "the Registrar, or the Co-operative Court may" *ibid.*, s.7(3)(c)(i).
10. These words were substituted for the words "the Registrar, or the Co-operative Court, as the case may be", *ibid.*, s. 7 (3) (c) (ii).
12. These words were substituted for the words "to enable the Registrar or the Co-operative Court" *ibid.*, s. 7 (3) (c) (iii).
13. These words were substituted for the words "the Registrar, or the Co-operative Court" *ibid.*, s. 7 (3) (d).
14. Sub-section (3A) was inserted, *ibid.*, s. 7 (4).
15. Sub-section (4) was added by Mah. 3 of 1974, s. 24 (b).

**95. Attachment before award or order and interlocutory orders :-**

<sup>1</sup> (1) Where a dispute has been referred to the Co-operative Court under section 93 or 105 or whether the Registrar or the person authorised under section 88 (hereinafter in this section referred to as "the authorised person") hears a person against whom charges are framed under that section and the Co-operative Court or the Registrar or the authorised person, as the case may be, is satisfied on inquiry or otherwise that a party to such dispute or the person against whom proceedings are pending under section 88, with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made , -

(a) is about to dispose of the whole or any part of his property, or  
(b) is about to remove the whole or any part of his property from its or his jurisdiction, the Court or the Registrar or the authorised person, as the case may be, may, unless adequate security is furnished, direct conditional attachment of the said property, and such attachment shall have the same effect as if made by a

competent Civil Court.

(2) Where attachment of property is directed under sub-section (1), the Co-operative Court or the Registrar or the authorised person, as the case may be, shall issue a notice calling upon the person whose property is so attached to furnish security as it or he thinks adequate within a specified period. If the person fails to provide the security so demanded, the authority issuing the notice may confirm the order and, after the decision in the dispute or the completion of the proceedings under section 88, may direct the disposal of the property so attached towards the claim, if awarded.

(3) Attachment under this section shall not affect the rights subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is attached from applying for the sale of the property under attachment in execution of such decree.

(4) The Co-operative Court, the Registrar or the authorised person, as the case may be, may in order to prevent the ends of justice being defeated make such interlocutory orders pending the decision in a dispute referred to in sub-section (1) as may appear to be just and convenient.]

1. Section 95 was substituted by Mah. 18 of 1982, s. 8.

#### **96. Decision of Cooperative Court :-**

<sup>1</sup> When a dispute is referred to arbitration, the Co-operative Court may, after giving reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and fees and expenses payable to the Co-operative Court. In case of money claim preferred by society against a member, the amount of award representing the interest shall not be less than the amount of interest accrued thereon, in accordance with the contractual rate of interest, but where such money claim relates to any loan referred to in section 44-A, the provisions of that section shall apply to such money claim as they apply to loan under section 44-A.]

1. Section 96 was substituted by Mah. 20 of 1986, s. 51.

#### **97. Appeal against decision under section 96 and order**

## **under section 95 :-**

Any party aggrieved by any decision of <sup>1</sup>[the Co-operative Court] under the last preceding section, or order passed <sup>2</sup>[by the Cooperative Court or the Registrar or the authorised person] under section 95 may, within two months from the date of the decision or order, appeal to <sup>3</sup> [the Co-operative Appellate Court.]

1. These words were substituted for the words "the Registrar or the Co-operative Court" by Mah. 18 of 1982, s. 10 (a).

2. These words were inserted *ibid.*, s. 10 (b).

3. These words were substituted for the words "the Tribunal" by Mah. 3 of 1974, s. 27 (b).

## **98. Money how recovered :-**

Every order passed <sup>1</sup>[by the Official Assignee of a de-registered society under sub-section (3) of section 21-A or every order passed] by the Registrar or a person authorised by him under section 88 or by the Registrar <sup>2</sup>[for the Co-operative Court] under section 95 <sup>3</sup>[for by the Co-operative Court under section 96], every order passed in appeal under the last preceding section, every order passed by a Liquidator under section 105, every order passed by the State Government in appeal against orders passed under section 105 and every order passed in revision under section 154 shall, if not carried out ,-

(a) on a certificate signed by <sup>4</sup>[the Official Assignee or] the Registrar <sup>5</sup>[for the Co-operative Court] or a Liquidator, 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) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue :

Provided that, any application for the recovery in such manner of any such sum shall be made by the Collector, and shall be accompanied by a certificate signed by the Registrar. <sup>6</sup> \* \* \* \* \*  
Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

1. This portion was inserted by Mah. 10 of 1988, s. 18 (a).

2. These words were substituted for the words "or his nominee, or

board of nominees" by Mah. 3 of 1974, ss. 26 (a) and 28.

3. These words were inserted by Mah. 18 of 1982, s. 11 (a).

4. These words were inserted by Mah. 10 of 1988, s. 18 (b).

5. These words were inserted by Mah. 18 of 1982, s. 11 (b).

6. The words "or by any Assistant Registrar to whom the said powers have been delegated by the Registrar" were deleted by Mah. 33 of 1963, s. 22.

### **99. Private transfer of property made after issue of certificate void against society :-**

Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, <sup>1</sup> [Co-operative Court], Liquidator or Assistant Registrar, as the case may be, under section 98 shall be null and void as against the society on whose application the said certificate was issued.

1. These words were inserted by Mah. 18 of 1982, s. 12.

### **100. Transfer of property which cannot be sold :-**

(1) When in any execution of an order sought to be executed under section 98 <sup>1</sup> [or in the recovery of any amount under section 101 or section 137], any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, <sup>2</sup> [Court], Liquidator or the Assistant Registrar, under, under clause (a) or (b) of section 98, <sup>1</sup> [or under section

(2) Where property is transferred to the society under the foregoing sub-section or where property is sold under section 98 <sup>4</sup> [101 or 137], the Court, the collector, or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof, shall be held under sub-section (1) by the said society on such terms and

conditions as may be agreed upon between the Court, the Collector or the Registrar, as the case may be, and the said society. Subject to the general or special orders of the State Government, the Collector or the Registrar may delegate to an officer, not below the rank of an Assistant or the Deputy Collector or the Assistant Registrar, powers exercisable by the Collector or the Registrar under this section.

1. These words and figures were inserted by Mah. 3 of 1974, s. 29 (a) (i) and (ii).

2. This word was inserted by Mah. 18 of 1982, s. 13.

4. This word and figures were substituted by Mah. 3 of 1974, s. 29 (b).

**101. Recovery of arrears due to certain societies as arrears of land revenue :-**

<sup>1</sup>(1)Notwithstanding anything contained in sections 91, 93 and 98, on an application made by a resource society undertaking the financing of crop and seasonal finance as defined under the Bombay Agricultural Debtors Relief Act, 1947, (Bom. XXVIII of 1947) <sup>2</sup>[ or advancing loans for other agricultural purposes repayable during a period of not less than eighteen months and not more than five years] for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crop or seasonal finance <sup>3</sup>[or for other agricultural purposes as aforesaid] or by a crop-protection society for the recovery of the arrears of the initial cost or of any contribution for obtaining services required for crop- protection which may be due from its members or other owners of lands included in the proposal (who may have refused to become members) or by a lift irrigation society for the recovery of arrears of any subscription due from its members for obtaining services required for providing water supply to them, <sup>4</sup>[or by a Taluka or Block level village artisans multi-purpose society advancing loans and arranging for cash credit facilities for artisans for the <sup>5</sup>[or by a co-operative housing society for the recovery of arrears of its dues, or by a co-operative dairy society advancing loans for the recovery of arrears of any sum advanced by it to any of its members or by an urban co-operative bank for the recovery of arrears of its dues, or by salary-earners co-operative society for the recovery of arrears of its dues, or by a

fisheries co-operative society for the recovery of arrears of its dues,  
<sup>6</sup>[ or by any such society or class of societies, as the State Government may, from time to time, notify in the Official Gazette, for the recovery of any sum advanced to, or any subscription or any other amount due from, the members of the society or class of societies so notified] ] and on the society concerned furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears.

<sup>7</sup>Explanation :- For the purposes of this sub-section, the expression "other agricultural purposes" includes dairy, pisciculture and poultry.]

(2) Where the Registrar is satisfied that <sup>8</sup>[the concerned society has failed to take action under the foregoing sub-section in respect of any amount due as arrears], the Registrar may, of his motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force, for the recovery of land revenue.

(4) It shall be lawful for the Collector and the Registrar to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879 or any law or provision corresponding thereto for the time being in force, until the arrears due to <sup>9</sup> [the concerned society], together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished 10 the satisfaction of the Registrar.

1. Sub-section (1) was substituted for the original by Mah. 27 of 1969, s. 17 (a).

2. This portion was deemed to have been inserted on 1 st July, 1971 by Mah. 44 of 1973, s. 3 (a).

3. This portion was deemed to have been inserted on 1st July, 1971 *ibid.*, s. 3 (b).

4. This portion was inserted by Mah. 36 of 1975, s. 8.

5. This portion was inserted by Mah. 20 of 1986, s. 52 (a).

6. This was inserted by Mah. 31 of 1990, s. 2.
7. This Explanation was added, by Mah. 20 of 1986, s. 52 (b).
8. This portion was substituted for the original by Mah. 27 of 1969, s. 17 (b).
9. These words were substituted for the words "the resource society" Mah. 27 of 1969, s. 17 (c).

## **CHAPTER 10 Liquidation**

### **102. Winding up :-**

(1) If the Registrar ,-

(a) after an inquiry has been held under section 83 or an inspection has been made under section 84 or on the report of the auditor auditing the accounts of the society, or

(b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special general meeting called for the purpose, or

(c) of his own motion, in the case of a society which -

(i) has not commenced working, or

(ii) has ceased working, or

(iii) possesses shares or members deposits not exceeding five hundred rupees, or

(iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws, is of the opinion that a society ought to be wound up, he may issue an interim order directing it to be wound up.

(2) A copy of such order made under <sup>1</sup> \* \* \* \* \* sub-section (1) shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order.

1. The words, brackets, letters and figures "clause (a) or sub-clause (iv) of clause (c) of were deleted in Mah. 33 of 1963, s. 23.

### **103. Appointment of Liquidator :-**

(1) When an interim order is passed under the last preceding

section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be Liquidator of the society, and fix his remuneration.

(2) On issue of the interim order, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, of all books records and other documents pertaining to the business of the society and, shall have no access to any of them.

(3) When a final order is passed confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force the general body of the society shall not exercise any powers.

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 105. The Registrar may remove such person and appoint another in his place, without assigning any reason.

(5) The whole of the assets of the society shall on the appointment of Liquidator under this section vest in such Liquidator, and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by a Liquidator on behalf of the society, the title over the land shall be complete as soon as, the mutation of the name of his office is effected, and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(6) In the event of the interim order being vacated, the person appointed as Liquidator shall hand over the property, effects and actionable claims and books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been cancelled under the preceding section, be continued by the officers of the society.

#### **104. Appeal against order of winding up :-**

<sup>1</sup> (1) The committee, or any member, of the society, ordered to be wound up may, prefer an appeal against the final order of winding-up within two months from the date of the issue of the order made under section 102 -

(a) if made by the Registrar, or the Special or Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the State Government;

(b) if made by any person other than the Registrar or the Special or Additional or Joint Registrar on whom the powers of the Registrar are conferred to the Registrar ;

Provided that, no appeal shall lie against an order, issued under sub- clause (i), (ii) or (iii) of clause (c) of sub-section (1) of section 102.]

(2) No appeal from a member under this section shall be entertained unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

1. Sub-section (1) of section 104 was substituted by Mah. 7 of 1997, s. 12.

### **105. Powers of Liquidator :-**

<sup>1</sup>(1) The Liquidator appointed under section 103 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,-

(a) to institute and defend any suit and other legal proceedings, civil or criminal, on behalf of the society in the name of his office ;

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

(c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof, to any person or body corporate, or sell the same in parcels;

<sup>2</sup>[(c-i) to transfer by sale assets valued at market price to a society registered with similar objects or to Government undertaking which carries on the same business as of the society under liquidation ;

(c-ii) to lease to other societies or to Government undertakings, with prior approval of the Registrar, the property of the society to run the same business as that of the society under liquidation ;]

(d) to raise, on the security of the assets of the society, any money required;

(e) to investigate all claims against the society and, subject to the provisions of the Act, to decide questions of priority arising out of such claims, and to pay any class or classes of creditor in full or rateable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate

to be approved by the Registrar, but not exceeding the contract rates ;

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

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

(h) to determine, from time to time, after giving an opportunity to answer the claim the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the

(i) to issue requisition under section 98 ;

**3**[

(j) to refer or to get referred any dispute to the Co-operative Court for decision;]

(k) to determine by what persons and in what proportion the costs of the liquidation shall be borne ;

(l) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved ;

(m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure, 1908 ;

(n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents as may be necessary to such winding up ;

(o) to take such action as may be necessary under section 19, with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

**4** (2) Notwithstanding anything contained in sub-section (1), the

Liquidator, shall not have the right to vote on behalf of the society in liquidation, at the election of the members of the committee or of officers of any other society.]

1. Section 105 was re-numbered as sub-section (1) of that section by Mah. 3 of 1974, s. 30 (1).
2. Clauses (c-i) and (c-ii) were inserted by Mah. 20 of 1986, s. 53.
3. Clause (j) was substituted by Mah. 18 of 1982, s. 14.
4. Sub-section (2) was added by Mah. 3 of 1974, s. 30(2).

### **106. Effect of order of winding up :-**

After expiry of the period for appeal against the order made under sub-section (1) of section 102 or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society, as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the Liquidator shall proceed to realise the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose. The Registrar, may of his own motion, however, entertain or dispose of any dispute by or against the society.

### **107. Bar of suit in winding up and dissolution matters :-**

Save as expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act; and when a winding up order has been made no suit or other legal proceedings shall lie or be proceeded with against the society or the Liquidator, except by leave of the Registrar, and subject to such terms as he may impose :

Provided that, where the winding up order is cancelled the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as Liquidator.

### **108. Audit of Liquidators accounts :-**

(1)The Liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than twice each year, present to the Registrar an account in the prescribed form of his receipts and payments as Liquidator. The Registrar shall cause the accounts to be audited in such manner as he thinks fit ; and for the purpose of audit, the Liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.

(2) The Liquidator shall cause a summary of audited accounts to be prepared, and shall send a copy of such summary to every contributory.

(3) The Liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts and books kept by him in the manner prescribed.

(4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result, of audit in respect of transactions subsequent to his taking over the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 88 :

Provided that, no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or want or omission, in carrying out the duties and functions.

### **109. Termination of liquidation proceedings :-**

<sup>1</sup>(1)The winding up proceedings of a society shall be closed <sup>1</sup>[as soon as practicable within six years] from the date <sup>3</sup>[the Liquidator takes over the custody or control of all the property, effect and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society, under sub-section (2) of section 103], unless the period is extended by the Registrar: Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall, immediately after the expiry of <sup>4</sup>[ten years] from the date <sup>5</sup>[aforesaid],

<sup>6</sup> [Explanation :- In the case of a society which is under liquidation at the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985 the period of six years shall be

deemed to have commenced from the date on which the Liquidator took over the custody or control as aforesaid.]

(2) Notwithstanding anything contained in the foregoing subsection, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property of, and the claims of the society have been disposed of, and shall include a statement showing summary of the account of the winding up including the cost of liquidation, the amount (if any), standing to the credit of the society in liquidation, after paying of its liabilities including the share or interest of members and suggest how the surplus should be utilised.

