

## **Orissa Self-Help Co-Operatives Act, 2001**

**4 of 2002**

**[23 March 2002]**

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**Orissa Self-Help Co-Operatives Act, 2001**

**4 of 2002**

**[23 March 2002]**

AN ACT TO PROVIDE FOR THE FORMATION OF CO-OPERATIVES AND CONVERSION OF CO-OPERATIVE SOCIETIES AS SELF-HELP, SELF-RELIANT, MUTUAL-AID, AUTONOMOUS, VOLUNTARY, DEMOCRATIC, BUSINESS ENTERPRISES, WHICH ARE TO BE OWNED, MANAGED AND CONTROLLED BY MEMBERS FOR THEIR ECONOMIC AND SOCIAL BETTERMENT, THROUGH THE FINANCIALLY GAINFUL PROVISION OF CORE SERVICES WHICH FULFIL A COMMON NEED FELT BY THEM, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO BE enacted by the Legislature of the State of Orissa in the Fifty-second Year of the Republic of India, as follows : \*. Published vide Orissa Gazette Ext. No. 445 dated. 23.3.2002 (w.e.f. 1.6.2002).

**CHAPTER 1 PRELIMINARY**

**1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Orissa Self-Help Co-operatives Act, 2001.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force on such date as the Government may, by notification, appoint.

**2. Definitions :-**

In this Act, unless the context otherwise requires-

- (1) "arbitral tribunal" means an individual or a group of individuals not exceeding five, constituted by the general body of a Co-operative for settlement of disputes in accordance with the articles/of association of that Co-operative;
- (2) "article of association" means the regulations of a Co-operative framed by the general body of that Co-operative, in accordance with this Act, for the management of its affairs;

- (3) "board" means the governing body of a Co-operative by whatever name called, to which the direction of the affairs of the Co-operative is entrusted by the articles of association of that Co-operative;
- (4) "chief executive" means that individual, in paid or honorary capacity, who is appointed through election or selection or nomination by the board of a Co-operative from among members, directors or others, in accordance with the articles of association, who shall sue or be sued on behalf of the Co-operative, and shall perform such functions, and have such responsibilities and powers as are specified in the articles of association, and assigned by the board;
- (5) "common need" means that economic need which is common to all those who wish to form a Co-operative, or have taken membership in a Co-operative, and which the Co-operative is expected to fulfil through the provision of core services;
- (6) "Co-operative", where used as a noun, means an autonomous association of persons united voluntarily to meet their common need through a jointly owned and democratically controlled enterprise registered under this Act;
- (7) "Co-operatives Act" means the Orissa Self-Help Co-operatives Act, 2001;
- (8) "Co-operative business" means a business which is carried out in accordance with the Co-operative principles, through the Co-operatives registered under this Act;
- (9) "Co-operative business year" means the twelve month accounting period as provided in the articles of association of a Co-operative;
- (10) "Co-operative identity" means the statement of Co-operative Identity specified in Scheduled D of this Act;
- (11) "Co-operative Society" means a society registered under the Orissa Co-operative Societies Act, 1962 (2 of 1963);
- (12) "Co-operative Societies Act" means the Orissa Co-operative Societies Act, 1962, (2 of 1963);
- (13) "core services" means those services provided to members, through which a Co-operative intends to meet that economic need common to all members for the fulfillment of which the Co-operative was established, and the fulfillment of which is expected to result in the economic and social betterment of members;
- (14) "Court" means competent civil and criminal Court;
- (15) "deficit" means the excess of expenditure over income;
- (16) "deficit charge" means the amount collected from/debited to

the accounts of members, in proportion to the use and/or non-use of the services of the Co-operative, in accordance with the articles of association and resolutions of the general body, to meet deficit, if any, in whole or in part;

(17) "deficit cover fund" means a fund created out of surplus of the Co-operative to meet future loss, if any, and created in accordance with the articles of association;

(18) "delegate" means a member nominated for the time being by a Co-operative to represent its interests at the time of promotion of a Secondary Co-operative and/or at meetings of a Secondary Co-operative to which the Co-operative is affiliated;

(19) "family" means husband, wife and their unmarried daughters and minor sons;

(20) "financial year" means the period commencing on the 1st day of April of any year and ending with the 31st day of March of the succeeding year;

(21) "general body" in relation to a Co-operative, means all its members, and may include the "representative general body" where it so exists consisting of the representatives;

