

**MULTI STATE CO OPERATIVE SOCIETIES (PRIVILEGES,
PROPERTIES AND FUNDS, ACCOUNTS, AUDIT, WINDING UP
AND EXECUTION OF DECREES, ORDERS AND DECISIONS)
RULES, 1985**

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MULTI STATE CO OPERATIVE SOCIETIES (PRIVILEGES, PROPERTIES AND FUNDS, ACCOUNTS, AUDIT, WINDING UP AND EXECUTION OF DECREES, ORDERS AND DECISIONS) RULES, 1985

In exercise of the powers conferred by Section 109 of the Multi State Co-operative Societies Act, 1984(51 of 1984), the Central Government hereby makes the following rules, namely

CHAPTER 1

Preliminary

1. Short title and extent :-

(1) These rules may be called the MultiState Co-operative Societies (Privileges, Properties and Funds, Accounts, Audit, Winding up and Execution of Decrees, Order and Decisions) Rules, 1985.

(2) These rule shall come into force from the sixteenth day of September, 1985.

2. Definitions :-

In these rules, unless the context otherwise requires,

(i) "Act" means the MultiState Co-operative Societies Act 1984 (51 of 1984);

(ii) "Authorized officer" means an officer authorized by the Central Government for the purposes of Section 95;

(iii) "decree" means any decree of a civil court and includes any decision or order referred to in Section 85;

(iv) "decree holder" means any person holding a decree as defined in clause (iii);

- (v) "defaulter" means any multiState Co-operative society, any Co-operative society, member or any other person committing default;
- (vi) "Form" means a Form appended to these rules;
- (vii) "general meeting" means a meeting of the general body including a representative general body referred to in Section 29;
- (viii) "judgment debtor" means any multiState Co-operative society against which or any person against whom a decree has been obtained;
- (ix) "Recovery Officer" means any person authorized to exercise the powers of the Central Registrar under Section 85;
- (x) "Sale Officer" means a person authorized by the Central Registrar by General or special order, to attach and sell the property of judgment debtor or to execute any decree by attachment and sale of property;
- (xi) "section" means a section of the Act;
- (xii) words and expressions defined in the Act and used but not defined in these rules shall have the meanings respectively assigned to them in the Act.

CHAPTER 2

Privileges, Properties And Funds Of Multi State Co Operative Societies

3. Certifying copies of entries in books :-

- (1) For the purposes specified in subsection (1) of Section (1) of Section 56. a copy of any entry in a book of a multiState Co-operative society regularly kept in the course of its business shall be certified
 - (i) by the Chief Executive of the society or any other member or employee authorized by the byelaws of the society;
 - (ii) where an order has been passed under Section 48 superseding the board and appointing an administrator, by the administrator or any other officer authorized by him; and
 - (iii) where an order has been passed under subsection (1) of Section 80 appointing a liquidator of the multiState Co-operative society, by the liquidator.
- (2) Every certified copy shall bear the seal of the multiState Co-operative society.

4. Contribution towards co operative education fund :-

(1) Every multiState Co-operative society shall credit a sum calculated at one percent of its net profits every year as contribution to the Co-operative Limited, New Delhi. The Co-operative education fund shall be administered by a committee nominated for that purpose consisting of the following members:

(i)	The President of the National Co-operative Union of India Limited, New Delhi	Chairman
(ii)	The Central Registrar	Member
(iii)	The Financial Adviser to the Department of Agriculture & Co-operation in the Ministry of Agriculture	Member
(iv)	Two representatives of the Multi-State Cooperative Societies to be nominated by the Central Government for every two years	Members
(v)	The Director General National Council for Co-operative Training, New Delhi	Member
(vi)	The Director, Vaikunth Mehta National Institute of Co-operative Management, Pune.	Member

(2) The Co-operative education fund shall be utilised for the purposes connected with the education of members and human resources development for Co-operatives.

5. Disposal of net profits :-

The net profits of every multiState Co-operative society shall be disbursed or utilised subject to the following terms and conditions:

(a) No dividend shall be declared or paid except from out of the net profits and shall not exceed 12 per cent per annum on the paidup share capital.