(3) The Registrar, on receipt of the final report from the Liquidator, shall direct the Liquidator to convene a general meeting of the members of the society for recording his final report.

1. These words were substituted for the words "within three years" by Mah. 16 of 1969, s. 2 (a).

3. This portion was substituted for the words "of the order of the winding up" by Mah. 20 of 1986, s. 54 (a).

4. These words were substituted for the words "seven years" by Mah. 16 of 1969, s. 2 (b).

5. This word was substituted for the words "of the order for winding up of the society" by Mah. 20 of 1986, s 54 (b).

6. This Explanation was substituted for the original, by Mah. 20 of 1986, s. 54 (c).

### **110. Disposal of surplus assets :-**

The surplus assets, as shown in the final report of the Liquidator of a society which has been wound up, may either be divided by the Registrar, with the previous sanction of the State Government, amongst its members in such manner as may be prescribed or be devoted to any object or objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose or may be utilised for both the purposes. Where the surplus is not so divided amongst the members and the society has no such bye-laws, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to reserve fund of a new

society registered with a similar object, and serving more or less an area which the society, to which the surplus belonged was serving : Provided that, where no such society exists or is registered within three years of the cancellation of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus, in the manner he thinks best, amongst any or all of the following :-

(a) an object of public utility and of local interest may be recommended by the members in general meeting held under the preceding section ;

(b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society exists, the State federal society which may be notified in this behalf by the State Government; and

(c) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

## **CHAPTER 10A** Insured Co-operative Bank

### **110A. Order for winding up, reconstruction, supersession of committee, etc., of insured co-operative bank, not to be made without sanction or requisition of Reserve Bank of India :-**

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 compromises or arrangement, or of amalgamation, or reconstruction (including division or re-organisation), 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 <sup>1</sup>[by the Registrar] if so required by the Reserve Bank of India in the circumstances referred to in section 13-D of the Deposit Insurance Corporation Act, 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 <sup>2</sup>[by the Registrar] for the supersession (removal) of the committee and the appointment of an Administrator therefor 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) an order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or re-organisation) or an order for the supersession (removal) of the committee and the appointment of an Administrator therefor made with the previous sanction in writing or on the requisition of the Reserve Bank of India shall not be liable to be called in question in any manner ; and  
(v) the Liquidator or the insured co-operative bank or the 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.

<sup>3</sup> [Explanation :- In this section , -

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

(b) the expression "the transferee bank" has the same meaning as assigned to it in that Act.]

1. These words were inserted by Mah. 36 of 1975, s. 9.

2. These words were inserted by Mah. 36 of 1975, s. 9.

3. This Explanation was substituted for the original by Mah. 36 of 1975, s. 9 (c).

## **CHAPTER 11** Agriculture and Rural Development Banks

### **111. Order for winding up, reconstruction, supersession of committee, etc. :-**

<sup>1</sup>of insured co-operative bank, not to be made without sanction or requisition of Reserve Bank of India. This Chapter shall apply to -

(a) any co-operative bank or banks advancing loans other than short term loans, to or through the <sup>2</sup>[Agriculture and Rural Development Bank] for the purposes herein enumerated (hereinafter referred to as "the <sup>2</sup>[Agriculture and Rural Development Bank]"), namely :-

(i) agricultural or rural development;

(ii) purchase of, or acquisition of title to, agricultural lands by tenants, occupants and assignees under any law for the time being

in force ;

(iii) liquidation of Government, Institutional and other secured debts to agriculturists ;

<sup>4</sup>[

(iv) acquisition, construction, rebuilding or repairing of dwelling houses in rural area ;]

(b) any other society permitted by the Registrar under section 142 to function as a <sup>5</sup> [Agriculture and Rural Development Bank.]

Explanation :- For the purposes of this section ,-

(i) the expression "short term loan" means a loan for a duration of less than 18 months ; and

(ii) the expression "agricultural or rural development" means any work, construction or activity pertaining to agricultural and rural development which includes the following, that is to say :-

(i) construction and repairs of wells (including tube wells, tanks and other) works for storage, supply or distribution of water for the purpose of agriculture, or for the consumption of human beings and cattle employed in agriculture,

(ii) making agricultural lands fit for cultivation, improvement of lands including development of sources of irrigation.

(iii) renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto,

(iv) preparation of lands for irrigation including command area development,

(v) drainage to, and reclamation from, rivers or other waters, or protection from floods or erosion or other damage by water, or land,

(vi) bunding and similar improvements.

(vii) reclamation clearance and enclosure or permanent improvement of land for agricultural purposes,

(viii) horticulture,

(ix) purchase of tools, implements, machinery including oil engines, pumping sets, electric motors for any of the purposes mentioned herein,

(x) purchase of tractors or power tillers or any other agricultural machinery,

(xi) increase in productive capacity of agricultural lands,

(xii) construction, rebuilding or repairing of farm houses, cattle-sheds and sheds for processing or repairing agricultural or cottage or village industrial products,

(xiii) purchase of machinery for processing of agricultural produce,

(xiv) purchase of lands for consolidation of holdings under the

relevant law for the time being in force,  
(xv) animal husbandry, and dairy farming such as purchase of the milch cattle, rearing of cross-breed female calves, cattle breeding, sheep and goat rearing, piggery, poultry farming and purchase of bullocks,  
(xvi) plantation including tree crops,  
(xvii) forestry,  
(xviii) pisciculture including development of inland and marine fisheries, catching of fish and all activities connected therewith or incidental thereto,  
(xix) sericulture or apiculture ,  
(xx) marketing, storage including rural warehouses, godowns and cold storage and transport of agriculture, cottage and industrial products, acquisition of implements and machineries in connection with such activities including animal-driven carts,  
(xxi) market yards for agricultural produce,  
(xxii) bio-gas plants,  
(xxiii) working capital or production credit to borrowers or investment credit,  
(xxiv) setting up of cottage and village industries.  
(xxv) purchase of shares in co-operative sugar factories or in any processing industry of agriculture produce,  
(xxvi) social forestry,  
(xxvii) such other purposes as the State Government may, from time to time, by notification in the Official Gazette, declare to be agricultural or rural development purposes, or  
(xxviii) all activities incidental to, or ancillary to, the abovementioned purposes.]

1. This section was substituted for the original by Mah. 20 of 1986, s. 55.

2. These words were substituted for the words "a Land Development Banks" by Mah. 10 of 1988, s. 19.

4. Sub-clause (iv) was added by Mah. 5 of 1990, s. 3.

5. These words were substituted for the words "a Land Development Banks" by Mah. 10 of 1988,s. 19.

## **112. State and other Agriculture and Rural Development Banks :-**

(1) There shall be <sup>2</sup>[State Agriculture and Rural Development Bank] for the State of Maharashtra. If considered necessary by the State Government, in the public interest or in the interest of the cooperative movement, there may be one or more <sup>3</sup>[Primary Agriculture and Rural Development Banks], but nothing in this sub-section shall be taken to require the establishment or continuance of any <sup>3</sup>[Primary Agriculture and Rural Development Banks.]

(2) A reference to Land Mortgage Bank <sup>5</sup>[or to a Land Development Bank] in any law, or instrument, for the time being in force in the State, shall with effect from the commencement of this Act, be construed as a reference to a <sup>6</sup>[Agriculture and Rural Development Bank] within the meaning of this Chapter.

(3) With effect from the commencement of this Act, and until such time as the names of the Land Mortgage Bank <sup>7</sup>[or of the Land Development Banks] and societies functioning in the State at the commencement of this Act are changed into <sup>8</sup>[Agriculture and Rural Development Banks], all acts done by them or mortgages and other documents executed by them or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done executed or filed, as the case may be, by or against them as <sup>7</sup> [Agriculture and Rural Development Banks.]

1. Sub-section (1) was substituted by Mah. 43 of 1972, s. 3.

2. These words were substituted for the words "State Land Development Bank" by Mah. 10 of 1988, s. 19.

3. These words were substituted for the words "Primary Development Banks" *ibid.*, s. 19.

5. These words were inserted by Mah. 10 of 1988, s. 20 (a).

6. These words were substituted for the words "Land Development Banks", *ibid.*, s. 19.

7. These words were inserted *ibid.*, s. 20 (b).

8. These words were substituted for the words "State and other Land Development Banks", *ibid.*, s. 19.

**112A. District Loan Committee, its constitution, term of office of delegates, casual vacancies, powers of such Committee etc. :-**

<sup>1</sup>(1) Notwithstanding anything contained in this Act, or in the rule

made thereunder, or in the bye-laws of the <sup>2</sup>[State Agriculture and Rural Development Bank.]

(a) There shall be a District Loan Committee for each District excluding City of Bombay District and Bombay Suburban District.

(b) Every District Loan Committee shall consist of the following <sup>3</sup>[<sup>4</sup>\*\* \* members,] that is to say, - <sup>5</sup>[

(i) delegates, to be elected one each from every taluka in a district]

<sup>6</sup>[(i-a) two members, one from the persons belonging to the Schedule Castes or Schedule Tribes and one from the persons belonging to the weaker section, <sup>7</sup>[who shall be elected from the District:]]];

<sup>8</sup>[Provided that, in district, where there are more than seven talukas and before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, the elections to elect seven delegates on

Provided further that, after having held the election as aforesaid, the two members to be nominated by the Registrar under sub-clause (i-a), as it existed then, have not yet been nominated by the Registrar then the Registrar shall nominate such two members :

Provided also that, the term of office of all such nominated members shall be co-terminus with the term of office of the seven such delegates so elected.

Provided also that, at any election held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, any member of the State Agriculture and Rural Development Bank in the District belonging to the Scheduled Castes or Scheduled Tribes, or as the case may be, weaker section, shall be eligible to contest such election ;]

(ii) the District Deputy Registrar of Co-operative Societies of the concerned district, ex-officio ;

(iii) the Divisional Officer of the <sup>9</sup>[State Agriculture and Rural Development Bank] of the concerned division, ex-officio ;

(iv) The District Branch Manager of the <sup>9</sup>[State Agriculture and Rural Development Bank] of the concerned district, ex-officio, who shall also act as the Secretary of the District Loan Committee.

<sup>11</sup>[Explanation :- For the purpose of sub-clause (i-a), the provisions of clauses (b) and of any order issued under clause (c) of the Explanation to section 73-B shall apply in relation to the members to be elected thereunder ;]

<sup>12</sup>[

(c) The delegates or members to be elected under sub-clauses (i)

and (i-a) of clause (b) shall be elected by direct election, by the members of the State Agriculture and Rural Development Bank.]

(d) Save as otherwise provided in this section, every election to elect delegates <sup>13</sup>[and members] shall be subject to the provisions of Chapter XI- A and shall be conducted in the manner laid down by or under that Chapter :

Provided that, a reference to an election of a member or members of the Committee of a specified society in that Chapter or the rules made thereunder shall be deemed to be a reference to an election of <sup>14</sup>[delegates or members referred to in clause (b).]

(2) Every District Loan Committee shall have a Chairman, who shall be elected by the delegates <sup>15</sup>[elected delegates and members thereof] from amongst themselves.

(3) Within fifteen days from the date of election of the delegates <sup>16</sup>[and the members under sub-section (1)] an officer authorised by the Collector in that behalf shall convene the first <sup>17</sup>[meeting of the delegates and the <sup>18</sup>\* \* \* members] for election of a Chairman. The officer so authorised shall preside over such meeting, but shall not have the right to vote.

(4) The term of office of members other than ex-officio members of a District Loan Committee shall be for a period of five years and shall be deemed to commence on the date of the first meeting referred to in subsection (3) and the term of office of the Chairman shall be co-terminus with the term of such members and on expiry of their term they shall be deemed to have vacated their offices.

(5) A casual vacancy of an elected <sup>19</sup>[delegate member] or Chairman occurring in the District Loan Committee due to any reason whatsoever shall be filled by election <sup>20</sup>\* \* \* \* as soon as may be practicable after the occurrence of the vacancy :

Provided that, if the vacancy occurs within four months preceding the date on which the term of <sup>21</sup>[such delegate, or as the case may be, member] expires, the vacancy shall not, unless the Registrar otherwise directs, be filled :

Provided further that, <sup>22</sup>[the delegate, member] or Chairman elected <sup>23</sup>\* \* \* to fill a vacancy shall hold, office so long as <sup>20</sup>[the delegete, member] or Chairman in whose place he is elected <sup>25</sup>\* \* \* \* would have held office ; if the vacancy had not occurred.

(6) The District Loan Committee shall have the power to sanction by itself or to recommend for sanction by the committee of the <sup>26</sup>[State Agriculture and Rural Development Bank], as the case may be, loans to such extent and for such purposes as the

committee of the <sup>24</sup>[State Agriculture and Rural Development Bank] may, from time to time, specify, and shall also perform such other functions as that committee may, from time to time, entrust to it.

**28** [

(7) The provisions of sections 73-ID, 73-A, 73-FF, 77-A, 78, clauses (j) and (k) of section 146, clauses (j) and (k) of section 147, sections 160-A and 160-B shall apply mutatis mutandis to the District Loan Committee as they apply in relation to a committee of a society.]

1. Sections 112-A, 112-B and 112-C were inserted by Mah. 10 of 1986, s. 2.

2. These words were substituted for the words "State Land Development Bank" by Mah. 10 of 1988, s. 19.

3. These words were substituted for the words "Ten members" by Mah. 38 of 1986, s. 2 (1) (a).

4. The word "twelve" was deleted by Mah. 13 of 1994, s. 10 (1) (ai).

5. These words were substituted *ibid.*, s. 10 (1) (aii).

6. Sub-clause (i-a) was inserted by Mah. 38 of 1986, s. 2 (1) (b).

7. These words were substituted by Mah. 13 of 1994, s. 10 (1) (aiii).

8. These provisos were added *ibid.*, s (10) (1) (aiv).

9. These words were substituted for the words "State Land Development Bank" by Mah. 10 of 1988, s. 19.

11. This Explanation was substituted for the original by Mah. 13 of 1994, s. 10 (1) (av).

12. Sub-clause (c) was substituted *ibid.*, s. 10 (1) (b).

13. These words were inserted *ibid.*, s. 10 (c) (i).

14. These words were substituted *ibid.*, s. 10 (c) (ii).

15. These words were substituted for the words, brackets, letters and figures "delegates elected under sub-clause (i) and members nominated under sub-clause (i-a) of clause (b) of sub-section (1)" by Man. 13 of 1994, s. 10(2)

16. These words, brackets and figures were substituted for the

words, brackets and figures "or from the date of nomination of members under sub-section (1), whichever is later" *ibid.*, s. 10(3) (a).

17. These words were substituted for the words "Meeting of the delegates" by Mah. 38 of 1986, s. 2(3) (b).

18. The words "the nominated" were deleted by Mah. 13 of 1994, s. 10 (3) (b).

19. These words were substituted for the words "member, nominated member" *ibid.*, s. 10 (4) (a).

20. The words "or nomination as the case may be" were deleted *ibid.*, s. 10 (4) (b).

21. These words were substituted for the words "such member" *ibid.*, s. 10 (4) (c).

22. These words were substituted for the words "the member" *ibid.*, s. 10 (4) (d) (i).

23. The words "or a member nominated" were deleted *ibid.*, s. 10 (4) (d) (ii).

25. The words "or as the case may be, nominated" shall be deleted *ibid.*, s. 10 (4) (d) (iii).

26. These words were substituted for the words "State Land Development Bank" by Mah. 10 of 1988, s. 19.

28. Sub-section (7) was added by Mah. 31 of 1990, s. 3.

**112AA. Election of delegate as member of Agriculture and Rural Development Bank from City of Bombay District and Bombay Suburban District :-**

<sup>1</sup> (1) Notwithstanding anything contained in this Act or the rules made thereunder, the members of the Agriculture and Rural Development Bank from the City of Bombay District and Bombay Suburban District shall elect one delegate from amongst themselves for every general body meeting of the members of the Bank.

