

MAHARASHTRA CO-OPERATIVE SOCIETIES RULES, 1961

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MAHARASHTRA CO-OPERATIVE SOCIETIES RULES, 1961

In exercise of the powers conferred by sub-sections (1) and (2) of section 165 of the Maharashtra Co-operative Societies Act, 1960 (Mah.XXIV of 1961), the Government of Maharashtra hereby, after previous publication as required by sub-section (3) of that section read with section 22 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), makes the following rules namely :-

CHAPTER 1 Preliminary

1. Short title and extent :-

(1) These rules may be called the Maharashtra Co-operative Societies Rules, 1961.

(2) They extend to the whole of the State of Maharashtra.

2. Definitions :-

In these rules, unless the context otherwise requires -

- (a) "Act" means the Maharashtra Co-operative Societies Act, 1960;
- (b) "Apex co-operative bank" means a federal co-operative bank having jurisdiction over the whole of the Maharashtra State and recognised as such by the State Government for the purpose ;
- (c) "co-operative year" means the year ending on the 30th day of June 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 ;
- (d) "decree" means any decree of a Civil Court, and includes any order, decision or award referred to in sub-section(1) of section 156;
- (e) "decree holder" means any person holding a decree ;
- (f) "form" means a form appended to these rules ;
- (g)"Record of rights" means , - (i) as respects the Bombay area of the State, the record of rights maintained under the Bombay Land Revenue Code, 1879. (ii) as respects the Vidharba Region of the state, the record of rights maintained under the Madhya Pradesh Land Revenue Code, 1954. (iii) as respects the Hyderabad area of the State, the Settlement Register maintained under section 86 of the Hyderabad Land Revenue Act, 1317-F ;
- (h) "recovery officer" means any person empowered to exercise, in any district, the powers of the Registrar under section 156
- (i) "registered society" means a society registered or deemed to be registered under the Act
- (j) "sale officer" means an officer empowered by the Registrar, by general or special order, to attach and sell the property of defaulters or to execute any decree by attachment and sale of property.
- (k) "section" means a section of the Act

CHAPTER 2 Registration

3. RULE :-

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1. DELETE BY G.N. OF 8-11-1971.

4. Application for Registration and Registration fee :-

1:-

(1) Every application for registration of a society under section 8 shall be made in Form "A" in Marathi, Hindi or English, and shall, subject to the provisions of sub section (2) of section 8 and sub-rules (2) and (3), be signed by the applicants and shall, in addition to four copies of the proposed bye-laws of the society, be accompanied by -

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

(b) a certificate from the Bank or Banks stating the credit balance therein in favour of the proposed society ;

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

(d) such other documents as may be specified in the model bye-laws, if any, framed by the Registrar ;

2 (e) the registration fees at the following rates, namely :- Rs.

(2) Where any member of a society to be registered is a registered society, a member of the committee of such registered society shall be authorised by that committee by a resolution to sign the application for registration and the bye-laws on its behalf, and a copy of such resolution shall be appended to the application.

(3)"Where any member of a society to be registered in a firm, company, other co-operative body society registered under the Societies Registration Act, 1860, or local authority or public trust registered under any law for the time being in force for the registration of such trust then firm, company, corporate body, society, local authority or public trust as the case may be, shall duly authorise any person to sign the application for registration and the bye-laws on its behalf, and a copy of the resolution giving such authority shall be appended to the application.

(4) The application shall be sent to the Registrar by registered post or delivery by hand.

1. SUBSTITUTED BY G.N. OF 14-2-1975.

2. SUBSTITUTED BY G.N. OF 23-11-1282.

5. Registration :-

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(1) On receipt of an application under rule 4, the Registrar shall enter particulars of the application in the register of applications to be maintained in FORM B, give a serial number to the application and issue a receipt in acknowledgment thereof.

(2) The Registrar may give, wherever necessary, opportunity to the promoters to modify the proposed bye-laws before finally registering the society or rejecting the application for registration of the society.

(3) On registering a society and its bye-laws under sub-section (1) of section 9, the Registrar shall as soon as may be, notify the registration of the society in the Official Gazette and grant to the society, a certificate of registration signed by him and bearing his official seal and containing the registration number of the society, and the date of its registration. The Registrar shall also furnish the society with a certified copy of the bye-laws approved and registered by him.

6. Form of report under section 9 (2) :-

The report to be made by the Registrar to the State Government under sub-section (2) of section 9 shall be in FORM C.

7. Refusal of Registration :-

Where any society does not furnish the information in regard to the society as required by the Registrar or fulfill any of the conditions laid down in the Act or these rules, the Registrar may refuse to register that society.

8. Matters in respect of which Registrar may direct society to make bye-laws or society may make bye-laws :-

(1) The Registrar may require a society to make bye-laws in respect of all or any of the following matters, that is to say, -

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

(b) the area of operation ;

- (c) the objects of the society ;
- (d) the manner in which and the limits up to which the funds of the society may be raised, the maximum share capital which any one member may hold and the purpose to which the funds would be made applicable ;
- (e) the terms and qualifications for admission to membership ;
- (f) the privileges, rights, duties and liabilities of members including nominal, associate and sympathiser members ;
- (g) the consequences of default in payment of any sum due by a member ;
- (h) conditions regarding sale or disposal of produce of members wherever applicable ;
- (i) in the case of credit societies -
 - (i) the maximum loan admissible to a member ;
 - (ii) the maximum rates of interest on loans to members ;
 - (iii) the conditions on which loans may be granted to members and penalties for misapplication of loans so advanced ;
 - (iv) the procedure for granting extension of time for the repayment of loans and advances ;
 - (v) the consequences of default in payment of any sum due ;
 - (vi) the circumstances under which a loan may be recalled ;
- (j) in the case of non-credit societies, the mode of conducting business such as manufacture, purchase, sale, stock taking and other like matters ;
- (k) in the case of a composite society, that is to say, a society having both credit and non-credit functions, matters referred to in clauses(i) and (j);
- (l) the mode of holding meetings of the general body and of the committee ;
- (m) the procedure for expulsion of members ;
- (n) the manner of making, altering and abrogating bye-laws ;
- (o) the mode of appointment either by election or otherwise and removal of members of the committee and other officers, if any, their duties and powers ;
- (p) the Chairmans powers, duties and functions and his removal on his losing support of the majority ;
- (q) the method of recruitment, the conditions of service and the authority competent to fix, revise or regulate the scale of pay and allowances of salaried officers and servants of the society and the procedure to be followed in the disposal of disciplinary cases against them ;
- (r) the mode of custody and investment of funds and mode of

- keeping the accounts and records ;
- (s) the disposal of net profits ;
- (t) the manner in which penalty should be levied on a member who is found to be guilty of breach of bye-laws ;
- (u) appointment of a provisional committee, where necessary ;
- (v) the mode of appointment and removal of committee and its powers and duties ;
- (w) the mode of convening annual and special general meetings issue of notices, and the business which may be transacted thereat;
- (x) in the event of the winding up of the society, the purpose for which surplus assets, if any, shall be utilised ;
- (y) the conduct of elections to the committee and other bodies of the society as provided in the bye-laws, including the number of members to be elected by different constituencies and appointment of Returning Officer;
- (z) any other matter incidental to the management of its business.

(2) A society make bye-laws for all or any of the following matters, that is to say , -

- (a) the circumstances under which withdrawal from membership may be permitted;
- (b) the procedure to be followed in case of withdrawal, ineligibility and death of members
- (c) the conditions, if any under which the transfer of share or interest of a member may be permitted ;
- (d) the method of appropriating payments made by members from whom moneys are due ;
- (e) the authorisation of an officer or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society ;
- (f) the constitution and maintenance of various funds as required to be maintained under the provisions of the Act, rules and bye-laws ;
- (g) constitution of representative body consisting of delegates of members of the society and the mode of election of such delegates to exercise the powers of the general body of members and to specify the powers which may be exercised by such smaller body

9. First bye-laws of a society :-

When a society has been registered the bye-laws of the society as approved and registered by the Registrar shall be the bye-laws of the society.

10. Classification and sub-classification of societies :-

(1) After registration of a society, the registrar shall classify the society into one or other of the following classes and sub-classes of societies prescribed below according to the principal object provided in the bye-laws :-

(2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue to the society a copy of his order as in the case of amendment of the bye-laws.

11. Maintenance of register :-

(1) The register to be maintained by the Registrar under sub-section (4) of section 9 shall be in FORM D.

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

(3) The Registrar shall assign for each district and each class or sub class of societies, a code symbol, for giving registration numbers to the societies and the societies shall be registered from the dates specified by him.

12. Amendment of Bye-laws :-

(1) Subject to the provisions of this rule, bye-laws of a society may be amended by passing a resolution at a general meeting of the society held for that purpose.

(2) The society shall give due notice in accordance with its bye-laws to all the members for considering any amendment thereof.

(3) An amendment shall be deemed to have been duly passed, if a resolution in that behalf is passed at a general meeting by not less than two - thirds of the members present thereat, and voting.

(4) After the resolution is passed, a copy thereof shall, within a period of two months from the date of meeting at which the resolution was passed, be furnished to the Registrar along with -

(a) a copy of the relevant bye-laws in force with amendments proposed to be made in pursuance of the resolution, together with reasons justifying such amendments;

(b) four copies of the text of the bye-law as it would stand after amendment, signed by the officers duly authorised in this behalf by

the committee of the society ;

(c) a copy of the notice given to the members of the society of the proposal to amend the bye-law ;

(d) such other information as may be required by the Registrar

(5) On receipt of a copy of the resolution and other particulars referred to in sub-rule (4), the Registrar shall examine the amendment proposed by the society and if he is satisfied that the amendment is not contrary to the Act or the rules and is in the interest of the society and co-operative movement, he may register the amendment and issue to the society a copy of the amendment certified by him under sub-section (2) of section 13. Where the Registrar is of opinion that the proposed amendment may be accepted subject to any modification, he may indicate to the society such modification after explaining in writing his reasons therefor.

13. Manner of calling upon society to make amendment to bye-laws :-

(1) Subject to the provisions of this rule, the Registrar may by serving a notice in FORM E call upon a society to make such amendment to the bye-laws of the society as he considers to be necessary or desirable in its interest, within a period not exceeding two months from the date of service of notice. The notice shall state the exact amendment which the society should make.

(2) For the purposes of sub-section (2) of section 14, the Registrar shall send a copy of the notice to the State federal society duly notified under that sub-section with a request to offer its comments on the amendment within such time as may be specified by him. If the State federal society fails to offer its comments within the specified time, it may be presumed by the Registrar that the said society has no objection to the amendment.

(3) If after considering the comments of the State federal society, if any, the Registrar considers that there is no objection to registering the amendment, he shall send a written notice in FORM F by registered post to the registered address of the society calling upon it to show cause in writing or through a properly authorised representative to appear before the Registrar on the date specified in the notice, as to why the proposed amendment should not be registered within the time specified in the notice in FORM E.

(4) After the expiry of the period specified in the notice in FORM E

and after considering the reply, if any, of the society and the views, if any, of the State federal society on such reply the Registrar may, after duly considering the objections of the society (if any) to the proposed amendment, register the amendment.

14. Change in name of society :-

(1) The name of a society may be changed under section 15 so however that it does not refer to any caste or religious denomination and is not inconsistent with the objects of society.

(2) Every change in the name of a society shall be made by an amendment of its bye-laws and shall be notified in the Official Gazette.

(3) After the change in name is approved by the Registrar, the society shall send the original registration certificate for amendment to the Registrar, who shall return the same to the society duly amended.

(4) The Registrar shall enter the new name in the register of societies maintained by him.

15. Change of liability :-

(1) The change of liability of a society from unlimited to limited, and vice versa or in terms of multiple of share capital, shall be secured by passing a resolution in that behalf at a general meeting of the society indicating in clear terms the manner of changing the liability. The society shall give thirty days notice in writing of such meeting to all its members and creditors and shall furnish them with copies of the resolution proposed to be moved at the meeting. After the resolution is duly moved and passed a copy thereof shall be sent to the Registrar within thirty days of its passing.

(2) Every notice to be given by the society under sub-section (2) of section 16 shall be sent by post under certificate of posting or otherwise to the address of each of its members and creditors as recorded in the books of the society. A copy of such notice shall be exhibited on the notice board of the society and a copy shall also be sent to the Registrar for exhibition on the notice board in his office ; and thereupon, notice of the resolution to change the form or extent of its liability shall be deemed to have been duly given to all its members and creditors, notice not being sent to their correct address or notice not being received by them, notwithstanding.

(3) For the purpose of determining the claims of a member under clause (b) of sub-section (4) of section 16 the value of a share of a member in a society shall be ascertained as follows :-

(a) In the case of a society with unlimited liability, the value of a share shall be the actual amount received by the society in respect of such share.

(b) In the case of a society with limited liability, the value of a share shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet, provided that it shall not exceed the actual amount received by the society in respect of such share.

(4) Any member or creditor desiring to exercise his option under sub section (2) of section 16 shall inform the society accordingly in writing, and when he does not propose to withdraw his entire shares or deposits, the member or creditor shall clearly indicate in writing the extent of his withdrawal. The society shall examine and draw up a scheme for orderly payment of all claims in an equitable manner including shares, the value of which shall be ascertained in accordance with the provisions of sub-rule (3) The scheme may also provide for settlement of claims by mutual agreement Where the Registrar does not approve the scheme on the ground of impracticability or undesirability, the resolution passed by the society under sub-rule (1) shall be ineffective and the form and extent of liability of a society shall not be deemed to be changed in accordance with resolution passed aforesaid.

(5) After the Registrar approves the scheme, the society shall make payments to members and creditors as provided in clause (b) of sub-section (4) of section 16, make a report to that effect to the Registrar and furnish the Registrar with a proposal to amend the bye-laws of the society duly passed in that behalf. On receipt of the proposal, the Registrar shall register the amendment .in accordance with the provisions of section 13.

16. Amalgamation, transfer of assets and liabilities, division or conversion of societies :-

(1) Every society desiring to effect amalgamation, transfer of assets and liabilities, division or conversion shall make an application to the Registrar in that behalf, giving full details about such amalgamation, transfer, division or as the case may be, conversion.

(2) On receipt of such application, the Registrar may, after

examining the details furnished in the application and other particulars which he may call upon the society to furnish, give his approval to the amalgamation, transfer, division or conversion, if he considers such amalgamation, transfer, division or conversion, as the case may be, to be in the interest of the society.

(3) After the receipt of the Registrars approval under sub-rule (2), the society shall convene a special general meeting by giving notice of atleast 15 clear days to all its members and creditors and pass a resolution for amalgamation, transfer of assets and liabilities, division or conversion, as the case may be, by two-third majority of the members present and voting at the meeting. The resolution so passed shall contain the purpose and the full scheme indicating how the proposed amalgamation, transfer or division or conversion would be useful to the society and be given effect to. Where the scheme does not involve transfer of liabilities of the society to another society, a statement to that effect shall be made in the application to be made under sub-rule (1) Where the scheme involves transfer of liabilities of the society, the society shall give written notice in FORM G to all its members, creditors and other persons whose interests are likely to be affected by such transfer. The notice shall also be published in atleast one newspaper in circulation in the district in which the societys office is situated and a copy thereof shall be exhibited on the notice board in the societys and Registrars office:

Provided that the State Government may in the case of any society, dispense with the giving of such notice, regard being had to the extent of liabilities, the financial position of the society and its members and other relevant factors pertaining to such society.]

(4) Within one month from the date of notice referred to in sub-rule (3), the members, creditors and other persons whose interests are likely to be affected by the transfer of the societys liabilities may exercise their option as required by clause(i) of the proviso to sub-section (1) of section 17 failing which they shall be deemed to have assented to the transfer of liabilities of the society to another society.

(5) The society shall meet in full or otherwise satisfy all claims of members and creditors and other interested persons who exercise the option.

(6) The society shall submit a report to the Registrar of the action taken by it and request him to give effect to its decision for amalgamation, transfer, division or conversion by registering the amalgamated or converted society or the new society, as the case

may be, and cancelling the registration of the societies which have been amalgamated, divided or converted.

(7) On receipt of the report from the society under sub-rule (6), the Registrar shall, after satisfying himself that the procedure has been properly followed, register the amalgamated, divided or converted societies and cancel the registration of the societies which have been amalgamated, divided or converted.

17. Direction by Registrar for amalgamation, division and reorganisation of societies :-

(1) Before issuing any order under sub-section (1) of section 18 providing for the amalgamation, division or reorganisation of any society or societies, the Registrar shall prepare a draft scheme in respect of such amalgamation, division or reorganisation stating in particular the manner in which the new committee or committees of the society or societies resulting from such amalgamation, conversion or reorganisation shall be constituted and the bye-laws which such society or societies shall follow. The Registrar shall then consult such federal society as may be notified by the State Government in the Official Gazette, and after considering the suggestions, if any, that will be made by such federal society, shall send a copy of the draft of the order proposed to be issued by him under sub-section (1) of section 18, to the society or each of the societies concerned calling upon it or them to invite objections or suggestions from any member or class of members thereof or from any creditors or class of creditors and to submit such such objections and suggestions together with its own or their own suggestions and objections within a period of not less than two months from the date on which the copy of the draft aforesaid was received by it or them.

(2) The Registrar shall consider all such suggestions and objections and make such modifications in the draft order as may seem desirable to him in the light of those suggestions or objections and then issue a final order under sub-section (1) of section 18.

(3) Any member or creditor of 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 in sub-rule (1), may apply to the Registrar for payment of his share or interest, if he be a member and the amount in satisfaction of his dues, if he be a creditor. Such

application shall be separate and distinct from the objection or suggestion which he may have submitted to the society or the Registrar under clause (b) of sub-section (2) of section 18. It shall be competent for the Registrar to nominate an officer not below the rank of a Deputy Registrar to investigate such applications and to determine the payments required to be made to the members or creditors as the case may be.

(4) Subject to the provisions of the Act, the rules and the bye-laws, the Registrar may by order require the society concerned to meet in full or satisfy otherwise all due claims of the members and creditors within such time as may be specified by the Registrar in the order.

18. Reconstruction of a society :-

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

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

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

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

(iv) the manner in which the bye-laws of the society will stand amended in order to give effect to the scheme of reconstruction. A copy of the draft order shall be exhibited on the notice board of the society and a copy thereof shall be exhibited on the notice board of the Registrars office inviting objections and suggestions, from all those interested within a specified time, which shall not exceed one month.

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

18A. Conditions for realising the assets and liquidating the liabilities of the de-registered society by the Official

Assignee :-

(1) The Official Assignee shall work under the general control, superintendence and directions of the Registrar.

(2) He -shall have the following powers for the purpose of realising the assets and for liquidating the liabilities of the society which is de-registered under the provisions of sub-section (1) of section 21-A, namely :-

(a) he shall have the power to institute and defend any suit and other legal proceedings, civil and criminal, on behalf of the de-registered 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 completion of the de-registration proceedings ;

(c) to sell such immoveable and moveable property and actionable claims of the de-registered society generally by public auction or in exceptional cases by private contract, with prior approval of the Registrar;

(d) to investigate all the claims against the de-registered 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 creditors in full or rateable according to the amount of such debts. However, the Official Assignee shall pay all the liabilities in the following priority namely :-

(i) his salaries, remuneration, allowances and other claims ;

(ii) wages and other payments to be made to the employees of the de-registered society including arrears ;

: (iii) expenses required for beneficial completion of de-registration proceedings;

(iv) taxes, charges, fees and revenues etc., payable under any other law for the time being in force and such other dues which are recoverable as arrears of land revenue ;

(v) any dues payable under the decree of any Court;

(vi) deposits ;

(vii) loans payable to Government of India ;

(viii) loans payable to the State Government ;

(ix) any other dues payable to the Government of India ;

(x) any other dues payable to the State Government ;

(xi) loans guaranteed by the Government of India ;

(xii) loans guaranteed by the State Government ;

(xiii) secured loans ;

- (xiv) unsecured loans ;
- (xv) shares of Government of India ;
- (xvi) shares of State Government ;
- (xvii) shares of any financial institution ;
- (xviii) shares of Co-operative Societies ;
- (xix) shares of other body corporates ;
- (xx) shares of members ;
- (e) to make any compromise or arrangement, with creditors or persons claiming to be the creditors of having or alleging themselves to have claims, present or future, whereby he may be rendered liable ;
- (f) 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 him and contributory or alleged contributory or other debtors or person apprehending liability to him and all questions in any way relating to or affecting the assets of de-registration proceedings on such terms as may be agreed, and to take any security for the discharge of any such calls, liability, debt or claim and give a complete discharge in respect thereof ;
- (g) to determine from time to time, after giving an opportunity to answer the claims, the contribution to be made, or remaining to be made by the members or past members of the de-registered society or by the estates, nominees, heirs or legal representatives of the deceased members of de- registered society, or by the officer, past officer of the estate or nominee, heirs or legal representatives of deceased officer to the assets of de-registered society, such contribution of debts and dues from such members or officers of the de-registered society ;
- (h) to determine from whom and in what proportions the cost of de- registration and that of the proceedings of de-registration shall be borne ;
- (i) to fix the time or times within which the creditors shall prove their debts and claims ;
- (j) 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 the society de-registered which have vested in him but are in the possession of any person or body corporate by same means and in the same manner as provided in the case of civil case under the Code of Civil Procedure, 1908;
- (k) to do all acts and to execute in his name on behalf of the

society de-registered all deeds, receipts and other documents as may be necessary for finalisation of proceedings of de-registration.

(3) Immediately on his appointment, the Official Assignee shall proceed to realise the assets of the society de-registered by sale or otherwise and liquidate the liabilities.

(4) The Official Assignee, during the tenure of office, present accounts of his receipts, not less than twice in each year to the Registrar. The Registrar shall cause the accounts to be audited in such manner as he thinks fit and for the purpose of audit, the Official Assignee shall furnish to the Registrar with such accounts and information as he, or the person appointed by him, may require.

(5) The Official Assignee shall on demand and on payment of such fee as he may determine, supply a copy of audited account to contributory.

(6) The Official Assignee shall pay such fees as the Registrar may direct for the audit of accounts and books kept by him or by the society de- registered.

(7) He shall be held liable for any irregularities which might be discovered in the course or as a result of audit or otherwise in respect of transaction subsequent to his taking over the charge as Official Assignee and may be proceeded against as if it were an act against which action should be taken under section 88 :

Provided that, no such action shall be taken unless the irregularities have caused or likely to cause the loss, damage and have occurred due to gross negligence or an act of omission or commission in carrying out duties and functions assigned to him.

(8) He shall, after settling assets and liabilities of the society de-registered as they stood on the date of his appointment, proceed to determine the contribution to be made or remaining to be made to the assets of the society de-registered by any person and the property of such persons and call upon each of them by order, to pay the amount specified in such order as contribution and as cost of the proceedings after de-registration as determined under this rule after approval of the Registrar. Every such order shall be submitted for approval to the Registrar who may modify it or refer it back to the Official Assignee for further enquiry or further action.

(9) If the sum assessed against any person is not recovered, the Official Assignee may issue subsidiary order or orders against any other person or persons to the extent of the liability of each for the debts the society de-registered until the whole amount due from such person is recovered. The provision of foregoing rule shall

mutatis mutandis apply to such order.

(10) He shall submit the progress report and such other reports and statements to the Registrar, as the Registrar may require.

(11) He may empower one or more persons by general or special order in writing to make collection and to grant valid receipts on his behalf.

(12) He shall have power to call meetings of creditors and contributors and it shall be obligatory on all such persons to attend such meetings.

(13) The Official Assignee may, at any time, be removed by the Registrar and he shall on such removal hand over all the property and documents to such persons as the Registrar may direct.

(14) The Official Assignee shall exercise only those powers under the Act and these rules, as may be determined by the Registrar by general or special order from time to time and in the manner and subject to the conditions he may impose.

(15) He shall maintain such books and accounts as the Registrar may require him to keep.

(16) He shall submit a final report to the Registrar. On acceptance of such report by the Registrar, the Official Assignee shall, within 30 days, arrange to transfer the entire surplus to the Registrar.