(b) No dividend shall be declared or paid while a claim due from the multiState Co-operative society to a depositor lender remains unsatisfied.

(c) No donation made by the multiState Co-operative society out of the net profits of any year shall exceed rupees five lakhs.

6. Investment of Funds :-

A multiState Co-operative society may invest or deposit its funds in any one or more of the following modes:

(i) any mode provided in clause (a) to (e) of section 62;

(ii) any post office savings bank;

(iii) any savings scheme launched by the Central or the State Government;

(iv) the shares of a corporation or other body corporate in which the Central or the State Government or both hold more than fifty per cent of the shares; and

(v) the debentures floated by a corporation or a body corporate if such debentures are guaranteed by the Central or the State Government or by the Reserve Bank of India.

7. Objects and investments of reserve fund :-

(1) Every multi State Co-operative society shall maintain a reserve fund to meet any one or more of the following objects

(i) unforeseen losses;

(ii) claim of the creditors of the society which cannot be otherwise met; and

(iii) such other financial needs in times of special scarcity.

(2) Every multiState Co-operative society may, with permission of the Central Registrar invest or deposit its reserve fund in

(i) acquisition or purchase of land and building and construction of building for

(a) its office, staff and equipment

(b) installation or operation of its machinery or plant;

(ii) purchase of machinery or plant which is required for its main business;

(iii) acquisition or purchase of land and building and construction of buildings for the purposes mentioned in clause (i) (a) and also for the benefit of its members in accordance with the provisions of its byelaws; and

(iv) its own business.

(3) The reserve fund of a multiState Co-operative society shall be indivisible and no member shall have any claim or a share in it.

(4) No multiState Co-operative 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 Central

Registrar previously obtained.

(5) The utilization of the reserve fund for the objects mentioned in subrule (1) shall be subject to the condition that any amount drawn shall be reimbursed from the profits accruing in subsequent Co-operative year or years as directed by the Central Registrar. The Central Registrar may, however, having regard to the special circumstances of the society, permit that the reserve fund drawn and utilized for the objects mentioned under clauses (ii) and (iii) of subrule (1) may not be reimbursed wholly or partially as he may direct.

(6)

(a) In the case of winding up a multiState Co-operative society, the reserve fund and the other funds of the multiState Co-operative society shall be applied first in discharge of the liabilities of the multiState Co-operative in accordance with the priority specified in items (i) to (vi) below:

(i) salary and wages or other payments, if any, due to the employees of the multiState Co-operative Society;

(ii) security deposits of staff, if any;

(iii) Borrowings held from Government or on the guarantee of Government, if any;

(iv) deposits of nonmembers, if any;

(v) loans, if any; and

(vi) deposits of members, if any.

(b) The balance, if any, after discharge liabilities mentioned in clause (a) shall be applied to the repayment of the paidup share capital and thereafter to the payment of dividend where it has not been paid.

(c) Notwithstanding anything contained in clause (b), no dividend shall be paid if the byelaws of the multiState Co-operative society do not provide for payment of dividend.

(7) Any surplus remaining after payments mentioned in subrule (6) shall be applied by the liquidator, after consulting members, for contribution to National Defence Fund or to Co-operative education fund referred to in Rule 4 or to any other charitable purpose or local

objects of public utility subject to the approval of the Central Registrar.

8. Writing off 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 67, shall first be 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 multiState Co-operative society. All order dues and accumulated losses or any other loss sustained by the multiState Co-operative society which cannot be recovered and have been certified as irrecoverable by the auditor may be written off against the Reserve Fund of the multiState Co-operative society;

Provided that

(a) no bad debts or losses shall be written off without the sanction of the general body;

(b) before any such bad debts or losses shall be written off, the multi State Co-operative society shall obtain the approval of the Central Registrar:

Provided further that the Central Registrar may, while giving the approval, impose such conditions as to the recoupment of the Bad Debt Fund and restoration of part of whole of the amount written off against the Reserve Fund, from out of future profits as he deems fit.