(2) Subject to the provisions of section 14, the Agriculture and Rural Development Bank shall make bye-laws for the purpose of the election of a delegate under sub-section (1).

(3) The power to make bye-laws conferred by sub-section (2) is subject to the condition of the bye-laws being made after previous

approval of the Registrar.]

1. This section was inserted by Mah. 10 of 1988, s. 21.

**112B. General Body and committee of 368[State Agriculture and Rural Development Bank :-**

(1)Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the bye-laws of the <sup>1</sup>[State Agriculture and Rural Development Bank] ,-

(a) The delegates <sup>2</sup>[and members] elected in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 112-A <sup>3</sup>[and sub-section (1) of section 112-AA] shall, for the purpose of section 72, constitute the general body of members of the <sup>1</sup>[State Agriculture and Rural Development Bank].

(b) The committee of the <sup>1</sup>[State Agriculture and Rural Development bank] shall consist of the following members, namely :-

(i) the Chairman of all the District Loan Committees ;

(ii) <sup>6</sup>[(A) two members, one each belonging to the Scheduled Castes or Scheduled Tribes and the weaker section, and (B) three women members, from amongst the members of the State Agriculture and Rural Development Bank,] who shall be co-opted by the committee in its first meeting to be convened by the Collector or an officer authorised by him in that behalf but the Collector or such officer shall not, while presiding over such meeting, have a right of vote ; and where there is failure of the committee to so co-opt such member or members, the Collector or the officer authorised by him shall report such failure to the committee to so co-opt such member or members, the Collector or the officer authorised by him shall report such failure to the Registrar within a period of seven days from the date of such meeting and thereupon the Registrar shall, within a period of seven days from receipt of such report, appoint on the committee such member or members, as the case may be from amongst persons entitled to be so co-opted :

Explanation :- For the purposes of this sub-clause, the provisions of clauses (b) and (c) of, and any order issued under clause (c) of the Explanation to section 73-B shall apply in relation to the members to be co- opted or appointed under this clause ;

(iii) the Chairman of the Maharashtra State Co-operative Bank (or his representative), ex-officio ;

(iv) two representatives of the employees of the <sup>7</sup>[State Agriculture and Rural Development Bank] to be selected by the recognised union or unions of employees, from amongst <sup>8</sup>[such employees, where there is no recognised union or unions or where there is no union at all the employees shall elect representatives from amongst themselves. The election shall be held by the Collector in the manner laid down in Chapter XI-A of this Act.]

(v) the Commissioner for Co-operation and Registrar of Cooperative Societies, Maharashtra State (or his representative), ex-officio ;

(vi) an Officer from the Agriculture and Co-operation Department, who is holding the post of Officer on Special Duty or any other post not lower than that of a Deputy Secretary to Government to be nominated by State Government, ex-officio ;

(vii) the Managing Director of the <sup>5</sup>[State Agricultural and Rural Development Bank] ex-officio, who shall also act as the Secretary of the committee.

(2) The members referred to in sub-clause (i) of clause (b) of subsection (1) shall cease to be members of the committee on the date of expiry of their terms as Chairmen of the District Loan Committees and they shall be deemed to have vacated their offices and the term of offices of the members referred to in sub-clauses (ii) and (iv) of clause (b) of sub-section (1) shall be co-terminus with the term of office of the members referred to in sub-clause (i) of clause (b) of sub-section (1) and they shall likewise on expiry of their term of office ceased to be members of the committee and shall be deemed to have vacated their offices.

(3) <sup>10</sup>[

(a)] The Committee shall have a Chairman <sup>7</sup>[and a Vice-chairman]. Within 15 days after the two members referred to in sub-clause

(ii) of clause (b) of sub-section (1) are co-opted or appointed as the case may be, the Collector or an officer authorised by him in that behalf shall convene a meeting of the members of the Committee for election of a Chairman <sup>7</sup>[and a Vice-Chairman] who shall be from the members, referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised officer, but such presiding officer and the members referred to in sub-clauses (iii), (iv), (v), (vi) and (vii) of clause (b) of sub-section (1) shall not have a right to vote at such meeting.

<sup>13</sup>(b) Notwithstanding anything contained in clause (a), within 15

days from the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1988, the Collector or an officer authorised by him in that behalf shall convene a meeting of the members of the Committee for the election of a Vice-Chairman who shall be from the members referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised officer, but such presiding officer and the members referred to in sub-clauses (iii) to (vii) of clause (b) of sub-section (1) shall not have a right to vote at such meeting. The Vice-Chairman so elected shall hold office as such Vice-Chairman subject to the provisions of sub-section (4)]

Explanation :- For the purposes of this sub-section, the expression "Collector" shall have the same meaning as in clause (a) of sub-section (2) of section 144-A.

(4) Without prejudice to the provisions of sub-section (3), the Chairman <sup>14</sup>[and Vice-Chairman] shall be elected every year in the first meeting of the Committee convened within one month after the close of the co-operative year by the Collector or an officer authorised by him in that behalf and where the Chairman <sup>9</sup>[or Vice-Chairman] is to be elected to fill the vacancy occurred due to any reason whatsoever the Collector or an officer authorised by him in that behalf shall convene the meeting of the Committee within one month from the date of occurrence of the vacancy and the provisions of sub-section (3) shall mutatis mutandis apply to such meetings. The Chairman <sup>9</sup>[and Vice-Chairman] elected under sub-section (3) or sub-section (4) shall cease to be the Chairman <sup>9</sup>[and Vice-Chairman] on the date preceding the date of meeting held for election of the Chairman <sup>9</sup>[and Vice-Chairman] after the close of the co-operative year and shall vacate his office.

(5) A casual vacancy of a member referred to in sub-clauses (ii) and (iv) of clause (b) of sub-section (1) due to any reason whatsoever shall be filled in by co-option by the committee or by selection by the recognised union or unions of the employees, as the case may be, within two months from the occurrence of such vacancy ; and where there is failure on the part of the committee or such union or unions, as the case may be, to do so, then appointment by the Registrar :

Provided that, if the vacancy occurs within four months preceding the date on which the term of such member expires, the vacancy shall not, unless the Registrar otherwise directs, be filled :

Provided further that, the member so co-opted, selected or

appointed to fill a vacancy shall hold office so long only as the member in whose place he is co-opted, selected or appointed would have held office, if the vacancy had not occurred.

(6) Where a person becomes a member by virtue of holding any office or being an employee, he shall cease to be a member of the committee, as soon as he ceases to be holder of that office or ceases to be such employee, as the case may be.

(7) The committee shall exercise such power and perform such functions as may be conferred or entrusted to it by this Act or by the rules made thereunder or by the bye-laws of the <sup>19</sup> [State Agriculture and Rural Development Bank.]

(8) Without prejudice to the other provisions relating to the procedure at the meeting of the committee as may be laid down by rules or bye-laws made in that behalf, one-third of the total number of members of the committee shall form the quorum at any meeting of the committee.

1. These words were substituted for the words "State Land Development Bank" *ibid.*, s. 19.

2. These words were inserted by Mah. 13 of 1994, s. 11.

3. These words were inserted by Mah. 10 of 1988, s. 22 (a).

6. This portion was substituted for the portion beginning with the words "two members" and ending with the words "weaker section" by Mah. 20 of 1992, s. 3.

7. These words were substituted for the words "State Land Development Bank" by Man. 10 of 1988, s. 19.

8. These words were substituted for the words "such employee" by Mah. 7 of 1997, s. 13.

10. Sub-section (3) was re-lettered as clause (a) of the said sub-section (3) and after the words "Chairman" the words "and a Vice-Chairman" was inserted by Mah. 10 of 1988, s. 22 (b).

13. Clause (b) was inserted by Mah. 10 of 1988, s. 22 (c).

14. These words were inserted *Ibid.*, s. 22 (d).

19. These words were substituted for the words "State Land Development Bank" and "a Land Development Bank" by Mah. 10 of 1988, s. 19.

**112C.** . :-

1 \* \* \* \* \*]

1. Section 112-C was deleted, *ibid.*, s. 23.

### **113. Appointment, powers and functions of Trustee :-**

(1) The Registrar, or any other person appointed by the State Government in this behalf, shall be Trustee for the purpose of securing the fulfilment of the obligations of the State Development Bank to the holders of debentures issued by it.

(2) The Trustee shall be a corporation sole by the name of the Trustee for the debentures in respect of which he is appointed, and shall have perpetual succession and a common seal, and in his corporate name may sue and be sued.

(3) The powers and functions of the Trustee shall be governed by the provisions of this Act, and the instrument of trust executed between the <sup>1</sup>[State Agriculture and Rural Development Bank] and the Trustee, as modified from time to time by mutual agreement between the <sup>1</sup> [State Agriculture and Rural Development Bank] and the Trustee.

1. These words were substituted for the words "State Land Development Bank" and "a Land Development Bank" by Mah. 10 of 1988, s. 19.

### **114. Issue of debentures :-**

(1) With the previous sanction of the State Government and the Trustee, and subject to such terms and conditions as the State Government may impose, the <sup>1</sup>[State Agriculture and Rural Development Bank] in the discharge of its function as <sup>1</sup>[an Agriculture and Rural Development Bank] may issue debentures of such denominations, for such period, and at such <sup>3</sup>[instruments of hypothecation, guarantee, pledge or charge to be acquired or partly on mortgages or on any of the aforesaid instruments] held and partly to be acquired, and properties and other assets of the <sup>4</sup>[State Agriculture and Rural Development Banks.]

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem at any time in advance of the date fixed for debenture not less than three months notice in writing.

(3) The total amount due on debentures issued by the <sup>3</sup>[State Agriculture and Rural Development Bank] and outstanding at any time, shall not exceed -

(a) where debentures are issued against mortgages <sup>6</sup>[instruments of hypothecation, guarantees pledge or charge] held, the aggregate of-

(i) the amounts due on the mortgages <sup>7</sup>[and any or all of the aforesaid instruments];

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 121 by the <sup>3</sup>[Primary Agriculture and Rural Development Banks] to the <sup>3</sup>[State Agriculture and Rural Development Bank] and subsisting at such time ; and

(iii) the amounts paid under the mortgages <sup>10</sup>[and the other instruments] aforesaid and the unsecured amounts remaining in the hands of the <sup>3</sup>[State Agriculture and Rural Development Bank] or the Trustee at the time ;

(b) where debentures are issued otherwise than on mortgages <sup>12</sup>[ or the instruments aforesaid] held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage <sup>13</sup> [instrument of hypothecation, guarantee, pledge or charge.]

1. These words were substituted for the words "State Land Development Bank" and "a Land Development Bank" by Mah. 10 of 1988, s. 19.

3. These words were substituted for the words "or mortgages to be acquired or partly on mortgages" by Mah. 5 of 1990, s. 4 (a).

4. These words were substituted for the words "State Land Development Bank" and "a Land Development Bank" by Mah. 10 of 1988, s. 19.

6. These words were inserted Mah. 5 of 1990, s. 4 (b) (i) (A).

7. These words were inserted *ibid.*, s. 4 (b) (i) (B).

10. These words were inserted *ibid.*, s. 4 (b) (i) (C).

12. These words were inserted *ibid.*, s. 4 (b) (ii) (A).

13. These words were inserted *ibid.*, s. 4 (b) (ii) (B).

### **115. Issue of debentures :-**

The principal of, and interest on the debentures issued under the preceding section, or any specified portion thereof, may carry the guarantee of the State Government, subject to such maximum amounts as may be fixed by the State Government, and to such conditions as the State Government may think fit to impose.

**116. Vesting of property in Trusteend Debenture holders, charge on assets :-**

Upon the issue of debentures, under the provisions of section 114, the mortgage properties and other assets <sup>1</sup>[including the properties covered by the instruments] referred to in sub-section (3) of the section held by the <sup>2</sup>[State Agriculture and Rural Development Bank], shall vest in the Trustee, and the holders of debentures shall have a floating charge on all such <sup>3</sup>[mortgages, instruments and assets] and on the amount paid under such mortgages, <sup>4</sup>[and such instruments] and remaining in the hands of the <sup>2</sup> [State Agriculture and Rural Development Bank] or of the Trustee.

1. These words were inserted by Mah. 5 of 1990, s. 5 (a).
2. These words were substituted for the words "State Land Development Bank" and "a Land Development Bank" by Mah. 10 of 1988, s. 19.
3. These words were substituted for the words "mortgages and assets" by Mah. 5 of 1990, s. 5 (b).
4. These words were inserted *ibid.*, s. 5 (c).

**117. Powers of Agricultureand Rural Development Banks to advance loans and to holdlands :-**

<sup>1</sup>Subject to the provisions of this Act and the rules made thereunder, it shall be competent for the <sup>1</sup>[Agriculture and Rural Development Banks] to advance loans for the purposes referred to in section 111, and to hold lands <sup>3</sup> [or dwelling houses in rural area] the possession of which is transferred to them under the provision of this Chapter.

1. These words were substituted for the words "Land Development Bank" by Mah. 10 of 1988,s. 19
3. These words were inserted by Mah. 5 of 1990, s. 6.

**118.** . :-

**1** \* \* \* \* \*

1. Section 118 was deleted by Mah. 10 of 1988, s. 24.

**119.** Order granting loan conclusive of certain matters :-

. A written order by the <sup>1</sup>[Agriculture and Rural Development Bank], or persons or committee authorised under the bye-laws of the Bank to make loans for all or any or the purposes specified in section 111, granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose <sup>2</sup>[or for the purpose of dwelling house in rural area] specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say :-

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose <sup>2</sup>[or for the purpose of dwellings house in rural area], as the case may be, within the meaning of section 111;

(b) that the person had at the date of the order a right to make such an mprovement or incur expenditure for productive purposes <sup>2</sup>[or for the purpose of dwelling house in rural area] as the case may be, and ;

(c) that the improvement is one benefiting • the land <sup>5</sup>[or such dwelling house] specified and productive purpose <sup>2</sup>[or for the purpose of <sup>7</sup> [or such dwelling house] offered in security, or any part thereof, as may be relevant.

1. These words were substituted for the words "Land Development Bank" by Mah. 10 of 1988,s. 19

2. These words were inserted by Mah. 5 of 1990, s. 7 (a).

5. These words were inserted ibid., s. 7 (b).

7. These words were inserted by Mah. 5 of 1990, s. 7 (b).

**120.** Priority of mortgage :-

(1) A mortgage executed in favour of <sup>1</sup>[an Agriculture and Rural Development Bank], shall have priority over any claim of the Government arising from a loan granted after the execution of the mortgage under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884 or under any other law for the time being in force.