(17) On the day of acceptance of final report of the Official Assignee by the Registrar, all the assets of the society de-registered, shall stand vested in the Registrar and the liabilities, if any, remained to have been liquidated, shall stand liquidated.

18B. Purposes for investment of surplus by the Registrar :-

(1) The Registrar shall dispose of the surplus vested in him under Rule 18-A in any manner at his discretion for the following purposes, namely :-

(i) any object of public utility, welfare activity, education, relief to poor, medical relief and for any other charitable purpose defined in section 2 of the Charitable Endowment Act, 1890 ;

(ii) any society registered with similar object which the society de-registered had.

(2) After the Registrar accepts final report and the surplus is transferred to him, he may terminate the appointment of the Official Assignee, and from the date of such order the person appointed as Official Assignee shall cease to function.]

18C. Manner of issue of public notice of the proceedings of

de- registration of society :-

(1) 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 of the office of the Registrar, and in the opinion of the Registrar it is not practicable to serve notice of hearing on each such individual member as contemplated under the proviso to sub-section (1) of section 21-A, a public notice of the proceedings of the de-registration of society shall be published in two local newspapers having wide circulation in that locality in which the registered office of the society proposed for de-registration is situated, and of which at least one shall be in the Marathi language. A copy of the said public notice shall be sent to the registered address of the society by registered post with due acknowledgement together with the directives to display it in the office of the society. Such copy of the notice shall also be displayed on the notice-board in the office of the Registering Authority. If the notice sent by such registered post is returned undelivered, the notice shall be treated as having been duly served, but a copy of the said notice shall be displayed on the notice-board in the office of the society.

(2) Such public notice shall contain amongst others, the following items, namely :-

- (a) the reasons for initiating the proceedings for de-registration of the society ;
- (b) the date by which any aggrieved person may submit his written statements as to why the proposed action should not be taken ;
- (c) the date on which and the place where the Registrar shall give an opportunity of being heard to any aggrieved person ;
- (d) the proposed action contemplated under the provisions of sub sections (2) and (3) of section 21-A."]

CHAPTER 3 Members and their Rights and Liabilities

19. Conditions to be complied with for admission for membership, etc. :-

No person shall be admitted as a member of a society unless , -

- (i) he has applied in writing in the form laid down by the society or in the form specified by the Registrar, if any, for membership ;
- (ii) his application is approved by the committee of the society in pursuance of the powers conferred on it in that behalf and subject

to such resolution as the general body of members may in pursuance of the powers conferred on it in that behalf from time to time pass, and in the case of nominal, associate or sympathiser member, by an officer of the society authorised in that behalf by the committee ;

(iii) he has fulfilled all other conditions laid down in the Act, the rules and the bye-laws ;

(iv) in case of a firm, company or body corporate, society registered under the Societies Registration Act, 1860, a public trust registered under any law for the time being in force relating to registration of public trusts or a local authority, the application for membership is accompanied by a resolution authorising it to apply for such membership.

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19A. Procedure for tendering application to the Registrar for membership under section 23(1A) :-

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(1) Where a Society has refused to accept the application for membership from eligible person, such person shall tender an application to the Registrar in FORM H-I together with requisite share money and entrance fee.

(2) The Registrar, on receipt of such application, shall forward the same to the society concerned together with requisite share money entrance fee within thirty days from the date of its receipt.

(3) The society shall take the decision and communicate the same to the applicant within sixty days from the date of receipt of such application as provided in sub-rule (2) and if no decision is communicated to applicant within the said period of sixty days, the applicant shall be deemed to have been admitted as a member of such society.

(4) In case the society refuses to admit the applicant as its member shall communicate the decision within the period of sixty days mentioned in sub-rule (3) with reasons therefor and refund the share money entrance fee with such communication. If the society fails to refund the said amount, it shall be liable to pay interest at 15% per annum on the said amount from the date of such communication and the said amount if not paid, shall be recovered as arrears of land revenue."]

20. Procedure for admission of joint members and minor and persons of unsound mind inheriting the share or

interest of deceased member :-

(1) A society may admit joint members provided they make a declaration in writing that the person whose name stands first in the share certificate shall have the right to vote and all the liabilities will be borne jointly and severally by them as provided in the Act, rules and bye-laws.

(2) In accordance with the procedure laid down in its bye-laws and these rules for admission of any member, a society may admit minors and persons of unsound mind inheriting share or interest of deceased members as its members through their legal representatives guardians, respectively The members so admitted will enjoy such rights and liabilities through such legal representatives or a guardians as are laid down in the bye-laws of the society that are consistent with the Act and rules.

21. Withdrawal of Membership :-

(1) Subject to the provisions of the Act, the rules and the bye-laws of the society, a member may withdraw from the society after giving three months notice to the Secretary of the society of his intention to resign his membership of the society.

(2) No resignation of a membership shall be accepted by the society unless the member has paid in full, his dues, if any, to the society and has also cleared his liability, if any, as surety to any other member or otherwise.

(3) The withdrawal from membership shall also be subject to such restrictions regarding the maximum amount of share capital that can be refunded in a year or as may have been provided for in the Act, the rules or bye-laws of the society. -

(4) Any member, whose resignation has been accepted by the society, or any heir or legal representative of a deceased member, may demand refund of the share capital held by such member or deceased member and the society shall. subject to the provisions of sub-section (3) of section 29 and subject to the provisions of the bye-laws, refund the amount within six months from the acceptance of the resignation or, as the case may be, the date of demand made by the heir or legal representative of the deceased member.

(5) In all cases where the share capital is to be refunded, valuation

of the shares to be refunded shall be made in accordance with the provisions contained in rule 23.

22. Voting rights of individual members in a Federal Society

:-

(1) In the case of federal societies, the voting rights of individual members (which term shall include firm, company or body corporate, society registered under Societies Registration Act, 1860, State Government, local authority and public trust registered under any law for the time being in force relating to registration of public trusts but shall not include a society) may be regulated as follows

:-

(a) Immediately after the 30th June of every year and as soon as possible before the annual general meeting, individual members admitted to membership upto the 30th June of the preceding year (hereinafter referred to as "the relevant date") shall elect delegates equal to one-fourth of the number of societies admitted to membership upto the relevant date or one delegate for every twenty-five individual members (fractions being neglected) whichever is less. The delegates so elected will continue in office till their successors are elected after 30th June, next week.

(b) Every society through its properly authorised representative and every delegate referred to in clause (a) above shall have one vote in the general meeting.

(c) The quorum for the meeting shall be one-fifth of the total number of delegates and representatives of the societies or 25 whichever is less : Provided that the delegates shall not at any time in the meeting exceed one-fourth of the number of representatives of the societies.

(d) The election of delegates shall be held in accordance with the provisions of the bye-laws.

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

(2) Unless, otherwise provided by the Registrar in respect (if any particular society, the delegates on the committee or the Board of Directors, as the case may be, shall not any time exceed one third of the number of representatives, of societies (fraction being neglected).

23. Valuation of Shares :-

(1) Where a member of a society ceases to be a member thereof, the sum representing the value of his share or interest in the share capital of the society to be paid to him or his nominee, heir or legal representative, as the case may be, shall be ascertained in the following manner, namely :-

(i) In the case of a society with unlimited liability, it shall be the actual amount received by the Society in respect of such share or interest;

(ii) In the case of a society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet preceding the cessation of membership :

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

(2) Where a person is allotted a share by a society, the payment required to be made therefor shall not exceed the face value of the share notwithstanding anything contained in the bye-laws of the society.

(3) When a share is transferred by a member to another member duly admitted as a member of a society, the transferee shall not be required to pay anything in excess of the value of the share determined in accordance with sub-rule (1).

24. Procedure for transfer of shares :-

(1) No transfer of shares shall be effective unless :-

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

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

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

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

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

25. Nomination of persons :-

(1) For the purpose of transfer of his share or interest under sub-

section (1) of section 30, a member of a society may, by a document signed by him or by making a statement in any book kept for the purpose by the society, nominate any person or persons. Where the nomination is made by a document, such document shall be deposited with the society during the members lifetime and where the nomination is made by a statement, such statement shall be signed by the member and attested by one witness.

(2) The nomination made under sub-rule (1) may be revoked or varied by any other nomination made in accordance with that sub-rule.

(3) (i) Where a member of a society has not made any nomination, the society shall, on the members death, by a public notice exhibited at the office of the society, invite claims or objections for the proposed transfer of the share or interest of the deceased within the time specified in the notice.

(ii) After taking into consideration the claim or objections received in reply to the notice or otherwise, and after making such inquiries as the committee considers proper in the circumstances prevailing, the committee shall decide as to the person who in its opinion is the heir or the legal representative of the deceased member and proceed to take action under section 30.

26. Registration of nominations :-

The name and address of every person nominated for the purposes of sub-section (1) of section 30 and any revocation or variation of such nomination shall be entered in the register kept under rule 32

27. Supply of copies of documents by societies and fees therefor :-

(1) A member of a society requiring a copy of any of the documents mentioned in sub-section (1) of section 32, may apply to the society for the same. Every such application shall be accompanied by a deposit of such amount as may be decided by the committee, for recovering the cost of preparing the copies according to the following scale namely :- for every 200 words or less - English 40 Paise] Regional Language 50 Paise]

(2) Where the copies are prepared, the amount due from the member according to the scale laid down in sub-rule (1), shall be retained by the society as copying fees and the surplus amount, if

any, remaining out of the deposit shall be refunded to the member at the time of supplying copies. Where the amount deposited by the member is found to be insufficient to cover the copying fees, the member shall be called upon to pay the deficit before taking delivery of the copies.

(3) The copies shall be certified and signed as true copies by any person duly authorised in this behalf by the committee or under the bye-laws of the society.

28. Expulsion of members :-

Any member who has been persistently defaulting payment of his dues or has been failing to comply with the provisions of the bye-laws regarding sales of his produce through the society or, other matters in connection with his dealings with the society or who, in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interest or proper working of the society may, in accordance with the provisions of sub-section (1) of section 35, be expelled from the society. Expulsion from membership may involve forfeiture of shares held by the member.

29. Procedure for expulsion of members :-

(1) Where any member of a society proposes to bring a resolution for expulsion of any other member he shall give a written notice thereof, to the Chairman of the society. On receipt of such notice or when the committee itself decides to bring in such resolution, the consideration of such resolution shall be included in the agenda for the next general meeting and a notice thereof shall be given to the member against whom such resolution is proposed to be brought, calling upon him to be present at the general meeting, to be held not earlier than a period of one month from the date of such notice and to show cause against expulsion to the general body of members After hearing the member, if present, or after taking into consideration any written representation which he may have sent, the general body of members shall proceed to consider the resolution.

(2) When a resolution passed in accordance with the sub-rule (1) is sent to the Registrar or otherwise, brought to his notice, the Registrar may consider the resolution and after making such inquiries as he may deem fit, give his approval and communicate the same to the society and the member concerned. The resolution

shall be effective from the date of such approval.

30. Inspection of documents in the Registrars office by members of societies and the scale of fees for supply of copies of documents :-

A member of a society or any member of the public may inspect the following documents in the office of the Registrar, free of charge, and may obtain certified copies thereof, on payment of the following fees :-

CHAPTER 4 Incorporation, Duties and Privileges of Societies

31. Procedure for change of address of societies :-

(1) Every society shall communicate in writing to the Registrar its postal address as indicated in its bye-laws registered under the Act and wherever applicable mention the name of the district, taluka, tahsil town or village municipal ward or mohalla, street, house number and postal circle. While communicating the postal address of the society, the committee of the society shall also send a copy of a resolution passed by it for adoption of the address communicated to the Registrar.

(2) On receipt of the communication from the society under sub-rule (1), the Registrar shall register the address communicated by the society in a register to be maintained for that purpose and inform the society of such registration.

(3) Every change in its registered address shall be communicated by the society to the Registrar in the manner laid down in sub-rule (1). Any such change shall not be treated as registered unless ,-

(i) it is indicated in the bye-laws by amending them and the amendment so made is registered under the Act, and

(ii) the change is registered in the manner laid down in sub-rule(2).

(4) The registered address of a society or such change therein as may be registered, from time to time, shall be exhibited on the notice board of the society, immediately after registration.

32. Register of members :-

The register of members to be kept by every society under sub-section (1) of section 38 shall be in FORM I.

33. List of members :-

The list of members are to be kept by every society under section 39 shall be in FORM J

34. Certified Copies of entries in books of societies :-

For the purposes of section 40, copies of any entries referred to in that section may be certified by any officer of the society duly authorised in that behalf by the committee under the seal of the society.

35. Conditions for borrowing by societies with limited liability :-

(1) No society other than those referred to in Rules 36 and 37 with limited liability shall, without the previous sanction of the Registrar, incur liability exceeding in total ten times the total amount of its paid up share capital, accumulated reserve fund and building fund minus accumulated losses :

Provided that central banks, urban banks and producers societies shall not, except with the previous sanction of the Registrar, incur liabilities exceeding twelve times the total of their paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

Explanation :- In calculating the total amount of liability for the purposes of this sub-rule, in the case of any society or class of societies the bye-laws of which permit borrowing or granting credit facilities on the pledge of agricultural produce or other goods specified in that behalf by the Registrar, by general or special order, a sum equal to the amount borrowed by such society or class of societies, on the security of agricultural produce or other goods of such society or its members, shall be excluded from the amount of the actual liability under this rule.

(2) Any society may incur liabilities in excess of the limit specified in sub-rule (1) by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or borrowed as loans in excess of the said limit shall not be utilised in the business of the society but shall be invested in Government securities which, in the case of Central Banks, shall be deposited with the Maharashtra State Co-operative Bank and, in case of other Co-operative Banks, with the Central banks No society shall borrow against such securities.

36. Conditions for borrowing of Maharashtra State Co-operative Bank :-

Except with the previous sanction of the Registrar, the Maharashtra State Co-operative Bank Limited, shall not incur liabilities exceeding in total fifteen times the total amount of its paid up share capital, and all reserves minus accumulated losses, actual bad debts, if any, and overdue interest: Provided that, the Bank may incur liabilities in excess of the aforesaid limit by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or borrowed as loans in excess of the said limit shall not be utilised in the business of the Bank but shall be invested in Government Securities which shall be deposited with the Reserve Bank of India. The Bank shall not borrow against such securities.

Explanation :- In calculating the total amount of liability for the purposes of this rule, a sum equal to the amount borrowed by the Bank on the security of agricultural produce or other goods of the members of the Bank shall be excluded from the amount of the actual liability under this rule.

37. Conditions for borrowing of Land Development Banks :-

Land Development Banks may incur liabilities not exceeding in total twenty times the total amount of their paid up share capital, accumulated reserve and building funds minus accumulated losses.

38. Loans and deposits from non-members in unlimited liability societies :-

Every society with unlimited liability shall, from time to time, fix in a general meeting the maximum liability which it may incur in loans and in deposits from non-members. The maximum so fixed shall be subject to the sanction of the Registrar, who may at any time reduce it, for reasons to be communicated by him to the society in writing, and may specify a period not being less than four months, within which the society shall comply with its orders. No such society shall receive any loan or deposit from a non-member, which will make its liability to non-members exceed the limit sanctioned by the Registrar.

39. Raising of funds by societies :-

(1) Every society, which has a share capital, shall provide in the bye-laws the maximum amount of such share capital, the number of shares into which it is divided, the class of shares, the face value of each share of each class and the rights and liabilities attached to each class of shares and where the full amount of share is not payable on allotment, the amount and the number of instalments in which it is required to be paid and such other incidental matters.

(2) Any society, which is authorised under its bye-laws to raise funds by the issue of debentures and bonds may, with the prior sanction of the Registrar, frame regulations regarding the maximum amount to be raised by the issue of debentures and bonds, the class and classes of debentures and bonds, the face value of each debenture or bond, the date on which the debentures or bonds are to be redeemed, the rate at which interest is payable, the terms and conditions regarding transfer of debentures and bonds and other incidental matters.

(3) The total amount of debentures and bonds issued at any time together with the other liabilities incurred by the society shall not exceed the maximum amount which the society can borrow under the provisions of Rules 35, 36, 37 or 38, as the case may be, and its bye-laws.

40. Additional conditions for raising funds by societies :-

: - The Registrar may, by general or special order, lay down such additional conditions as he may deem fit, subject to which and the extent upto which any society or class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.

41. Maintenance of liquid resources and distribution of assets :-

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

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

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

42. Regulation of loans to be granted by societies :-

(1) In case of grant of loans against security of moveable or immoveable property, the lending society shall maintain such margin as the Registrar may with the approval of the Apex Bank, by general or special order, direct from time to time with reference to different commodities, securities or classes of societies.

(2) In case of cash credit, the amount of loan shall not exceed such multiple of owned funds of the borrowing society as may be laid down by the Registrar with the approval of concerned financing agency from time to time.

(3) It shall be lawful for a society to grant loans without taking security of moveable or irnmoveable property if the purpose for which the loan given is considered production worthy or creditworthy and it is reasonably expected that the loans will be repaid by the loanee. The Registrar may, with the approval of the Apex Bank, issue directions to societies to ensure that creditworthy purposes indicated above receive finance from the societies without any difficulties, on the one hand, and without being detrimental to the financial interest of the societies on the other.

(4) The Registrar may recognise a Central Bank as the Central Financing Agency which shall be primarily responsible for financing credit requirements of all creditworthy purposes through the concerned societies in its jurisdiction. On such recognition, such Bank shall be responsible for making all possible efforts to mobilise local resources for making loans available to the societies in its area. Such loans may be granted for creditworthy purposes, giving due importance to the production plans and requirements of various stratas of the producers and co-operative discipline with reference to linking up of credit with co-opearative processing or cooperative marketing.

(5) Except with the general or special permission of the Registrar, the loan advanced to a member by a society, or to a society by a bank, shall be subject to such conditions as may be laid down by the Registrar, with the approval of the Apex Bank, including the maximum amount to be advanced and the period of repayment, both in regard to total advances to members and societies as also against different types of securities.

(6) No society shall carry on transactions on credit or sanction trade credit to its members or to non-members except in accordance with the general directions that may be issued by the Registrar in that behalf.

(7) In the matter of grant of loans to societies by Central Banks or

to members by Primary societies, the Registrar may laydown with the approval of the Central Banks, the procedure regarding receiving applications, assessing credit needs, making inquiries in respect of the production programme for which such loan is required and the procedure for finally sanctioning the loan as also the rates of finance to be followed from year to year and the nature of inquiries to be made for the purpose of financing of different crops and imposition of certain conditions regarding proper utilisation of loan and sale of agricultural produce through specified co-operative organisation, before such finance is granted.

(8) The Registrar may with the approval of the Apex Bank by general or special order prohibit or regulate grant of loans by a Central Bank or a society where such grant is considered neither in the interest of the society nor in the interest of the development of co-operative movement on sound lines.

43. Conditions to be complied with by members applying for loans :-

(1) Every member of a society applying for a loan from the society shall be required to hold shares in such manner and in such proportion to the amount of loan applied for by him as may be specified in the bye-laws of the society.

(2) Subject to the maximum limit specified in the bye-laws, a loan to be granted to the member of a resource society and the period of its repayment shall be in accordance with the standard laid down by the Registrar in consultation with the Central Bank and the federal society. A loan in excess of the maximum amount may be granted to a member with the previous sanction of the Central Bank and the federal society to which the society is affiliated :

Provided that, where the amount of the loan exceeds twice the maximum limit contained in the bye-laws, prior sanction of the Registrar shall also be obtained.

44. Credit limit by non-credit societies :-

(1) No society whose objects do not include grant of loan or financial accommodation to its members shall grant loans or sanction credit to any member without the sanction of the Registrar:

Provided that, any society which has, as one of its objects, supply

of goods or services required by members for production purposes, may supply goods or provide services on credit against sufficient security on condition that the cost of the goods supplied or services provided shall be recoverable from the amount of the sale proceeds of the agricultural produce or other goods produced by the member.

(2) A consumer society may sell goods on credit to its members and other customers upto the extent of deposits received from them.

45. Restrictions on borrowing from more than one credit society :-

(1) Every person who is a member of more than one resource society (other than a Land Development Bank or a Central Bank or a marketing society) dispensing credit shall, if he has not already made, make a declaration in FORM K that he will borrow only from one such society to be mentioned in the declaration and shall send a copy of such declaration duly attested to all societies of which he is or has become a member.

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

Provided that, the society from which a person has borrowed may permit him to borrow from any other society of which he is a member to such extent and subject to such conditions as may be laid down by it.

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

45A. Limits on loans against fixed deposits :-

:-

(1) When a society makes a loan to a depositor on the security of his fixed deposits with the society, the amount of loan shall not exceed 90 per cent, of the deposit

(2) If the depositor does not pay the loan within the period for which it is granted, the fixed deposit amount may be adjusted

towards the repayment of the loan amount and the interest thereon, and only the balance, if any, shall be paid by the society to the depositor on the date of maturity.]

46. Manner of recalling of loan :-

(1) Notwithstanding anything contained in the agreement entered into with a borrowing member, the committee of a society shall be entitled, after giving a week's notice to such member, to recall the entire loan amount immediately, when it is satisfied that the loan given has not been applied for the purpose for which it was given or there has been breach of any of the conditions for grant of such loan.

(2) Nothing in this rule shall be deemed to preclude the Registrar from directing the society to recall a loan of his own motion, when it is brought to his notice that the loan given by the society has been misapplied or conditions thereof, has not been followed. The Registrar may make in the matter such inquiries as he may deem necessary and after giving a show cause notice to the society issue with the prior approval of the co-operative bank financing the society, necessary directions to the society. The directions issued by the Registrar in this respect shall be complied with by the society.

46A. Restrictions on borrowings from non-members :-

No society shall receive or raise loans from non-members (including any banking company other than the Central Bank), unless specially authorised by the Registrar and such non-members from whom any loan is received or raised, gives an undertaking to the Society that any dispute arising out of the transactions shall be referred to the Registrar for decision under section 91.)

46B. Restrictions on credit sales to non-members :-

Where the bye-laws of a society permit credit sales, such sales may be made to traders and other non-members, provided that the person to whom such sales are made gives an undertaking to the society that any dispute arising out of the transactions shall be referred to the Registrar for decision under section 91.)

47. Restrictions on transactions with non-members :-

On the application of a member of any society or of his own motion,

when it appears to the Registrar that it is necessary in the interest of the working of any particular society, to regulate or restrict transactions of such society with any non-member, the Registrar shall, after giving an opportunity to the society of being heard, issue such directions as he may consider necessary regulating or restricting such transactions.

48. Form of declarations be made by members borrowing loans from certain societies and conditions on which any charge in favour of a society shall be satisfied :-

(1) A declaration to be made under clauses (a) and (b) of section 48 shall be in FORM L .

(2) A register of such declarations shall be kept by the society in FORM M

(3) A charge on any immoveable property created by a member in favour of a society for amounts borrowed or likely to be borrowed by him, from time to time, shall, subject to the provisions of clauses (c) and (d) of section 48 continue in force till the person creating the charge ceases to be a member of the society.

(4) Where a member of a society creates a charge on his land or on his interest in any land as a tenant by declaration under section 48, the society may, if compelled to make use of such property for the recovery of loan granted to such member against the security of such property or interest in the property, utilise the whole or any portion of such property which may be sufficient to satisfy the amount due with interest and any incidental expenses incurred in that connection.

(5) Where a charge is created by a member on his land or on his interest in any land as a tenant by declaration under section 48, the society shall record or cause to record such particulars of charge in the Record of Rights maintained by the village officers of the village where such property is situated. Such recording of the Charge in the Record of Rights of the village shall be treated as a reasonable notice of such charge created under section 48.