(22) "general body meeting" means a meeting of the general body called and conducted in accordance with the provisions of this Act and the articles of association of the Co-operative;

(23) "Government" means the Government of Orissa;

(24) "member" means a person who is in need of and is able to use the core services of a Co-operative and who is admitted and continues as a member of the Co-operative, in accordance with the provisions of this Act and the articles of association, and includes a "member-Co-operative";

(25) "member-Co-operative" means a primary or Secondary Co-operative which is in need of and is able to use the core services of a Secondary Co-operative, and which is admitted as a member of that Secondary Co-operative, in accordance with the provisions of this Act and the articles of association;

(26) "office-bearer" means an individual elected by the board of a Co-operative to any office of such Co-operative in accordance with its articles of association;

(27) "ordinary resolution" means a resolution of the general body which has the approval of 2/3rd of members having the right of vote, present and voting at the general body meeting;

(28) "person" means an individual competent to contract, or a Cooperative;

(29) "potential members" means a person who needs the core

services being offered by a Co-operative, and is eligible to be a member of that Co-operative, but who has not yet applied for membership and/or been admitted as a member;

(30) "president" means an elected director to preside over the meetings of the board and the meeting of the general body, and to perform such other functions and have such other powers and responsibilities as are specified in the articles of association and assigned by the board;

(31) "primary Co-operative" means a Co-operative whose members are individuals;

(32) "Registrar" means the Registrar of Co-operative Societies appointed under the Co-operative Societies Act, and includes person empowered to exercise the powers and perform the duties of the Registrar under this Act;

(33) "Registrar of Co-operative Societies" means the individual appointed as such under the Co-operative Societies Act, and includes any individual empowered to exercise the powers of that Registrar of Co-operative Societies under that Act;

(34) "representative" means a person elected by a section of members, in accordance with the article of association, to participate on their behalf at the representative general body meeting;

(35) "representative general body" in relation to a Co-operative means all its representatives;

(36) "representative general body meeting" means a meeting of the representatives, called and conducted in accordance with the provisions of this Act and the articles of association of the Co-operative;

(37) "Schedule" means Schedule appended to this Act;

(38) "Secondary Co-operative" means a Co-operative voluntarily established, jointly owned and democratically controlled by member Co-operative for the fulfilment of their common needs;

(39) "service" means such facilities as are organised primarily for being provided to members to meet the objective of the Co-operative;

(40) "special resolution" means a resolution of the general body which has the approval of at least 67% of the members with right of vote in the general body meeting;

(41) "surplus" means the excess of the income over expenditure, arrived at, at the end of the financial year, after the payment of interest, if any, on share capital, and before the payment of surplus refund, and allocation of reserves and other funds;

(42) "surplus refund" means the refund from the surplus given/credited to the accounts of members, in proportion to their use of the services of the Co-operative in accordance with the articles of association and resolutions of the general body.

## **CHAPTER 2 INCORPORATION**

### **3. Registration Of A New Co-Operative :-**

(1) Where not less than ten individuals, each being member of family, intend to form a Co-operative or, two or more Co-operatives registered under this Act, wish to form into Secondary Co-operative or a society registered under the Co-operative Societies Act intend to convert itself into a Co-operative under this Act, they shall frame articles of association for this purpose in accordance with Schedule A :

Provided that after registration of the Co-operative, any member of the family may be admitted as member of the Co-operative subject to provisions of Section 16 of this Act.

(2) Such articles of association and the memorandum of association as specified in Schedule B or C as the case may be, shall be submitted to the Registrar by hand or by registered post for registration of the Co-operative.

(3) Every such memorandum of association shall contain -

(a) the proposed name of the Co-operative;

(b) the address where the registered office of the Co-operative is to be situated;

(c) the objects of the Co-operative;

(d) declaration by the promoter (s) of their commitment to the Cooperative principles as provided for in Schedule D;

(e) a list of names of the promoters, with their complete addresses; and shall be accompanied by -

(i) the original articles of association and one true copy thereof of the proposed Co-operative as adopted by the promoters; and

(ii) a true copy of the resolution adopting the articles of association passed at a meeting by the signatories to such memorandum of association.

(4) The Registrar shall register the Co-operative and also take on record its articles of association and communicate by registered post under acknowledgment a certificate of registration and a certified copy of the memorandum of association including the articles of-association signed and sealed by him/her, within sixty days from the date of submission of the memorandum of

association, to such person as specified in the memorandum.