(2) Notwithstanding anything contained in the Bombay Tenancy and Agricultural Lands Act, 1948, or any other corresponding law for the time being in force, where a mortgage in favour of <sup>1</sup>[an Agriculture and Rural Development Bank] is in respect of land in which a tenant purchaser or tenant has an interest, the mortgage may be against the security of such interest, and the rights of the mortgage shall not be affected by the failure of the tenant purchaser or tenant to comply with the requirements of such law, and the sale of the land and his interest therein, under such law shall be subject to the prior charges of <sup>1</sup> [an Agriculture and Rural Development Bank.]

1. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s 19.

### **121. . :-**

Mortgages and other instruments executed in favour of <sup>1</sup>[an Agriculture and Rural Development Bank] to stand vested in State Agriculture and Rural Development Bank.<sup>12</sup> The mortgages <sup>2</sup>[Instruments of hypothecation guarantee, pledge or charge] executed in favour of, and all other assets transferred to, <sup>1</sup>[an Agriculture and Rural Development Bank], by the members thereof, before or after the commencement of the Act, shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such <sup>1</sup>[an Agriculture and Rural Development Bank] to <sup>1</sup>[the State Agriculture and Rural Development Bank], and shall vest in <sup>1</sup> [the State Agriculture and Rural Development Bank.]

1. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s 19.

2. These words were inserted by Mah. 5 of 1990, s. 8 (a).

### **122. Registration of Mortgage, lease, etc., executed in**

## **favour of Agriculture and Rural Development Banks :-**

<sup>1</sup> Notwithstanding anything contained in the Registration Act, 1908, (XVI of 1908) it shall not be necessary to register a mortgage, lease, hypothecation deed, loan bond, surety bond, guarantee deed, promissory note or loan agreement executed in favour of the Agriculture and Rural Development Bank, provided the bank sends, within such time and in such manner, as may be prescribed a copy of such instrument to the concerned registering authority ; and on receipt of the copy the registering authority shall file the same in the relevant books prescribed under the Registration Act, 1908 :

Provided that, any such instrument executed in favour of the bank before the date of publication of the Maharashtra Co-operative Societies (Amendment) Act, 1989 in the Official Gazette may be sent to the concerned registering authority within the period of three months from such date.]

1. Section 122 was substituted for the original *ibid.*, s. 9.

## **123. III of 1909. V of 1920. Mortgages and other instruments not to be questioned on insolvency of mortgagors or executants :-**

Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920 or any corresponding law for the time being in force, a mortgage <sup>1</sup>for any other instrument supporting the loan] executed in favour of <sup>2</sup>[an Agriculture and Rural Development Bank], shall not be called in question in any insolvency proceedings on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the Bank a preference over other creditors of the mortgagor <sup>3</sup> [or of the executant of the instrument.]

1. These words were inserted by Mah. 5 of 1990, s. 10 (a).

2. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s. 19.

3. These words were added by Mah. 5 of 1990, s. 10 (b).

**124. . :-**

**1 \* \* \* \* \***

1. Section 124 was deleted by Mah. 10 of 1988, s. 25.

**125. Mortgages and other instruments executed by managers of joint Hindu families :-**

(1) Mortgages <sup>1</sup>[and other instruments] in respect of loans by <sup>2</sup>[Agriculture and Rural Development Bank] or the <sup>2</sup>[State Agriculture and Rural Development Bank] either before or after the commencement of this Act, by the manager of Hindu joint family for the improvement of agricultural land or of the methods of cultivation or for financing any other means to raise the productivity of the land, or for the purchase of land, <sup>4</sup>[or for creation of new movable or immovable assets or for the purpose of acquisition, construction, rebuilding or repairing of a dwelling house in rural area] shall be binding on every member of such joint Hindu family notwithstanding any law to the contrary.

(2) In other cases, where a mortgage <sup>5</sup>[or other instrument] executed in favour of <sup>2</sup>[Agriculture and Rural Development Bank] or <sup>2</sup> [State Agriculture and Rural Development Bank] either before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a Hindu joint family for purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

1. These words were inserted by Mah. 5 of 1990, s. 11 (a) (i).

2. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s. 19.

4. These words were inserted *ibid.*, s. 11 (a) (ii).

5. These words were inserted by Mah. 5 of 1990, s. 11 (b).

**126. Section 8 of the Act XXXII of 1956 to apply to 406, mortgages and other instruments to an Agriculture and Rural Development Bank subject to certain modification :-**

**12**Section 8 of the Hindu Minority and Guardianship Act, 1956 (XXXII of 1956) shall apply to mortgages **1**[and other instruments] in favour of **2** [an Agriculture and Rural Development Bank], subject to the modification or that reference to the Court therein shall be construed as reference to the Collector or his nominee, and the appeal against the order of the Collector or his nominee shall lie to the Commissioner.

1. These words were inserted by Mah. 5 of 1990, s. 12

2. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s. 19.

### **127. Restrictions on lease :-**

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) or any other law for the time being in force, no mortgagor of property mortgaged to **1**[an Agriculture and Rural Development Bank], shall except with the prior consent in writing of the bank, and subject to such terms and conditions as the bank may impose, lease or create any tenancy rights or any such property :

Provided that, the rights of **1**[an Agriculture and Rural Development Bank] shall be enforceable against the tenant purchaser, the lessee or the tenant, as the case may be, as if he himself were a mortgagor.

(2) Where land, mortgaged with possession to **1**[an Agriculture and Rural Development Bank], is in actual possession of a tenant, the mortgagor or the **1**[an Agriculture and Rural Development Bank] shall give notice to the tenant to pay rent to the **1**[an Agriculture and Rural Development Bank] during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned to the **1** [an Agriculture and Rural Development Bank.]

1. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s. 19.

### **128. Agriculture and Rural Development Bank to receive money and give discharge :-**

<sup>1</sup>Notwithstanding anything contained in section 121, all monies due under the mortgage shall unless otherwise directed by the <sup>1</sup>[State Agriculture and Rural Development Bank] or the Trustee, and communicated to the mortgagor, be payable by the mortgagor to the <sup>1</sup>[Agriculture and Rural Development Bank], and such payments shall be as valid as if the mortgage had not been so transferred and the <sup>1</sup>[Agriculture and Rural Development Bank] shall in the absence of specific direction to the contrary, issued by the <sup>1</sup> [State Agriculture and Rural Development Bank] of Trustee and communicated to the bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the monies due under mortgage.

1. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "StateLand Development Bank" by Mah. 10 of 1988, s. 19.

**129. Powers of Agriculture and Rural Development Bank where mortgaged or encumbered property is destroyed or security becomes insufficient :-**

<sup>1</sup> Where any immovable or movable property mortgaged or encumbered in any other manner to an Agriculture and Rural Development Bank is wholly or partially destroyed, or for any reasons the security or surety is rendered insufficient and the debtor, having been given a reasonable opportunity by the bank to provide further security or surety enough to render the whole security or surety sufficient or to repay such portion of the loan as may be determined, by the bank, has failed to provide such security or surety or to repay such portion of the loan, then the whole of the loan shall be deemed to fall due at once ; and the bank shall be entitled to take action against such debtor under section 132 or section 133 for the recovery thereof.

Explanation :- Security shall be deemed insufficient within the meaning of this section, unless the value of the mortgaged or encumbered property (including improvements made thereon) exceeds the amount for the time being due on the mortgage or encumbrance by such proportion as may be specified in the rules, regulations or the bye-laws of the Agriculture and Rural Development Bank.]

1. Section 129 was substituted for the original by Mah. 5 of 1990, s. 13.

### **130. Right of Development Bank to buy mortgaged property**

:-

(1) Property purchased under section 133 (3) by, and property transferred under section 100 to the <sup>1</sup>[Agriculture and Rural Development Banks], may be disposed of by such banks by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists eligible to hold land under the Bombay Tenancy and Agricultural Lands Act, 1948, or any corresponding law for the time being in force, <sup>2</sup>[or in favour of Tribals, if such property belongs to a Tribal] or may be leased out by them on such terms and conditions as may be laid down by the State Government from time to time.

<sup>3</sup>[Explanation :- For the purposes of this sub-section and section 133-A, "Tribal" means a person belonging to a Scheduled Tribe within the meaning of the Explanation to section 36 of the Maharashtra Land Revenue Code, 1966, and includes his successor in interest.]

(2) Nothing contained in any law for the time being in force fixing the maximum limit of agricultural holdings shall apply to the acquisition or holding of land by the <sup>1</sup> [Agriculture and Rural Development Bank] under this section.

1. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s. 19.

2. These words were inserted by Mah. 5 of 1990, s. 14 (a).

3. This Explanation was added, by Mah. 5 of 1990, s. 14 (b).

### **131. Recovery of loans by Development Banks :-**

All loans granted by the <sup>1</sup>[ Agriculture and Rural Development Banks], all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when they become due, be recoverable by the <sup>1</sup> [Agriculture and Rural Development Bank] concerned.

1. These words were substituted for the words "a Land Development Bank", "Land Development Bank" and "State Land Development Bank" by Mah. 10 of 1988, s. 19.

### **132. Powers to distraint :-**

<sup>1</sup> (1) If any installment payable under a mortgage, hypothecation deed, loan bond, surety bond or other instruments executed in favour of the Agriculture and Rural Development Bank, or any part of such installment, has remained unpaid for more than one month from the date on which it fell due, the bank shall, in addition to any other remedy available to the bank, apply to the Registrar for recovery of such installments or part thereof, by distraint and sale of the produce of the mortgaged or otherwise encumbered land and properties of and on such land including the standing crops thereon, or the movable property encumbered under hypothecation deed or loan bond. The installments due or any part thereof, shall also be recoverable by distraint and sale of the new property created by the debtor by converting the original movable property for which the loan was granted by the bank.

(2) On receipt of such application, the Registrar, shall notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner prescribed for the purpose of distraining and selling of the produce or the properties referred to in sub-section (1):

Provided that, no distraint shall be made after the expiry of twelve months from the date on which the installment fell due.]

1. Section 132 was substituted for the original by Mah. 5 of 1990, s. 15.

### **133. Sale of mortgaged or encumbered property :-**

<sup>1</sup> (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, (IV of 1882) the Agriculture and Rural Development Bank or any person authorised by it in this behalf shall, in case of default of payment of mortgage money or loan amount or any part thereof, have power in addition to any other remedy available to the bank, to bring the mortgagee or otherwise encumbered property to sale by public auction in the village in which such property is situated or at the nearest place of public resort without the intervention of the Court: Provided that, no action shall be taken under this sub-section and no such power shall be exercised unless and until :-

(a) the Agriculture and Rural Development Bank has been previously authorised to exercise the power conferred under this

sub-sector after hearing the objections, if any, of the debtor or debtors ;

(b) notice in writing requiring payment of such debt or loan mone) or part thereof, has been served upon :-

(i) the debtor or each of the debtors ;

(ii) any person who has any interest in or charge upon such property or upon the right to redeem the same as far as is known to the bank :

(iii) any surety for the payment of the debt or loan or any part thereof; and

(iv) any creditor of the debtor who has in a suit for administration of his estate obtained a decree for sale of the concerned property ; and

(c) default has been made in payment of such debt or loan or part thereof, for three months after service of the notice.

(2) Where the Agriculture and Rural Development Bank fails to take action against the defaulter under section 129 or 132 or under this section, the Trustee may take such action. If such action is taken by the Trustee, the provisions of this Chapter and of any rules prescribed shall apply in respect thereto, as if all references to the Agriculture and Rural Development Bank in the said provision were references to the Trustee.

(3) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Agriculture and Rural Development Bank to purchase any mortgaged or encumbered property sold under this Chapter.

1. Section 133 was substituted for the original *ibid.*, s. 16.

**133A. Mortgaged or encumbered property of Tribal not to be sold to non-Tribal at public auction under section 133 :-**

<sup>1</sup> Notwithstanding anything contained in this Act or in any other law for the time being in force, where the mortgaged or encumbered property belongs to a Tribal, it shall not be sold to any non-Tribal bidder at public auction under section 133 or otherwise transferred to a non-tribal under the provisions of this Act.]

1. Section 133-A was inserted by Mah. 5 of 1990, s. 17.

**134. Confirmation of sale :-**

(1) On effecting the sale by <sup>1</sup>[an Agriculture and Rural Development Bank] under section 133, the bank shall, in the prescribed manner, submit to the <sup>1</sup>[State Agriculture and Rural Development Bank] and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the <sup>1</sup>[State Agriculture and Rural Development Bank] may, with the approval of the Registrar confirm the sale or cancel it.

(2) Where the sale is effected by the <sup>1</sup>[State Agriculture and Rural Development Bank] or the Trustee under section 133, the <sup>1</sup> [State Agriculture and Development Bank] or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale.

1. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

### **135. Disposal of sale proceeds :-**

The proceeds of every sale effected under section 133, and confirmed under the preceding section, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage <sup>1</sup>[or encumbrance] in consequences whereof, the <sup>2</sup>[mortgaged or otherwise encumbered property] was sold, and thirdly in payment of the principal due on account of the mortgage <sup>1</sup>[or encumbrance] including costs and charges incidental to the recovery. If there remains any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by the <sup>4</sup>[Agriculture and Rural Development Bank] :-  
Provided that, before any such payments are made the unsecured dues owing -

(a) from the mortgagor <sup>5</sup>[or the debtor] to the <sup>3</sup>[Agriculture and Rural Development Bank] may be adjusted, and

(b) from any member or past member to whom the mortgagor <sup>4</sup> [or the debtor] is indebted may also be adjusted under the written

authority given by such member and past member, and after holding such inquiry as may be deemed necessary.

1. These words were inserted by Mah. 5 of 1990, s. 18 (a).
2. These words were substituted for the words "mortgage property" *ibid.*, s. 18 (b).
4. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.
5. These words were inserted by Mah. 5 of 1990, s. 18 (c).

**136. Certificate to purchase, delivery of property and title of purchase :-**

(1) Where a sale of mortgaged property has become absolute under section 134 and the sale proceeds have been received in full by the <sup>1</sup>[Agriculture and Rural Development Bank], the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale-price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute ; and upon the production of such certificate the Sub- Registrar appointed under the Indian Registration Act, 1908 (XVI of 1908), within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.

(2)

(a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the <sup>1</sup>[State Agriculture and Rural Development Bank] or <sup>1</sup>[an Agriculture and Rural Development Bank] and a certificate in respect thereof, has been granted under the foregoing sub-section, the Collector shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof, has been granted under the foregoing sub-section, the Collector shall, on the application of the purchaser and after

notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgagor have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of a power of sale under section 133, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorising the sale had not arisen or due notice of the sale was not given; or the power of sale was otherwise improperly or irregularly exercised :

Provided that, any person who suffers damage on account of unauthorised, improper or irregular exercise of such power shall have a remedy in damages against the <sup>4</sup> [Agriculture and Rural Development Bank.]

1. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

4. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

### **137. Recovery of loans on certificate by Registrar :-**

(1) Notwithstanding anything contained in sections 91 and 98, on an application made by <sup>1</sup>[an Agriculture and Rural Development Bank] for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears.

(2) A certificate by the Registrar, under sub-section (1) shall be final and conclusive as to arrears due. The arrears stated to be due therein, shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.

(3) It shall be lawful to the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879) or any law or provision corresponding thereto, for the time being in force until the arrears due to the <sup>1</sup>[Agriculture and Rural Development Bank] together

with interest and any incidental charges incurred in recovery of such arrears, are paid or security of such arrears is furnished to the satisfaction of the Registrar.