CHAPTER 5 Property and Funds of Societies

49. Writing off of bad debts and losses :-

All loans including interest thereon and recovery charges in respect thereof which are found irrecoverable and are certified as bad

debts, by the auditor appointed under section 81, shall be first written off against the Bad Debt Fund and the balance, if any, may be written off against the Reserve Fund and the share capital of the society. All other dues and accumulated losses or any other loss sustained by the society which cannot be recovered and have been certified as irrecoverable by the auditor may be written off against the Reserve Fund or share capital of the society :

Provided that - (1) no bad debts or losses shall be written off without the sanction of the general body ;

(2) before any such bad debts or losses are so written off, the society, if it is affiliated and indebted to a Central Bank, shall first obtain the approval of that Bank in writing and also the approval of the Registrar. If the society is affiliated but not indebted to the Central Bank and in all other cases, it shall obtain the approval of the Registrar in writing. If the society itself is a Central Bank, approval of the State Co-operative Bank and the approval of the Registrar shall first be obtained :

Provided that, in case of societies classified as A or B at the time of last audit, no such permission need be taken if the bad debts are to be written off against the Bad Debt Fund specially created for that purpose : Provided further that, the Registrar may while giving the approval, impose such conditions as to the recoupment of the Bad Debt Fund and restoration of part or whole of the amount written off against the Reserve Fund, from out of future profits as he deems fit.

49A. Calculation of net profits :-

:-

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

(i) all interest accrued and accruing on amounts of overdue loans (except in over due amounts of loans against fixed deposit, gold, etc.);

(ii) interest payable on loans and deposits ;

(iii) establishment charges;

(iv) audit fees or supervision fees ;

(v) working expenses including repairs, rent and taxes ;

(vi) depreciation ;

(vii) bonus payable to employees under the Payment of Bonus Act, 1965;

(viii) Provision for payment of Income Tax ;

- (ix) amount to be paid for contribution to the Education Fund at the- State Federal Society which may be notified by the State Government, in the behalf;
 - (x) amount to be paid for contribution to the Co-operative Cadre Employment Fund ;
 - (xi) provision for bad and doubtful debts ;
 - (xii) provision for share Capital Redemption Fund ;
 - (xiii) provision for Investment Fluctuations Fund ;
 - (xiv) provision for retirement benefits to the employees ;
 - (xv)provisions for any other claims admissible under any other law;
 - (xvi) provision for bad debts and revenue losses not adjusted against any fund created out of profits.
- (2) In addition to the sums referred to in sub-rule (1) of this rule, the following sums shall be deducted by a society from its profits :-
- (i) contribution if any, to be made, to any sinking fund or guarantee fund, constituted under the provisions of the Act, these rules or bye-laws of the society for ensuring due fulfillment of guarantee given by Government in any Security Bonds or Shares held by the society as part of its investments.
- (3) The net profit thus arrived at together with the amount of profits brought forward from the previous year, shall be available for appropriation.]

50. Appropriation of profits :-

- (1) The other purposes for which a society may appropriate its profits shall be education and enlightenment of the members of the society as also any co-operative or charitable purpose including relief to the poor, education, medical relief and advancement of any other general public utility, provided that the expenditure on such items does not exceed 10 per cent of the net profits.
- (2) The net profits calculated in accordance with the provisions of Rule 49-A, shall be appropriated for the creation of-
- (a) Development Fund ;
 - (b) Dividend Equalisation Fund ; or
 - (c) any other fund created under bye-laws.]

51. Amounts to be deducted by a society from its profits before arriving at its net profits :-

In addition to the sums referred to in subsection (1) of section 65, the following sums shall be deducted by a society from its profits

before arriving at its profit for the purposes of sub-section (2) of section 65 :-

(i) Contribution, if any, to be made to any sinking fund or guarantee fund, constituted under the provisions, of the Act, these rules or bye-laws of the society for ensuring due fulfillment of guarantee given by Government in respect of loans raised by the society.

(ii) Provision considered necessary for depreciation in the value of any security, bonds or shares held by the society as part of its investments.

(iii) Any provision required to be made for the redemption and share capital contributed by Government or by a federal society.

52. Bonus and Dividend Equalization Fund :-

(1) A society may create out of its net profits a fund to be called the Bonus Equalization Fund for payment of bonus to persons other than its paid employees] who are p.ot its members.]

(2) Except otherwise specifically- authorised by the Registrar, the 20fund], so created shall be utilised in accordance with the provisions of the bye-laws of the society only for 20|payment of such bonus.]

24(3) A society may create the Dividend Equalisation Fund and credit to it a sum not exceeding 2 per cent of the paid up share capital in any year, until the total amount in such Fund amounts to 9 per cent of the paid up share capital. The society may draw upon this Fund in any year only when it is unable to maintain a uniform rate of dividend it has been paying during the last preceding five years] or more.

(4) No society shall declare a dividend at a rate exceeding that recommended by its committees.

25

24. SUBSTITUTED BY G.N. OF 1-8-1972.

25. SUBSTITUTED BY G.N.C.O. and T.D. NcCSL 1189/CR-33015-C, M.G.G. IV-B DATED 7-11-1990, p.2771.

53. Rates of annual contribution to education fund of the State Federal Society :-

The rates al which the classes of societies specified under column (2) of the Table below shall contribute annually under section 68

towards the education fund of the State Federal Society, which may be notified in this behalf by the State Government, shall be those which are respectively specified against them in column (3) of the said Table.

53A. Rates of annual contribution to Co-operative State Cadre Employment Fund :-

1 :- The rates at which the class or classes of societies or other body corporate specified under column 2 of the Table below shall contribute annually under sub-section (4) of section 69-A towards the Cooperative State Cadre Employment Fund, which may be notified in this behalf by the State Government, shall be those which are respectively specified against them in Column 3 of the said table :-

1. ADDED BY G.N. OF 16-7-1979.

53B. Manner of contributions to be made under the Rule 53-A :-

1 :-

(1) The Apex Society which has been notified by the State Government under sub-section (3) of section 69-A shall open an account in the name of the "Co-operative State Cadre Employment Fund" established by it in the Maharashtra State Co-operative Bank Ltd., Bombay and also in every District Co-operative Bank, excluding the Bombay District Central Cooperative Bank,

(2) The amount of annual contribution payable under Rule 53-A by the Maharashtra State Co-operative Bank Limited, Bombay and the Maharashtra State Co-operative Land Development Bank Limited, Bombay for every co-operative year shall be paid by them before the 30th day of September of the next following co-operative year by crediting the amount of contribution into the "Co-operative State Cadre Employment Fund" account opened under sub-rule (1) in the Maharashtra State Co-operative Bank Limited, Bombay. (3) The Auditor of -

(a) the Maharashtra State Co-operative Marketing Federation Limited, Bombay, (b) every District Central Co-operative Bank, (other than the Bombay District Central Co-operative Bank Limited and the Ahmednagar

(c) every Co-operative Sugar Factory, and

(d) every Primary Co-operative Marketing Society dealing in fertilisers, seeds, agricultural implements or sale of agricultural produce, shall certify the amount of the annual contribution payable by them under Rule 53-A and send the certificate, in the case of the Maharashtra State Cooperative Marketing Federation to the State Level Caderisation Committee and in any other case, to the relevant Central Society. The certificate in respect of every co-operative year shall be sent before the 18th day of August of the next following co-operative year,

(4) The Director of Sugar, Maharashtra State, shall certify the amount of annual contribution payable under Rule 53-A by every sugar factory (other than a Co-operative Sugar Factory) and send the certificate to the relevant Central Society. The certificate in respect of every Co-operative year shall be sent, before the 15th day of August of the next following cooperative year.

(5) Within fifteen days from the date of receipt of a certificate sent under sub-rule (3) or (4), the State Level Caderisation Committee or, as the case may be, the relevant Central Society, shall serve a notice of demand for payment of the contribution mentioned in the certificate on the Maharashtra State Co-operative Marketing Federation or, as the case may be, a society or a sugar factory (other than a Co-operative Sugar Factory) by which it is payable.

(6) On receipt of the notice of demand under sub-rule (5), the Maharashtra State Co-operative Marketing Federation, every society and every sugar factory (other than a Co-operative Sugar Factory) shall pay the amount of contribution payable by them for any co-operative year before the 30th day of September, of the next following co-operative year. Such contribution shall, in the case of the Maharashtra State Co-operative Marketing Federation Limited, Bombay be paid into "Co-operative State Cadre Employment Fund" account in the Maharashtra State Co-operative Bank Ltd., Bombay and in other cases, into the "Co-operative State Cadre Employment Fund" account in the District Central Co-operative Bank in the District in which the society making the contribution operates or the sugar factory (other than a co-operative sugar factory) making such contribution is situated.

(7) Before the 15th day of August next following the end of each cooperative year, every primary Agricultural Credit Society shall furnish to the relevant Central Society such information as may be necessary for it to assess the amount of contribution payable for that year by the Primary Agricultural Credit Society under Rule 53-A. On receipt of such information, the relevant Central Society shall

scrutinize it, determine the amount of contribution payable by the Primary Agricultural Credit Society and shall, before the 15th day of September, next following the end of the said co-operative year, serve a notice of demand on the Primary Agricultural Credit Society for payment of the amount of contribution so determined. The relevant Central Society shall also, before that date, furnish to the District Central Co-operative Bank of the District in which the Primary Agricultural Credit Societies furnish, the information operate, a statement indicating the name of each Primary Agricultural Credit Society, the rate of annual contribution payable by it under Rule 53-A, the amount of contribution determined and the amount of arrears of contribution, if any, which was remained to be paid by each Primary Agricultural Credit Society. On the service of a notice of demand, the Primary Agricultural Credit Society shall, before the 31st day of December next following the end of the aforementioned co-operative year, pay the amount of contribution payable by it for the year, into the "Cooperative State Cadre Employment Fund" account in the District Central Cooperative Bank in the District in which such society operates.

(8) Where any society (including the Primary Agricultural Credit Society and Co-operative Sugar Factory) which has received any loan from any District Central Co-operative Bank or the Maharashtra State Cooperative Bank pays to the Bank any amount towards payment of interest on such loan, or repayment of such loan, or where any such amount is received by the District Central Co-operative Bank or the Maharashtra State Cooperative Bank on behalf of any such society or Sugar Factory from any other agency, and the District Central Co-operative Bank or the Maharashtra State Co-operative Bank is satisfied after consulting the relevant Central Society that there are any arrears of annual contribution payable by such society or sugar factory as per demand notice served on it, then the District Central Co-operative Bank or the Maharashtra State Co-operative Bank, as the case may be, shall in accordance with procedure laid down from time to time, by the State Level Caderisation Committee and after obtaining the consent of such society or sugar factory to do so, first credit to the "Cooperative- State Cadre Employment Fund" such amount as may be necessary to recover the arrears and adjust the remaining balance, if any, towards payment of interest on such loan, or as the case may be, repayment of such loan. Whenever the District Central Co-operative Bank or the Maharashtra State Co-operative Bank so credits any amount to the said Fund, it shall send advice of

such credit to the society or as the case may be. Co-operative Sugar Factory and also the relevant Central Society.

(9) Notwithstanding anything contained in sub-rule (2), (3), (4), (6) and (7) (a) the certificate to be sent by the auditor under sub-rule (3) and the certificate to be sent by the Director of Sugar, Maharashtra State under sub-rule (4) for the co-operative years 1977-78 and 1978-1979 shall be sent by them before the 15th day of September, 1979 ;

(b) the information to be furnished by the Primary Agricultural Credit Society under sub-rule (7) in respect of the co-operative years 1977- 1978 and 1978-1979 shall be furnished by it before the 15th day of September, 1979 ;

(c) the notice of demand for payment of the amount of contribution payable by any society (including the Primary Agricultural Credit Society) or Sugar Factory for the co-operative years 1977-1978 and 1978-1979 shall be served on it before the 30th day of September, 1979 ;

(d) the amount of contribution payable by any society (including the Primary Agricultural Credit Society) or Sugar Factory for the co-operative years 1977-1978 and 1978-1979 shall be paid by it before the 31st day of October, 1970 and the 31st day of December, 1979 respectively.

(10) The relevant Central Society shall maintain books of accounts of the annual contribution due from each society which operates in the area of its operation and each Sugar Factory situated in that area. The State Level Caderisation Committee shall maintain books of accounts of the annual contributions due from the Maharashtra State Co-operative Bank Ltd. (incorporating the Vidarbha Co-operative Bank Ltd.) Bombay, the Maharashtra State Co-operative Marketing Federation Ltd., Bombay and the Maharashtra State Co-operative Land Development Bank Ltd., Bombay. Every such book of account shall contain the following particulars, namely:-

(i) the society or the sugar factory from which the annual contribution is due ;

(ii) the amount of annual contribution collected from such society or sugar factory ;

(iii) the balance of arrears of the annual contribution payable by such society or sugar factory or the excess amount paid by it.

(11) A periodical statement of accounts of the moneys credited into the "Co-operative State Cadre Employment Fund" accounts with each District Central Bank shall be sent by that Bank to the relevant Central Society at such intervals as may be determined by

the State Level Caderisation Committee. The statements so received shall be forwarded by the relevant Central Society to the State Level Caderisation Committee after due scrutiny.

(12) Where any society or sugar factory fails to pay the annual contribution as provided in the preceding sub-rules, the State Level Caderisation Committee, in the case of the Maharashtra State Co-operative Bank Limited incorporating the Vidarbha Co-operative bank Ltd.), Bombay the Maharashtra State Co-operative Marketing Federation Limited, Bombay and the Maharashtra State Co-operative Land Development Bank Limited, Bombay and the relevant Central Society in the case of other societies and sugar factories, shall communicate the name of the defaulting society or sugar factory to the Registrar for taking action under sub-section (5) of section 69-A.

Explanation :- For the purpose of this rule, (a) "Central Society" means society notified by the Government of Maharashtra to be a Central Society under section 69-A ;

(b) "relevant Central Society" in relation to any society or sugar factory, means the Central Society in the area of operation of which any such society operates or any sugar iactory is situated ;

(c) "State Level Cud .isation Committee" means a Committee appointed as such by the Government of Maharashtra.

1. ADDED BY G.N. OF 3-9-1979.

54. Utilisation and investment of reserve fund :-

(1) A society shall, in addition to the modes specified in clauses (a) to (d) of section 70, invest or deposit its reserve fund in any one or r.-. i.: of the following permitted modes, namely :-

(i) In the case of Primary Societies, in the Centi V Financing Agencies,

(ii) In the case of Central Co-operative Bank. and Urban Banks, in the State Co-operative Bank,

(iii) In debentures issued by the Apex Land Development Bank or in Government loans, or

(iv) In any immoveble property specified by the Registrar by a general or special order.

Provided that, in the case of a society whose reserve fund is equal to or more than its paid up share capital, the Registrar may, by general or special order, permit that society to invest that portion of the reserve fund which is in excess of its paid up share cap tal,

or a portion thereof, in its business.

Provided further that, in the case of Central Co-operative Banks and the State Co-operative Bank, the Registrar may, by general or special order, authorise such Banks to invest fifty per cent of their reserve fund in their business.

(2) No society whose reserve fund has been separately invested or deposited shall draw upon, pledge or otherwise employ such fund except with the sanction of the Registrar previously obtained in writing.

(3) In the case of a society constituted with the object of co-operative housing on a co-partnership basis, the reserve fund may be utilised for expenditure on the maintenance, repair, and renewal of buildings of the society.

(4) In the case of a processing society the reserve fund may be utilised in the acquisition, purchase or construction of lands, buildings and machinery.

55. Investment of other funds :-

(1) A society may invest any of its funds (other than the reserve fund) in any of the modes specified in section 70 when such funds are not utilised for the business of the society. Explanation :- For the purpose of this sub-rule, "business of a society" shall include any investment made by the society in immovable property with the prior sanction of the Registrar in the process of recovery of the society's normal dues for the purpose of construction of building or buildings for its own use.

(2) The Registrar may, in the case of any society or class of societies, specify by a special or general order the maximum amounts to be invested in any class or classes of securities.

(3) Every society which has invested an amount not less than 10 per cent of its working capital in securities shall be required to constitute an investment fluctuation fund. The Registrar may direct that a specified per cent of the net profits every year shall be credited to the investment fluctuation fund until, in his opinion, the amount of the funds is adequate to cover anticipated loss arising out of the disposal of the securities.

(4) Proportion of paid up share capital of the investing society of a class of society shall be determined by the Registrar by special or general order, from time to time, for investment in the shares or security bonds or debentures issued by any other society. While

determining such proportion, the Registrar may impose such conditions as he may deem fit.

(5) When any society or societies have been permitted to enter into collaboration as provided under sub-section (1) of section 20-A, if it is necessary to invest the funds of the society or societies in such collaboration, the Registrar may, in addition to any general or special order of the State Government as specified in clause (e) of section 70, impose such additional conditions as may be necessary in the interest of the society :

Provided that, the Registrar may for ensuring the safety of the funds of the society or societies invested in such collaboration for beneficial utilisation of the funds furtherance of the objects may be regulated to the extent and manner of such investment from time to time.]

56. Maintenance and administration of provident fund :-

A society which has established a provident fund for its employees under section 71 shall, with the previous approval of the Registrar, frame regulations for the maintenance and utilisation of the provident fund for its employees. Among other matters, such regulations shall provide for the following :-

- (i) amount (not exceeding ten per cent of the employees salary) of contribution to be deducted from the employees salary ;
- (ii) the rate of contribution (not exceeding the annual contribution made by the employee) to be made by the society ;
- (iii) advances which may be made against the security of the provident fund ;
- (iv) refund of employees contribution and contribution made by the society ;
- (v) mode of investment of the provident fund and payment of interest thereon

CHAPTER 5A Election to Notified Societies, etc.

56A. Manner of election to notified Societies :-

(I) The elections of the societies notified by the State Government under section 73- IC, shall be held or cause to be held by the Registrar through the machinery created for this purpose in the manner as specified hereunder, namely :-

- (a) The Registrar may appoint any officer, not below the rank of an

Additional Registrar of Co-operative Societies, as the Chief Election Officer for the State, who shall be subordinate to the Registrar and accountable to him for the purpose of such elections. He shall work under the general guidance of the Registrar of Co-operative Societies.

(b) The Chief Election Officer shall have powers to appoint one or more officers along with their jurisdiction as District Election Officer, who shall not be below the rank of an Assistant Registrar of Co-operative Societies or the Special Auditor, Class -11.

(c) The Chief Election Officer shall have powers to appoint such additional staff as he deems necessary to assist him and the District Election Officer.

(d) The Chief Election Officer shall have powers of general guidance, superintendence and control over the District Election Officers and the staff appointed under the foregoing sub-clauses of these rules. The District Election Officer and the staff so appointed shall be subordinate to the Chief Election Officer and shall be accountable to him for the purpose of elections.

(e) The District Election Officer, shall be responsible for holding the elections of all the notified societies, headquarters of which are situated in his jurisdiction.

(f) For holding the elections of notified societies, the Registrar or the Chief Election Officer or the District Election Officer, as the case may be, shall have the following powers, namely :-

(i) To appoint any officer of (he Stale Government, Zilla Parishad, any Local Body, any Co-operative Society, Agricultural Produce Market Committee, having establishment in that district, on any post with such designation and duties for the puipose holding the elections.

(ii) It shall be obligatory on every officer or employee, so appointed to perform the duties assigned on him, failing which, he shall be liable for prosecution for having committed contempt of the lawful authority of the public servant within the meaning of Chapter 10 of Indian Penal Code.

(iii) To requisition any premises, vehicles or any other material required for holding the election, from any co-operative societies as he may deem necessary.

(iv) On service of such requisition, it shall be obligatory on the authority to whom such requisition is made, to forthwith hand over the possession of premises, vehicles or any other material, as the case may be, lo the requisitioning authority or any person authorised by him in that behalf.

(g) (i) The Registrar shall be competent to create a fund called the "Notified Co-operative Societies Election Fund", as he deems fit by a special or general order.

(ii) The expenses of holding of any elections to the notified society, including payment of travelling allowances, daily allowance and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of election, shall be borne by the notified society concerned. For this purpose, the Registrar or the Chief Election Officer or the District Election Officer may call upon a notified society to deposit in the Notified Co-operative Societies Election Fund, such amount as he considers necessary for the conduct of elections, within such period as may be directed by the Registrar:

Provided that, it shall be competent for the Registrar to exempt any notified society or class of notified societies from depositing in full or in part, having regard to the financial position of such society or class of societies, as the case may be.

(iii) If the expenditure exceeds the amount deposited, the Registrar or the Chief Election Officer or the District Election Officer shall call upon the notified society to pay the excess amount as specified by him within eight days from the receipt of directions from him and the society shall comply with such directions.

(iv) On failure of the notified society to deposit the amount or to pay the excess amount as aforesaid, the Registrar, the Chief Election Officer or the District Election Officer may issue a certificate for recovery of amount due, together with interest thereon at the rate of 15% per annum from the society. On issue of such certificate, the amount shall be recovered as arrears of land revenue.

(2) The Registrar shall maintain a register in Form M-1, in his office showing the names of the notified societies with details thereof.

(3) The Chief Executive of the notified society shall deliver a report in Form M-2 to the Registrar on or before 30th September of the preceding calendar year in which the term of office of the Managing Committee of such society expires :

Provided that, if the Chief Executive of the notified society fails to report in time the Registrar shall proceed to enlist the name of such society or societies for the purpose of aforesaid sub-rule on the basis of information available in the register and such enlisting the names shall be prima facie evidence that the election of the society is due to be held in the succeeding co-operative year, unless proved to the contrary.

(4) On receipt of report or otherwise, the Registrar shall publish, on or before 15th October a list of societies in his office and in the office of the District Election Officer, of which elections of the committee are to be held in the succeeding year.

56B. Provisional list of voters :-

(1) A provisional list of voters shall be prepared by every notified society in the year in which the elections of such society is due to be held. The persons who are members as on the date prior to 180 days of the date on which the term of the committee of such society expires, shall be included in the provisional list. If different constituencies are provided in the bye-laws, the names of voters shall be arranged constituency-wise as laid down in the bye-laws.

(2) Four copies of the authenticated provisional lists of voters shall be delivered by the Chief Executive of the society to the Registrar, 120 days before the date of expiry of the term of Committee. Copies of such lists shall be displayed on the notice board of the society. The District Election Officer and the Registrar, within 15 days from its receipt, call for inviting claims and objections from the members of the society.

(3) If any Chief Executive Officer fails to deliver copies of the provisional lists of voters to the Registrar on or before the due date, the Registrar shall himself or through any person authorised by him in this behalf, prepare such provisional list of voters and expenditure incurred therefor shall be recovered from the Chief Executive Officer or other persons responsible therefor, as arrears of land revenue.

(4) In the event of the Registrar taking action under the last preceding sub-rule, he shall also cause copies of the provisional list of voters to be displayed on his notice board and on the notice board of the District Election Officer and of the society within ten days from the date of receipt of such list from the society for inviting claims and objections from the members of the society.

56C. Particulars to be included in the provisional list of voters :-

:-

(1) The provisional list of voters in case of individual share holders, shall contain the name, fathers or husbands name, surname, if any, with address recorded in the register of members in Form M-I of

every person entitled to be registered as voter with such other particulars as may be necessary to identify him.

(2) Where a society is the member of a notified society, the notified society shall call for the name of representative duly authorised to vote at the election on behalf of the affiliated society, so as to reach it by 150 days prior to the date of expiry of term of office of the Committee.

(3) While communicating the name of the representative to the notified society, the affiliated society shall enclose a copy of the resolution of the society or its committee as provided under the bye-laws, where the representative is so authorised. The notified society shall include in the list of voters the name of all such representatives as have been communicated to it before the date fixed for publication of the provisional list. In addition to the names of representatives, the list shall contain the name of the affiliated societies, their registration numbers and addresses with names of the constituency, if any, to which they belong.

56D. Claims and objections to the provisional list of voters, and the final list of voters :-

(1) When any provisional list of voters is published for inviting claims and objections, any omission or error in respect of name or address or other particulars in the list may be brought to the notice of the Registrar in writing by any member of the society concerned who is a voter or any representative authorised to vote on behalf of such society during office hours within 15 days from the date of publication of the provisional list of voters.

(2) The Registrar shall, after making such enquiries as deemed necessary in this behalf, consider each claim or objection, and give his decision thereon in writing to the persons concerned within 10 days from the last date prescribed for receiving the claims and objections and the list shall be conclusively final voters list.

(3) The copies of final list of voters shall be displayed on the notice board of the Registrar and on the notice board of the office of the District Election Officer and that of the society at least seven days before the declaration of the election programme and in no case later than fifteen days from the finalisation of claims and objections.