9. Transactions with non members :-

Save as otherwise provided for in Section 65 and except with the general or special sanction of the Central Registrar, no multiState Co-operative society shall enter into any credit transaction with a person other than a member, unless the byelaws of the multiState Co-operative society permit it to enter into such transactions.

10. Application for loan :-

(1) An application for loan shall be in such form as may be required by the board of the multiState Co-operative society and shall state the purpose for which the loan is required in the manner laid down in the byelaws of the society.

(2) For every loan, a member shall furnish such security as may be required under the byelaws of the multiState Co-operative society.

(3) The period of repayment of the loan shall be as may be provided in the byelaws, but in no case exceed five years.

(4) In any multiState Co-operative society in which the liability of the members is limited by shares no loan shall be granted to a member exceeding ten times the amount of share capital paid by him or as may be laid down in the byelaws.

11. Contributory provident fund :-

(1) Every multiState Co-operative society which has in its service 5 or more regular employees shall establish a Contributory Provident Fund referred to in subsection (1) of Section 66.

(2) the multistate Co-operative society creating such a fund shall provide for the following in its byelaws:

(a) authority to administer the fund.

(b) Amount of contribution to be deducted form the employee's salary.

(c) Mode of nomination for payment of the amount of the contributory provident fund in case of employee's death.

(d) Purpose for which, the extent to which, and the period after which, advances may be made against the security of such fund and the number of monthly installments which advance is to be repaid.

(e) Refund of employees' contribution and contribution made by the society.

(f) Maintenance of accounts of such fund.

(3) The amount of contribution that can be deducted from the salary of an employee of the multiState Co-operative society shall not be less than 8.33 per centum him of his basic salary.

(4) The multiState Co-operative society may make such contribution every year to the employees contributory provident fund as may be approved by the board. Such contribution shall not exceed 8.33 per centum of the basic salary of the employee.

12. Restriction on borrowings of limited liability of multi state Co-operative society :-

No multiState Co-operative society with limited liability shall accept deposits or loans, or by any other way incur liability exceeding 10

times the sum of the paidup share capital plus accumulated reserves minus any losses: Provided that the Central Registrar, for reasons to be recorded in writing, may permit a multiState Co-operative society to incur exceeding the aforesaid limit.

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

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

(a) maintain such liquid resources and in such form as may be specified by the Reserve Bank of India in the case of those multiState Co-operative credit societies which are coming under the purview of the Banking Regulation Act, 1949 (10 of 1949) and by the Central Registrar in the case of other MultiState Co-operative Societies; and

(b) 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 Central Registrar.

14. Shares not be be hypothecated to the multi State Co operative society :-

The shares of a multiState Co-operative society shall not be hypothecated to that society by its members as security for a loan.

15. Loan on security of non members :-

No multiState Co-operative society shall make any loan to a member on a security bond given by a nonmember: Provided that the Central Registrar may for reasons, to be recorded in writing, exempt any multistate Co-operative society or class of MultiState Co-operative Societies from the operation of this rule.

CHAPTER 3

Audit And Accounts

16. Books of Accounts :-

Every multiState Co-operative society shall keep books of account with respect to

(a) all sums of money received and expended and the matters in respect of which the receipt and expenditure take place;

(b) all sales and purchase of goods;

(c) the assets and liabilities;

(d) in the case of a multiState Co-operative society engaged in production, processing and manufacturing, particulars relating to utilisation of materials or labour or other items of costs as may be specified by the Central Registrar.

17. Subject matter of audit :-

(1) The audit of a multiState Co-operative society under subsection (1) of section 67 shall include, in addition to the matters specified in subsection (2) of that section, the following particulars:

(a) Whether the auditor has obtained all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit.

(b) Whether in his opinion proper books of accounts as specified in these rules and byelaws have been kept by the multiState Co-operative society so far as it appears from the examination of those books and proper returns adequate for the purposes of his audit have been received from the branches not visited by him.