(4) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the <sup>1</sup> [Agriculture and Rural Development Bank] together with interest and any incidental charges incurred in recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 95 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

1. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

### **138. Mode of recovery by Collector :-**

(1)<sup>1</sup>\* \* \* \* \*

(2) Any amount due to <sup>2</sup>[ <sup>3</sup>[an Agriculture and Rural Development Bank] (including cost of recovery thereof) shall on an application by it in this, behalf] be recoverable by the Collector, or any officer <sup>4</sup> [including an Officer of the Agriculture and Rural Development Bank] specially authorised by the Collector in this behalf, in all or any of the following modes, namely :-

(a) from the borrower-as if they were arrears of land revenue due by him;

(b) out of the land for benefit of which the loan has been granted-as if they were arrears of land revenue due in respect of that land ;

(c) from a surety (if any) as if they were arrears of land revenue due by him;

(d) out of the property comprised in the collateral security (if any) according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due.

1. Sub-section (1) was deleted by Mah. 33 of 1963, s. 27 (a).

2. These words were substituted for the words "a Land Development Bank shall" ibid., s. 27 (b).

3. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land

Development Bank" by Mah. 10 of 1988, s. 19.

4. These words were inserted *ibid.*, s. 26.

**139. Officers or members of family not to bid at auction sales :-**

<sup>1</sup>At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee or any member of the family of such officer or employee of <sup>2</sup> [an Agriculture and Rural Development Bank], except on behalf of the bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

Explanation :- For the purposes of this section, the expression "member of the family" means wife, husband, father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law.]

1. This section was substituted for the original by Man. 20 of 1986, s. 56.

2. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

**140. Section 40 of Bom. XXVIII of 1947 not to apply to alienation in favour of Agriculture and Rural Development Banks :-**

<sup>1</sup>Nothing contained in section 40 of the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXVIII of 1947) or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour of the <sup>1</sup> [Agriculture and Rural Development Bank.

1. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

**141. Provision for Guarantee Funds to meet certain losses :-**

(1)It shall be competent for the State Government to constitute one or more Guarantee Funds on such terms and conditions as it

may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the <sup>1</sup>[Agriculture and Rural Development Banks] on titles to immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the State Government, it is necessary to provide for or create a separate Guarantee Fund.

(2) The <sup>1</sup>[State Agriculture and Rural Development Bank] and the <sup>1</sup> [Agriculture and Rural Development Banks] shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such funds shall be governed by such rules, as may be made by the State Government in this behalf.

1. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

**142. Registrars power to permit any society or class of societies to function as an Agriculture and Rural Development Bank :-**

<sup>123</sup>It shall be competent for the Registrar to permit any <sup>2</sup>[society] <sup>3</sup>[or a class of societies] to function as <sup>1</sup> [an Agriculture and Rural Development Bank] under such terms and conditions and for such period as he may deem fit.

1. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

2. This word was substituted for the words "co-operative bank" by Mah. 20 of 1986, s. 57.

3. These words were inserted by Mah. 10 of 1988, s. 27.

**143. Service of notice. IV of 1882 :-**

The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 and of any rules made under Section 104 thereof, shall apply, so far as may be in respect of all notices to be served under this Chapter.

**143A. Transfer of rights and liabilities of Government in respect of schemes sanctioned under Bom. XXVIII of 1942**

:-

<sup>1</sup>(1) Where any works, included in a land improvement scheme which has come into force under the Bombay Land Improvement Schemes Act, 1942 (Bom. XXVIII of 1942), are carried out at the cost or part cost of the State Government, and such cost is to be recovered from the owners of lands (other than Government) included in the scheme as shown in the statement prepared under section 13 <sup>2</sup>[or in the interim or final statement] prepared under section 13-A of that Act, then notwithstanding anything contained in this Act, all the rights and liabilities of the State Government for the recovery of the cost or part cost from the owners of land shall stand transferred to <sup>3</sup>[an Agriculture and Rural Development Bank], in relation to such owners of lands and subject to such terms and conditions (including any condition regarding giving of any guarantee by the State Government) as may be agreed upon between the State Government and such <sup>3</sup>[Agriculture and Rural Development Bank], in relation to such owners of lands and subject to such terms and conditions (including any condition regarding giving of any guarantee by the State Government) as may be agreed upon between the State Government and such <sup>3</sup>[Agriculture and Rural Development Bank] ; and for arriving at such agreement, every owner of land shall produce before the bank all such documents, and other evidence relating to his land included in such scheme as the Bank may require.

(2) On such transfer of rights and liabilities of the State Government, the <sup>3</sup>[Agriculture and Rural Development Bank] shall pay to the State Government an amount equal to the extent of the liability accepted by it under such agreement, and the State Government shall inform the owners of lands concerned of such transfer, and thereupon, the provisions of this Act and rules made thereunder in so far as they provide for advancing of loans (including provisions for mortgaging of property) and recovery thereof shall apply in relation to the amount of cost to be recovered from each owner of land as they apply in relation to advancing of loans and recovery thereof (including interest) as if such owner was a member of the <sup>3</sup> [Agriculture and Rural Development Bank]. The transfer of the rights and liabilities and payment made in accordance therewith shall discharge the owners of lands of their liability to make payment to the State Government under the

Bombay Land Improvement Schemes Act, 1942, but to the extent only of their respective liability accepted by the Bank.

1. Section 143-A was inserted by Mah. 35 of 1969, s. 2.
2. These words were substituted for the words "or in the final statement" by Mah. 10 of 1971, s. 2.
3. These words were substituted for the words "a Land Development Bank", "State Land Development Bank" and "Land Development Bank" by Mah. 10 of 1988, s. 19.

**144. Power to Committee of State Agriculture and Rural Development Bank to supervise Agriculture and Rural Development Banks and make regulations :-**

<sup>1</sup>The committee of the <sup>1</sup>[State Agriculture and Rural Development Bank] shall have general power of supervision over <sup>1</sup>[Agriculture and Rural Development Banks] and may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act or the rules made thereunder, for all or any of the following matters, namely :-

- (a) for the inspection of the account books and proceedings of <sup>1</sup>[Agriculture and Rural Development Banks];
- (b) for the submission of returns and reports by such banks in respect of their transactions;
- (c) for the periodical settlement of accounts between such banks and the <sup>1</sup>[State Agriculture and Rural Development Bank] being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the <sup>1</sup> [State Agriculture and Rural Development Bank];
- (d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans ;
- (e) for the investment of moneys realised from the mortgagors ;
- (f) the conditions of service of employees of such banks ;
- (g) the programme and policy to be followed by such banks for making loans ;
- (h) the types and extent of security to be obtained by such banks for advancing loans ;
- (i) generally for the purpose of safeguarding the interest of the parties, furtherance of activities of such banks and carrying out the purposes of this Chapter.

1. These words were substituted for the words "Land Development Bank", "State Land Development Bank", "Primary Land Development Bank" and "Primary Land Development Banks" by Mah. 10 of 1988, s. 19.

**144A1. Reorganisation, amalgamation or division of Agriculture and Rural Development Banks, in public interest**

:-

<sup>1</sup>(1) Notwithstanding anything in this Act or in any rules or bye-laws made thereunder, it shall be lawful for the State Government to provide from time to time, by an order made under and in accordance with the provisions of section 18, for the reorganisation of the <sup>1</sup>[State Agriculture and Rural Development Bank], either by amalgamating with it all or any of the <sup>1</sup>[Primary Agriculture and Rural Development Banks] or otherwise ; or for the division of the <sup>1</sup>[State Agriculture and Rural Development Bank] into a <sup>1</sup>[State Agriculture and Rural Development Bank] and one or more <sup>1</sup>[Primary Agriculture and Rural Development Banks] as may be considered necessary ; or for the amalgamation or division <sup>7</sup>[Primary Agriculture and Rural Development Banks] among themselves Accordingly, for the purposes of this section, in section 18 and in any rules made thereunder, for the word "Registrar", wherever it occurs, the words "State Government" shall be deemed to be substituted.

(2) Where there is no <sup>2</sup>[Primary Agriculture and Rural Development Bank] in the State or in any part thereof, or <sup>2</sup>[Primary Agriculture and Rural Development Banks] are merged with the <sup>2</sup>[State Agriculture and Rural Development Banks], the <sup>2</sup>[State Agriculture and Rural Development Bank] may establish and maintain as many branches as may be deemed necessary ; and shall function also as a <sup>2</sup>[Primary Agriculture and Rural Development Bank] throughout the State or in the area concerned, as the case may be. Any reference to a <sup>2</sup>[Primary Agriculture and Rural Development Bank] in this Act, or any other law for the time being in force or in any instrument, shall then, as the context may require, be construed as a reference to the <sup>2</sup>[State Agriculture and Rural Development Bank] or its branches concerned, or be read subject to such modifications as may be necessary due to absence, of any <sup>2</sup>[Primary Agriculture and Rural Development Bank] or due to merger of the <sup>2</sup>[Primary Agriculture and Rural Development Banks]

or Banks in the <sup>2</sup> [State Agriculture and Rural Development Bank.]

1. These words were substituted for the words "Land Development Bank", "State Land Development Bank", "Primary Land Development Bank" and "Primary Land Development Banks" by Mah. 10 of 1988, s. 19.

7. These words were substituted for the words "Land Development Bank", "State Land Development Bank", "Primary Land Development Bank" and "Primary Land Development Banks" by Mah. 10 of 1988, s. 19.

#### **144B1.** . :-

**1** \*\*\*\*\*

1. Section 144-1B was deleted *ibid.*, s. 28.

### **CHAPTER 11A** Elections of Committees and Officers of Certain Societies

#### **144A.** Application of this Chapter and definitions :-

(1)<sup>1</sup>[<sup>2</sup>[ This Chapter] shall apply] only to elections to committees of societies belonging to the categories specified in section 73-G.

(2) In this Chapter, unless the context otherwise requires, -

(a) "Collector" means the Collector having jurisdiction over the local areas in which the registered office of the society concerned is situated ; <sup>3</sup>[and includes the Additional Collector, and also any officer not below the rank of Deputy Collector, appointed by the State Government to exercise the powers and to perform the duties of the Collector under this Chapter];

(b) "election" means an election of a member or members of the committee <sup>4</sup> [or of officer or officers]; of a specified society ;

(c) "specified society" means a society belonging to any of the categories specified in section 73-G.

1. This portion was substituted for the words "This chapter shall apply", *ibid.*, s. 33 (a).

2. These words were substituted for the words, figures and letter "except section 144-Y, this Chapter" by Mah. 10 of 1988, s. 29 (a).

3. This portion was added, by Mah. 3 of 1974, s. 33 (b).

4. These words were inserted by Mah. 10 of 1988, s. 29 (b).

**144B. When elections to be held :-**

Every election shall be held as far as possible sometime prior to the date on which term of office of the retiring member or members is due to expire. If a vacancy occurs due to any other reasons, it shall be filled as early as practicable.

**144C. When elections to be held :-**

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(1) Save as otherwise provided, every election shall be held on such date or dates as the Collector may fix, and shall be conducted under his control by such Returning Officer and other officers, as may be appointed by the Collector in this behalf.

(2) In all cases, where a society has to send a nominee as a member of the committee of any specified society, the election of such nominee shall be conducted under the control of the Collector of the District in which the registered office of the society sending the nominee is situated.

(3) In all cases, where the bye-laws of a specified society authorise the Government nominee or the nominee of a Financing Agency to be a member of the committee of the society, no election need be held for such purpose.

(4) The voting at every election shall be by secret ballot.

**144D. Cost of conducting elections :-**

(1) The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be borne by the specified society concerned.

(2) For this purpose, the Collector may call upon a specified society to deposit with him such amount as he considers necessary for the conduct of the election. Within eight days from the receipt of such direction from the Collector, the society shall deposit the specified amount with the Collector.

(3) The Collector shall maintain an account of the expenses incurred in connection with the election and within six months from the declaration of results of the election, render the same to the

society concerned, and shall refund to the society the balance, if any remaining unspent. If the expenditure exceeds the amount of deposit, the Collector shall call upon the society to pay the excess amount as specified by him within eight days from the receipt of the direction from him, and the society shall comply with such direction.

(4) On failure of a specified society to pay as aforesaid the deposit amount or to pay the excess amount, the Collector may recover the sums due, together with interest thereon at the rate of 12 per cent, per annum, from the society as arrears of land revenue.

**144E. Disqualifications for membership :-**

(1) A person shall be disqualified for being elected as, and for being a member, of the committee of any specified society,- <sup>1</sup> [

(a) if he is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is elected, appointed or co-opted to any reserved seat on the committee of a society under section 73-BB ;]

(b) if he has been convicted of an offence punishable under section 153-A or section 171-E or section 171-F or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code, or under section 144-Q or clause (a) of sub-section (2) of section 144-R of this Act, unless a period of six years has elapsed since the date of his conviction ;

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

(d) if he is found guilty of a corrupt practice by the Commissioner of the Division, unless a period of six years has elapsed since the date on which the decision of the Commissioner takes effect;

(e) if he is so disqualified under any provision of this Act.

(2) For the purposes of clause (a) of sub-section (1), a person shall not be deemed to hold an office of profit under a society, if he does not receive any remuneration other than compensatory allowance, or honorarium payable under sub-section (2) of section 65 not exceeding rupees six thousand per year.

Explanation :- In this sub-section, "compensatory allowance" means the travelling allowance, the daily allowance or such other

allowance which is paid to the holder of the office for the purpose of meeting the personal expenditure in performing the functions as holder of that office.

(3) Notwithstanding anything contained in clause (b) or (c) of subsection (1) a disqualification under either clause shall not, in the case of a person who on the date of the conviction is a member of any specified society, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence until, that appeal or application is disposed of by the Court.

1. Clause (a) was deemed always to have been substituted by Mah. 3 of 1974, s. 34 (V), for saving see, s. 34 (2)

**144F. Account of election expenses, maximum thereof and lodging of account :-**

(1) Every candidate at an election shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him.

(2) The account shall contain such particulars as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be specified by the State Government, by general or special order, published in the Official Gazette.

(4) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the Collector an account of his election expenses which shall be a true copy of the account kept by him under sub-section (1).

**144G. Disqualification for failure to lodge account of election expenses :-**

If the Collector is satisfied that a person,

(a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and

(b) has no good reason or justification for the failure, the Collector shall, by order published, in the Official Gazette, declare him to be disqualified for being elected as and for being, a member of the committee of any specified society, and such person shall be disqualified for a period of three years from the date of the order.

**144H. Removal or reduction of period of disqualification :-**

. The State Government may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

**144I. Corrupt practices :-**

The following shall be deemed to be corrupt practices for the purposes of this Chapter :-

(1)"Bribery", that is to say -

(A) any gift, offer or promise by candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing -

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election ; or

(b) an elector to vote or refrain from voting at an election, or as a reward to -

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature ; or

(ii) an elector for having voted or refrained from voting ;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward -

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate ; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation :- For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in Section 144-F.

(2) Undue influence, that is to say, direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that -

(a) Without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who -

(i) threatens any candidate or any elector, or any person in whom a candidate or any elector is interested with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community, or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause ;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station:

Provided that, the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any polling station shall not be deemed to be a corrupt practice under this clause:

Provided further that, the use of any public transport vehicle or vessel or railway carriage by any elector at his own cost for the purpose of going to or coming from any polling station shall not be deemed to be a corrupt practice.

Explanation :- In this clause and in the next succeeding clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(4) The use of vehicles belonging to a specified society for the purposes of any election.

(5) The incurring or authorizing of expenditure in contravention of section 144-F.