56E. Appointment of Returning Officers, Assistant Returning Officers and such other Officers required to conduct the

elections :-

The Registrar or the Chief Election Officer or the District Election Officer shall, whenever necessary, appoint the Returning Officer and may also appoint one or more persons to be called as the Assistant Returning Officer to assist the Returning Officer in the performance of his functions :

Provided that, in case where no other person is appointed as Returning Officer, the District Election Officer himself shall be deemed to be the Returning Officer and shall perform all the functions of the Returning Officer under these rules. Every Assistant Returning Officer, shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer provided that, no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relate to the scrutiny of nominations unless the Returning Officer is unavoidably prevented from performing the said function.

56F. General duty of Returning Officer :-

It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided in these rules and bye-laws of the notified society or societies.

56G. Polling stations :-

The Returning Officer shall, if necessary, provide a sufficient number of polling stations for any constituency for which election is to be held and shall publish on the notice board of the society and in such other manner as he deems fit, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

56H. Appointment of Presiding Officers and Polling Officers :-

(1) The Returning Officer shall appoint a Presiding Officer for each polling station and such Polling Officer or officers as he thinks necessary, but shall not appoint any person who has been employed by the concerned society or on behalf of, or has been otherwise working for a candidate in or about the election :

Provided that, if a polling officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station, other than a person who has been employed by the concerned society or on behalf of, or who has been otherwise working for a candidate in or about the election, to be the polling officer during the absence of such officer, and shall inform the Returning Officer accordingly.

(2) A Polling Officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under the Act or these rules and bye-laws made thereunder.

(3) If the Presiding Officer, owing to illness or otherwise or due to unavoidable cause, is absent from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Presiding Officer, to perform such functions during his absence.

56I. General duty of Presiding Officer and Polling Officer :-

(1) It shall be the general duty of the Presiding Officer at a polling station to keep law and order and to see that the poll is fairly taken.

(2) It shall be the duty of the Polling Officers at a polling station to assist the presiding officer for such station in the performance of his functions.

(3) The Presiding Officer, Polling Officer, Returning Officer, Assistant Returning Officer and other persons appointed for any of the purposes of these rules shall work under the general guidance, superintendence and control of the District Election Officer or the Chief Election Officer.

56J. Appointment of dates etc., for various stages of an election :-

(1) The Returning Officer, with prior approval of the Registrar or the District Election Officer, as the case may be, shall draw and declare a programme of various stages of election, as indicated hereinbelow, not earlier than seven days and not later than fifteen days of the date of display of final list of voters of the society :- \ \

Explanation :- (a) If the last date in reckoning dates as specified in the above cases is a public holiday, the next succeeding working day shall be fixed for the respective events ; (b) The proportion of polling stations to number of voters at each polling station and the

place of polling station shall be fixed in consultation with the notified society concerned. In case the polling stations are spread over either the district, town or villages in the District, the Election Officer shall make arrangement to get all the ballot boxes to the office of the Returning Officer or to the registered office of the societies or to such other safe places as he deems fit.

56K. Manner of publication of election programme under Rule 56-J :-

(1) The Returning Officer shall send a copy of the election programme declared under Rule 56-J in Form M-3 to the society either by special messenger or the District Election Officer shall make arrangement to get all the ballot boxes to the office of the Returning Officer or to the registered office of the societies or to such other safe places as he deems fit.

(2) The time during which poll shall be taken should be mentioned in the election programme. The time of poll should not be earlier than 8-00 a.m. and later than 5.00 p.m.

(3) Wherever it is necessary to fix time, date and place for any stage in the election programme, it shall be fixed by the Returning Officer and shall be mentioned in the election programme declared by him

(4) Except with the previous approval of the District Election Officer, or the Chief Election Officer, as the case may be, the date fixed under this rule shall not be changed within 7 days of the date fixed for the poll :

Provided that, if due to any unavoidable circumstances and in the public interest, it has become imminent to modify the programme and there is no sufficient time for obtaining the previous approval of the District Election Officer, or the Chief Election Officer as the case may be to such modifications the Returning Officer may, for the reasons to be recorded in writing, modify the programme. In every such case the Returning Officer shall forthwith send a copy of the modified election programme along with the reasons recorded by him for such modification to the Chief Election Officer or the District Election Officer, as the case may be.

56L. Manner of publication of election programme under Rule 56-K :-

(1) The Returning Officer shall send a copy of the election programme declared under Rule 56-J in Form M-3 to the society either by special messenger or through post under certificate of posting addressed to the society at the registered address with instructions to display the copy of the programme on the notice board of the society. In addition, the said election programme shall be displayed on the notice board of the office of the Returning Officer, Registrar and the District Election Officer.

(2) The election programme shall also be published at least in one local daily newspaper for a society or class of societies at the discretion of the District Election Officer.

56M. Nomination of candidates :-

(1) Any person may be nominated as the candidate for election to fill a seat, if he is qualified to be chosen to fill that seat under the provisions of the Act, these rules and the bye-laws and if his name is entered in the list of voters :

Provided that, in case of joint or associate members, only the member whose name stands first in the share certificate shall be eligible to be nominated as candidate for the election. Where the seats are reserved on the committee of any notified society as provided under section 73-B of the Act, any individual belonging to the categories provided under sub-section (3) of section 73-B shall be eligible for being nominated as candidate even if his name does not appear in the list of voters.

(2) Every nomination paper presented under Rule 56-N, shall be completed in Form M-4 :

Provided that, a failure to complete or defect in completing the declaration as to symbols in a nomination paper, shall not be deemed to be a defect of a substantial character within the meaning of these rules.

(3) Any person whose name is entered in the list of voters may be a proposer or seconder for nominating a candidate for election :
Provided that in the case of election from constituency of societies, the proposer and the seconder shall be from the same constituency.

(4) A nomination paper shall be supplied by the Returning Officer to any voter on demand and on payment of such fees as determined by the District Election Officer:

Provided that, such nomination paper shall be supplied by the Returning Officer to any person desirous of contesting from the

constituency under section 73-B even if his name is not included in the list of voters.

56N. Presentation of nomination paper and requirements for valid nominations :-

(1) On or before the date appointed under Rule 56-J, each candidate shall either in person or by his proposer, deliver to the Returning Officer during the time and at the place specified in the programme declared under the said rule, a nomination paper completed as provided by Rule 56-M, and signed by the candidate and by two voters of his constituency one of whom shall be a proposer and the other seconder.

(2) Any person, who is not subject to any disqualification as a voter under the Act, these rules or bye-laws and whose name is entered in the list of voters for the constituency for which the candidate is nominated, may subscribe as proposer and seconder.

(3) In the case of a reserved seat under the provisions of section 73-B, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contain a declaration by him specifying the particulars of Scheduled Caste or Scheduled Tribe of which he is a member or the details of his income and land-holding during the year immediately preceding, in the case of members of weaker section.

(4) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and the number of candidate and his proposer and seconder are as entered in the list of voters excepting in the case of nomination paper presented under the provisions of sub-section (3) of section 73-B for reserved constituency. If a nomination paper is rejected under this rule, the Returning Officer shall record thereon his reasons for rejecting the same, and in that case, the candidate may deliver a fresh nomination paper subject however, to all the provisions of this rule :

Provided that, the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said names or number to be corrected in order to bring them into conformity with the corresponding entries in the list of voters and where necessary, and clerical or printing error in the said entries shall be overlooked.

56O. Symbols for elections :-

(1) The Returning Officer shall specify the symbols that may be chosen by the candidates at the election from among those specified by him, but he shall not allot any symbols which are associated with political parties.

(2) Where at any such election, more nomination papers than one are delivered by or on behalf of a candidate, the declarations as to symbols made in the nomination paper first delivered and no other declarations, as symbols, shall be taken into consideration under sub-rule (2) of Rule 56-M even if that nomination paper has been rejected.

56P. Deposit :-

A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited with the Returning Officer a sum of Rs. 25 in cash and where the candidate is of Scheduled Caste or Scheduled Tribe or of a weaker section, a sum of Rs. 5 :

Provided that, where a candidate has been nominated by more than one nomination paper for election in the same constituency not more than one deposit shall be required from him under this rule. However, the Chief Election Officer shall be competent to fix amount, from time to time, towards deposits as per aforesaid Rule by a candidate in the case of any society or class of societies in consideration of the financial standing membership etc., by general or special order.

56Q. Notice of nomination and time and place for the scrutiny :-

The Returning Officer shall on receiving the nomination paper under Rule 56-N inform the person or persons delivering the same, of the day, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper, its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him and shall as soon as may be therefore, cause to be affixed on the notice board in his office, a notice of the nomination containing descriptions as similar to those contained in the nomination papers, both the candidate and of the proposer.

56R. Scrutiny of nomination papers :-

(1) On the date fixed for the scrutiny of nomination papers under Rule 56-J, the candidates, one proposed of each candidate duly authorised in writing by each candidate, may attend at the time and place appointed in this behalf and the Returning Officer shall give or cause to give them all reasonable facilities for examining the nomination papers for all candidates which have been delivered as required by Rule 56-N. No other person shall be allowed to attend the scrutiny of nominations.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may either on such objections or on his own motion, after such summary inquiry, if any, as, he thinks necessary reject any nomination on any of the following grounds, this is to say :-

(a) that the candidate is disqualified for being chosen to fill the seat by or under the Act, these rules and the bye-laws ;

(b) that the proposer is disqualified from subscribing a nomination paper;

(c) that there has been failure to comply with any of the provisions of Rule 56-N or 56-P;

(d) that the signature of the candidate or the proposer or the seconder on the nomination paper is not genuine.

(3) Nothing contained in clause (c) or (d) of sub-rule (2) shall be deemed to authorise the rejection of the nominee of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under Rule 56-J, and shall not allow any adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control :

Provided that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it, not later than the next day, and the Returning Officer shall record his decision on the date to which the

proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection, and a copy of such statement shall be immediately supplied on demand to the candidate or to the proposer concerned. The copy of such statement shall be sent invariably to the Registrar or to the district Election Officer, as the case may be.

56S. Publication of list of valid nominations :-

Immediately after all the nomination papers have been scrutinised and decision accepting or rejecting the same has been recorded, the Returning Officer shall prepare a list of candidates whose nominations have been accepted or rejected. Immediately on the day after the scrutiny is over, the Returning Officer shall affix the list on his notice board and shall record the date on which and the time at which, the list was so affixed :

Provided that, the Returning Officer shall be competent to include the names of candidates whose nominations are subsequently held valid, after the period of appeal by the competent authorities.

56T. Withdrawal of candidature :-

(1) Any candidate may withdraw his candidature by application in writing and deliver it personally to the Returning Officer within the stipulated time as specified in the election programme.

(2) No person who has given an application of withdrawal of his candidature shall be allowed to cancel the application.

56U. Preparation of list of contesting candidates :-

(1) On the day next succeeding the last date fixed for withdrawal of candidature, the Returning Officer shall prepare and publish in Form M-5, a list of contesting candidates which means the candidates whose names have been finally accepted and who have not withdrawn their candidatures with the prescribed time on the notice board of his office.

(2) The said list shall contain the names in alphabetical order with reference in the names of candidates having surnames and the

names proper of other candidates, in the language in which the list of voters is prepared and the addresses of the contesting candidates as given in the nomination papers.

(3) Where a poll becomes necessary, the Returning Officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall ,-

(a) allot a different symbol to each contesting candidate in conformity as far as practicable, with his choice ; and

(b) if more than one contesting candidates have indicated their preference for the same symbol, decide by lot and such allotment shall be final.

(4) Every candidate shall forthwith be informed of the symbol allotted to him and be supplied with a specimen thereof by the Returning Officer.

56V. Appointment of Polling Agents and Counting Agents :-

(1) At an election at which a poll is to be taken, any contesting candidate may appoint one agent and one relief agent to act as Polling Agents of such candidate, at each polling station. Such appointment shall be made by a letter in writing in Form M-6, signed by the candidate.

(2) The candidate shall deliver the letter of appointment to Polling Agents who shall on the date fixed for the poll, present it to and sign the declaration contained therein, before the Presiding Officer. The Presiding Officer shall retain a letter presented to him in his custody. Polling Agent shall not be allowed to perform any duty at the Polling Station unless he has complied with the provisions of this rule.

(3) The Polling Agents may work as Counting Agents as per the authority given by the candidate in Form M-7.

(4) Each contesting candidate may appoint not more than two agents to act as Counting Agents of such candidate by a letter in writing in duplicate in Form M-8, signed by the candidates. Before the commencement of the counting of votes, the candidate shall give notice of the appointment of such Counting Agents to the Returning Officer by forwarding to such Officer the letter of appointment. The candidate shall also deliver the duplicate copy of the letter of appointment to the Counting Agent who shall, on the date fixed for the counting of votes, present it to, and sign the declaration contained therein before the Returning Officer. The

Returning Officer shall retain the duplicate copy presented to him in his custody. No Counting Agent shall be allowed to perform any duty at the place fixed for the counting of votes, unless he has complied with these provisions.

56W. Death of candidate before poll :-

If a contesting candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of candidate, countermand the poll and where the Returning Officer is not the District Election Officer himself, shall report the fact to the District Election Officer along with the proceedings with reference to the election, and the election shall be commenced in all respects as if for a new election:

Provided that, no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that, no person who have given a notice of withdrawal of his candidature under Rule 56-T before the countermanding of the poll, shall be eligible for being nominated as a candidate for the election after such countermanding.

56X. Uncontested elections :-

If after the expiry of the period within which candidatures may be withdrawn under Rule 56-T, the number of candidates in the constituency whose nominations have been accepted as equal to or less than number of seats to be filled, the Returning Officer shall forthwith declare such candidate or all such candidates to be duly elected to fill the seat or the relevant number of seats, as the case may be, and shall complete and certify the declaration in Form M-9 and where the Returning Officer is not the District Election Officer himself, he shall send signed copies thereof to the District Election Officer.

56Y. Manner of voting at elections :-

At every election where a poll is taken, votes shall be given by secret ballot in the manner hereinafter provided and no votes shall be allowed by proxy.

56Z. Ballot Box :-

Every ballot box shall be of such design as may be approved by the Chief Election Officer.

56A1. Form of ballot paper :-

Every ballot paper shall be in Form M-10 and the names of candidates shall be arranged in the same order in which they appear in the list of contesting candidates. However, if two or more candidates bear the same, name, they shall be distinguished by addition of their occupation or residence or in some other manner which should be determined by the Returning Officer.

56A2. Arrangement at Polling Stations :-

(1) Outside each polling station, there shall be - (a) notice specifying the polling area, the voters of which are entitled to vote at the polling station and where the polling station has more than one polling booth, at each of such booth, the description of the voters allotted to such booth ; and (b) a copy of the list of contesting candidates.

(2) At each polling station, there shall be set up, one or more voting compartments in which voters can record their votes screened from reservation.

(3) The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, ballot papers, copies of the list of voters in respect of the polling area or areas the voters of which are entitled to vote at such polling station, instruments for stamping the distinguished mark on ballot papers and articles necessary for voters to mark the ballot papers. The Returning Officer shall also provide at each polling station such oilier equipment and accessories as may be required for taking the poll at such polling station.

56A3. Admission to Polling Station :-

The Presiding Officer shall regulate the number of voters to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than ,-

(a) Polling Officers,

(b) public servants on duty in connection with the election,

(c) persons authorised by the Chief Election Officer, District Election Officer or the Returning Officer,

- (d) candidates, their polling agents, and subject to the provisions of Rule 56-V, one polling agent of each candidate.
- (e) a child in arms accompanying a voter,
- (f) a person accompanying a blind or infirm voter who cannot move without help,
- (g) such other persons as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the voter.

56A4. The preparation of ballot boxes for poll :-

- (1) Where a paper seal is used for securing a ballot box, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the polling agents present and are desirous of affixing the same.
- (2) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefor in the ballot box and shall then secure and seal the box in such manner that the slit for the insertion of ballot paper remains open.
- (3) The seal used for securing a ballot box shall be affixed in such manner that after the box has been closed, it is not possible to open it without breaking the seals.
- (4) Where it is not necessary to use paper seals for securing the ballot box, the Presiding Officer shall secure and seal the ballot box in such a manner that the slit for the insertion of ballot papers remains open and shall allow the Polling Agents present to affix, if they so desire, their seals.
- (5) Every ballot box used at a polling station shall bear the seal both inside and outside marked with , -
 - (a) the serial number, if any, and the name of constituency,
 - (b) the serial number and name of the polling station,
 - (c) the serial number of the ballot box to be filled in at the end of the poll on the label outside the ballot box only, and
 - (d) the date of poll.
- (6) Immediately before the commencement of the poll, the Presiding Officers shall demonstrate to the polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (5) of this rule.
- (7) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the Polling Agents.

56A5. Identification of voters :-

(1) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the voters or to assist him at the time of taking poll.

(2) As each voter enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf, shall check the voters name and other particulars with the relevant entry in the list of voters and then call out the serial number, name and other particulars of the voter.

(3) In deciding the right of a person to obtain a ballot paper, the Presiding Officer or the Polling Officer, as the case may be, shall overlook clerical or printing errors in any entry in the list of voters, if he is satisfied that such person is the same voter whom that entry relates.

56A6. Challenging of identity :-

(1) Any Polling Agent may challenge the identity of a person claiming to be a particular voter by depositing sum of Rs. 2 in cash with the Presiding Officer for each such challenge.

(2) On such deposit being made, by that person, the Presiding Officer shall , -

(a) warn the person challenged of the penalty for personation ;

(b) read the relevant entry in the list of voters in full and ask him whether he is the person referred to in that entry ;

(c) enter his name and address in the list of challenged voters in Form M-I 1 ; and

(d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter, hold a summary inquiry into the allegations and may for that purpose -

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity ;

(b) put to the person challenged any question necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence ;

(d) if, after the enquiry, the Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote, and if he considers that the challenge has been

established, he shall debar the person challenged from voting ;

(e) if the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that deposit made under sub-rule (1) be forfeited to the State Election Fund and in the other case, he shall return it to the challenger at the conclusion of the enquiry.

56A7. Safeguard against personation :-

(1) With a view to prevent the personation of voters, every voter about whose identity the Presiding Officer or the Polling Officer as the case may be, is satisfied shall allow his left thumb to be inspected by the Presiding Officer or the Polling Officer and an indelible ink mark to be put on it.

(2) If any voter refuses to allow his left thumb to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left thumb or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed vote.

(3) Any reference in this rule to the left thumb of a voter, shall, in the case, where the voter has his left thumb missing, be construed as a reference to any other finger, or his left hand and shall, in the case where all the fingers of his left hand are missing be construed as a reference to the thumb or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing, be construed as reference to such extremity of his left or right arm as he possesses.

56A8. 56-A8. Issue of ballot paper :-

(1) No ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll.

(2) No ballot paper shall be issued to any voter after the hour fixed for the closing of the poll, except to those voters, who are present at the polling station at the time of the closing of the poll. Such voters shall be allowed to record their votes even after the poll hours close.

(3) Every ballot paper shall before issue to a voter be,-

(a) stamped with such distinguishing mark as the District Election Officer may direct; and

(b) signed in full in its back by the Presiding Officer.

(4) At the time of issuing a ballot paper to a voter, the Polling Officer shall record the serial number thereof against the entry relating to the voter in the copy of the list of voters set a part for the purpose.

(5) Save as provided in sub-rule (4), no person in the polling station shall note down the serial numbers of the ballot papers issued to particular voters.

56A9. 56-A9. Voting Procedure :-

The voter on receiving the ballot paper shall forthwith :-

- (a) proceed to one of the polling compartments ;
- (b) there make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbols of the candidate for whom he intends to vote ;
- (c) fold the ballot paper, so as to conceal his vote ;
- (d) if required, show the Presiding Officer the distinguished mark on the ballot paper;
- (e) insert the folded ballot paper into the ballot box ;
- (f) quit the polling station ; and
- (g) no voter shall be allowed to enter a polling compartment when another voter is inside it.

56A10. 56-A10. Procedure for voting where there are no separate constituencies or more than one seat to be filled in one constituency :-

In case where there are no constituencies defined in the bye-laws or where more than one seat is authorised in the bye-laws for a constituency, voting in so far as these seats are concerned shall be recorded in accordance with the following provisions, namely :-

- (a) every voter shall be entitled to give as many votes as there are seats for filling, which votes are to be taken but no voter shall give more than one vote to any one candidate ;
- (b) the voter shall make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbols of the candidate or candidate for whom he intends to vote, so however, that no part of any mark so made shall appear in the space provided for other candidates. The voter shall thereafter fold the marked ballot paper, so as to conceal his vote and insert the folded ballot paper into the ballot box and without undue delay leave the polling station.

56A11. Recording of vote of blind or infirm voter :-

(1) If the Presiding Officer is satisfied that, owing to blindness or other physical infirmity, a voter is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the voter to take with him a companion of not less than twenty one years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and if necessary for holding the ballot paper so as to conceal the vote and inserting it into the ballot box ;

Provided that, no person shall be permitted to act as the companion of more than one voter at any polling station on the same day :

Provided further that, before any person is permitted to act as the companion of voter on any day under this rule, he shall be required to declare in Form M-12 that he shall keep secret the vote recorded by him on behalf of the voter and that he has not already acted as the companion of any other voter at any polling station on that day.

(2) The Presiding Officer shall keep a record in Form M-13 of all such cases under this rule.

56A12. Spoilt and Returned ballot papers :-

(1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper and the ballot paper so returned shall be marked, Spoilt cancelled by the Presiding Officer.

(2) If a voter after obtaining a ballot paper decides not to use it, he shall return it to the Presiding Officer, and the ballot paper so returned shall be marked as Returned cancelled by the Presiding Officer.

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

56A13. Tendered votes :-

(1) If a person representing himself to be a voter applies for a ballot paper after another person has already voted as such voter, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled to the following provisions of this rule, to mark a ballot paper (hereinafter referred to as a tendered ballot paper) in the same manner as any other voter.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in Form M-14.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling station, except that it shall be , -

(a) serially the last in the bundle of the ballot papers issued for use at the polling station, and

(b) endorsed on the back with the words tendered ballot paper by the Presiding Officer in his own handwriting and signed by him.

(4) The voter, after marking a tendered ballot paper in the polling compartment, and folding it, shall, instead of putting it into the ballot box, give it to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

56A14. Closing of poll :-

(1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under Rule 56-K. and shall not thereafter admit any voter into the polling station :

Provided that, all voters present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether a voter was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

56A15. Sealing of ballot boxes after poll :-

(1) As soon as practicable after closing of the poll, the Presiding Officer shall, in the presence of any candidates or their polling agents, close the slit of the ballot box and where the ballot box does not contain any mechanical device, for closing the slit, he shall seal up the slit and also show any polling agent present, to affix his seal.

(2) The ballot box shall thereafter be sealed and secured.

(3) Where it becomes necessary to use a second ballot box by reason of the first box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into the use.

56A16. Account of ballot papers :-

(1) The Presiding Officer shall at the close of the poll prepare a ballot paper account in Form M-15 and enclose it in a separate cover with the words Ballot papers account superscribed thereon.

(2) The Presiding Officer shall permit a polling agent, who so desires to take a true copy of the entries made in the ballot paper account and shall attest it as true copy.

56A17. Sealing of other packets :-

The Presiding Officer shall then make into separate packets :-

- (a) the marked copy of the list of voters,
- (b) the unused ballot papers,
- (c) the cover containing the tendered ballot papers and the list of the tendered ballot papers,
- (d) the list of challenged votes, and
- (e) any other papers directed by the Returning Officer to be kept in a sealed packet.

(2) Each such packet shall be sealed with the seals of the Presiding Officer and those polling agents present, who may desire to affix their seal thereon.

56A18. Transmission of ballot boxes, packets, etc., to the Returning Officer :-

(1) The Presiding Officer shall then deliver or cause to be delivered the following to the Returning Officer at such places as the Returning Officer may direct :-

- (a) the ballot boxes,
- (b) the ballot paper account,
- (c) the sealed packets referred to in Rule 56A-16 of these rules, and
- (d) all other papers used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and

for their safe custody until the commencement of the counting of votes.