(c) Whether the balancesheet and profit and loss account exhibit a true and fair view of the state of affairs of the multiState Co-operative society according to best of his information and explanations given to him and as shown by the books of the multiState Co-operative society; and

(d) Whether there has been any material impropriety or irregularity in the expenditure or in the realisation of money due to the multi State Co-operative Society.

(2) where in any of the matters referred to in subrule (1) the answer is in the negative or in the affirmative with any remark, the auditor shall give reasons for such answer with facts and figures in support of such remarks.

(3) The audit report shall also contain schedules with particulars of:

(a) all transactions which appear to be contrary to the provision of the Act, the rules or the byelaws of the multiState Co-operative society;

(b) Any money belonging to the multiState Co-operative society which appears to the auditor to be bad or doubtful of recovery;

(c) The loans given by the multiState Co-operative society to the members of the board; and

(d) any other matter as may be specified by the Central Registrar in this regard.

(4) The auditor shall make his report to the multiState Co-operative society and also send a copy of that report direct to the Central Registrar. The Central Registrar may for reasons to be recorded in writing direct that if any portion of the audit report which appears to him of objectionable nature or not justified, be expunged and the portion so expunged shall not form part of the audit report.

(5) The audit report given by the auditors, shall be considered by the board of a multiState Co-operative society and place before the general body with their comments.

(6) The defects pointed out by the auditors in the working of the multiState Co-operative society shall be specifically considered by the board and a compliance report explaining the measures taken to rectify the defects be submitted to the Central Registrar within three months of the receipt of the audit report.

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CHAPTER 4

Winding Up Of Multi State Co operative Societies

19. Procedure to be adopted by liquidator :-

Where a liquidator has been appointed under subsection(1) of section 80 the following procedure shall be adopted:

(a) The appointment of the liquidator shall be notified by the Central Registrar in the Official Gazette.

(b) The liquidator shall, as soon as the order of winding up of the multiState Co-operative society takes effect, publish by such means as he may, think proper, a notice, requiring all claims against the multiState Co-operative society, the winding up of which has been ordered, to be submitted to him within two months of the publication of the notice. All liabilities recorded in the account books of a multiState Co-operative society shall be deemed ipso facto to have been duly submitted to him under this clause.

(c) The liquidator shall investigate all the claims against the multi State Co-operative Society and decide questions of priority arising between claimants.

(d) The liquidator shall recover all sums and other properties to

which the multiState Co-operative society is entitled and may institute such suits for that purpose or such suits incidental to liquidation proceedings as he may think proper.

(e) The liquidator may empower any person, by general or special order in writing to make collections and to grant valid receipts on his behalf.

(f) The liquidator shall, after setting the assets and liabilities of multi State Co-operative society, as they stood on the date on which the order of winding up is made, proceed next to determine from time to time the contribution including debts due and costs of liquidation to be made or remaining to be made by each of its members, past members, or by the estates, or nominees, heirs or legal representatives of deceased members or by any officers of former officers, to the assets of the multiState Co-operative society, under clause (b) of subsection (2) of section 81. Should necessity arise, he may also make a subsidiary order regarding such contributions and such order shall be enforceable in the same manner as the original order.

(g) All funds in the charge of the liquidator shall be deposited in the Post Office Savings Banks or in a Co-operative bank or with such other banks as may be approved by the Central Registrar and shall stand in his name.

(h) The Central 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 multiState Co-operative society in priority of all other claims.

(i) The liquidator may call for the meeting of the members of the multiState Co-operative society under liquidation.

(j) The liquidator shall submit to the Central Registrar a quarterly report in such form as the Central Registrar may, specify showing the progress made in liquidation of the multiState Co-operative society.

(k) The liquidator shall keep such books and accounts as may from time to time be specified by the Central Registrar who may at any time cause such books and accounts to be audited.