(5) Before registration of the Co-operative, the Registrar shall satisfy himself that, -

(a) the memorandum of association is in conformity with the requirements laid down by this Act; and

(b) the proposed articles of association are not contrary to the provisions of this Act.

(6) If the conditions laid down in Sub-section (3) and (4) are not fulfilled, the Registrar shall communicate by registered post under acknowledgement the order of refusal together with the specific reasons thereof, within sixty days from the date of submission of the memorandum of association :

Provided that no order of refusal shall be passed except after giving an opportunity of making representation on behalf of the promoters by the representative specified in the memorandum.

(7) Where a Co-operative is registered, the certificate of registration signed and sealed by the Registrar shall be conclusive evidence that the association mentioned therein is a Co-operative duly registered under this Act, unless it is proven that the registration the Co-operative has been cancelled or the Co-operative is dissolved.

(8) Where within seventy-five days of submission of the memorandum of association for registration, the representative specified in the memorandum of association receives neither the certified of registration nor the order of refusal, the Co-operative shall be deemed to have been registered under this Act and the promoter may apply to the Registrar, who shall issue certificate of registration with fifteen days of receipt of such application.

#### **4. Conversion Of Co-Operative Society Into A Co-Operative Under This Act :-**

(1) Notwithstanding anything contained in the Co-operative Societies Act, from the date of commencement of this Act, any Co-operative Society registered and functioning under the Co-operative Societies Act, which is not in receipt of any share capital, guarantee, loan from the Government, at the time of seeking registration under this Act, may submit memorandum of association for registration under this Act :

Provided that where the Government does have share capital, guarantee, loan or any other dues in a Co-operative Society desiring to convert itself into a Co-operative under this Act, the Co-



operative society shall, before opting for registration under this Act, return the same to the Government, and the Government shall accept it :

Provided further that the Co-operative society in receipt of share capital from other sources, may return such share capital, loan, guarantee etc. or shall furnish "no objection certificate" from such agency/authority:

Provided further that the Co-operative Banks as defined in Sub-Clause (cci) of Clause (c) of Section 56 of the Banking Regulation Act, 1949 and registered under the Co-operative Societies Act, which intends to convert to a Co-operative under this Act, shall obtain previous sanction of Reserve Bank of India in conformity with Section 2(gg) of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

(2) A memorandum of association for registration in the form specified in Schedule C, may be submitted to the Registrar by hand or by registered post, by the board of such Co-operative Society which intends to convert itself into a Co-operative under this Act, on the basis of a decision of a majority of members present at a meeting of the general body of the Cooperative Society.

(3) Every such memorandum of association shall state -

(a) the name of the Co-operative;

(b) the address where the registered office of the Co-operative Society is situated; and

(c) the objects of the Co-operative;

and it shall be accompanied by -

(i) a true copy of the resolution of the general body expressing commitment to the Co-operative principles as specified in Schedule D;

(ii) the original articles of association and one copy of the articles of association of the proposed Co-operative as adopted by the general body of the Co-operative Society;

(iii) a true copy of the resolution of the general body of the Co-operative Society adopting the articles of association;

(iv) a true copy of the declaration of the general body of the Cooperative Society stating that the Co-operative Society is not in receipt of any share capital, loan, guarantee or any other dues from the Government and does not intend ever to raise share capital from the Government;

(v) a true copy of the latest annual report and audited statement of accounts of the Co-operative Society;

(vi) a true copy of the resolution of the general body of the Co-

operative Society along with particulars regarding the wiping off of accumulated losses, if any, from various reserves and/or by debiting to the accounts of members as decided at the general body meeting of the Co-operative Society; and

(vii) a statement of the total number of members of the Co-operative Society with right to vote as on the day of the said meeting, the number of members attended the meeting, and the number of members voted for the resolution.

(4) The Registrar shall register the Co-operative and also take on record its articles of association and communicate by registered post a certificate of registration and a certified copy of the memorandum of association including the articles of association signed and sealed by him/her, within sixty days from the date of submission of memorandum of association, to such person as specified in the memorandum; if -

(a) the memorandum of association is in conformity with the requirements laid down by the Act; and

(b) the proposed articles of association are not contrary to the provisions of this Act.

(5) If the conditions laid down in Sub-sections (3) and (4) are not fulfilled, the Registrar shall communicate by registered post the order of refusal together with the specific reasons therefore, within sixty days from the date of submission of memorandum of association, to such person as specified in the memorandum of association :

Provided that no order of refusal shall be passed except after giving an opportunity of making representation on behalf of the Co-operative Society by the representative as specified in the memorandum.