56A19. Fresh poll in case of destruction etc., of ballot boxes :-

(1) If at any election ,-

(a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at the polling station cannot be ascertained, or

(b) any such error or irregularity in the procedure as it likely to vitiate poll is committed at a polling station, the Returning Officer (where the District Election Officer himself is not the Returning Officer) shall forthwith report the matter to the District Election Officer.

(2) The District Election Officer upon receipt of such report, or of his own motion in the circumstance stated in sub-rule (1) of this rule after taking into consideration all material circumstances, either ,-

(a) declare the poll at the polling station to be void, appoint a day and fix the hours, for taking a fresh poll at that polling station and notify the day, so appointed and the hours, so fixed in such manner as may deem fit, or

(b) if satisfied that, the result of a fresh poll at that polling station will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, then he may issue such directions to the Returning Officer or take such action as he may deem proper for the election.

(3) The provisions of the Act and the rules or bye-laws made thereunder shall apply to every such fresh poll as they apply to the original poll.

56A20. Counting of votes :-

At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of the Returning Officer and each contesting candidate and his counting agents shall have a right to be present at the time of counting.

56A21. Admission to the place fixed for counting :-

(1) The Returning Officer shall exclude from place fixed for counting of votes all persons except , -

(a) such persons as he may appoint to assist him in the counting ;

(b) persons authorised by the District Election Officer;

(c) public servants on duty in connection with the election ; and

(d) candidates, and their counting agents.

(2) No person, who has been employed by the society or has been otherwise working for a candidate in the election, shall be appointed under clause (a) of sub-rule (1).

(3) The Returning Officer shall decide, which Counting Agent or Agents shall watch the counting at any particular counting table or group of counting tables.

(4) Any person, who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer, may be removed from the place where the votes are being counted by the Returning Officer, or by any police on duty or by any person authorised in this behalf by the Returning Officer.

56A22. Scrutiny and opening of ballot boxe.-, :-

(1) The Returning Officer may have the ballot boxes used at more than one polling station opened and their contents counted simultaneously.

(2) Before any ballot box is opened at a counting table the Counting Agents present at that table shall be allowed to inspect the paper seal or such other seal as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The Returning Officer shall satisfy himself that none of the ballot boxes has in fact been tampered with. He shall not count the ballot papers contained in tampered box and shall follow the procedure laid down in Rule 56-A19 in respect of that polling station.

56A23. Scrutiny and rejection of ballot papers :-

:

(1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised.

(2) The Returning Officer shall reject a ballot paper , - (a) if it bears any mark or writing by which the voter can be identified, or

- (b) if no vote is recorded thereon, or
 - (c) if votes are given on it in favour of more than one candidate where only one candidate is to be elected, or
 - (d) where more than one candidate is to be elected, if the voter has recorded on the ballot paper more votes than he is entitled to give ; or
 - (e) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which the candidate vote has been given, or
 - (f) if it is a spurious ballot paper, or
 - (g) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established, or
 - (h) if it bears a serial number, or is of a design different from the serial number or, as the case may be, design of the ballot papers authorised for use at the polling station.
 - (i) if it does not bear the mark which it have borne under the provisions of sub-rule (3) of Rule 56-A8 : Provided that ,-
 - (i) where a Returning Officer is satisfied that any such defect as is mentioned in clause (g) or (h) of this sub-rule has been caused by any mistake or failure on the part of the Presiding Officer or the Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect;
 - (ii) a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked ;
 - (iii) before rejecting any ballot paper under sub-rule (2) of this rule, the Returning Officer shall allow each Counting Agent present a reasonable opportunity to inspect the ballot paper.
- (3) The Returning Officer shall record on every ballot paper which he rejects the letter R and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp.
- (4) All ballot papers rejected under this rule shall be bundled together.

56A24. Procedure for counting of votes :-

- (1) Every ballot paper which is not rejected under Rule 56-A23 shall be counted as one valid vote provided that, no cover containing tendered ballot papers shall be .opened and no such paper shall be counted.

(2) After the counting of all ballot papers contained in all the ballot boxes used at a polling station has been completed, the Returning Officer shall make the entries in a result sheet in Form M-16 and announce the particulars.

(3) The valid ballot papers shall thereafter be bundled together and kept along with the bundle of rejected ballot papers in a separate packet which shall be sealed and on which the following particulars shall be recorded, namely :

(a) the name of the constituency ;

(b) the particulars of the polling station where the ballot papers have been used; and

(c) the date of counting.

56A25. Counting to be continuous :-

The Returning Officer shall, as far as practicable proceed continuously with the counting of votes and shall, during any intervals when the counting has to be suspended, keep the ballot paper, packets and other papers relating to the election sealed with his own seal and the seals of such candidates or counting agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody during such intervals.

56A26. Procedure for counting of votes where there are no separate constituencies or more than one seat to be filled in one constituency :-

In cases where there are no constituencies defined in the bye-laws or where more than one seat is authorised in the bye-laws for a constituency, counting of votes for these seats shall be done in the following manner, namely :

(a) The counting of votes shall be done by and under the supervision of the Returning Officer, with the assistance of such persons as he may appoint to assist in the counting of votes.

(b) After each ballot box is opened for counting clearly valid voting papers shall be separated from invalid and doubtful voting papers. The invalid and doubtful voting papers shall be submitted to the Returning Officer for decision. The valid voting papers shall thereafter be taken for counting and the votes recorded in favour of each candidate shall be counted with the aid of person appointed to assist the counting of votes.

(c) The Returning Officer shall allow the candidates and their counting agents, who be present, reasonable opportunity to inspect

all voting papers which in the opinion of the Returning Officer are liable to be rejected but shall not allow them to handle those or any other voting papers. The Returning Officer shall on every voting paper which is rejected endorse the letter R. If any candidate or his counting agent questions the correctness of the rejection of any voting paper, the Returning Officer shall also record briefly on such voting paper the ground for its rejection.

(d) After the counting of all voting papers contained in all the ballot boxes used has been completed, the Returning Officer shall cause to be sealed up in separate packets with a description endorsed on each such packet of the voting papers counted and that voting papers rejected.

(e) The Returning Officer shall as far as practicable proceed continuously with the counting of the votes and shall during any intervals when the counting has to be suspended, keep the voting papers, packets and other documents relating the election sealed with his own seal and the seal of such candidate or counting agents as may desire to affix their seals and shall cause adequate precautions to be taken for their safe custody.

(f) After the counting of ballot papers contained in all the ballot boxes used at the polling station had been completed, the Returning Officer shall prepare a consolidated statement recording therein the total number of votes polled by each candidate.

56A27. Recommencing of counting after fresh poll :-

:-

(1) If a fresh poll is held under Rule 56-A19, the Returning Officer shall after completion of that poll recommence the counting of votes on the date and at the time and place which have been fixed by him in that behalf and of which notice has been previously given to the candidates.

(2) The provisions of Rules 56-A23 and 56-A24 shall apply so far as may be to such further counting.

56A28. Recount of votes :-

(1) After the completion of counting the Returning Officer shall record in the result sheet in Form M-16 the total number of votes polled by each candidates and announce the same :

Provided that, when an equality of votes is found to exist between any candidates either for the reserved or the unreserved seats and

the addition of one vote will entitle any of the candidate to be declared elected, the determination of the person or persons to whom such additional vote shall be deemed to have been given shall be made by lots to be drawn in the presence of the Returning Officer and the candidates who may desire to be present, and in such manner as the Returning Officer may determine.

(2) After such announcement has been made, a candidate or, in his absence, his Polling Agent may apply in writing to the Returning Officer for a recount of all or any of the ballot papers already counted stating the grounds on which he demands such recount.

(3) On such application being made, the Returning Officer shall decide the matter and may allow the application in whole or in part or may reject totally, if it appears to be frivolous or unreasonable.

(4) Every decision of the Returning Officer under sub-rule (3) shall be in writing and contain the reasons therefor.

(5) If the Returning Officer decides under sub-rule (3) to allow an application either in whole or in part, he shall , -

(a) count the ballot papers again in accordance with his decision ;

(b) amend the result sheet in Form M-16 to the extent necessary after such recount; and

(c) announce the amendment so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the Returning Officer shall complete and sign the result sheet in Form M-16 :

Provided that, no steps under this sub-rule shall be taken on the completion of the counting until the candidates present at the completion thereof have been given a reasonable opportunity to exercise the rights conferred by sub-rule (2).

56A29. Declaration of result and publication of names of the members of the committee :-

The Returning Officer shall then declare the candidate to whom the highest number of valid votes has been given as having been elected and certify the return of election in Form M-17 and where the District Election Officer himself is not the Returning Officer shall send signed copies thereof to the District Election Officer. On receipt of the declaration, the District Election Officer shall publish the names of all elected committee members by causing a list of such names together with their permanent addresses and the names of constituencies from which they are elected on the notice board of his office and shall send a copy thereof to the registered

address of the society concerned for affixing it on the notice board and also for its record. The District Election Officer shall send a list of the elected committee members of the Chief Election Officer.

56A30. Return of forfeiture of candidates deposit :-

(1) The deposits made under Rule 56-P shall either be returned to the person making it or representative heir or be forfeited to the State Election Fund in accordance with the provisions of sub-rule (3) of Rule 56-A6.

(2) Except in cases hereinafter mentioned in this rule, deposit shall be returned as soon as practicable after result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates, or he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-rule (3), the deposit shall be forfeited to the State Election Fund, if at an election, where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-tenth of the total number of valid votes polled by all the candidates or in the case of election of more than one member at the election one-tenth of the total number of valid votes, so polled divided by the number of members to be elected.

56A31. Custody of papers relating to elections :-

The Returning Officer shall have the custody of packets referred to in Rule 56-A17 and all other papers relating to the elections for a period of 3 months from the date of declaration of result and such packet shall be handed over to the Election Officer.

56A32. Production and inspection of election papers :-

(1) While in custody of District Election Officer -

(a) the packets of unused ballot papers,

(b) the packets of used ballot papers whether valid, tendered or rejected,

(c) the marked copies of the voters list, shall not be opened and their contents shall not be inspected by or produced before any

person or authority except under the order of the Court or other competent authority.

(2) All other papers relating to the election shall be open to public inspection.

56A33. Disposal of election papers :-

: The packet referred to in Rule 56-A32 shall be retained for a period of one year and shall thereafter be destroyed subject to any directions to the contrary given by the Court or other competent authority.

56A34. Casual vacancies how to be filled in :-

In the event of vacancy occurred on account of death, resignation or otherwise, it shall be filled in by the society, according to the provisions of bye-laws of the society.

56A35. Election of office bearers :-

As soon as the members of the committee are elected and necessary co-option or appointment as the case may be, of members to the reserved seats under section 73-B or 73-BB, as the case may be, or wherever such election is due, the election of the officer or officers of any such notified society shall be held as provided in its bye-law but any meeting of the committee for this purpose shall be presided over by the Registrar or an officer nominated by him in his behalf.

CHAPTER 6 Management of Societies

57. Prohibition against being interested in contracts, etc :-

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

(a) in any contract made with or by the society ; or

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

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

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

57A. Motion of no-confidence against the officers of the society :-

:-

(1) The requisition to all the special meeting of the committee of a society to consider a motion of no-confidence against the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer, or other officer of the society, by whatever designation called, who holds office by virtue of his elections to that office shall be made in Form M-18. The requisition shall be accompanied by ,-

- (a) the grounds of no-confidence,
- (b) the text of the motion of no-confidence to be moved,
- (c) the names of the committee members who shall move the motion of no-confidence.
- (d) a list of members of the committee specifying their full names, addresses and who are, for the time being, entitled to sit and vote at any meeting of the committee.
- (e) signatures of the members of committee who are signing the requisition duly attested by the Chief Executive Officer of the society, or Special Executive Magistrate or Executive Magistrate or any Gazetted Officer of the Government.

(2) The requisition referred to in sub-rule (1) shall be delivered in person to the Registrar. Such requisition or requisitions shall be delivered in duplicate in each case. The Registrar on ascertaining that the requisition or requisitions, as the case may be, have been signed by not less than 1/3rd members of the Committee who for the time being are entitled to sit and vote in any meeting of the committee of society -

- (a) receive and acknowledge the requisition under his signature with date and time,
- (b) issue notice, within 7 days from the date of receipt of the requisition, convening the special meeting for that purpose specifying therein place, date, time, name and designation of the officer who shall be presiding over such meeting, to all the members of the Committee, the presiding officer and the Managing Director, General Manager, Manager, paid Secretary, Group Secretary or such employee of the society, to whom the Registrar has directed to produce minute book of Committee meetings of the society. This notice of no-confidence, shall also be issued, to the officer or officers against whom the motion of no-confidence is being moved, and shall be accompanied by the copy of the requisition along with enclosures and agenda,

(c) the Registrar shall direct the Managing Director, General Manager, Manager, Paid Secretary, Group Secretary, or any other employee to deliver in person the minute book of the Committee meetings on the date, time and place of the meeting, to the Presiding Officer,

(d) The Registrar shall send a notice under certificate of posting to all the persons concerned. However, he shall serve or cause to be served the notice on the officer or officers against whom the motion of no confidence is proposed to be moved through the special messenger or the officer or officers, as the case may be, or in his or their absence on any adult member of his or their families at the place of residence. If for some reason it is not possible to serve the notice, the authorised person in this behalf, shall in presence of two witnesses, affix such notice on any conspicuous place of the residence.

(e) Copies of this notice shall be displayed on the Notice Board of the Registrar, the Presiding Officer and the society. Such display of the notice on the notice board of the Registrar and the Presiding Officer shall be the conclusive proof that such notice has been served on all concerned.

(3) Notwithstanding anything contained in the bye-laws of the society regarding the procedure for convening and holding meeting and recording of minutes, the procedure adopted by the Registrar, the Presiding Officer and the Authorised Officer under sub-rule (2), shall be deemed to be the proper procedure under the provisions of bye-laws of the society.

(4) If the Registrar deems it necessary, he shall require any officer of the society to furnish any information to him and it shall be obligatory on the part of such officer to furnish such information. On failure of the officer to furnish the information, the Registrar may get it through any person authorising in that behalf. This failure on the part of the officer of the society shall be construed as non-compliance of provisions as contemplated under sub-section (1) of section 79. However, in case of the officer of the society who holds that office by virtue of his election, including the member of the committee of management, it shall be construed as breach of provisions under sub-section (1) of section 79 and negligence of performance of duties imposed by the Registrar as contemplated under sub-section (1) of section 78.

(5) The time of the meeting shall be between office hours of the authorised officer. The meeting shall be held either in the office of the society or at any other place which may, as far as possible, be a

public place or any other place specified by the District Deputy Registrar.

(6) No other subject, except the motion or motions of no-confidence shall be kept on the agenda.

(7) The Registrar or the officer authorised to preside over the meeting shall ,-

(a) announce or cause to be announced the commencement of the meeting;

(b) take possession of the minute book of the committee meetings from the officer of the society. However, for some reasons, if it is not possible for him to take possession of the minute book of the committee meetings of the society, at the commencement of the meeting, he shall record proceedings in the register kept for that purpose in his office. The text of the minutes of the meeting recorded in the minute book kept in the office of the Registrar shall be incorporated in the minute book of the society.

(c) record the date, time, place, names of members of the committee present at the commencement of the meeting, in the minute book of the society kept by him, as the case may be, in his own hand and cause all the members of the committee who are present to sign it and it shall be obligatory on their part to do so. The signature of the members on the minute book shall be the concrete proof of their attendance ;

(d) not allow any other person to enter the place of meeting except the person or persons appointed to assist him, the officer of the society who has produced the minute book, the officer or officers against whom the motion of no-confidence is moved, the members of the committee who are for the time being entitled to sit and vote in any meeting of the committee, who are present at the commencement of the meeting and police officer or officers, if called by him to maintain the law and order;

(e) record or cause to be recorded the proceedings of the meeting and thereafter allow those members who desire to sign the proceedings. Signature of the members on the minute book shall be the conclusive proof of their attendance ;

(f) not allow the discussions on any other subject than the subject on agenda :

(g) declare the motion or motions as rejected and take a note to that effect with reasons in the minute book under the following circumstances ,-

(i) if no member of the committee is present,

(ii) none of the members of the committee, who are present refuse

to sign the requisition.

(iii) 2/3rd members are not present at the commencement of the meeting (if 2/3rd is fraction, it shall be rounded to next higher number).

(h) (i) read or cause to be read the text and grounds of no-confidence motion and allow any of the members, who have signed the requisition to move the motion and to speak in support of the motion.

(ii) allow the member against whom no-confidence motion is moved any other member on his behalf to defend.

(i) put the motion to vote and declare the results as laid down in subsection

(6) of section 73-ID.

(j) the Presiding Officer shall not speak or give any decision on the merit or otherwise of no confidence motion.

(k) issue certificate in Form M-19 in favour of the society.

58. Disqualification for membership of committee :-

1 :-

(1) No person shall be eligible for appointment or election nomination or co-option or being continued as member of the committee or District Loan Committee of State Land Development Bank, if he is in default to any society, in respect of any dues from him either as borrower or is a defaulter within the meaning of section 73-FF or has incurred disqualification under clauses (ii), (iii), (iv),

(v) and (vi) of sub-section (1) of section 73-FF. (2) When any member incurs disqualification as mentioned in sub- rule (1) the Chief Executive Officer or whatsoever name called, shall communicate the members that he has ceased to be a member of the committee, under certificate of posting. The Chief Executive Officer shall also report along with a copy of communication to the Registrar and also affix a copy thereof on the notice board of the society. The publication of such copy of the notice of the receipt of such copy of the notice in the office of the Registrar, shall be the conclusive proof of the fact that the person has duly received the communication. When any member ceased to be a member of the committee, the seat of such member shall be deemed to have fallen vacant from the date of such communication. The society shall not allow such persons to exercise any powers, enjoy any rights and privileges and perform functions as member of the

committee, under the Act and the rules and bye-laws made thereunder. If the Chief Executive Officer fails to take action as contemplated above, the Registrar shall after giving an opportunity to the person disqualified, issue communication of cessation of membership of such person from the committee of the society under certificate of posting and also by publishing a copy on the notice-board of his office.]

1. Substituted by G. N. No. CSL.1186/134313/132/ISC (i), dated 16th October, 1987.

59. First general meeting :-

(1) Within three months from the date of registration of a society, the chief promoter thereof, shall convene the first general meeting of all persons who had joined in the application for registration of the society. Where the chief promoter fails to convene the meeting as aforesaid, it shall be convened by any person authorised in that behalf by the Registrar.

(2) At the first general meeting, the following business shall be transacted :-

- (i) Election of a President for the meeting ;
- (ii) Admission of new members ;
- (iii) Receiving a statement of accounts and reporting all transactions entered into by the promoter upto 14 days before the meeting ;
- (iv) Constitution of a provisional committee until regular elections are held under the bye-laws. The provisional committee shall have the same powers and functions as the committee elected in accordance with the bye-laws ;
- (v) Fixing the limit upto which the funds may be borrowed ;
- (vi) Any other matter which has been specifically mentioned in the bye-laws.

60. General meetings :-

(1) All general meetings of a society excepting the first general meeting shall be convened by the Secretary or any other officer authorised by and under the bye-laws to convene such meetings under intimation to the Registrar, who may attend such meetings or authorise some person to attend such meetings on his behalf.

The President of the society or in his absence the Vice President or, in the absence of both, a member elected by the members present at the meeting shall preside over the meeting unless the bye-laws specify that the President of the meeting should be elected by the meeting

(2) No general meeting shall be held or proceeded with unless the number of members required to form a quorum as specified in the bye-laws are present.

(3) The Secretary or any other officer convening the meeting shall read out the notice convening the meeting and the agenda for the meeting and then the subjects shall be taken up for consideration in the order in which they are mentioned in the agenda unless the members present, with the permission of the President, agree to change the order. Unless otherwise specified in the Act, these rules and bye-laws, the resolutions will be passed by a majority of the members present. The President will have a casting vote.

(4) When the members are divided on any resolution, any member may demand a poll. When a poll is demanded the President shall put the resolution to vote.

(5) Voting may be by show of hands or by ballot as maybe decided by the members present at the meeting, unless otherwise specified in the bye- laws. Notwithstanding anything contained in the bye-laws, election of office bearers of a society having members share capital in excess of Rs. 10,000, including Government share capital, if any, shall be by ballot.

(6) When voting is to be by ballot, the President shall take necessary steps for the issue of ballot papers and counting of votes.

(7) The result of the voting shall be announced by the President.

(8) If all the business in the agenda cannot be transacted on the date on which the general meeting is held, the meeting may be postponed to any other suitable date not latter than 30 days from the date of the meeting as may be decided by the members present at the meeting.

(9) The remaining subject or subjects on the agenda shall be taken up for consideration at the postponed meeting.

(10) If the general meeting cannot be held for the want of quorum, it shall be adjourned to a latter hour on the same day as may have been specified in the notice calling the meeting or to a subsequent date not earlier than seven days and at such adjourned meeting the business on the agenda of the original meeting shall be transacted whether there is a quorum or not.

(11) No resolution regarding expulsion of a member of the society,

removal of a member of the committee or amendment of bye-laws shall be brought forward in any general meeting, unless due notice thereof is given in accordance with the provisions of the Act, these rules and the bye-laws of the society.

61. Annual statements of accounts including balance sheet, etc. :-

Within forty-five days of the close of every co-operative year, or within such extended period, as may be specified by the Registrar, in the case⁹⁴ of any society or class of societies, the committee of every society shall prepare annual statements of accounts showing

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(i) receipts and disbursements during the previous co-operative year;

(ii) the profit and loss account for the year, and

(iii) the balance sheet as at the close of the year. These statements of accounts shall be open to inspection by any member during office hours at the office of the society and a copy thereof shall be submitted, within fifteen days from the date of preparation, to the auditor appointed by the Registrar for the audit of that society.

62. Form for the balance sheet and the profit and loss account: :-

(1) The balance sheet and the profit and loss account to be laid before the annual general meeting of a society by the committee shall ordinarily be in FORM N :

Provided that, it shall be competent for the Registrar to permit a society or class of societies to adopt such other form as he may deem fit.

(2) A copy of the balance sheet and the profit and loss account to be presented at the annual general meeting under sub-section (2) of section 75 and a copy of the report of the committee under sub-section (3) of section 75 shall be fixed on the notice board of the society at least fourteen days before the date fixed for the annual general meeting.

63. Power to call annual and special general meetings :-

If the annual general meeting of a society is not called in accordance with the provisions of section 75 or if the chairman or a

majority of the committee of a society fail to call a special general meeting in accordance with the provisions of section 76, the Registrar may authorise any person subordinate to him or any officer or employee of a federal society to call the annual general meeting or the special general meeting, as the case may be, and such officer or person shall have all the powers and functions of the officer of the society authorised to convene such annual or special general meeting, under its bye-laws.

64. Procedure for appointment, suspension and removal of members of the committee and other officers etc. :-

(1) Notwithstanding anything contained in the bye-laws of a society but subject to the provisions of section 78, the Registrar may by an order stating the reasons therefor] :

(a) remove the committee of a society and appoint a new committee in its place consisting of three or more members of the society to manage the affairs of the society ; or

(b) remove the committee and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society ; or

(c) remove any member of the committee of a society and appoint in his place such other member as he may deem fit.

(2) Before making any order under sub-rule (1), the Registrar shall consult the federal society to which the society is affiliated and give an opportunity to the committee or the member concerned to show cause, within fifteen days from the date of issue of notice, why such an order shall not be made.

(3) The member appointed under clause (c) of sub-rule (1) shall hold office so long as the member in whose place he is appointed would have held office, if the vacancy had not occurred.

(4) Notwithstanding anything contained in the bye-laws regarding holding of any meeting of the society, the Registrar may, by special or general order specify the procedure for holding meetings of the Committee appointed by him under clause (a) of sub-rule (1).

(5) Immediately after the appointment of a new committee or an administrator or administrators under sub-rule (1), the committee in whose place such appointment is made and officers of the society shall give the new committee or the administrator or administrators, as the case may be the charge of the property, documents and accounts of the society.

65. Accounts and books to be kept :-

(1)] Every society shall keep the following accounts and books :-

(1) A register of members including persons nominated under section 38 in FORM I .

(2) A register of shares.

(3) A register of debentures and bonds (where capital is raised by debentures and bonds).