(1) At the conclusion of the liquidation, the liquidator shall call for a

general meeting of the members of the dissolved society at which the liquidator or any other person authorised by him, by special or general order in writing in this behalf, shall summarize, the result of his proceedings and shall take a vote as to the disposal of any surplus funds. The Liquidator shall submit his final report to the Central Registrar with a copy of the proceedings of the general meeting referred to above and make over to the Central Registrar all books and registers and accounts etc., belonging to the multi State Co-operative society and all books and accounts relating to the liquidation proceeding kept by him.

(m) If any liability cannot be discharged by the liquidator owing to the whereabouts of the claimants not being known or for any other cause, the amount covered by such undischarged liability may be deposited in a Co-operative Bank and shall be available for meeting the claims of the person or persons concerned.

(n) A liquidator may, at any time, be removed by the Central Registrar and he shall on such removal be bound to hand over all the property and documents relating to the society under liquidation to such persons as the Central Registrar may direct.

(o) All the books and records of a multiState Co-operative society whose registration has been canceled and the proceedings of liquidation of a multiState Co-operative society ordered to be wound up may be destroyed by the Central Registrar after the expiry of three years from the date of the order cancelling the registration of the multiState Co-operative society.

20. Application of assets of the multi State co operative society :-

(a) The assets of the multiState Co-operative society shall be applied in order of priority as given below for payment of the liabilities:

(1) Prorata payment of all outside liabilities.

(2) Prorata repayment of loans and deposits of members.

(3) Prorata refund of share capital

(4) Prorata payment of dividend on the share at the rate not exceeding 6.25 per cent per annum for the period of liquidation.

21. Disposal of surplus Assets :-

For the purpose of subsection (b) of Section 82 the surplus assets shall be distributed among the members in proportion to the share capital held by the members or in proportion to the business done by the members with the multiState Co-operative society as may be determined by the Central Government before according sanction under subclause (b) of Section 82.

CHAPTER 5

Execution Of Decrees, Orders And Decisions

22. Procedure in execution of decrees, orders and decisions

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(1) Any decreeholder requiring the provisions of clause (c) of Section 85 to be applied, shall apply to the Recovery Officer in whose jurisdiction the cause of action arose and shall deposit the necessary costs fixed by the Central Registrar. If the judgmentdebtor resides or the property to be proceeded against is situated outside the jurisdiction of such Recovery Officer, the Recovery officer shall transfer the application to the Recovery Officer in whose jurisdiction the judgmentdebtor resides or the property is situated.

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

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

(4) Unless the decreeholder has expressed a desire that proceedings should be taken in a particular order as laid down in subrule (2), execution shall ordinarily be taken in the following manner: (i) movable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity. (ii) if there is no movable property, or if the sale

proceeds of the movable property or properties attached and sold are insufficient to meet in full the demand of the decreeholder, the immovable property mortgaged to the decreeholder, or other immovable property belonging to the defaulter may be proceeded against.

(5) In the seizure and sale of movable property the following rules shall be observed:

(a) The Sale Officer, shall after giving previous notice to the decree holder, proceed to the village or place where the defaulter resides or the property to be distrained is stated 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 or 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 authorized 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 decreeholder or otherwise. If the Sale Officer requires the decreeholder 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 decreeholder. If the attached property is livestock, the decreeholder shall be responsible for providing the necessary food therefore. The Sale Officer may, at the instance of the defaulter or of any person claiming an interest in such property, leave it in the village or place where it was attached, in the charge of such defaulter or person, if he entered into a bond in the form specified by the Central 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 be as nearly as possible proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.

(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 effect distrained; and he shall provide the necessary food for the cattle or livestock, 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, outhouse or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriated for the zenana or residence of women except as hereinafter provided.