(6) Making special advances of loans or otherwise favouring any elector or group of elector between the date of declaration of programme for an election and the date of declaration of the result

thereof.

**144J. Maintenance of secrecy of voting :-**

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

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

**144K. Officers etc., at elections not to act for candidates or to influence voting :-**

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

(2) No such person as aforesaid, and no member of a Police Force, shall endeavour -

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

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

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

**144L. Prohibition of canvassing in or near polling station :-**

(1) No person shall, on the date or dates on which a poll is taken at

any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely :-

(a) canvassing for votes ; or

(b) soliciting the vote of any elector ; or

(c) persuading any elector not to vote for any particular candidate ;  
or

(d) persuading any elector not to vote at the election ; or

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

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

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

**144M. Penalty for disorderly conduct in or near polling stations :-**

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(1) No person shall, on the date or dates on which a poll is taken at any polling station , -

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

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

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

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

(4) Any Police Officer may take such steps, and use such force, as

may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

**144N. Penalty for misconduct at the polling station :-**

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(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorised in this behalf by such Presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

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

**144O. Penalty for illegal hiring or procuring of conveyances at elections :-**

If any person is guilty of any such corrupt practice as is specified in clause (3) or (4) of section 144-1 at or in connection with an election, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

**144P. Breaches of official duty in connection with election**

:-

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(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as

aforesaid.

(4) The persons to whom this section applies are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election ; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

**144Q. Removal of ballot papers from polling station to be an offence :-**

(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing any such act, shall, on conviction be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such Officer may, before such person leaves the polling station, arrest or direct a Police Officer to arrest such person and may search such person or cause him to be searched by a Police Officer :

Provided that, when it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

**144R. Cognizable offence :-**

(1) A person shall be guilty of an electoral offence, if at any election he -

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or

other document affixed by or under the authority of a Returning Officer ; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in ; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purpose of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall -

(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

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

**144S. Application of section 148 to offences under this Chapter subject to certain modifications :-**

The provisions of section 148 shall apply to the offences under this Chapter, subject to the <sup>1</sup> [modification that] no prosecution for an

offence punishable under this Chapter shall be lodged, except with the previous sanction of the Collector.

1. These words were substituted for the portion beginning with the words "modification that" and ending with the figures and words "1898 and that" by Mah.20 of 1986, s.58

**144T. Disputes relating to elections to be submitted to the Commissioner or other specified officer :-**

(1) Notwithstanding anything contained in section 91 or any other provisions of this Act, any dispute relating to an election shall be referred to the Commissioner of the Division in which such election is held <sup>1</sup>[or to an officer not below the rank of Additional Commissioner of a Division authorised by the State Government in this behalf (hereinafter in this section either of them as the context may require is referred to as "the specified officer").]

(2) Such reference may be made by an aggrieved party by presenting an election petition to <sup>2</sup>[the specified officer], within a period of two months from the date of declaration of the result of the election : These words were substituted for the portion beginning with the words "modification that" and ending with the figures and words "1898 and that" by Mah, 20 of 1986, s. 58.

Provided that, <sup>3</sup>[the specified officer] may admit any petition after the expiry of that period, if the petitioner satisfies <sup>3</sup>[the specified officer] that he had sufficient cause for not preferring the petition within the said period.

(3) In exercising the functions conferred on him by or under this Chapter, <sup>3</sup>[the specified officer] shall have the same powers as are vested in a Court in respect of ,-

(a) proof of facts by affidavit;

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

(c) compelling discovery or the production of documents ; and

(d) issuing commissions for the examination of witnesses, In the case of any such affidavit, an officer appointed by <sup>3</sup>[the specified officer] in this behalf may administer the oath to the deponent.

(4) Subject to any rules made by the State Government in this behalf, any such petition shall be heard and disposed of by <sup>3</sup>[the specified officer] as expeditiously as possible. An order made by <sup>3</sup>[the specified officer] on such petition shall be final and conclusive

and shall not be called in question in any Court.

1. This portion was inserted by Mah. 36 of 1975, s. 11 (a).
2. These words were substituted for the words "the Commissioner" *ibid.*, s. 11 (b).
3. These words were substituted for the words "the Commissioner" by Mah. 36 of 1975., s. 11 (b).

**144U. Deposit towards costs for hearing and power to award costs :-**

A petitioner presenting an election petition under the last preceding section shall pay a deposit not exceeding Rs. 500 as the Commissioner may direct towards the costs for hearing the petition, Unless the petitioner deposits the same as aforesaid, the petition shall be summarily dismissed. Subject to such conditions as may be prescribed, at the time of deciding the petition, the Commissioner shall assess the costs of the hearing of the petition and shall require the petitioner or the respondents, or both as the case may be, to defray the whole or in such proportion as he thinks fit, the costs of the petition, including the deposit so made. The Commissioner shall credit to Government such sum as he assesses as the cost to Government of hearing the petition (but not exceeding Rs. 500 in any case).

**144V. Contents of petition :-**

(1)An election petition shall -

(a) contain a concise statement of the material facts on which the petitioner relies ;

(b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice ; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, (v of 1908) for the verification of pleadings :

Provided that, where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

**144W. Relief that may be claimed by the petitioner :-**

A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

**144X. Power to make rules for purposes of this Chapter :-**

Without prejudice to any other power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to provide for and to regulate all or any of the other matters relating to the various stages of the elections <sup>1</sup> [including preparation of list of voters.

1. These brackets and words were deemed always to have been added by Mah. 3 of 1974, s. 35.

**144Y. Special provision for election of officers of specified societies.election of the officers of a society :-**

<sup>1</sup>(1) This section shall apply only to election of officers by members of committees of societies belonging to the categories specified in section 73-G.

(2)<sup>2</sup> [After the election of the members of the committee and, where necessary, co-option or appointment, as the case may be, of members to the reserved seats under section 73-B] or whenever such election is due, the election of the officer or officers of any such society shall be held as provided in its bye-laws but any meeting of the committee for this purpose shall be presided over by the Collector or an officer nominated by him in this behalf.]

1. Section 144-Y was inserted by Mah. 3 of 1974, s. 36.

2. These words, figures and letter were substituted for the words "After the election of the members of the committee" by Mah. 18 of 1984, s. 4.

**CHAPTER 12 Offences and Penalties**

**145. Prohibition of use of the word "Co-operative". :-**

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

(2) Every person contravening the provisions of the foregoing subsection shall, on conviction, be punished with fine which may extend to five hundred rupees.

#### **146. Offences :-**

It shall be an offence under this Act, if -

(a) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 47 or any person knowingly acquires, or abets in the acquisition of, such property ; or

(b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer, who, without sufficient cause, fails to comply with sub-section (2) of section 49 ; or

(c) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 70 ; or

(d) any person, collecting the share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or an Urban Cooperative Bank, or a Postal Savings Bank ; or

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

<sup>1</sup>[(e-1) any person, who collects share money or any other sum by mis-representation to the members or prospective members in the name of the society to be registered, or after registration of a society by such misrepresentation, or otherwise; or

(e-2) any person knowingly gives a false certificate in whatever form showing that a person is or is not a "defaulter" within the meaning of that expression in the Explanation to clause (i) of section 73-FF ; or];

- (f) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-section (2), (3) or (4) of section 75 ; or
- (g) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the State Government or the Registrar under sections 78, 81, 84,94 or 103 ; or
- (h) any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under section 78 or 103 ; or
- (i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or member thereof, fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders made under section 79 ; or
- (j) a committee of a society or an officer or member thereof wilfully neglects or refuses to do any act, or to furnish any information required for
- (k) a committee of a society, or an officer or member thereof, wilfully makes a false return, or furnishes false information, or fails to maintain proper accounts ; or
- (l) any officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 81 ; or
- (m) any officer or a member of a society wilfully fails to comply with any decision, award or order passed under section <sup>2</sup> [96] ; or
- (n) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society ; or
- (o) any officer of a society wilfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested, a loan in the name of any other person ; or
- (p) any officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society ; or

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

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

1. These clauses were inserted by Mah. 29 of 1986, s. 59.

2. These figures were substituted for the figures "93" by Mah. 33 of 1963, s. 28.

### **147. Punishments for offences under section 146 :-**

Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under section 146 shall, on conviction, be punished ,-

(a) if it is an offence under clause (a) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both ;

(b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to <sup>1</sup>[three years], or with fine which may extend to five thousand rupees, or with both ;

(c) if it is an offence under clause (c) of that section, with fine which may extend to five hundred rupees ;

(d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees ;

(e) if it is an offence under clause (e) of that section, with imprisonment for a term which may extend to one year, or with fine, or with both;

<sup>2</sup> [(e1) if it is an offence under clause (e-1) of that section, with imprisonment of a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both ;

(e2) if it is an offence under clause (e-2) of that section, with imprisonment of a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both];

(f) if it is an offence under clause (f) of that section, with fine which may extend to two hundred and fifty rupees ;

(g) if it is an offence under clause (g) of that section, with fine which may extend to five hundred rupees ;

(h) if it is an offence under clause (h) of that section, with fine which may extend to five hundred rupees ;

(i) if it is an offence under clause (i) of that section, with fine which

may extend to five hundred rupees ;

(j) if it is an offence under clause (j) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

(k) if it is an offence under clause (k) of that section, with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both ;

(l) if it is an offence under clause (l) of that section, with fine which may extend to one hundred rupees ;

(m) if it is an offence under clause (m) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both ;

(n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

(o) if it is an offence under clause (o) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both ;

(p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to three years, or with fine, or with both;

(q) if it is an offence under clause (q) of that section, with fine which may extend to two hundred and fifty rupees.

1. These words were substituted for the words "one month" by Mah. 20 of 1986, s. 60 (a).

2. These clauses were inserted by Mah. 20 of 1986, s. 60 (b).

### **148. Cognizance of offences :-**

(1) No Court inferior to that of a <sup>1</sup>[Metropolitan Magistrate or a Judicial Magistrate of the First Class], shall try any offence under this Act.

(2) <sup>2</sup>\* \*\*\*\*

<sup>3</sup> [

(3) No prosecution under this Act shall be lodged, except with the previous sanction of the Registrar.]

1. These words were substituted for the words "Presidency Magistrate or a Magistrate of the First Class" *ibid.*, s. 61 (a).

2. Sub-section (2) was deleted by Mah. 20 of 1986, s. 61 (b).

3. Sub-section (3) was substituted by Mah. 7 of 1997, s. 14.

**148A. Contempt of Co-operative Court and of Co operative Appellate Court :-**

<sup>1</sup>(1) If any person -

(a) when ordered by a Co-operative Court or the Co-operative Appellate Court to produce or deliver up any document or to furnish information, being legally bound so to do, intentionally omits to do so ; or

(b) when required by any such Court to bind himself by an oath or affirmation to state the truth, refuses to do so ;

(c) being legally bound to state the truth on any subject to any such Court, refuses to answer any question demanded of him touching such subject by the Court ; or

(d) intentionally offers any insult or causes any interruption to any such Court at any stage of its judicial proceedings, he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person refuses to sign any statement made by him, when required to do so by a Co-operative Court or the Co-operative Appellate Court, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) If any offence under sub-section (1) or (2), is committed in the view or presence of a Court concerned, the said Court may, after recording the facts constituting the offence and the statement of the accused as provided in the <sup>2</sup>[Code of Criminal Procedure, 1973], (II of 1974) forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of the accused person before such Magistrate or if sufficient security is not given, shall forward such person in custody to such Magistrate. The Magistrate to whom any case is so forwarded, shall proceed to hear the complaint against the accused person in the manner provided in the <sup>2</sup> [Code of Criminal Procedure, 1973].

(4) If any person commits any act or publishes any writing, which is calculated to improperly influence a Co-operative Court or the Co-operative Appellate Court to bring any such Court or a member thereof, into disrepute or contempt or to lower its or his authority,

or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.

(5) In the case of contempt of itself, the Co-operative Appellate Court, shall record the facts constituting such contempt, and make a report in that behalf to the High Court.

(6) In the case of contempt of a Co-operative Court, the Co-operative Court shall record the facts constituting such contempt, and make a report in that behalf to the Co-operative Appellate Court, and thereupon, that Court, may, if it considers it expedient to do so, forward the report to the High Court.

(7) When any intimation or report in respect of any contempt is received by the High Court, under sub-section (5), or (6), the High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it in the same jurisdiction, powers and authority, in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.

1. Section 148-A was inserted by Mah. 3 of 1974, s. 37.

2. These words and figures were substituted for the words and figures "Code of Criminal Procedure, 1898" by Mah. 20 of 1986, s. 62.

## **CHAPTER 13** Appeals, Review and Revision

### **149. Maharashtra State Co-operative Appellate Court :-**

<sup>1</sup>[

(1) A Court to be called the Maharashtra State Co-operative Appellate Court is hereby constituted to exercise the powers and to discharge the functions conferred on it by or under this Act.]

(2) The <sup>2</sup>[Co-operative Appellate Court] shall consist of the President, <sup>3</sup>[and such number of other members as the State Government may from time to time consider necessary, who possess] such qualifications as may be prescribed. <sup>4</sup>[The President and other members shall hold office for such period or such different periods as may be prescribed.]

(3) Any vacancy in the membership of the <sup>1</sup>[Co-operative Appellate Court] shall be filled by the State Government.

<sup>6</sup>[

(4) All or any of the powers and functions of the Co-operative Appellate Court may be exercised and discharged by any of its

members sitting singly or in Benches, as may be determined by the President.]

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

(6) Where a matter is heard <sup>7</sup>[by an odd number of members constituting a Bench] the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members, the opinion of the President shall prevail; and in other cases the matter shall be referred for hearing to the President, and shall be decided in accordance with his decision.

(7) Subject to the previous sanction of the State Government, the <sup>8</sup>[Co-operative Appellate Court] shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(8) The regulations made under sub-section (7), shall be published in the Official Gazette.

(9) The <sup>7</sup>[Co-operative Appellate Court] may call for and examine the record of any proceeding 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. If in any case, it appears to the <sup>7</sup>[Co-operative Appellate Court] that any such decision or order should be modified, annulled or reversed, the <sup>7</sup>[Co-operative Appellate Court] may pass such order thereon, as it may deem just.

(10) Where <sup>12</sup>[an appeal or application is made to the <sup>13</sup>[Co-operative Appellate Court] under this Act], it may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the <sup>14</sup>[or application as the case may be], may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the <sup>15</sup>[Co-operative Appellate Court].

(11) An order passed in appeal, or in revision under sub-section (9), or in review under section 150, by the <sup>11</sup>[Co-operative Appellate Court], shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

Explanation :- The <sup>11</sup>[Co-operative Appellate Court] hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908.

<sup>18</sup> [(12)

(a) The President and other members of the Maharashtra State Co-

operative Tribunal, functioning immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, shall be deemed, respectively to be the President and other members of the Maharashtra State Co-operative Appellate Court constituted for the purpose of this Act ; and all appeals and other proceedings pending before the said Tribunal, shall be heard and disposed of by the said Court, from the stage they reached before such commencement.

(b) Anything done or any action taken (including any orders passed or regulations made) by the said Tribunal, shall be deemed to have been done or taken by the said Court, and shall continue in operation until duly modified or annulled.

(c) Any reference to the said Tribunal in any law or instrument, for the time being in force, shall, with effect from the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, be construed as a reference to the said Court.]