(4) Minutes books recording proceedings of general meetings.

(5) Minute book recording proceeding of committee meetings.

(6) Cash book .

(7) General ledger and personal ledger.

(8) Stock register.

(9) Property register.

(10) Register of audit objections and their rectification.

(11) Such other accounts and books as from time to time be specified by the State Government by special or general order for any society or class of societies.

(2) Where the State Government directs by order as provided under sub-section (2A) of section 81 that the cost audit of any (society) or class of societies shall be conducted, such society or class of societies shall, in addition to the accounts and books required to be kept under sub-rule (1), also maintain such books, records and accounts in such manner as the State Government may specify by general or special order from time to time for the purpose of cost audit.]

66. Copies of monthly returns to be furnished to Registrar :-

:- All registered co-operative societies classified by the Registrar as Central Banks or as Urban Banks shall furnish to the Registrar every month, a copy of each of the returns required to be furnished to the Reserve Bank of India under sections 18, 24 and 27 of the Banking Regulation Act, 1949 (10 of 1949).

67. Registrar s power to enforce performance of obligations

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(1) In addition to the periodical financial statement referred to in Rule 66, the Registrar may by special or general order require any society to furnish to him any other returns in such forms as may be

specified by him, on such date or dates or at such interval or intervals as may be specified by him in the order. The salaried officers of the society shall be responsible for the submission of these returns on due dates. If there are no salaried officers of the society or if the executive functions are attended to by the Chairman or any other member of the committee in an honorary capacity, the returns shall be submitted by the Chairman or such member of the committee.

(2) On failure of the society to furnish any returns on due dates, the Registrar may, after giving due notice to the person or persons responsible for the submission of the same, depute an employee of the Co-operative Department or of the federal society to which the society is affiliated to prepare the return or returns and submit to him or them. The members of the committee and other officers of the society shall furnish to the employee of the Co-operative Department or of the federal society entrusted with the work, all information necessary for the return or returns. The expenses incurred by the Registrar in getting such return or returns prepared shall be borne by the society and shall be recovered from the society under section 79 as if they were an arrears of land revenue.

67A. Directions of Registrar to the society to make regulations on certain matters :-

1 :-

(1) Where in the course of, or as a result of audit under section 81, or enquiry under section 83, or inspections under section 84 or section 89-A, or supervision under section 89-A or visit or administrative inspection of any officer of the Co-operative Department or financial institution, or on the report of federal society or financial institution, or in any other way or suo moto or otherwise, the Registrar is of the opinion that it is necessary, having regard to financial condition of the society or before or after grant of Government financial assistance of any kind directly or indirectly including Government guarantee or any other financial interest of Government accrue or likely to be accrued to regulate the manner of carrying on trade or business, the Registrar, after making such further enquiry if he deems necessary and after consulting the committee or any officer of the society and after examining the record of the society, shall - (i) direct the society to make regulations on the items specified by him, (ii) direct the society to make regulations in such manner as he

specifies and forward the same to him within three months from the date of such issue of directions to him, for approval.

(2) The society shall frame the regulations on items specified by the Registrar and also in the manner specified by him, if he has so directed while forwarding regulations and forward the same personally along with copy of resolution within a period of three months from the date of issue of such directives.

(3) On receipt of regulations, the Registrar or the District Deputy Registrar on examination may issue an order approving them or modify, eliminate, delete or add as he deems fit in the interest of the society. The regulations shall be effective from the date of issue of order of approval by the Registrar and the society shall carry on its business in accordance with such regulations from the date of order of approval of such regulations.

(4) If any society fails to submit regulations to the Registrar on any or all the items forwarded by the Registrar or in the manner directed by him, the Registrar shall make the regulations on the items and in the manner if directed by him under sub-section (1) of section 79-AA and issue an order directing the society to carry on its business in accordance with such resolutions from the date of issue of such order. It shall be obligatory on the society to carry on its business and trade in accordance with the regulations so issued.

(5) If,-

(a) the Committee or any officer of the society fails to attend the consultation, to produce record furnishing the information, attend for

(b) after issue of order in sub-rules (3) and (4) of this rule, if the society is negligent in observance or fails to comply with the regulations, it shall be construed as non-compliance of direction issued by the Registrar under sub-section (1) of section 79. If it relates to clause (a) as non-compliance of directions issued by the Registrar under section 79-AA. If it relates to clause (b) and thereupon the provisions of section 79 shall be applicable mutatis mutandis. If the Committee or elected officer of the society is responsible for non-compliance of the provisions of clauses (a) and (b) of this sub-rule, it shall, in addition to non-compliance of directives under sub-section (1) of section 79 and section 79-AA, also be construed as negligence in performance of duties imposed on it or upon him by the Act and the rules made thereunder and willful disobedience of instructions issued by the Registrar as contemplated in sub-section (1) of section 78.]

1. Rule 67-A was added by G. N. No. CSL1186/34313/132/ISC (i), dated 16th October, 1987.

68. Procedure to be adopted for taking possession of books, documents, securities, cash and other properties of society :-

(1) Where taking possession of books, documents, securities, cash or other properties of a society is considered necessary and where taking of such possession is resisted or obstructed, the Registrar, the Liquidator or any other person entitled to the same may take or cause to be taken order for seizing the books, documents, securities, cash or other properties of the society, as the case may be, in the manner provided in section 80.

(2) Any person appointed by the Registrar as a Liquidator of a society or any person authorised by the Registrar to audit the accounts of a society under section 81 or any person authorised by the Registrar to hold an inquiry into the constitution, working and financial conditions of a society under section 83 or any person authorised by the Registrar to inspect the books of a society under section 84 shall, in cases where the misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash or other properties of a society are likely to be tampered with or destroyed or removed, and where taking of possession of such books, documents, securities, cash or other properties is considered necessary, shall follow the same procedure, with the previous permission of the Registrar, as is laid down in section 80 for the purposes of obtaining such possession.

CHAPTER 7 Audit, Inquiry, Inspection and Supervision

69. Procedure for appointment of auditors and for conducting audit :-

(1) The audit of accounts of societies shall be conducted by Departmental Auditors or by certified auditors appointed by the Registrar from time to time on such terms and conditions as he deems fit: Provided that, any society or class of societies notified by the Registrar may get their accounts audited by an auditor selected from the panel of certified auditors maintained by the Registrar and

published by him in the Official Gazette.

Explanation 1:- For purposes of this Chapter, audit shall include annual or periodical audit, continuous or concurrent audit and test or super audit and reaudit.

Explanation 2:- For purposes of this rule, "a certified auditor" includes:- (a) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949,

(b) a person who holds a Government diploma in co-operative accounts or a Government diploma in co-operation and accountancy, or

(c) a person who has served as an auditor in the Co-operative Department of the State Government, and whose name has been included by the Registrar in the panel of certified auditors maintained and published by him in the Official Gazette at least once every three years.

(2) The audit under section 84 shall in all cases extend back to the last date of the previous audit and shall be carried out up to the last date of the co-operative year immediately preceding the audit or where the Registrar so directs in the case of any particular society or class of societies, such other date as may be specified by the Registrar.

(3) The auditor shall submit an audit memorandum to the society and to the Registrar in the Form 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 accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him, the said accounts give all the information required by the Act in the manner so required and give true and fair view , -

(i) in the case of the balance sheet, of the state of society's affairs as at the end of the financial year or any other subsequent date up to which the accounts are made up and examined by him, and

(ii) in the case of the profit and loss account, of the profit or loss for the financial year, or the period covered by the audit, as the case may be.

(4) The audit memorandum shall state , - (i) whether the auditor had obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;

(ii) whether in his opinion proper books of accounts, as required by the Act, the rules and the bye-laws of the society have been kept by the society so far as it appears from the examination of these

books ; and

(iii) whether the balance sheet and profit and loss account examined by him are in agreement with the books or accounts and returns of the society.

(5) Where any of the matters referred to in sub-rule (4) are answered in the negative or with a qualification, the audit memorandum shall specify the reasons for the answer.

(6) The audit memorandum shall also contain schedules with full particulars of , -

(i) all transactions which appear to be contrary to the provisions of the Act, the rules or the bye-laws of the society ;

(ii) all sums which ought to have been but have not been brought into account by the society ;

(iii) any material impropriety or irregularity in the expenditure or in the realisation of moneys due to the society ;

(iv) any money or property belonging to the society which appears to the auditor to be bad or doubtful debt; and

(v) any other matters specified by the Registrar in this behalf.

(7) The summary of audit memorandum as prepared by auditor shall be read out in a general meeting. The audit memorandum together with its accompaniments shall be open to inspection by any member of the society. The Registrar may however direct that any portion of the audit memorandum which appears to him to be of objectionable nature or not justified by facts shall be expunged and the portion so expunged shall not form part of the audit memorandum.

(8) The Registrar may from time to time specify the form or forms in which the statements of accounts and information shall be prepared for audit, by the society.

(9) On completion of his statutory audit, the auditor shall award an audit classification letter to the society whose accounts he has audited in accordance with the instructions issued by the Registrar from time to time. The list of societies to be published under sub-section (3) of section 12 shall also specify the audit class of the society.

70. Requisition of the federal society for inquiry :-

Any federal society duly authorised by a resolution of its committee, may submit a requisition to the Registrar to hold an inquiry under section 83 in respect of any society affiliated to it, duly setting out the grounds on which the inquiry is sought. A copy

of such requisition shall be supplied to the society in respect of which the requisition is made.

71. Procedure and principles for the conduct of inquiry and inspection :-

(1) An order authorising inquiry under section 83 or inspection under section 84 shall, among other things, contain the following :-

(a) the name of the person authorised to conduct the inquiry or inspection;

(b) the name of the society whose affairs are to be inquired into or whose books are to be inspected ;

(c) the specific point or points on which the inquiry or inspection is to be made, the period within which the inquiry or inspection is to be completed and report submitted to the Registrar ;

(d) cost of inquiry ;

(e) any other matter relating to the inquiry or inspection.

(2) A copy of every order authorising inquiry under section 83 or inspection under section 84 shall be supplied to the federal society or societies to which the society in respect of which the order is issued is affiliated.

(3) If the inquiry or inspection cannot be completed within the time specified in the order referred to in sub-rule (1), the person conducting the inquiry or inspection shall submit an interim report stating the reasons for failure to complete the inquiry or inspection and the Registrar, if he is satisfied, grant such extension of time for the completion of the inquiry or inspection as he may deem necessary or he may withdraw the inquiry or inspection from the officer to whom it is entrusted and hold the inquiry or inspection himself or entrust it to such other person as he deems fit.

(4) On receipt of the order referred to in sub-rule (1) the person authorised to conduct the inquiry or inspection shall proceed to examine the relevant books of accounts and other documents in possession of the society or any of its officers, members, agents or servants and obtain such information or explanation from any such officers, members, agents or servants of the society in regard to the transactions and working of the society as he deems necessary for the conduct of such inquiry or inspection.

(5) The person authorised to conduct the inquiry or inspection shall submit his report to the Registrar, on all the points mentioned in the order referred to in sub-rule (1). The report shall contain his

findings and the reasons therefor supported by such documentary or other evidence as recorded by him during the course of his inquiry or inspection. He shall also specify in his report the costs of the inquiry or inspection together with reasons and recommend to the Registrar the manner in which the entire cost or a part thereof may be apportioned, amongst the parties specified in sub-section (1) of section 85. The Registrar shall pass such orders thereon as may be considered just after giving a reasonable opportunity of being heard to the person or persons concerned.

(6) The costs of the inquiry or inspection apportioned by the Registrar under sub-section (1) of section 85 shall be recovered as provided in section 86. The Registrar may direct that such costs or any part thereof shall be paid in the first instance from the funds of the society or in case of inspection, from the amount deposited by the -creditor under clause (b) of sub-section (1) of section 84 and then recovered and repaid to the society or the creditor, as the case may be.

72. Procedure for assessing damages against delinquent promoters, etc. under section 88 :-

(1) On receipt of a report referred to in section 86 or otherwise the Registrar or any other person authorised by him may make such further inquiries as he may deem necessary regarding the extent to which the person who has taken any part in the organisation or management of a society or any deceased, past or present officer of the society has misapplied or retained, or become liable or accountable for, any money or property of the society, or has committed misfeasance or breach of trust in relation to the society.

(2) On the completion of the further inquiries under sub-rule (1) where necessary, the Registrar or the person authorised by him shall issue a notice to the person or persons concerned furnishing him or them with particulars of the acts of misapplication, retention, misfeasance or breach of trust and the extent of his or their liability involved therein and calling upon him or them to put in statements in his or their defence within fifteen days of the date of issue of the notice.

(3) On receipt of the statements referred to in sub-rule (2), the Registrar or the person authorised by him, if he is satisfied that there are reasonable grounds for holding the person or persons liable, shall frame charges.

(4) The person or persons concerned shall, after the charges are framed be asked to put in his statement in defence and to indicate the documentary or oral evidence which he would like to produce. The Registrar or the person authorised by him may permit production of other documentary or oral evidence, if considered necessary, subsequently.

(5) The Registrar or the person authorised by him, shall thereafter record the evidence led by the society or the person or persons concerned and take on record the documents proved by them and shall thereafter fix a date for hearing arguments of both the parties.

(6) On the day fixed for hearing under sub-rule (5), the Registrar or the person authorised by him, shall hear the arguments and may pass his final orders on the same day or on any date fixed by him within sixty days from the date on which the hearing was completed. On the date so fixed, the Registrar or as the case may be, the person authorised by him shall, make his final order,] either, ordering repayment of the money or return of the property to the society together with interest at such rate as may be specified by him or to contribute such amount to the assets of the society by way of compensation in regard to misapplication, retention, misfeasance or breach of trust as may be determined or may reject the claim submitted on behalf of the society.

(7) The Registrar or the person authorised by him, may also provide in his order for the payment of the cost of the proceeding under this rule or any pan of such cost as he thinks just.

(8) The Registrar or the person authorised by him shall furnish a copy of his order, under sub-rule (6) to the party concerned within ten days of the date on which he makes his final order.

73. Form of Rectification Report :-

On receipt of an order, directing a society or its officers to rectify the defects and remedy the irregularities, issued by the Registrar under section 82 and on receipt of an order issued by the Registrar under section 87, the society shall, subject to the provisions of sub-sections (2) and (3) of section 87, submit to the Registrar a rectification report in FORM O. The society shall continue to submit such cerctification reports to the Registrar till all the defects are rectified or the irregularities are remedied to the satisfaction of the Registrar.

74. Levy of audit charges and supervision charges :-

(1) The Registrar may levy audit charges and supervision charges payable annually on or before a specified date by all or any class of societies including the societies in liquidation at such rates as may be fixed by him with the approval of the State Government. Such charges, if not paid by the specified date, shall be recoverable under sub-section (2) of section 155.

(2) The State Government may authorise the Registrar to grant total or partial exemption from the payment of audit charges and/or supervision charges assessed to any society or class of societies.

CHAPTER 8 Disputes and Co-operative Courts

75. Reference of Dispute :-

A reference of a dispute under section 91 shall be made in writing to the Registrar in FORM P. Wherever necessary, the Registrar may require the party referring the dispute to him to produce a certified copy of the relevant records on which the dispute is based and such other statements or records as may be required by him, before proceeding with the consideration of such reference.

76. Registrars satisfaction regarding existence of a dispute:-

1 - Where any reference of a dispute is made to the Registrar or any matter is brought to his notice, the Registrar shall, on the basis of the reference (if any) made to him in FORM P and the relevant records and statements submitted to him, record his decision together with the reasons therefor, whether he is or is not satisfied about the existence of a dispute within the meaning of section

1. Substituted by G. N. of 14-2-1975.

77. Disposal of a dispute or reference to Co-operative Court :-

(1) Where the Registrar is satisfied that there is a dispute, the Registrar may decide the dispute himself or refer it for disposal to a Co-operative Court having jurisdiction.

(2) Neither the Registrar nor the Co-operative Court shall take up for consideration any dispute, unless the parties concerned comply with the conditions of affixing the necessary Court fees for determining the dispute.

77A. Qualifications of Judges of Co-operative Courts and their appointments :-

:- The member constituting a Co-operative Court, shall be called the Judge of that Court.

(2) All appointments of the Judges of the Co-operative Court shall be made by the State Government.

(3) No person shall ordinarily be eligible for appointment as a Judge of a Co-operative Court, unless he is holding or has held a judicial office not lower in rank than that of a Civil Judge (Junior Division).

(4) Notwithstanding anything contained in sub-rule (3), the State Government may appoint a person to be a Judge of Co-operative Court ,-

(a) who has practised as an Advocate, Pleader or Vakil for not less than three years, or

(b) who is enrolled as an Advocate or holds a degree or other qualification in law of any University established by law or of any other authority which entitles him to be enrolled as an Advocate, and either, (i) has held office not lower in rank than that of Deputy Registrar of Co-operative Societies ¹for not less than three years,] or (ii) ² * * * possesses good knowledge and experience of co-operative law and practice. The number of Judges appointed under this sub-rule shall, at no time, as far as possible, exceed two-thirds of the total number of Judges of the Cooperative Courts.

1. Amended by G. N. of 15-12-1981.

2. Deleted vide G. N. of 28-6-1978.

77B. Age limit for Judges :-

(1) No person shall hold, or continue to hold, the office of a Judge of a Co-operative Court after he attains the age of sixty-two¹ years.

(2) Notwithstanding anything contained in sub-rule (1), the State Government may, for such period or periods as it considers necessary, continue all or any of the Officers on Special Duty as Judge of the Co-

1. Amended by G. N. of 8-2-1978.

77C. Conditions of service of Judges :-

If a Judge of a Co-operative Court is in Government service at the time of his appointment, his pay, allowance and other conditions of service shall continue to be governed by the service conditions, rules applicable to him before such appointment, and if he is a direct recruit his pay, allowances and other conditions of service shall be governed by the Bombay Civil Services Rules and other rules made by the State Government, from time to time.

77D. Holidays and vacations :-

Save as otherwise directed by the State Government the holidays to be observed in the Co-operative Court shall be the same as are observed in the local Government offices. The period of vacation (if any) for the Co-operative Courts shall be such as the State Government may determine. :

77E. Procedure for hearing and decision of disputes :-

(1) The : Registrar or the Co-operative Court shall record in English, Marathi or Hindi, the evidence of parties to a dispute and the witnesses who attend. Upon the evidence so recorded and upon consideration of any documentary evidence produced by the parties, a decision shall be given by him in writing. Such decision shall be pronounced in open Court, either at once or as soon as may be practicable on some future day ; of which due notice shall be given to the parties.

(2) Where neither party appears when the dispute is called on for hearing, the Registrar or the Co-operative Court may make an order that it be dismissed for default.

(3) Where the opponent appears and the disputant does not appear when the dispute is called on for hearing the Registrar or the Court may make an order that the dispute be dismissed, unless the opponent admits the claim or a part thereof, in which case the Registrar or the Court, as the case may be, may make an order against the opponent upon such admission, and where, part only of the claim is admitted, may dismiss the dispute so far as relates to the remainder.

(4) Where the disputant appears and the opponent does not

appear when the dispute is called for hearing, then, if the Registrar or the Court is satisfied from the record and proceedings that the summons was duly served, the Registrar or the Court may proceed ex-parte. Where the summons is served by the Officer of the Registrar or the Court, he shall make his report of service on oath.

(5) The Registrar or the Court may not ordinarily grant more than two adjournments to each party to the dispute at his request. The Registrar or the Court may, however, at his or its discretion grant such further adjournments on payment of such cost to the other side and such fees to the Registrar or the Court, as the Registrar or the Court as the case may be, may direct.

(6) Any party to a dispute may apply for and obtain a certified copy of any order, judgment or award made by the Registrar or the Court on payment of copying fees, at the rate of 50 paise per 100 words in such order, judgment or award, whether in English, Marathi or Hindi.

77F. Summary procedure for deciding disputes :-

(1) Subject to the provisions of sub-section (4) of section 94, the following disputes, if the disputant so desires, shall be decided in the summary manner prescribed under this rule, namely :-

(a) any dispute for recovery of a debt upon promissory note, hundi, bill of exchange or bond, with interest whether agreed upon under such instrument or under the bye-laws ;

(b) any dispute for recovery of a fixed sum of money, in the nature of a debt, with or without interest, arising on a written contract, but other than penalty or on guarantee ;

(c) any dispute for recovery or price of goods sold and delivered where the rate, quality and quantity are admitted in writing ;

(d) any dispute for recovery of dues payable in respect of a tenement by a member of a housing society towards contribution for constructions of the tenements in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electric charges, repairs, maintenance and upkeep charges or charges for other services rendered by the society and the interest of such arrears payable under a written agreement or the bye-laws or the Tenancy Regulations.

(2) In such case, the disputant shall, in addition to the normal averments in FORM P make the following averments, namely :-

- (a) that the claim of the disputant is for recovery of liquidated sum of money only and no other relief beyond the scope of this rule is claimed in this dispute ;
- (b) that the disputant believes that there is no valid or bonafide defence to his claim.
- (3) In such cases, the opponent shall not be entitled to defend the claim, unless he obtains leave from the Registrar or the Co-operative Court so to defend as here in after in this rule provided, and in default of his obtaining such leave or of his appearance and defence in pursuance of such leave, the allegations in the petition shall be deemed to be admitted, and the disputant shall be entitled to the award in his favour as prayed and for such sum for costs as may be awarded by the Registrar or the Court.
- (4) (i) Within ten days from the service of a notice calling upon the opponent to obtain leave from the Registrar or the Court, to appear and defend the claim, the opponent or such of the opponents as are interested in defending the Maim shall apply to the Registrar or the Court, as the case may be, by an affidavit or a declaration for the leave, setting put the facts on which he relies and what triable issues are likely to arise. The opponent shall in such application disclose all the documents supporting his contention and as far as possible attach copies of such documents which he considers important from his point of view. A copy of such application shall be served on the disputant and he shall have a right to file a rejoinder in the form of an affidavit or declaration and place before the deciding authority such material as in his opinion supports his contentions.
- (ii) The Registrar or the Court, on reading of affidavits and declarations and on hearing the parties and their pleadings and considering the documents relied on and produced by them, may pass an award or grant leave to defend to such of the opponents, unconditionally or upon such conditions, as the deciding authority may think fit under the circumstances and on facts of the case. The Registrar or the Court granting leave to defend shall also give directions and prescribe time limit for filing the written statement and fix the date for hearing. Leave may be granted to some and may be refused to other opponents. If leave is granted and not complied with by any opponent, deciding authority may pass an award against him, as if he had not been granted leave.
- (iii) If the conditions on which leave to defend is granted are not complied with by any opponent, the Retgistrar or the Court may pass an award against him, as if he had not been granted leave.

(iv) The Registrar or the Court may, for sufficient cause, excuse the delay in applying for leave to defend any case.

(v) The Registrar or the Court may, for under special circumstances, set aside the award, and if necessary stay or set aside execution, and may give leave to the opponent to appear and defend the dispute, if it seems reasonable to the deciding authority so to do, and on such terms as it thinks fit.]

78. Summonses, notices, and fixing of dates, place, etc, in connection with the disputes :-

(1) The Registrar, or as the case may be the Co-operative Court] may issue summonses or notices at least fifteen days before the date fixed for hearing of the dispute requiring , -

(i) the attendance of the parties to the dispute and of witnesses if any ; and

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

(2) Summonses or notices issued by the Registrar or 42or the Cooperative Court] may be served through a Mamlatdar, Mahalkari, Tahsildar or any employee of the Co-operative Department or of a federal society or through the Chairman or Secretary of the society or by registered post with acknowledgement due. Every person or society to whom summonses or notices are sent for service shall be bound to serve them within a reasonable time.

(3) The officer serving a summons or notice shall, in all cases in which summons or notice has been served, endorse or annexe or cause to be endorsed on or annexed to, the original, summons or notice, a return stating the time when, and the manner in which the summons or, as the case may be, notice was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the summons or the notice.

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

(5) The mode of serving summonses and notices as laid down in

sub- rules (1) to (4) shall mutatis mutandis apply to the service of summonses or notices ,-

- (i) issued by the Registrar or the person authorised by him, when acting under sections 83, 84 or 88,
- (ii) issued by an auditor, when acting under section 81 or
- (iii) issued by a Liquidator, when acting under section 105.