(h) Where the Sale Officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women which by custom or usage are considered private, the Sale Officer shall represent the fact to the officer in charge of the nearest police station. On such representation the officer in charge of the said station shall send a police officer to the spot in the presence of whom the Sale Officer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The Sale Officer may also, in the presence of a police officer, after due notice given for the removal of women within a zenana and, after furnishing means for their removal in a suitable manner if they be women of

rank who, according to the custom of usage cannot appear in public, enter the zenana apartments for the purpose of distraining the defaulter's 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 the time and place of the intended sale to be made by beat of drum in the village or place in which the defaulter resides on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale and in such other place or places as the officer may consider necessary to give due publicity to the sale, no sale shall take place until after the expiration of the period of 15 days from the date on which the sale notice has been served or affixed in the manner prescribed in clause (a):

Provided that where the property seized is subject to speedy and natural decay, or where the expense 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 15 days, unless the amount due is sooner paid.

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

Provided that it shall be open to the Sale officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons. Where the property is sold for more than the amount due, the excess amount after deducting the interest and the expenses of process and other charges, shall be paid to the defaulter:

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

(k) The property shall be paid for in cash at the time of sale, or as soon thereafter as the officer holding the sale 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 may

fail in ;payment of purchase money, the property shall be resold.

(1) Where any property which has been attached under these rules has been forcibly or clandestinely removed by any person, the Sale Officer may apply to a civil court having jurisdiction for restoration of such property. Where the court is satisfied about the truth of the facts, as alleged in the application, it may order forthwith such property to be restored to the Sale Officer.

(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, batta and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.

(n) The movable properties mentioned as exempt from attachment in the proviso to Section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall not be liable to attachment or sale under these rules.

(6) Where the movable property to be attached is the salary or allowance or wages of a public 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 (5 of 1908) be withheld from such salary or allowances 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 persons 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 movable property belonging to him and another as coowners, 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 negotiable instrument not deposited in a 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 Recovery officer of another district, any question of title or priority arising between the decreeholder 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 determined by such court or Recovery Officer.

(8)

(i) Where the property to be attached is a decree either for the payment or 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 Central Registrar or by any person to whom a dispute was transferred by the Central Registrar under Section 76, then by the order of the Central Registrar.

(ii) Where the Central Registrar makes an order under clause (i) he shall on the application of the decreeholder who was 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 subrule 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 subrule shall give notice of such order to the judgmentdebtor bound by the decree attached; and no payment or adjustment of the attached decree

made by the judgmentdebtor in contravention of such order after receipt of notice thereof, either through the said Recovery Officer or otherwise, shall be recognized so long as the attachment remains in force.

(9) Where the movable 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 movable 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 movable 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 the other movable 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). In he case of other movable property referred to in subclause (iii)j of clause (c) the person concerned shall place it in the hands of the Recovery Officer when it becomes deliverable to the defaulter.

(10) Immovable 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 immovable property, the following rules shall be observed:

(a) The application presented under subrule (2) shall contain a description of the immovable 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 or survey, the specification of such boundaries or numbers and the specification of the defaulter's share or interest in such property to the best of the belief of the decreeholder 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 batta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of nonpayment, 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 authorized agent or if such personal service is not possible, shall affix a copy thereof on some conspicuous part of the immovable property about to be attached and sold 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 subrule (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 immovable 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 a personal service is not possible, the

notice shall be affixed in some conspicuous port 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 decreeholder. 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 decreeholder 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 immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The decreeholder shall, when the amount for the realization of which the sale is held exceeds Rs. 100, furnish to the Sale Offices 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 the cases falling under the proviso to subrule (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 the 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 7 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 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 also that in case where an encumbrance certificate is not obtainable owing to the destruction of the connected records an affidavit from the village patwari 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 price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase, and in default of such deposit, the property shall forthwith be resold.

Provided that, where the decreeholder is the purchaser and is entitled to sent 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 sale certificate shall be paid within fifteen days from the date of sale:

Provide that, the time for payment of the cost of the stamps may, for good and sufficient reasons, be extended to 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 clause (h) the deposit may, if the Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Central 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 immovable property in default 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 herein before prescribed for the sale.

(k) Where a decree holder purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter 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 for with release the property after cancelling, where the property has been attached, the order of attachment.

(13)

(i) Where immovable property has been sold by the Sale Officer, any person either owning such property or holding an 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 as sum equal to 5 per cent of the purchase money, and

(b) for payment to the decreeholder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount, less amount which may since the date of such proclamation have been received by the decree holder.