(6) Where a Co-operative is registered under Sub-section (4), the certificate of registration signed and sealed by the Registrar shall be conclusive evidence that the association mentioned therein is a Co-operative duly registered under this Act, unless the Co-operative is dissolved under Sub-section (4) of Section 53.

(7) Where within seventy-five days of submission of the memorandum of association for registration, the representative specified in the memorandum of association receives neither the certificate of registration nor the order of refusal, the Co-operative Society shall be deemed to have been registered as a Co-operative under this Act and the representative specified in the memorandum may apply to the Registrar, who shall issue certificate of registration to such representative within fifteen days from the date

of receipt of such application.

(8) Notwithstanding anything contained in the Co-operative Societies Act in their context, where a Co-operative is registered under Sub-section (4), its earlier registration as a Co-operative society under the Co-operative Societies Act shall stand cancelled and it shall send within seven days of receipt of the registration certificate, by registered post, to the Registrar of Co-operative Societies a copy of the registration certificate under the Cooperative Societies Act, and a copy of the registration certificate under this Act, and the Registrar of Co-operative Societies shall, within seven days of receipt of such information, delete the name of such Co-operative Society from the register.

(9) Where a Co-operative is registered under Sub-section (4), the assets and liabilities, the rights and obligations, and the members of the converted Co-operative Society shall become the assets and liabilities, the rights and obligations, and the member of the Co-operative registered under this Act, and all transactions of the Co-operative society shall be deemed to have been the transactions of the Co-operative registered under this Act.

(10) Where a Co-operative Society, which is a member of a Central/Apex Co-operative Society, is registered as a Co-operative under this Act, the Co-operative may continue to receive services from the Central/Apex Co-operative Society and to participate in its affairs for a period of one year from the date of its registration under this Act, at the end of which period, its membership in that Central/Apex Co-operative Society shall cease, unless, by then, such Central/Apex Co-operative Society, too is registered as Secondary Co-operative under this Act :

Provided that in all matters governing the internal functioning of the Co-operative, this Act shall prevail, whereas in matters governing the relationship including the recoveries of dues of the Co-operative with the Central/Apex Co-operative Society to which it is affiliated, the Co-operative Societies Act shall prevail :

Provided further that even on cessation of membership, the Co-operative may continue to receive such services, and have such business relations as are mutually agreed upon, and permissible under the Co-operative Societies Act.

(11) Where a Central Co-operative society which has other Co-operative Societies as its members is registered as a Secondary Co-operative under this Act, it may continue to serve and have its affairs managed by its member-Co-operative Societies, for a period of one year from the date of its registration under this Act, at the

end of which period it may have as its members only such Co-operatives as are registered under this Act :

Provided that in all matters governing the relationship between the Secondary Co-operative and its member-Co-operative Societies, the provisions of this Act shall prevail :

Provided further that in respect of recovery of dues from the Co-operative Societies by the Secondary Co-operative, the relevant provisions under the Co-operative Societies Act, shall mutatis mutandis apply.

(12) Where any liability proceeding, suits, transactions or litigation of the Co-operative Society remains unsettled the outcome of the same shall lie to the Co-operative after its conversion under this Act.

## **5. Co-Operative To Be Body Corporate :-**

A Co-operative registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and a common seal. The Co-operative is entitled to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all other things necessary for the purpose for which it was constituted.

## **6. Articles Of Association :-**

(1) The members constituting a Co-operative, shall have a set of articles of association, not contrary to the provisions of this Act, and the affairs of the Co-operative shall be managed in accordance with the terms, conditions and procedure specified in the articles of association.

(2) Except on such specific matters as provided under this Act, the functioning of every Co-operative shall be regulated by its articles of association.

(3) The articles of association may contain such matters as decided by the members and shall be specific on all matters specified in Schedule A.

## **7. Amendment Of Articles Of Association :-**

(1) A Co-operative may decide, by a special resolution, to amend the provisions of its articles of association :

Provided that the text of such proposed amendment with reasons there for shall be sent to each member, along with the notice of the

general body meeting at which the proposed amendment is to be discussed.

(2) A Copy of any amendment shall be forwarded by the Co-operative by registered post to the Registrar within a period of thirty days from the date of the general body meeting at which the resolution was passed.