79. Investigation of claims and objections against any attachment :-

Where any claim or objection has been preferred against the attachment of any property under section 95, on the ground that such property is not liable to such attachment, the Registrar, ¹ or as the case may be the Co-operative Court shall] investigate into the claim or objection and dispose it of on merits :

Provided that, no such investigation shall be made when the Registrar or the Co-operative Court considers] that the claim or objection is frivolous.

1. Amended by G. N. of 14-2-1975.

80. Procedure for the custody of property attached under section 95 :-

(1) Where the property to be attached is moveable property, other than agricultural produce, in the possession of the debtor, the attachment shall be made by actual seizure and the attaching officer shall keep the property in his own custody or in the custody of one of his

Provided that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

(2) Where it appears to the officer ordering conditional attachment under section 95 to be just and convenient, he may appoint a Receiver for the custody of the moveable property attached under that section and his duties and liabilities shall be identical with those of a Receiver appointed under Order XL in the First Schedule to the Code of Civil Procedure, 1908.

(3) (i) Where the property to be attached is immoveable, the attachment shall be made by an order prohibiting the debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge.

(ii) The order shall be proclaimed at some place on, or adjacent to, such property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and upon a conspicuous part of the village chavdi, and where the property is land paying revenue to the State Government, also in the office of the Collector of the district and in the office of the Mamlatdar or Mahalkari or Tahsildar or any other revenue officer within whose jurisdiction the property is situated.

81. Procedure for attachment and sale of property for realization of any security given by person in course of execution proceedings :-

The procedure laid down in rules 80 and 83 shall mutatis mutandis apply for attachment and sale of property for the realization of any security given by a person in the course of execution proceedings.

82. Issue of proclamation prohibiting private transfer of property :-

The Registrar or Liquidator when acting under clause (a) of section 98 shall at the time of signing a certificate affecting any property, issue a proclamation in FORM Q and in the case of immoveable property shall also forward a copy of the proclamation to the Mamlatdar, Mahalkari or Tahsildar or any other revenue officer within whose jurisdiction the property is situated, who shall cause an entry about such certificate to be made in the Record of Rights.

83. Procedure for execution of awards :-

(1) Every order or award passed by the Registrar, or the person authorised by him or the Cooperative Court under section 95 or 96 shall be forwarded by the Registrar to the society or to the party concerned with instructions that the society or, as the case may be, the party concerned should initiate execution proceedings, forthwith according to the provisions of section 98.

(2) If the amount due under the award is not forthwith recovered, or the order thereunder is not carried out, it shall be forwarded to the Registrar with an application for execution along with all information required by the Registrar, for the issue of certificate under section 98. The applicant shall state whether he desires to execute the award by a Civil Court or through the Collector as

provided under section 98 or through the Registrar as provided under section 156.

(3) On receipt of such application for execution, the Registrar shall forward the same to the proper authority for execution along with a certificate issued by him under section 98 and a proclamation issued under Rule 82 in the manner prescribed therein.

(4) Every order passed in appeal under section 97 shall also be executed in the manner laid down in sub-rules (2) and (3).

84. Execution of awards or orders in special cases :-

Subject to the provision of section 98, the Registrar may, by an order in writing specially authorise any officer of the Co-operative department or any officer of a federal society or a Central Bank, on an application made by it, to call for and send awards or orders obtained by any society for execution. The society or societies in respect of which these powers are to be exercised shall be specified in the order.

85. Transfer of property which cannot be sold :-

(1) When in execution of an order sought to be executed under section 98 any property cannot be sold for want of buyers, if such property is in the possession of the defaulter or of some person on his behalf, or of some person claiming it under a title created by the defaulter subsequent to the issue of the certificate by the Registrar or Liquidator under clause (a) or (b) of the said section, the officer conducting the execution shall as soon as practicable report the fact to the Court or the Collector or the Registrar, as the case may be, and the society applying for the execution of the said order.

(2) On receipt of a report under sub-rule (1), the society may, within six months from the date of the receipt of the report or within such further period as may for sufficient reasons be allowed in any particular case by the Court or the Collector or the Registrar, submit an application in writing to the Court, the Collector or the Registrar, as the case may be, stating whether or not it agrees to take over such property.

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

intended transfer.

(4) On receipt of such a notice, the defaulter, or any person owning such property, or holding an interest therein by virtue of a title acquired before the date of the issue of a certificate under section 98, may within one month from the date of the receipt of such notice, deposit with the Court or the Collector or the Registrar, for payment to the society a sum equal to the amount due under the order sought to be executed together with interest thereon and such additional sum for payment of costs and other incidental expenses as may be determined in this behalf by the Court or the Collector or the Registrar, as the case may be.

(5) On failure of the defaulter, or any person interested, or any person holding any interest in the property, to deposit the amount under sub-rule (4), the Court or the Collector, or the Registrar as the case may be, shall direct the property to be transferred to the society on the conditions stated in the certificate in FORM R.

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

(7) If the property is transferred to the society in partial satisfaction of the amount due to it from the defaulter, the Court or the Collector or the Registrar, as the case may be, shall, on the production by the society of a certificate signed by the Registrar, recover the balance due to the society in the manner laid down in section 98.

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

(i) In the case of moveable property -

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

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

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

(ii) In the case of immoveable property -

(a) Where the property is growing or standing crop, it may be delivered to the society before it is cut and gathered and the society shall be entitled to enter on the land, and to do all that is

necessary for the purpose of tending and cutting and gathering it.

(b) Where the property is in the possession of the defaulter or of some person on his behalf or some person claiming under a title created by the defaulter subsequent to the issue of a certificate under section 98, the Court or the Collector or the Registrar, as the case may be, shall order delivery to be made by putting the society or any person whom the society may appoint to receive delivery on its behalf in actual possession of the property and if need be by removing any person who illegally refuses to vacate the same.

(c) Where the property is in the possession of a tenant or other person entitled to hold the same by a title acquired before the date of issue of a certificate under section 98, the Court or the Collector or the Registrar, as the case may be, shall order delivery to be made by affixing a copy of the certificate of transfer of the property to the society in some conspicuous place on the property and proclaiming to such person by beat of drum or other customary mode at some convenient place, that the interest of the defaulter has been transferred to the society.

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

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

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

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

(13) The society to which property is transferred under sub-rule (5) shall use its best endeavour to sell the property as soon as practicable to the best advantage of the society as well as that of the defaulter, the first option being always given to the defaulter who originally owned the property. The sale shall be subject to confirmation by the Registrar. The proceeds of the sale shall be applied to defraying the expenses of the sale and other expenses incurred by the society and referred to in sub-rules (9) and (12)

and to the payment of the arrears due by the defaulter under the order in execution, and the surplus (if any), shall then be paid to the defaulter.

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

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

86. Payment of fees for decisions of disputes :-

:-

(1) The Registrar or the Co-operative Court, as the case may be, may take a dispute on file only if the application regarding, reference for such dispute in Form P is affixed with the Court fees stamps at the following scales, namely , -

Explanation :- For the purposes of this sub-rule, "simple money claim" means the claim of a society the object clauses of which provide for sanction of credit to its members, based on loan bonds, promissory notes, admissions or an acknowledgements, and "complicated money claims" means all money claims other than simple money claims. The question regarding the classification of a dispute for the purpose of this sub-rule shall be decided by the Registrar or the Co-operative Court deciding the dispute and the decision of the Registrar of the Co-operative Court, as the case may be, shall be final.

(2) No document of any of the kinds specified below shall be filed before the Registrar or the Co-operative Court, unless it is affixed with the proper Court-fee stamp as specified against it :-

(3) (a) The Registrar or the Co-operative Court deciding any dispute may require the party or parties to the dispute to deposit such sum as may, in his or its opinion, be necessary to meet the expenses, including payment of fees to the Registrar or the Court, as the case may be.

(b) The Registrar or the Court shall have power to order the fees and expenses of determining the dispute to be paid by the society out of its funds or by such party, or parties to the dispute, as he or it may think fit, according to the scale laid down by the Registrar;

after taking into account the amount deposited as above.

(c) The Registrar may by general or special order specify the scale of fees and expenses to be paid to him or the Co-operative Court.

CHAPTER 9 Liquidation

87. Mode of communication of an interim order under section 102 :-

An interim order under clause (a) or sub-clause (iv) of clause (c) of sub-section (1) of section 102 shall call upon the society in respect of which the order is made to submit its explanation to the Registrar within one month from the date of issue of such order and shall be communicated by registered post (with acknowledgement due) to the society by the Registrar.

88. Cost of hearing appeal :-

No appeal from a member under section 104 shall be entertained unless it is accompanied by Rs. 25 or such higher amount not exceeding Rs. 500 as may be directed by the appellate authority as security for the costs of hearing the appeal.

89. Appointment of Liquidator and the procedure to be followed and powers to be exercised by him :-

The following procedure shall be adopted for the appointment of the Liquidator and for the exercise of his powers, namely :-

(1) The appointment of the Liquidator shall be notified by the Registrar in the Official Gazette.

(2) As soon as may be after the interim order is issued under section 102, the Liquidator shall take over the custody and control of all the property, effects and actionable claims and books, records and other documents pertaining to the business of the society and continue to hold custody and control thereof until the interim order is vacated.

(3) Where the interim order is vacated, the Liquidator shall take action in accordance with the provisions of sub-section (6) of section 103.

(4) Where the Liquidator receives the Registrars final order confirming the interim order, the Liquidator shall publish by such means as he may think proper a notice requiring all claims against the society to be notified to him within two months of the publication of the notice and shall thereafter proceed to take such

further action as he is empowered to take under the Act. All liabilities recorded in the account books of the society shall be deemed ipso facto to have been duly notified to the Liquidator under this rule.

(5) The Liquidator shall, after settling the assets and liabilities of the society as they stood on the date on which the order for winding up is made, proceed to determine the contribution to be made or remaining to be made to the assets of the society by persons and estates referred to in clause (h) of section 105 and by order call upon each of them to pay the amount specified in the order as contribution and as costs of the liquidation determined under clause (k) of section 105. Every such order shall be submitted for approval to the Registrar, who may modify it or refer it back to the Liquidator for further inquiry or other action or may forward it for execution under section 98.

(6) If the sum assessed against any member is not recovered, the Liquidator may issue subsidiary order or orders against any other member or members to the extent of the liability of each for the debts of the society until the whole amount due from members is recovered. The provisions of sub- rule (5) shall mutatis mutandis apply to such orders.

(7) The Liquidator shall submit a quarterly progress report and such other returns and statements to the Registrar in such forms as the Registrar may require, showing the progress made in the liquidation of the society.

(8) The Liquidator may empower any person, by general or special order in writing, to make collections and to grant valid receipts, on his behalf.

(9) Unless otherwise permitted by the Registrar, all funds in charge of the Liquidator shall be deposited in the Apex State Co-operative Bank, or a Central Co-operative Bank or in the State Bank of India and shall stand in the name of the Liquidator.

(10) The Registrar shall fix the amount of remuneration, if any, to be paid to the Liquidator. The remuneration shall be included in the cost of liquidation which shall be payable out of the assets of the society in priority to other claims.

(11) The Liquidator shall have power to call meetings of members of the society in liquidation.

(12) The Liquidator may submit an application to the Registrar, for the reconstruction of the society under section 19 if he is of opinion that such reconstruction has a reasonable chance of success.

(13) The Liquidator may, at any time, be removed by the Registrar

and he shall on such removal be bound to hand over all the property and documents relating to the society in liquidation to such person or persons as the Registrar may direct.

(14) (i) The Liquidator shall not exercise the powers under clauses (c), (d), (e), (f), (g), (h) and (k) of section 105 without the prior approval of the registrar;

(ii) An appeal against the order of the liquidator under clauses (a), (b), (i), (i), (1), (m) and (n) of section 105 shall lie to the Registrar.

(15) The Liquidator shall keep such books and accounts as may from time to time be required by the Registrar.

(16) At the conclusion of the liquidation proceedings, a general meeting of the members of the society shall be called. At such meeting, the Liquidator shall summarise his proceedings, point out causes of failure of the society and report what sum, if any, remains in his possession after meeting all the liabilities of the society as determined under the rules and suggest how the surplus, if any, should be utilised.

90. Disposal of surplus assets :-

Where the Registrar has to divide the surplus assets amongst the members of the society which has been wound up, he shall divide them in proportion to the share capital held by each of such members or in any other suitable manner sanctioned by the State Government in special cases.

91. Interest on amount due from a society under liquidation :-

The creditor of a society, which is being wound up, may apply to the Liquidator, for payment of interest on any debt due from the society up to the date of the Registrars order for winding up. The rate at which interest shall be paid shall be in the case of the Maharashtra State Co-operative Bank or a Co-operative Bank permitted by the Registrar to finance societies, the contract rate and in any other case the rate which may be fixed by the Registrar which shall not exceed the contract rate :

Provided that, if any surplus assets remain after all the liabilities, including liabilities on shares, have been paid off, further interest on such debts at a rate to be fixed by the Registrar but not exceeding the contract rate may be allowed to the creditors from the date mentioned above up to the date of repayment of the principal.

92. Disposal of records of society whose registration is cancelled :-

(1) When an order directing a society to be wound up is issued under section 102 and no Liquidator is appointed, the Officers of the society which is woundup shall, within 15 days of the publication of the order in the Official Gazette, send by registered post or railway parcel the records and books of the society to the Assistant Registrar or Deputy Registrar concerned or hand over the same to the departmental local auditor.

(2) As soon as may be after the affairs of a society for which a Liquidator has been appointed have been wound up and an order cancelling the registration is made under Section 21, the Liquidator shall forward all the books and records of the woundup society, and all his own papers and proceedings, by railway parcel to the Assistant Registrar or the Deputy Registrar concerned together with an account of his expenses, showing how the balance has been disposed of, and attaching the receipt of the person to whom it was handed over.

(3). All the books and records of a society, whose registration has been cancelled, and the proceedings of liquidation, shall be destroyed by the Assistant Registrar or the Deputy Registrar, as the case may be, after the expiry of two years from the date of the order cancelling the registration of the society.

CHAPTER 10 Land Development Banks

93. Procedure for submission and consideration of applications for loans from Land Development Banks :-

(1) All applications for loans from a Land Development Bank shall be made in the form specified by the State Land Development Bank with the approval of the Registrar. The form shall among other things contain a list of documents which are required to be submitted for purposes of dealing with the application.

(2) Every Land Development Bank shall keep sufficient stock of printed copies of the forms of loan applications and shall supply them to the intending borrower on payment of a fee of one Rupee per form.]

(3) Every Land Development Bank shall specify, from time to time, the name, designation and address of the officer (hereinafter in this

chapter referred to as "the Receiving Officer"), who shall receive all loan applications from the intending borrowers.

(4) The application together with copies of necessary documents, deposit equivalent to value of one share of the Bank and fees specified below shall be submitted by the applicant to Receiving Officer:-

(5) On receipt of an application for loan, the Receiving Officer shall put his initials on the applications and mention his designation and the date of receipt of the application.

(6) After an application for loan has been received, the Receiving Officer shall verify whether it contains all the necessary particulars and is accompanied by the necessary documents. If any details are lacking, he shall get the application completed by the applicant.

(7) Each application shall be entered in the chronological order in the register of applications for loans from the Land Development Bank to be maintained by the Receiving Officer and shall be dealt within the same order.

(8) Immediately after the application is entered in the register of applications for loans from the Land Development Bank, the Receiving Officer shall forward it to the District Deputy Registrar of Co-operative Societies, or the Assistant Registrar of Co-operative Societies or the Cooperative and Industries Officer or the Block Development Officer or the Assistant Block Development Officer within whose jurisdiction the land in respect of which the application is made is situate (being the person prescribed for the purposes of sub-section (1) of section 118 of the Act hereinafter in this Chapter referred to as the Public Enquiry Officer). The Public Enquiry Officer shall give at least eight clear days notice] in form S calling upon all persons interested to present their objections to the loan, if any. The notice shall also be given by the beat of drum and shall be affixed at the chavdi or village or villages where the applicant resides and in the limits of which the land or lands propose to be improved or offered as security for the loan is or are situated. A copy of the notice shall be exhibited in the head office and relevant branch office, if any, of Land Development Bank concerned and in the office, if any, of the person giving the notice.

(9) The Public Enquiry Officer shall consider every objection submitted under sub-section (1) of section 118 in the manner laid down in that section.

(10) The Public Enquiry Officer shall then forward the applications within two days of their disposal to the Land Development Bank concerned. The Land Development Bank may appoint an Enquiry

Officer (hereinafter in this Chapter referred to as "the Enquiry Officer") to enquire into the applications. The Enquiry Officer shall make inquiry by actually visiting the land in which the improvement is proposed to be effected and the lands and other property offered as security. He shall conduct his enquiry in accordance with the form to be 47specified] by the State Land Development Bank with the approval of the Registrar. In case the Public Enquiry Officer is unable to forward the application within two days, he shall make a report to the Registrar, stating thereunder the reasons therefor and he shall, thereafter act in accordance with such directions as may be issued to him by the Registrar.

(11) The Enquiry Officer may make such other enquiries as may be necessary and shall value the lands according to such formula as may be laid down by the State Land Development Bank, with the approval of the Registrar, from time to time, estimate the repaying capacity of the applicant and examine the feasibility and the utility of the proposed improvement. He shall then submit his report stating what amount of loan may be granted to the applicant against what security and for what purpose and the period within which it may be recovered from him. The Enquiry Officer shall complete his enquiry within fifteen days of the date of the receipt of the application by him. If the Enquiry Officer is unable to complete his enquiry within fifteen days, he shall make a report to the Registrar stating therein the reasons therefor and he shall thereafter act in accordance with such directions as may be issued to him by the Registrar.

(12) After completion of the enquiry, the application together with his report shall be submitted by the Enquiry Officer to the Land Development Bank together with the following certificates :-

(a) Certificate regarding outstanding Government dues.

(b) Any other relevant certificate.

(13) On receipt of the report of the Enquiry Officer under sub-rule (12), the Land Development Bank shall satisfy itself that the inquiry has been properly conducted. If there are any deficiencies, the Bank shall get them completed immediately.

(14) The Land Development Bank may then undertake such further scrutiny as may be necessary and pass final orders within 30 days. Decision shall be communicated to the applicant within 7 days thereafter in case the final orders are not passed within 30 days, the Bank shall make a report to the Registrar stating therein the reasons therefor and shall thereafter act in accordance with such directions as may be issued to it by the Registrar.

(15) All the applications received by the Land Development Bank shall be disposed of by the Bank within a maximum period of four months. If the Bank is unable to dispose of an application for loan within the period of four months, it shall make a report to the Registrar stating therein the reasons therefor and the Bank shall thereafter act in accordance with such directions as may be issued to it by the Registrar.

(16) In the case of rejection of applications for loans, the reasons therefor shall be communicated by the Bank to the applicant. When the loan has been sanctioned, the Bank shall lay down the terms and conditions regarding grant of the loan, regarding payment of installments, submission of report on the progress of improvement of land and release of subsequent installments. The applicant shall be asked by the Land Development Bank to remain present at the head office or branch office of the Bank on a date to be fixed for execution of the mortgage deed and for receiving loan or the first installment thereof. Such date shall not ordinarily be later than 15 days from the date of communication of sanction of loan to the applicant.

(17) The applicant, while receiving the amount of the loan or the first installment of the loan, shall purchase shares of the Bank to such extent as may be required under the bye-laws of the Bank. The Land Development Bank shall issue a receipt to the applicant giving full particulars of the amounts paid by him from time to time.

(18) Failure to comply with any time-limits specified in this rule shall not in any manner affect the validity of the sanction of the loans by a Land Development Bank or by the State Land Development Bank.

94. Registration of copies of instruments under section 122
:-

Copies of instruments referred to in section 122, duly certified by the Manager of the Land Development Bank shall be sent by the Land Development Bank to the Registering Officer concerned within a period of three months from the date of execution of the instruments, by registered post or by hand delivery.

95. Authority to Land Development Bank to exercise power under section 133 (1) :-

The authorisation for the purposes of clause (a) of the proviso to

sub-section (1) of section 133 shall be granted to the Land Development Bank by the Registrar after hearing the objections, if any, of the mortgager or mortgagers concerned.

96. Appointment of Receiver and his powers under section 133 :-

:-

(1) The State Land Development Bank may, on the application of a Land Development Bank and under circumstances in which the power of sale conferred by section 133 can be exercised, appoint any person in writing to be a Receiver of the produce and income of the mortgaged property or any part thereof and such Receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed by the State Land Development Bank and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882.

(2) A Receiver appointed under sub-rule (1) may, for sufficient cause and on application made by the mortgagor, be removed by the State Land Development Bank.

(3) A vacancy in the office of the Receiver may be filled up by the State Land Development Bank.

(4) Nothing in this rule shall empower the State Land Development Bank to appoint a Receiver where the mortgaged property is already in possession of a Receiver appointed by a Civil Court.

97. Appointment, qualifications and powers and functions of a Sale Officer under section 133 :-

A Land Development Bank may, from time to time, by a resolution of its committee, appoint any of its Officers or any other person as a Sale Officer, with the approval of the Registrar, for the purpose of effecting sale of mortgaged property under section 133. Such Sale Officer shall exercise the same powers and functions as are conferred upon a Recovery Officer and a Sale Officer under these Rules.

98. Procedure for distraint and sale of the produce of the mortgaged land and sale of mortgaged property :-

The procedure laid down in Rule 107 shall mutatis mutandis apply

for the distraint and sale of the produce of mortgaged land and the sale of mortgaged property under Sections 132 and 133 :

Provided that, in the case of sale of mortgaged property, the notice of demand for the payment of mortgage money or part thereof, as the case may be, as also the notice for the sale of the mortgaged property in the event of the payment not being made within the time allowed, shall be served upon the mortgager or each of the mortgagers and also upon the following persons, namely :-

(i) any person who has any interest in, or charge upon, the property mortgaged, or in or upon the right to redeem the same, so far as is known to the Bank,

(ii) any surety for the payment of the mortgaged debt or any part thereof, and

(iii) any creditor of the mortgagor who has in a suit for administration of his estate obtained decree for sale of mortgaged property. The time allowed for payment of the mortgage money or part thereof in the demand notice referred to above, shall not be less than three months after the service of the notice.

99. Circumstances under which the State Land Development Bank or the Trustee may take action under section 133 (2) :-

(1) If a Land Development Bank fails to take action against a defaulter under sections 129 or 132 or sub-section (1) of section 133, the State Land Development Bank may call upon the former to take necessary action within a period of seven days and report compliance. If no report of compliance is received, the State Land Development Bank may itself take necessary action as indicated in the aforesaid section and sub-section.

(2) Where necessary action is not taken against the defaulter by the Land Development Bank or by the State Land Development Bank, the Trustee may call upon them to take necessary action within seven days and report compliance. If no such report of compliance is received, the Trustee may himself take the necessary action.

100. Submission of report for confirmation of sale under section 134 :-

(1) When the sale of mortgaged property has been effected by a

Land Development Bank under section 133 and the purchase amount has been received from the purchaser, the Bank shall submit a report of the sale immediately to the State Land Development Bank and the Registrar as required by sub-section (1) of section 134.

(2) When the sale of the mortgaged property has been effected by the State Land Development Bank or the Trustee under section 133 and the purchase amount has been received from the purchaser, the State Land Development Bank or the Trustee, as the case may be, shall submit a report of sale immediately to the Registrar as required under sub-section (2) of section 134

(3) The report referred to in sub-rules (1) and (2) shall contain, amongst other details, the following specific particulars :-

(a) brief account of the circumstances which rendered the sale necessary ;

(b) full details showing how the provisions of clauses (a), (b) (i) to (iv) and (c) of the proviso to sub-section (1) of section 133 have been complied with ;

(c) full details showing how the procedure laid down in rule 107 for holding the sale of immoveable property has been followed ;

(d) name of the Sale Officer;

(e) place of sale ;

(f) date of sale ;

(g) description of property sold ;

(h) name of the purchaser and his address ;

(i) value realised ;

(j) cost of sale ; and

(k) date of receipt of purchase money from the purchaser.