(ii) If such deposit and application are made within thirty days from date of the 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 5 per cent deposited by the applicant:

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

(iii) If a person applied under subrule (14) to set aside the sale of immovable property, he shall not be entitled to make an application under this subrule.

(14)

(i) At any time within thirty days from the date of the sale of immovable property, the decreeholder or any person entitled to share in reteable distribution of the assets or whose interests are effected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it: Provided that, no sale shall be set aside on the ground of irregularity or fraud unless the Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(ii) 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 reason in writing set aside the sale.

(iv) Whenever the sale of any immovable property is not so confirmed or is set aside, the deposit or the purchase money, as the case may be shall be returned to the purchaser.

(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 and it shall be conclusive evidence of the fact of the purchase in all court and tribunals, where it may be

necessary to prove it and no proof of the seal or signature of the Recovery Officer shall be necessary unless the authority before whom it is produced shall have reason to doubt its genuineness.

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

(15) Where any lawful purchaser of immovable property is resisted and prevented by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property on his own account from obtaining possession of the immovable property purchased, any court of competent jurisdiction on application, and production of the certificate of sale provided for by subrule (14) shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the immovable property purchased had been decreed to the purchaser by a decision of the court.

(16) It shall be lawful for the Sale Officer to sell the whole or any portion of the immovable property of a defaulter in discharge of money due: Provided that so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment, if any, and sale.

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

(18) Where the cost and charges incurred in connection with attachment and sale of movable property or the attachment and sale or sale without attachment of immovable property under this rule, exceeds the amount of the cost deposited by the decreeholder under subrule (1) such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by defaulter, as the case may be, and the balance shall be made available to the decreeholder.

(19) 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 the name of the person making the payment and the subject matter in respect of which the payment is made.

(20)

(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 claim or objection and dispose of it on the merits:

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

(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, 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 conclusive.

(21)

(i) Any deficiency of price which may arise on a resale held under clause(j) of subrule (11) by reason of the purchaser's default and all expenses attending such resale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the decreeholder or the defaulter be recoverable from the defaulting purchaser under the provisions of this rule. The costs, if any incidental to such recovery shall 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.

(22) Where any property has been attached in execution of a decree, but by reason of the decreeholder's 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 proceeding to a future date. Upon the dismissal of such application, the attachment shall cease.

(23) Where assets are held by the State Officer and before the receipt of such assets, demand notices in pursuance of application for execution of decree against the same defaulter have been

received from more than one decreeholder and the decreeholders have not obtained satisfaction, the assets after deducting the costs or realization, shall be rateably distributed by the Sale Officer among all such decreeholders in the manner provided in Section 73 of the Code of Civil Procedure, 1908(5 of 1908).

(24) Where a defaulter dies before the decree has been fully satisfied, an application under subrule (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 subrule, apply as if such legal representative were the defaulter. Where the decree is executed against such legal representative, he shall be liable only to the extent of property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Recovery Officer executing the decree may, of his own motion or on the application of the decree holder compel such legal representative to produce such accounts as he thinks fit.

23. Mode of making attachment before judgment :-

(1) Attachment of property under Section 87 shall be made in the manner provided in Rule 22.

(2) Where a claim is preferred to property attached under subrule (1) such claim shall be investigated in the manner and by the authority specified in Rule 22.

(3) Where a direction is made for the attachment of any property under subrule (1), the Recovery Officer shall order the attachment to be withdrawn

(a) when the party concerned furnishes the security required, together with the security for the costs of the attachment; or

(b) when the liquidator determines under clause (b) of subsection (2) of Section 81 that no contribution is payable by the party concerned; or

(c) when the Central Registrar passes an order under subsection (1) of Section 73 that the party concerned need not repay or restore any money or property or contribute any sum to the assets of the society by way of compensation; or

(d) when the dispute referred to in subsection (1) of Section 76 has been decided against the party at whose instance the attachment

was made.