1. Sub-section (1) was substituted by Mah. 3 of 1974, s. 38 (a).
2. These words were substituted for the word "Tribunal", *ibid.*, s. 38 (c).
3. These words were substituted for the words "and not more than three other members possessing" by Mah. 27 of 1971, s. 3.
4. These words were inserted by Mah. 3 of 1974, s. 38 (b).
6. Sub-section (4) was substituted for the original by Mah. 36 of 1975, s. 12 (a).
7. These words were substituted for the words "by three members" by Mah. 36 of 1975, s. 12 (b).
8. These words were substituted for the word "Tribunal" by Mah. 3 of 1974, s. 38 (c).
12. These words were substituted for the words "an appeal is made to the Tribunal under section 97" by Mah. 33 of 1963, s. 29 (a).
13. These words were substituted for the word "Tribunal" by Mah. 3 of 1974, s. 38 (c).
14. These words were inserted by Mah. 33 of 1963, s. 29 (b).
15. These words were substituted for the word "Tribunal", by Mah. 3 of 1974, s. 38 (c).
18. Sub-section (12) was added, *ibid.*, s. 38 (d).

### **150. Review of orders of 469Co-operative Appellate Court :-**

(1) The <sup>1</sup>[Co-operative Appellate Court] 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 just;

Provided that, no such application made by the party interested shall be entertained, unless the <sup>1</sup>[Co-operative Appellate Court] is satisfied that there has been the discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error, apparent on the face of the record, or for any other sufficient reason ;

Provided further that, no such order shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under the foregoing sub-section by any party, shall be made within ninety days from the date of the communication of the order of the <sup>3</sup> [Co-operative Appellate Court].

1. These words were substituted for the word "Tribunal" *ibid.*, s. 39.

3. These words were substituted for the word "Tribunal" by Mah. 3 of 1974, s. 39.

### **151. Co-operative Appellate Court to have power of Civil Court :-**

(1) In exercising the functions conferred on it by or under this Act, the <sup>1</sup>[Co-operative Appellate Court], shall have the same powers as are vested in a Court in respect of , -

(a) proof of facts by affidavit,

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

(c) compelling discovery or the production of documents, and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the <sup>1</sup> [Co-operative Appellate Court] in this behalf may, administer the oath to the deponent.

1. These words were substituted for the word "Tribunal" *ibid.*, s.

40.

**152. Appeals :-**

(1) An appeal against an order or decision <sup>1</sup>[under section 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 21-A, 29, 35, 77-A,] <sup>2</sup>[78, 79, 85, 88 and 105 including against an order for paying compensation to a society shall lie.]

(a) if made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government.

(b) if made or sanctioned by any person other than the Registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred to the Registrar.

<sup>3</sup>[

(2) Where an appeal against any order or decision to the Cooperative Appellate Court has been provided under this Act, it shall lie to the Co-operative Appellate Court.]

(3) An appeal under sub-section (1) or (2), shall be filed within two months of the date of the communication of the order or decision.

<sup>4</sup> (4) Save as expressly provided, no appeal shall lie against any order, decision or award passed in accordance with the provisions of this Act; and every such order, decision or award shall, whether expressly provided or not, be final, but shall, always be subject to the provisions for revision in this Act; and where an appeal has been provided for, any order passed on appeal shall likewise be final, but be subject to such revision provisions.]

1. These words, figures and letters were substituted for the words and figures "under sections 4,9, 12, 13,14, 17, 18, 19, 21,29,35, 78 and 105" by Mah. 10 of 1988, s. 30.

2. Substituted by Mah. 13 of 1994, s. 12 (a).

3. Sub-section (2) was substituted by Mah. 13 of 1994, s. 12 (b).

4. Sub-section (4) was substituted for the original by Mah. 37 of 1965, s. 2 and the said sub-section shall be deemed always to have been enacted in this form.

**152A. Appeal against rejection of nomination paper at election :-**

<sup>1</sup>(1) Notwithstanding anything contained in this Act or the rules or

the bye-laws made thereunder, a person aggrieved by the rejection of nomination of a candidate at the election of a committee of any society other than a society specified by or under section 73-G, may file an appeal to the Registrar within three days of the date of rejection of the nomination. The Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal and the decision of the Registrar in appeal shall be final and no further appeal or revision shall lie against the decision of the Registrar in such appeal. <sup>2</sup> [In the case of a society specified by or under section 73-G, an appeal shall lie to the Divisional Commissioner who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the Commissioner in appeal shall be final and no further appeal or revision shall lie against the decision of the Divisional Commissioner in such appeal.] (2) Notwithstanding anything contained in this Act or the rules, or the bye-laws made thereunder, the list of validly nominated candidates shall be subject to the decision of any appeal filed under sub-section (1), and the period between the date of scrutiny of nomination papers and the last date of the withdrawal of candidatures shall not be less than fifteen days.]

1. Section 152-A was inserted by Man. 20 of 1986, s. 63.

2. This portion was added by Mah. 10 of 1988, s. 31.

### **153. Extension of period of limitation by appellate authority in certain cases :-**

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

### **154. Revisionary powers of State Government and Registrar :-**

<sup>1</sup> (1) The State Government or the Registrar, suo motu or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such

decision or order, for the purpose of satisfying themselves as to the legality, or propriety of any such decision or order, and as to the regularity of such proceedings. If in any case, it appears to the State Government, or the Registrar, that any decision or order so called for, should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.

(2) Under this section, the revision shall lie to the State Government, if, the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

(3) No application for revision shall be entertained, if made after two months of the date of communication of the decision or order. The revisional authority may entertain any such application made after such period, if the applicant satisfies it that he had sufficient cause for not making the application within such period.

(4) The State Government may, by order, direct that the powers conferred on it by this section shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised also by an officer of the rank of Secretary to Government.]

1. Section 154 was substituted by Mah. 3 of 1974, s. 42.

## **CHAPTER 13A** Maharashtra State Co-operative Council

### **154A. Constitution of State Co-operative Council, its functions, etc. :-**

(1) There shall be a Council to be called the Maharashtra State Co-operative Council, consisting of such number of members, including the Chairman, and the Vice-Chairman, as the State Government may determine and nominate from time to time.

(2) The State Government shall appoint a Secretary of the Council.

(3) The functions of the Council constituted under sub-section (1), shall be as follows, namely :-

(a) to advise the State Government on all matters relating to cooperative movement;

(b) to review the co-operative movement and to suggest ways of coordinating the activities of co-operative societies in the State ;

(c) to suggest ways and means to remove the difficulties

- experienced by the co-operative societies ;
- (d) to report to the State Government on such matters as may be referred to it by the State Government;
  - (e) to recommend the plans and policies for the development of cooperative movement in the State ;
  - (f) to evaluate existing schemes and suggest new schemes for cooperative development, especially for the development of backward classes and economically weaker sections of the society ;
  - (g) to advise the State Government for the implementation of special schemes of economic development through co-operative methods ; and
  - (h) to undertake studies for any of the purposes aforesaid, either through department or specialised bodies.
- (4) The State Government may, by general or special order, provide for -
- (a) the calling of the meetings of the Council and the procedure at such meetings,
  - (b) duties of the Secretary to the Council,
  - (c) sub-committee or committees of the Council,
  - (d) the term of office of members of the Council and travelling and daily allowances admissible to the members of the Council.]

#### **CHAPTER 14 Miscellaneous**

##### **155. Recovery of sums due to Government :-**

(1) Unless otherwise provided by this Act, all sums due from a society or from an officer or member or a past member or a deceased member of a society as such to the Government, may be recovered according

(2) Sums due from a society to the Government and recoverable under the foregoing sub-section, may be recovered, firstly, from the property of the society, secondly, in the case of a society of which the liability -of the members is limited, from "the members or past members or estate of deceased members, subject to the limit of their liability, and thirdly, in the case of societies with unlimited liability from the members or past members or estate of deceased members.

(3) The liability of past members or estate of deceased members shall, in all cases be subject to the provisions of section 33.

##### **156. Registrars powers to recover certain sums by**

## **attachment and sale of property :-**

(1)The Registrar or any officer subordinate to him and empowered by him in this behalf <sup>1</sup>[or an officer of such society as may be notified by the State Government, who is empowered by the Registrar in this behalf) may, subject to such rules as may be made by the State Government, but without prejudice, to any other mode of recovery provided by or under this Act, recover -

(a) any amount due under decree or order of a Civil Court, obtained by a society;

(b) any amount due under a decision, award or order of the Registrar, <sup>2</sup>[Co-operative Court] or Liquidator or <sup>3</sup>[Co-operative Appellate Court];

(c) any sum awarded by way of costs under this Act;

(d) any sum ordered to be paid under this Act, as a contribution to the assets of the society ;

<sup>4</sup>[

(e) any amount due under a certificate granted by the Registrar, under sub-section (1) or (2) of section 101 or under sub-section (1) of section 137]; together with interest, if any, due on such amount or sum and the costs of process <sup>5</sup>[according to the scales of fees laid down by the Registrar, from time to time], by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section, or when passing any orders on any application made to him for such recovery, to be <sup>6</sup> [article 136 in the schedule to the Limitation Act, 1963.]

1. These words were inserted by Mah. 63 of 1981, s. 2 (a).

2. These words were substituted for the word "arbitrator" by Mah. 3 of 1974, s. 43.

3. These words were substituted for "Tribunal" *ibid.*,

4. Clause (e) was inserted by Mah. 33 of 1963, s. 31.

5. These words were inserted by Mah. 63 of 1981, s. 2 (b).

6. These words and figures were substituted for the words and figures "article 182 in the first schedule of the Limitation Act, 1908" by Mah. 20 of 1986, s. 65.

**157. Power to exempt societies from provisions of Act :-**

The State Government may, by general or special order <sup>1</sup>\* \* \* \* exempt any society or class of societies from any of the provisions of this Act, <sup>2</sup> [or of the rules made thereunder], or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof, as may be specified in the order:

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

1. The words "to be published in the Official Gazette" were deleted by Mah. 27 of 1969, s. 22 (a).

2. These words were inserted, *ibid.*, s. 22 (b).

**158. Delegation of power of Registrar to certain authorities and officers :-**

The State Government may, by notification in the Official Gazette, and subject to such conditions if any, as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal authority or to an officer thereof, <sup>1</sup>[or to any other authority] <sup>2</sup>[or to any officer of the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, and such <sup>3</sup> [authorities and] officer of the Zilla Parishad shall work under the general guidance, superintendence and control of the Registrar, specified in the notification.

1. These words were inserted by Mah. 20 of 1986, s. 66 (a).

2. This portion was inserted by Mah. 5 of 1962, s. 286, Tenth Sch.

3. These words were inserted by Mah. 20 of 1986, s. 66 (b).

**159. Branches, etc., of societies outside the State :-**

(1)No society shall open a branch or a place of business outside the State of Maharashtra, and no co-operative society registered under any law in any other State shall open a branch or a place of

business in the State of Maharashtra, without the permission of the Registrar.

(2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the Maharashtra State under the foregoing sub-section, or which has a branch or a place of business in the Maharashtra State at the commencement of this Act, shall, within three months from the opening of such branch or place of business or from the commencement of this Act, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these are not written in English language, a certified translation thereof in English or Hindi, and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State where such society is registered.

**160. Handing over records and property to new Chairman on election :-**

(1) On the election of a new Committee and its Chairman, the retiring Chairman, in whose place the new Chairman is elected, shall hand over charge of the office of the Committee and all papers and property, if any, of the society in possession of the committee or any officer thereof, to the new Chairman of the Committee.

(2) If the retiring Chairman fails or refuses to hand over charge, or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property.

(3) If the retiring Chairman to whom a direction has been issued as aforesaid, does not comply with such direction, he shall, on conviction be punished with simple imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both ; and the Registrar may, on the retiring Chairmans failure to comply with such direction, take order for seizing the records and property and handing it over to the new Chairman, in the manner provided in Section 80.

**160A. Members of State Legislature and certain local authorities not to be remunerated while holding certain**

## **offices in societies :-**

<sup>1</sup> Notwithstanding anything contained in this Act or the rules or bye-laws made thereunder, a member of the State Legislature or of a committee under the Hyderabad District Municipalities Act, 1956, (Hyd. XVIII of 1956) or a member of a Zilla Parishad or Panchayat Samiti under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, (Mah. V of 1962) while holding the office of Chairman or member of the Committee of a society, to which appointment is made by the State Government, or the office of Liquidator or the office of nominee of the Registrar whether appointed individually or to a board of nominees, shall not be entitled to receive any remuneration, other than travelling allowance, the daily allowance or such other allowance which is paid to the holder of any such office for the purpose of meeting the personal expenditure incurred in attending the meeting of the committee or body, or in performing any other functions as the holder of such office.]

1. Section 160-A was inserted by Mah. 23 of 1968, s. 6.

## **160B. Members of committees not entitled to travelling allowance, daily allowance, etc., at a rate higher than the maximum prescribed :-**

<sup>1</sup> Subject to the provisions of section 160-A, no member of the committee of any society, shall be entitled to receive from the society, the travelling allowance, the daily allowance or such other allowances or fees which are paid to the members for attending meetings of its committee, or for performing any other functions as such member, at a rate higher than the maximum rate prescribed; in this behalf and different maximum rates may be prescribed for different societies or class of societies or for different purposes.

1. Section 160-B was inserted by Mah. 27 of 1969, s. 23.

## **161. Registrar and other Officers to be public servants :-**

<sup>1</sup> The Registrar, a person exercising the powers of the Registrar, an officer as defined in clause (20) of section 2, or a person appointed as an Official Assignee under sub-section (2), of section 21-A, or as an administrator under section 77-A or 78, or a person

authorised to seize books, records or funds of a society under sub-section (3), of section 80, or to audit the accounts of society under section 81, or to hold an inquiry under section 83, or to make an inspection under section 84 or 89-A or to make an order under section 88, or a person appointed as a member constituting a Cooperative Court under section 91-A or the Co-operative Appellate Court under section 149 or a Liquidator under section 103, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

1. Section 161 was substituted for the original by Mah. 20 of 1986, s. 67.

### **162. Indemnity for acts done in good faith :-**

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority, in respect of anything in good faith done, or purported to be done by him or under this Act.

### **163. Bar of jurisdiction of Courts :-**

(1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of -

(a) the registration of a society or its bye-laws, or the amendments of its bye-laws, or the dissolution of the committee of a society, or the management of the society on dissolution thereof; or

(b) any dispute required to be referred to <sup>1</sup>[the Co-operative Court], for decision;

(c) any matter concerned with the winding up and dissolution of a society.