(4) The State Land Development Bank or the Registrar may call for any clarification deemed necessary from the Land Development Bank and satisfy itself or himself that the sale has been properly been conducted and the Land Development Bank shall furnish the same forthwith. Similarly, the Registrar may call for any clarification from the State Land Development Bank or the Trustee for the same purpose and such clarification shall be furnished forthwith by the State Land Development Bank or the Trustee as the case may be.

101. Certificate of purchase :-

The certificate to be granted by a Land Development Bank under sub-section (1) of section 136 shall be in FORM T.

102. Sale of immoveable property purchased by a Land

Development Bank :-

(1) The Land Development Bank or the State Land Development Bank, which has purchased any immovable property under Chapter XI of the Act shall, unless otherwise directed by the Trustee use its best endeavour to sell the property as early as possible to the best advantage of the Bank. The sale shall be effected by public auction within a period of six months from the date of purchase or within such further period as may be permitted by the Trustee.

(2) The date and place of public auction shall be previously notified not less than thirty days by -

(a) advertising the sale of property with full details in one or more local newspapers.

(b) proclamation of sale by beat of drum in the village where the property is situated.

(c) publication of sale notice at -

(i) the village chavdi,

(ii) the office of the Mamlatdar, Tahsildar or Mahalkari concern

(iii) the office of the Land Development Bank,

(iv) the principal office of the Deputy Registrar in the District. The sale shall be subject to confirmation by the Registrar.

103. Certain provisions of rule 107 to apply to sale of immovable property under Chapter XI of the Act :-

(1) The Provisions of clause (e) (f), (g), (h), (i), O), and (k) of sub-rule (11) and of sub-rules (12), (13) and (14) of rule 107 shall mutatis mutandis apply to the sale of immovable property under Chapter XI of the Act.

(2) The expenses incidental to such sale or attempted sale shall be calculated in accordance with the scale laid down in that behalf by the Registrar, from time to time.

CHAPTER 11 Appeals, Review and Revision

104. Qualifications of President and other members of the Maharashtra State Co-operative Appellate Court and their appointment :-

(1) The State Government shall appoint a person who is qualified

to be appointed as a Judge of a High Court, or is holding or has held a judicial office not lower in rank than that of District Judge, to be the President of the Maharashtra State Co-operative Appellate Court.

(2) Each of the other members of the Appellate Court to be appointed by State Government shall be a person, -

(a) who possesses any qualification laid down in sub-rule(1), or

(b) who has held office not lower in rank than that of Joint Registrar of Co-operative Societies for not less than ¹ one year, or

(c) who is enrolled as an Advocate or holds a degree or other qualification in law of any university established by law or of any other authority which entitles him to be enrolled as an Advocate, and either

(i) has held office not lower in rank than that of Deputy Secretary to Government, for not less than three years, or

(ii) in the opinion of the State Government, possesses good knowledge and experience of co-operative law and practice or is closely associated with the co-operative movement. As far as practicable, at least one of the other members of the Appellate Court shall be a person who is holding or has held an office not lower in rank than that of Joint Registrar as aforesaid.

(3) Appointment of persons who possess qualifications other than those of holding or having held a judicial or other qualifying office under Government, as the President or other members of the Appellate Court shall be made by the State Government after consultation with the Advocate General of the State.

(4) No person shall hold or continue to hold the office of the President after he attains the age of sixty-five years and of any other member of the Appellate Court after he attains the age of sixty-two years.

(5) If the President or any other member of the Appellate Court is in Government service at the time of his appointment, his pay, allowances and other conditions of service shall continue to be governed by the service conditions, rules applicable to him before such appointment, and if he is a direct recruit, his pay, allowances and other conditions of services shall be governed by the Bombay Civil Services Rules and other rules made by the State Government, from time to time.

(6) Subject to sub-rule (4) and save as otherwise specified by the State Government in any case, the President and any other member of the Appellate Court shall hold office for a period of three years in the first instance, and thereafter his term of office may be

extended by the State Government, from time to time, for such period as it may deem fit.

(7) In the event of the occurrence of any vacancy in the office of the President of the Appellate Court, the seniormost member having judicial experience shall act as President.

(8) The Headquarters of the Appellate Court shall be at such place as may be notified by the State Government in the Official Gazette.]

1. Substituted by G N. of 7-5-1989).

105. Constitution of authority by State Government to hear appeals which lie to that Government :-

:- The appeals which lie to the State Government under the Act may be heard by the Secretary, the Additional Secretary or any of the Deputy Secretaries to Government, Co-operation and Rural Development Department.]

106. Procedure for presentation to and disposal of appeals by State Government and Registrar under section 152 :-

(1) An appeal to the State Government or the Registrar shall be presented by the appellant or by his duly appointed agent to the appellate authority either in person during office hours or sent to it by registered post.

(2) When such an appeal is presented by an agent, it shall be accompanied by a letter of authority of the appellant appointing him as such.

(3) Every appeal shall be accompanied by a certified copy of the order against which the appeal is preferred.

(4) Every appeal shall :-

(i) be either type written or hand written in ink legibly ;

(ii) specify the name and the address of the appellant and also the name and address of the opponent, as the case may be ;

(iii) state by whom the order against which the appeal is preferred was made ;

(iv) clearly state the grounds on which the appeal is made ;

(v) state precisely the relief which the appellant claims ; and

(vi) give the date of the order appealed against.

(5) On receipt of the appeal, the appellate authority shall endorse on it the date of its receipt by it. The appellate authority shall, as

soon as possible, examine it and satisfy itself that :-

(i) the person presenting it has the authority to do so ;

(ii) that is made within the prescribed time limit; and

(iii) that it conforms to all the provisions of the Act and these rules.

(6) If the appellate authority finds that the appeal presented does not conform to any of the said provisions. It shall make a note on the appeal to that effect and may call upon the appellant or his agent to remedy the defects within a period of seven days of the receipt of the notice to do so or in case the appeal has not been presented within the prescribed time limit to show cause within the said period of seven days why it should not be dismissed as time-barred by the appellate authority.

(7) If the defect is remedied or the cause shown by the appellant or his agent satisfied the appellate authority, the appellate authority may proceed to consider the appeal.

(8) If the appellant or his agent fails to remedy the defects or to show cause to the satisfaction of the appellate authority within the said period, the appellate authority may if the appeal is not presented within the time limit dismiss the appeal as time-barred. In cases where it is considered necessary to give a hearing, the appellate authority may fix a date for hearing, of which due notice shall be given to the appellant or his agent.

(9) On the date so fixed, the appellate authority shall go through the relevant papers, hear the appellant or his agent, if present, and pass suitable order on the appeal.

(10) The appellate authority may, at its discretion, adjourn to any other day the hearing of any appeal at any stage.

(11) When the hearing of the appeal is completed, the appellate authority shall announce its judgment forthwith or may fix a date for the same, after giving due notice to the appellant or the other parties to the appeal.

(12) Every decision or order of the appellate authority shall be in writing and a copy of the same shall be supplied to the appellant and such other parties as in the opinion of the appellate authority are likely to be affected by the decision or the order.

CHAPTER 12 Miscellaneous

107. Procedure for attachment and sale of property under section 156 :-

:-

(1) A creditor holding a decree requiring the provisions of section

156 to be applied or Society to which -

- (a) any amount is due under a decree or order of a Civil Court obtained by the Society ;
- (b) any amount is due under a decision, award or order of the Registrar, Arbitrator, Liquidator or Tribunals ;
- (c) any sum is awarded by way of costs under the Act;
- (d) any amount is due under a certificate granted by the Registrar to the assets of the society ;
- (e) any amount is due under a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or under sub-section (1) of section

Provided that, no such application shall be necessary in respect of a certificate given under sub-section (1) or (2) of section 101 of the awards or orders referred to in Rule 84.]

[(2) Every such application shall be made in the form specified by the Registrar and shall be signed by the applicant and shall be accompanied 52[by deposit of such amounts if any, as may be specified by the Registrar to cover the cost of process. The scales for such cost of process shall be fixed by the Registrar from time to time, by a general or special order under such scales, the fee for issuing any notice shall not exceed Rs. 2 and the bhatta to be paid to any person serving any notice shall not exceed Rs. 5 per day, and the deposit for other costs of process shall not exceed the expenditure likely to be incurred for recovering the amount]. The applicant may indicate whether he wishes to proceed against the immoveable property mortgaged to the applicant of other immoveable property or to secure the attachment of moveable property.]

(3) On receipt of such application, or when the Registrar is proceeding under rule 84, the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar, setting forth the name of the defaulter and the amount due and forward it to the Sale Officer.

(4) Unless the applicant has expressed a desire that proceedings should be taken in a particular order as laid down in sub-rule (2), execution shall ordinarily be taken in the following manner :-

- (i) moveable property of the defaulter shall be first proceeded against, but this shall not preclude the immoveable property being proceeded against simultaneously in case of necessity,
- (ii) if there is no moveable property, or if the sale proceeds of the moveable property or properties attached and sold are insufficient to

meet in full the demand of the applicant, the immoveable property mortgaged to the applicant, or other immoveable property belonging to the defaulter may be proceeded against.

(5) In the seizure and sale of moveable property, the following rules shall be observed :-

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

(b) After the distress is made, the Sale Officer may arrange for the custody of the property attached with the applicant or otherwise. If the Sale Officer requires the applicant to undertake the custody of the property, he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the applicant. If the attached property is live-stock, the applicant shall be responsible for providing the necessary food therefor. The Sale Officer may, at the instance of the defaulter or of any person claiming an interest in such property, leave it in the village or place where it was attached, in charge of such defaulter or such person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.

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

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

(e) If crops or ungathered products of the land belonging to a

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

(f) The Sale Officer shall not work the bullocks or cattle, or make use of the goods or effects distrained, and he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

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

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

(i) The Sale Officer shall on the day previous to, and on the day of, sale cause proclamation of time and place of the intended sale to

be made by beat of drum in the village in which the defaulter resides and in such other place or places as the Sale Officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or affixed in the manner laid down in clause (a):

Provided that, where the property seized is subject to speedy and natural decay, or where the expenses of keeping it in custody is likely to exceed its value, the Sale Officer may sell it, at any time, before the expiry of the said period of fifteen days, unless the amount due is sooner paid.

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

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

Provided further that, the Recovery Officer or the Sale Officer may, in his discretion, adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (i) shall be made unless the defaulter consents to waive it.

(k) The property sold shall be paid for in cash at the time of sale, or as soon thereafter as the Sale Officer shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser fails in the payment of purchase money, the property shall be re-sold.

(1) Where the proceeds from the sale of the property exceeds the amount due from the debtor, the excess amount, after deducting the interest and the expenses of process and other charges, shall be paid to the defaulter.

(m) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property attached, pays the full amount due including interest, bhatta and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.

(n) The moveable properties exempted from attachment by the proviso to section 60 of the Code of Civil Procedure, 1908 shall not be liable to attachment or sale under these rules.

(6) Where the moveable property to be attached is the salary or

allowance or wages of a public officer or a railway servant or a servant of a local authority or a firm or a company, the Recovery Officer may, on receiving a report from the Sale Officer, order that the amount shall, subject to the provisions of section 60 of the Code of Civil Procedure, 1908, be withheld from such salary or allowance or wages either in one payment or by monthly installments as the Recovery Officer may direct and upon receipt of the order, the officer or other person whose duty it is to disburse such salary or allowance or wages shall withhold and remit to the Sale Officer, the amount due under the order or the monthly installment, as the case may be.

(7) (i) Where the property to be attached consists of the share or interest of the defaulter in moveable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the share or interest or charging it in any way.

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

(iii) Where the property to be attached is in the custody of any Court or public officer, the attachment may be made by a notice to such Court or officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further demands of the Recovery Officer issuing the notice :

Provided that, where such property is in the custody of a Court or Recovery Officer of another district, any question of title or priority arising between the applicant and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be left to be determined by such Court or Recovery Officer.

(8) (i) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made, if the decree sought to be attached was passed by the Registrar or by any person to whom a dispute was transferred by the Registrar under section 93 by a nominee or a Board of Nominees, then by the order of the Registrar.

(ii) Where the Registrar makes an order under clause (i), he shall, on the application of the applicant who has attached the decree, proceed to execute the attached decree and apply the net proceeds

in satisfaction of the decree sought to be executed.

(iii) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in clause (i) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner for the holder thereof.

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

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

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

(9) Where the moveable property to be attached is :-

(a) a debt due to the defaulter in question,

(b) a share in the capital of a corporation or a deposit invested therein, or

(c) other moveable property not in the possession of the defaulter, except property deposited in, or in the custody of, any Civil Court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting , -

(i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof;

(ii) in the case of a share or deposit, the person in whose name the share or the deposit may be standing, from transferring the share or deposit or receiving any dividend or interest thereon ; and

(iii) in the case of any other moveable property, the person in possession of it from giving it over to the defaulter. A copy of such order shall be sent, in the case of the debt, to the debtor, in the case of the share or deposit, to the proper officer of the corporation and in the case of any other moveable property to the person in possession of such property. As soon as the debt referred to in

clause (a) or the deposit referred to in clause (b) matures, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable, the Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable, its value shall be paid to the Recovery Officer or to the party referred to in clause (c). The person concerned shall place it in the hands of the Recovery Officer as it becomes deliverable to the debtor.

(10) Immoveable property shall not be sold in execution of a decree unless such property has been previously attached :

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

(11) In the attachment and sale or sale without attachment of immoveable property, the following rules shall be observed :-

(a) The application presented under sub-rule (2) shall contain a description of the immoveable property to be proceeded against, sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement of survey, the specification of such boundaries or numbers and the specification of the defaulters share or interest in such property to the best of the belief of the applicant and so far as he has been able to ascertain it.

(b) The demand notice issued by the Recovery Officer under sub-rule (3) shall contain the name of the defaulter, the amount due, including the expenses, if any, and the bhatta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment, and in case of non-payment, the particulars of the properties to be attached and sold or to be sold without attachment, as the case may be. After receiving the demand notice, the Sale Officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family at his usual place of residence, or upon his authorised agent or, if such personal service is not possible, shall affix a copy thereof on some conspicuous part of the immoveable property about to be attached and sold or sold without attachment, as the case may be :

Provided that, where the Recovery Officer is satisfied that a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property, the demand notice issued by the Recovery Officer under sub-rule (3) shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall

be attached forthwith.

(c) If the defaulter fails to pay the amount specified in the demand notice within the time allowed, the Sale Officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immoveable property noted in the application for execution in the following manner.

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

(e) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the taluka office at least thirty days before the date fixed for the sale and also by beat of drum in the village (on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale). Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the applicant and the defaulter. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible , -

(i) the property to be sold,

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

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

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

(f) When any immoveable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The applicant shall, when the amount for the realisation of which the sale is held exceeds Rs. 100, furnish to the Sale Officer within such time as may be fixed by him or by the Recovery Officer an encumbrance certificate from the Registration Department for

the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (10), prior to the date of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer, as the case may be. The sale shall be by public auction to the highest bidder:

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

Provided further that, the Recovery Officer or the Sale Officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the defaulter consents to waive it. The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the Recovery Officer :

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

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

Provided that, where the applicant is the purchaser and is entitled to set off the purchase money under clause (k) the Sale Officer shall dispense with the requirements of this clause.

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

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

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

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

(j) Every resale of immoveable property in default of payment of the amounts mentioned in clause (h) within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

(k) Where an applicant purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter up satisfaction of the decree in whole or in part accordingly.

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

(13) (i) Where immoveable property has been sold by the Sale Officer, any person either owning such property or holding any interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer,

(a) for payment to the purchaser, a sum equal to 5 per cent, of the purchase money, and

(b) for payment to the applicant, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment if any, and sale and other costs due in respect of such amount, less amount which may since the date of such proclamation have been received by the applicant,

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

cent, deposited by the applicant.

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

(iii) If a person applies under sub-rule (14) to set aside the sale of immoveable property, he shall not be entitled to make an application under this sub-rule.

(14) (i) At any time within thirty days from the date of the sale of immoveable property, the applicant or any person entitled to share in a rateable distribution of the assets or whose interests are affected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it:

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

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

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

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

(iv) Whenever the sale of any immoveable property is not so confirmed or is set aside, the deposit or the purchase money, as the case may be, shall be returned to the purchaser..

(v) After the confirmation of any such sale, the Recovery Officer shall grant a certificate of sale bearing his seal and signature to the purchaser, and such certificate shall state the property sold and the name of the purchaser.

(15) It shall be lawful for the Sale Officer to sell the whole or any portion of the immoveable property of a defaulter in discharge of moaeey due :

Provided that, so far as may be practicable, no larger section or portion of immoveable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment, if any, and sale.

(16)[* *****]

(17) Where the cost and charges incurred in connection with attachment and sale of moveable property or the attachment and sale or sale without attachment of immovable property under this rule, exceeds the amount of the cost deposited by the applicant, such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by the defaulter, as the case may be, 2nd the balance shall be made available to the applicant.

(18) Every person making a payment towards, any money due for the recovery of which application has been made under this rule shall be entitled to a receipt for the amount signed by the Sale Officer or other officer empowered by the Recovery Officer in that behalf ; such receipt shall state

(19) (a) Where any claim is preferred to, or any objection is made to the attachment of, any property attached under this rule on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claims or objection and dispose it of on merits :

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

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

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

(20) (i) Any deficiency of price which may arise on a re-sale held under clause (j) of sub-rule (11) by reason of the purchasers default, and all expenses attending such re-sale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the applicant or the defaulter, be recoverable from the defaulting purchaser under the provisions of this rule. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

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

(21) Where any property has been attached in execution of decree but by reason of the applicants default the Recovery Officer is unable to proceed further with the application for execution, he shall either dismiss the application or for any sufficient reason

adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

(22) Where assets are held by the Sale Officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decree against the same defaulter have been received from more than one applicant and the applicants have not obtained satisfaction, the assets, after deducting the costs of realisation, shall be rateably distributed by the Sale Officer among all such applicants, in the manner provided in section 73 of the Code of Civil Procedure, 1908.

(23) Where a defaulter dies before the decree has been fully satisfied, an application under sub-rule (1) may be made against the legal representative of the deceased and thereupon all the provisions of this rule shall, save as otherwise provided in this sub-rule, apply as if such legal representative were the defaulter. Where the decree is executed against such of receipt entitled to a travelling allowance equal to the amount given by the Government of Maharashtra to its First Grade Officers for such journeys.

\ \ (2) Daily Allowance :- (a) (i) Rates of daily allowance admissible while on tour - Subject to the provisions of clause (b), a member of a Committee of a class of Society shown in column (1) of the Table hereto shall be entitled to claim-daily allowance at the rates shown against it in columns (2), (3), (4), (5), (6) or (7) as the case may be, of the said Table.

of receipt entitled to a travelling allowance equal to the amount given by the Government of Maharashtra to its First Grade Officers for such journeys. (2) Daily Allowance :-

(a) (i) Rates of daily allowance admissible while on tour - Subject to the provisions of clause (b), a member of a Committee of a class of Society shown in column (1) of the Table hereto shall be entitled to claim daily allowance at the rates shown against it in columns (2), (3), (4), (5), (6) or (7) as the case may be, of the said Table.

(ii) A society may allow a member of the committee daily allowance at a special rate mentioned in column (3) of the Table in paragraph (i) for tour to a city or town in other State other than the capitals of such State which, in the opinion of its committee, is a big city or town like those mentioned in that column.

(b) Calculation of daily allowance for the period spent on tour (i) Daily allowance at full rate shall be admissible for every 24 hours of absence, payment for fraction of 24 hours being regulated as under :-

More than 12 hours Full daily allowance. No daily allowance shall be

admissible during the period of Journey :-

Provided that, for journeys performed by road in a car or vehicle supplied by the Institution a member shall be entitled to claim daily allowance for the duration of the journey at the rate mentioned above, (ii) When halts both at place for which ordinary rate and places for which special rate of daily allowance are admissible are involved in one tour the daily allowance at ordinary rate shall first be calculated for the entire period of absence. To this shall be added, the difference of daily allowance between the special rate and the ordinary rate admissible for the actual period of halt at the places specified for special rates. For computing the difference between the two rates for fraction of 24 hours, the percentage laid down in paragraph (i) shall be made applicable.

\ \ \ (3) Sitting Fees:- A member of a Committee of a class of Society shown in column (1) of the Table hereto shall be entitled to claim per meeting sitting fee at the rate shown against it in column (2) of the said Table. Such fee shall be payable only after all the subjects on the agenda of the meeting are discussed. \

TABLE

107B. Security to be furnished by officers and employees of societies handling cash, etc. :-

:- Every officer or employee of a society who is required to handle cash security or property belonging to the society, ¹ [shall furnish security which shall not be less than that shown as under :-

1. Substituted by G.N. of 15-12-1973.

107C. Maximum amount of cash which may be handled at a time and who may be authorised :-

:-

(1) In the case of the following societies, only the Security or a paid employee of the society duly authorised in this behalf by a resolution of the Committee shall handle or keep cash on hand to the extent shown below at the end each working day the excess being credited within three days in the nearest Branch of the District Central Cooperative Bank or any other approved Bank.

| I - Primary Societies | | |
|-----------------------|---|-------|
| | | Rs. |
| (1) | Agricultural Processing Societies, the paid | 6,000 |

| | | |
|------|--|-------|
| | up share capital of which is more than Rs. 5 lakhs. | |
| (2) | Spinning Mills the paid up share capital of which is more than Rs. 50 lakhs. | 6,000 |
| (3) | Spinning Mills the paid up capital of which is Rs. 50 lakhs or less. | 5,000 |
| (4) | Sugar factories | 5,000 |
| (5) | Consumers Societies | 1,000 |
| (6) | Dairy Societies | 500 |
| (7) | Agricultural Credit Societies | 500 |
| (8) | Fisheries Societies | 500 |
| (9) | Industrial Estates | 500 |
| (10) | Forest Labour Societies | 500 |
| (11) | Labour Contract Societies | 500 |
| (12) | Agricultural Processing Societies, the paid up share capital of which is Rs. 5 lakhs or less. | 500 |
| (13) | Salary Earners or other Urban Credit Societies | 500 |
| (14) | Farming Societies | 500 |
| (15) | Lift Irrigation Societies | 500 |
| (16) | Industrial Societies | 500 |
| (17) | Weavers Societies | 300 |
| (18) | Housing Societies | 300 |
| | II - Societies at Taluka level | |
| (1) | Taluka Co-operative purchase and Sale Societies | 1,000 |
| (2) | Taluka Co-operative Supervising Unions | 100 |
| | III - District Level Federal Societies | |
| (1) | District Marketing Societies | 5,000 |
| (2) | District Wholesale Consumers Stores | 5,000 |
| (3) | District Level Federal Societies other than District Central Co-operative Banks and District Land Development Banks. | 1,000 |

(2) Any contravention of this rule shall be an offence under clause (q) of section 146 and the person concerned shall, on conviction, be punished under clause (q) of section 147.

107D. Certain payments to be made by cheque :-

:-

(1) All payments by or on behalf of a society or class of societies notified by the State Government from time to time, shall be made only by means of a cheque.

(2) The State Government may, by general or special order, published in the Official Gazette, from time to time, direct that a Society or class of Societies specified therein shall, while making any payment exceeding such sum or sums as may be specified to any member or members by way of remuneration, be made by crossed cheque drawn on a Bank, and different sums may be specified by the State Government in this behalf for different Society or class of Societies.]

108. Contributions, fees and charges to be credited to Government :-

All contributions made under sub-section (2) of section 90, all fees paid under sub-section (3) of section 108 and all charges levied under rule 74 shall be credited to the State Government.

109. Communication of decision, award, etc. :-

Any order, posting of communication, decision or award required to be communicated under the Act or these Rules, shall, unless otherwise specifically provided in the Act or the rules, be posted to the last address of the party as given by the party under the certificate of posting and under intimation to the society, with instructions to display a copy thereof on its notice board.

110. Repeal of Bombay Co-operative Societies Rules :-

The Rules, 1927 Bombay Co-operative Societies Rules, 1927, are hereby repealed, except as repealed, respects things done or omitted to be done before the repeal thereof.