(4) Attachment made under subrule (1) shall not affect the right existing prior to the attachment of persons not parties to the proceedings in connection with which the attachment was made, nor bar any person holding a decree against the person whose property is attached from applying for the sale of the property under attachment in execution of such decree.

(5) Where property is under attachment by virtue of the provisions of this rule and a decree is subsequently passed against the person whose property is attached, it shall not be necessary upon an application for execution of such decree to apply for reattachment of the property.

24. Mode of service of summons :-

(1) Every summons issued under the Act or these rules shall be in writing, shall be authenticated by the seal, if any, of the officer by whom it is issued and shall be signed by such officer or by any person authorized by him in writing in that behalf. It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes; and any particular document the production of which is required, shall be described in the summons with reasonable accuracy.

(2) Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.

(3) The service of summons under the Act or these rules on any person, may be effected in any of the following ways:

(a) by giving or tendering it to such person; or

(b) if such person is not found, by leaving it at his last known place of abode or business or by giving or tendering it to some adult member of his family; or

(c) if the address of such person is known to the Central Registrar or other authorized person by sending it to him by registered post acknowledgment due; or

(d) if none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of abode or business.

(4) Where the serving officer delivers or tenders a copy of the summons to the defendant personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered as an acknowledgment of service endorsed on the original summons.

(5) The serving officer shall in all cases, in which the summons have been served under subrule (4), endorse or annex, or cause to be endorsed or annexed, on or to the original summons a return stating the time when and the manner in which the summons 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.

(6) Where the defendant to be summoned is a public officer or is a servant of a company or a local authority, the officer issuing the summons may, if it appears that the summons may be conveniently so served, send it by registered post acknowledgment due for service on the party to be summoned, to the head of the office in which he is employed together with a copy to be retained by the defendant.

CHAPTER 6

Societies Which Become Multi State Co operative Societies Consequent On Reorganisation Of States

25. Preparation of a scheme for the reconstitution or reorganization of Multi State Co operative Societies :-

(1) The Central Registrar or an authorized officer, shall prepare a scheme referred to in sub rule(2) of section 95 for the reconstitution or reorganization of any multi State Co-operative society rendered as such. consequent on the reorganization of the States and referred to in subsection (1) of section 95, and forward a copy of the scheme to the President or the Chairman of the multiState Co-operative society with the direction that the scheme be placed before a meeting of the general body of the multiState Co-operative society specially convened for the purpose.

(2) The meeting referred to in subrule (1) shall be convened not less than 40 days after the date of issue of the notice to the members and the creditors of the multiState Co-operative society in the manner specified in subrule(3).

(3) A written notice specifying the date, hour and place of meeting and the business to be transacted thereat shall be given to every member and shall be accompanied by a copy of the scheme to be considered at the meeting. The notice to each member and creditor shall:

(i) be delivered or tendered to him in person;

(ii) be sent to him by registered post; or

(iii) be served on him in such other manner as may be specified in the byelaws of the society.

(4) Notwithstanding anything to the contrary contained in any rule or byelaw governing the multiState Co-operative society, where the Central Registrar or the authorised officer in this behalf is satisfied that the President or Chairman of the society has failed to convene the special meeting as required under subrule(I), the Central Registrar or the authorized officer, as the case may be, shall convene a meeting of the general body of the multi State Co-operative society by giving 14 days notice to all the members and creditors of the multiState Co-operative society.

CHAPTER 7

Miscellaneous

26. Address of a multi State co operative society :-

The byelaws of every multiState Co-operative society shall contain the address of the society to which all notices and communications may be sent. The address of the multistate Co-operative society shall include the name ;of the State, the district, post office and the village or town. Any change in the address of the multiState Co-operative society shall be communicated to the Central Registrar within a month of such change.

27. Repeal and savings :-

(1)The MultiUnit Co-operative Societies Rules,1958 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under any of the rules so repealed shall, unless such thing or action is inconsistent with the provisions of these rules; be deemed to have been done or taken under the corresponding provisions of these rules.