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

(3) All orders, decisions or awards passed in accordance with this Act or the rules shall, subject to the provisions for appeal or revision in this Act be final ; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits or upon any other

ground whatsoever. **2** \* \* \* \* \*

1. These words were substituted for the words "the Registrar, or the Co-operative Court," by Mah. 18 of 1982, s. 15.

2. The words "except for want of jurisdiction" were deleted by Mah. 27 of 1969, s. 25.

#### **164. Notice necessary in suits :-**

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

#### **165. Rules :-**

- .
- (1) The State Government may, for the whole or any part of the State and for any society or class of societies, make rules for the conduct and regulation of the business of such society or class of societies, and for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may - **1**[
- (i) subject to the provisions of sec. 3, prescribe the designation of officers, who shall exercise powers vested in the Registrar];
- (ii) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 8 and the procedure in the matter of such application ;
- (iii) prescribe the matters in respect of which a society may make, or the **2**[Co-operative Court] may direct a society to make, bye-laws and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation ;
- (iv) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion, or reconstruction of society ;
- (v) prescribe the form of and procedure for an application under section 19 and the procedure for reconstruction of a society under

that section ;

<sup>3</sup>[(v-a) prescribe the conditions subject to which the Official Assignee shall realise the assets and liquidate the liabilities, under section 21-A (3);

(v-b) prescribe the manner of giving public notice and the remuneration and allowances to be paid to the Official Assignee, under section 21-A (1) and 21-A (4);

(v-c) prescribe the form of application, under section 23-(I-A);]

<sup>4</sup>[(v-d) prescribe the manner for entering into collaboration by any society or societies with any Government undertaking or any undertaking approved by Government for carrying on any business ;]

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

(vii) prescribe in the case of a federal society or class of federal societies, the proportion of individual members to society members in such society or class of societies and the proportion of individual members to society members in the committee of such society or class of societies ;

(viii) subject to the provisions of section 28, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(ix) prescribe the procedure for the admission of joint members, members of a Joint Hindu undivided family and minors and persons of unsound mind, inheriting the share a interest of deceased members and provide for their rights and liabilities ;

(x) provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members ;

(xi) prescribe the conditions and procedure for the transfer of share or interest;

(xii) provide for the nomination of a person to whom the share or the interest of a deceased member may be paid or transferred ;

(xiii) provide for ascertaining the value of a share or interest of a past member or deceased member ;

(xiv) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member ;

- (xv) provide for the inspection of documents in the Registrars office and the levy of fee for granting certified copies of the same ;
- (xvi) provide for the procedure for registering the address of a society and the changes of its address ;
- (xvii) provide for the formation and maintenance of a register of members, and where the liability of members is limited by shares, of a register of shares and a list of members ;
- (xviii) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;
- (xix) provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;
- (xx) prescribe the period for and terms upon which Government aid may be given to societies and terms under which the State Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies ;
- (xxi) regulate the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise, and the quantum of funds so raised ;
- (xxii) prescribe the limits for loans to be granted by a society or class of societies, against different class of securities or without security and the procedure for granting loans ;
- (xxiii) prescribe the manner of recalling a loan ;
- (xxiv) prescribe the limits for granting credit by a non-credit society or a class of non-credit societies ;
- (xxv) prescribe the prohibitions and restrictions subject to which societies may trade or transact business with persons who are not members ;
- (xxvi) prescribe the conditions on which any charge in favour of a society, shall be satisfied and the extent to which and the order in which the property to the charge shall be used in satisfaction ;
- (xxvii) provide for giving reasonable notice of the charge under section 48 ;
- (xxviii) prescribe the procedure by which a society shall calculate and write off bad debts ;
- <sup>5</sup>[(xxix) the manner in which a society shall construct its annual financial statements and the other purposes for which a society may appropriate its net profits, under section 65 ;]
- (xxx) provide for the formation and maintenance of reserve fund and the objects to which such fund may be applied and for the

investment and use of any fund including reserve fund under the control of a society ;

(xxxix) prescribe the conditions under which profits may be distributed as dividend and bonus among the members and non-members of a society ;

(xxxix) prescribe the rate at which a society shall contribute towards the education fund of the State federal society under section 68 ;

<sup>6</sup>[(xxxix-a) prescribe the rate or rates at which, and the manner in which, the societies (including other corporate bodies) shall contribute towards the Co-operative State Cadre Employment Fund under section 69-A ;]

(xxxix) define the co-operative purpose for which a society shall, under section 69, utilise its fund ;

(xxxix) prescribe the mode of investment of funds of a society under section 70, and the proportion of investment in any security or class of securities;

(xxxix) provide for the payment of contribution to any provident fund, which may be established by a society for the benefit of officers and servants employed by it and for the administration of such provident fund ;

<sup>7</sup>[(xxxix-a) prescribe the procedure for the election to notified societies, under section 73-IC (1);

(xxxix-b) prescribe the manner of recovery of the expenses of holding elections to notified societies by the Registrar, under section 73-IC (2);

(xxxix-c) prescribe the requisition form and the manner in which the motion of no-confidence can be brought under section 73-ID ;

(xxxix-d) prescribe the manner to fill in the seat reserved for the employees by selection, or by election by employees under section 73-BB (1);

(xxxix-e) prescribe the body of persons for selection of persons on a panel for appointment, under section 74 (2);]

(xxxix) prescribe the procedure and conditions for the exercise by a federal society of the power conferred by this Act;

(xxxix) provide for general meetings of the members, for the procedure at such meetings and the powers to be exercised by such meetings ;

(xxxix) prescribe the conditions in which a member of a society may be disqualified from voting ;

(xxxix) <sup>8</sup>[provide for the removal and appointment of the committee or its members] and other officers and for the appointment of administrator under section 78, and prescribe

procedure at meeting of the committee and or for the powers to be exercised and the duties to be performed by the committee, administrator and other officers ;

(xi) prescribe qualification for members of the committee and employees of a society or class of societies <sup>9</sup>[duties to be performed by, and several and joint liabilities therefor, of such members] and the conditions of service subject to which person, may be employed by societies ;

<sup>10</sup>[(xi-a) prescribe the amount and nature of the security to be furnished by any officers or employees of any society or class of societies, who are required to handle cash, securities or property belonging to the society, the maximum amount of cash which may be handled or kept at a time by any officer or employee, and the amount, in excess of which, all payments shall be made by or on behalf of the society by means of a cheque ;]

(xii) prescribe the returns to be submitted by a society to the Registrar, and provide for the person by whom and the form in which such returns shall be submitted ;

(xiii) provide for the persons by whom and the form in which copies of documents and entries in books of societies, may be certified and the charges to be levied for the supply of copies thereof;

(xiii) provide for the procedure to be adopted by the Registrar, in the cases where the taking of possession of books, documents, securities, cash and other properties of a society or of a society the affairs of which have been ordered to be wound up, by the Registrar, or by a person entitled to the same is resisted or obstructed ;

(xiv) provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 81, 83 and 84 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tampered with or destroyed or removed ;

(xv) prescribe the accounts and books to be kept by a society or class of societies;

(xvi) prescribe the procedure for conducting an audit, the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of a society, the form of audit memorandum and report and the charges, if any, to be paid by a society for audit;

(xivii) prescribe the procedure for appointment of auditors under section 81 ;

(xiii) prescribe the form for the rectification of defects discovered in the course of audit, inspection or inquiry ;

(xiix) prescribe the procedure and principles for the conduct of inquiry under section 83, and inspection under section 84 ;

(i) prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 88, and for recovery of cost and damages ;

(ii) prescribe the manner in which appointment shall be made and control exercised by, and the number of persons comprising, and functions to be performed by, the authority constituted under section 90, the manner of election and nomination of such persons, the fee to be paid to such authority and the manner of such payment and the procedure for, and the method of calculating any cost, charges or expenses required to be levied under this Act or the rules ;

**11**[(iii) prescribe the qualifications of the members constituting the Co-operative Courts, provide for the terms and conditions of their appointment, prescribe the procedure to be followed in proceedings before **12**[the Co-operative Courts] ; **13**[provide for fixing, levying and collecting appropriate fees and expenses for determining the disputes (including expenses incurred by the parties to the proceeding), having regard to the services rendered or to be rendered or any expenditure incurred or likely to be incurred for the machinery set up therefor, provide for delegation of the power of fixing the scale of any such fees and expenses to the Registrar, and all such fees and expenses being applicable to any disputes and other proceedings, which may be pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, or which may be referred to or instituted thereafter), provide for the mode of payment of these fees and expenses whether in the form of Court-fee stamps, in cash or in any other manner ; and provide for enforcing the decisions, awards or orders in such proceedings ];

(liii) prescribe the form in which a dispute shall be referred to the **14**[Co-operative Court];

(liv) provide for the issue and service of processes and for proving of service thereof;

(iv) provide for the investigation of claims and objections that may be preferred against any attachment effected **15**[under section 95];

- (ivi) prescribe the procedure for and the method of recovery of any sums due under this Act or the rules ;
- (ivii) prescribe the procedure to be followed for the custody of property attached under section 95 ;
- (iviii) prescribe the procedure to be followed in the execution of awards;
- (iix) prescribe the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by a society under section 100 ;
- (ix) prescribe the procedure for attachment and sale of property, for the realisation of any security given by a person in the course of execution of proceedings ;
- (ixi) prescribe the procedure and conditions for the exercise of the powers conferred under section 105, and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets ;
- (ixii) prescribe the matters in which an appeal shall lie from the order of Liquidator appointed under section 103 ;
- (ixiii) prescribe the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which Chapter XI is applicable ;
- (ixiv) prescribe the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XI is applicable ;
- (ixv) prescribe the qualifications and methods of appointment of an officer to effect sale under section 133, and the powers and functions which such an officer may exercise ;
- (ixvi) prescribe for the appointment of a receiver of the produce and income of the mortgaged property for sale under section 133, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive ;
- (ixvii) prescribe the circumstances in which action may be taken by **16**[ a n Agriculture and Rural Development bank], against a mortgagor under section 133 (2);
- (ixviii) prescribe, in case of sale of immovable property under Chapter XI
  - (a) the procedure for proclamation and conduct of the sale and the conditions on which an attempt of sale may be abandoned ;
  - (b) the methods of calculating the expenses incidental to the sale or attempted sale ;
  - (c) the procedure for the receipt of deposit and disposal of the

proceeds of sale ;

(d) the procedure for a resale, if, an attempted sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money;

(e) the form and method of disposal of money by <sup>17</sup>[an Agriculture and Rural Development Bank] under section 135 ;

(f) the form of sale certificate under section 136 ;

(g) the procedure for the delivery by the Court of the property purchased to the purchaser under section 136 ;

(h) the form of the notice referred to in section 143 ; and

(i) the fee payable or the service of such notices and the manner of serving such notices on, and of the transmitting landlords fee to the landlord named in such notices ;

(ixix) prescribe the time within which and the procedure according to which property purchased by <sup>18</sup>[an Agriculture and Rural Development Bank], at a sale of immovable property under Chapter XI shall be disposed of by the bank;

(ixx) prescribe the procedure to be followed in presenting and disposing of appeals ;

<sup>19</sup> [(ixxi) prescribe the qualifications and the period of office of members of the Co-operative Appellate Court];

(ixxii) prescribe in the case of appeals lying to the State Government the authority to which, power of hearing appeals may be delegated ;

(ixxiii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules ;

(ixxiv) provide that the contravention of any of the rules shall be an offence under the Act;

(ixxv) provide for all other matters expressly required or allowed by this Act, to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section, shall be laid for not less than thirty days before each House of the State Legislature, as soon as possible after they are made, and shall be subject to such modification as the Legislature may make, during the session in which they are so laid, or the session immediately following.

1. Clause (i) was substituted by Mah. 33 of 1963, s. 32 (a).

2. These words were substituted for the word "Registrar" by Mah.

22 of 1991, s. 3, Second Schedule.

3. These clauses were inserted by Mah. 20 of 1986, s. 68 (a).

4. Clause (v-d) was inserted by Mah. 10 of 1988, s. 32.

5. Clause (xxix) was substituted for the original by Mah. 20 of 1986, s. 68 (b).

6. Clause (xxxii-a) was inserted by Mah. 30 of 1978, s. 4.

7. These clauses were inserted by Mah. 20 of 1986, s. 68 (c).

8. These words were substituted for the words "provide for the appointment, suspension and removal of the members of the committee" by Mah. 33 of 1963, s. 32 (b).

9. These words were inserted *ibid.*, s. 32 (c).

10. Clause (xl-a) was inserted by Mah. 27 of 1969, s. 26.

11. Clause (lii) was substituted by Mah. 3 of 1974, s. 46 (a).

12. These words were substituted for the words "the Registrar and the Co-operative Courts" by Mah. 18 of 1982, s. 16.

13. This portion was deemed to have been substituted for the portion beginning with the words "and provide for" and ending with the words "such proceeding ;" by Mah. 58 of 1977, s. 2 with effect from 21st February 1974. Section 3 of Mah. 58 of 1977 reads as follows :- "3. Notwithstanding anything contained in the principal Act or the rules or orders made thereunder or the orders made under these rules, or any other law for the time being in force, or in any judgment, decision, decree, award or order of any Court or Tribunal, rule 86 of the Maharashtra Co-operative societies Rules, 1961, made or purported to have been made by the State Government under clause (lii) of sub-section (2) of section 165 of the principal Act with effect from the 1st March 1975 and the orders made or purported to have been made from time to time by the Registrar under the said rule, shall be deemed to have been duly and validly made under the authority of the said section as amended by this Act and shall continue to be in force in the same form, until duly repealed or amended by the competent authority. And, accordingly, any action taken by the Registrar in laying down the fees and expenses to be paid to him or the Co-operative Court for determining the disputes and other proceedings and for making them applicable also to the dispute and other proceedings pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973 and transferred to the Co-operative Courts, and any fees already levied and collected or which may be levied and collected hereafter in the form of Court-fees, in cash or in any other manner, shall be deemed to

be valid. The fixing, levying and collection of these fees and expenses in any disputes or other proceedings shall not be called in question before any Court or Tribunal merely on the ground that there is no authority for fixing or levying such fees or expenses or that such fees or expenses were not or are not chargeable in any pending proceedings or that such fees cannot be levied or collected in the form of Court-fee stamps or on such other ground."

14. These words were substituted for the word "Registrar" by Mah. XXII of 1991, s. 3, The Second Schedule.

15. These words and figures were substituted for the words "by the Registrar" by Mah. 33 of 1963, s. 32 (d).

16. These words were substituted for the words "a land development bank" by Mah. 5 of 1990, s. 18 (a).

17. These words were substituted for the words "a land development bank" *ibid.*, s. 18 (b).

18. These words were substituted for the words "a land development bank" *ibid.*, s. 18 (c).

19. Clause (ix) was substituted by Mah. 3 of 1974, s. 46 (b).

### **166. Repeal, saving and construction :-**

(1) The Bombay Co-operative Societies Act, 1925, in its application to the State of Maharashtra is hereby repealed :

Provided that, the repeal shall not affect the previous operation of the Act so repealed and anything done or action taken or deemed to have been done or taken (including any appointment or delegation made, application or other document filed, certificate or registration granted, agreements executed, notification, order direction or notice issued, regulation, form or bye-law framed, rule made or deemed to be made or proceeding instituted before any Registrar, Arbitrator, Liquidator or Tribunal or other officer, authority or person) by or under the provisions of that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act, and shall continue in force unless and until superseded by anything done or any action taken under the corresponding provisions of this Act and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(2) Accordingly, all societies registered or deemed to be registered under the Act, repealed the registration of which is in force at the commencement of this Act, shall on such commencement be deemed to be registered under this Act ; and all proceedings pending immediately before such commencement before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person under the provisions of the repealed Act, shall stand transferred, where necessary, to the Registrar, arbitrator, liquidator or tribunal or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person, to such officer, authority or person as the State Government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

(3) Any reference to the Act repealed or to any provisions thereof, or to any officer, authority or person entrusted with any functions thereunder, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this Act, or its relevant provisions or the corresponding officer, authority or person functioning under this Act and the corresponding officer, authority or person as the case may be, shall have and exercise the functions under the repealed Act or under the instrument or document.

**167. Companies Act not to apply :-**

For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956, (I of 1956) shall not apply to societies registered or deemed to be registered under this Act.