(3) Every such amendment forwarded to the Registrar shall be signed by the President and two Directors and shall be accompanied by the following particulars, namely :

(a) a copy of the resolution agreeing to the amendment;

(b) the date of the general body meeting at which the amendment was approved; and

(c) the date on which the amendment has been proposed to come into force.

(4) The Registrar shall take on record immediately on receipt of such amendment :

Provided that if such amendment is not consistent with the provisions of this Act, the Registrar shall, within a period of 30 days return with reasons and suggestions, if any, which shall be re-considered by the Co-operative.

## **8. Name Of A Co-Operative :-**

(1) A Co-operative may not be registered with exactly the same name as another Co-operative already registered under this Act or the Co-operative Societies Act :

Provided that where the articles of association of a Secondary Cooperative require all its member Co-operatives to use a common name, the name of each such member Co-operative shall have its location or other distinguishing feature included in the name at the beginning or end of the common name.

(2) Every Co-operative shall display its full name, in legible characters in a conspicuous position, -

(a) at its office or place at which it carries on the business;

(b) in all notices and other official publications;

(c) on all its contracts business letters, orders for goods invoices, statement of account, receipts and letters of credit; and

(d) on all bills of exchange, promissory notes, endorsement, cheques and orders for money it signs or that are signed on its behalf.

(3) Every Co-operative shall display its full name in legible characters on its common seal.

- (4) A Co-operative with limited liability shall have as a suffix to, or as part of its name, the expression "limited".
- (5) Nothing in Sub-section (2) shall prevent a Co-operative from displaying any shorter name more consciously than the full name, by which it is popularly known and which, too, is included in the articles of association.
- (6) A Co-operative may, by an amendment to its articles of association, change its name :
- Provided, however, that before changing its name it shall send notice of such intention to the Registrar, along with the proposed name (s), and the Registrar shall, within thirty days of receiving such notice inform the Cooperative if such name is already in use by another Co-operative.
- (7) Where a Co-operative changes its name, the Registrar shall enter the new name of the Co-operative on the register of Co-operatives in place of the former name and issue a certificate to this effect.
- (8) The change of name of a Co-operative shall not affect any rights, obligations or liabilities of the Co-operative or of any of its members or past members or render defective any legal proceedings by or against it. Any legal proceedings which might have been continued or commenced by or against the Co-operative by its former name shall be continued in its new name.
- (9) A Co-operative which changes its name shall publish such change of name through a popular newspaper widely circulated in the district in which its registered office is located.

## **9. Location Of Registered Office :-**

- (1) Every Co-operative shall intimate to the Registrar the full address of its registered office, within ninety days of being registered as a Co-operative.
- (2) Every Co-operative shall display in full the address of its registered office in legible characters in a conspicuous position -
- (a) at every office or place where it carries on business;
  - (b) in all notices and other official publications;
  - (c) on all its contracts, business letters, orders for goods, invoices, statements of account, receipts and letters of credit; and
  - (d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf;
- (3) A Co-operative may, by a resolution being passed in the

general body meeting change the address of its registered office :  
Provided, however, that it shall inform such change to its creditors, the Registrar and to any Secondary Co-operative (s) to which it may be affiliated, within fifteen days of the resolution being passed.

(4) The Registrar shall, within fifteen days of receiving such information from a Co-operative, take on record, in the register of Co-operatives, the full address of the registered office of a Co-operative, and any changes thereof.

## **10. Transfer Of Assets And Liabilities :-**

(1) A Co-operative may, by a special resolution, decide to transfer its assets and a liabilities, in whole or in part, to any other Co-operative which agrees, by a Special resolution, to receive such assets and accept such liabilities.

(2) Where special resolutions are passed under Sub-section (1), each Co-operative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed transfer of assets and liabilities and any creditor shall, during a period of thirty days from the date of issue of the notice upon him/her, have the option of withdrawing the shares, deposits or loans from the Co-operative, as the case may be, subject to the discharge of his/her obligation to the Co-operative.

(3) Any member or creditor who does not exercise his/her option within the period specified under Sub-section (2) shall be deemed to have assented to the resolution.

(4) The special resolutions passed under Sub-section (1) shall not take effect until -

(a) all claims of the members and creditors of each Co-operative who have exercised the option under Sub-section (2) have been met in full or otherwise satisfied; and

(b) information about the transfer of assets and liabilities has been sent by the Co-operative concerned to the Registrar and his/he acknowledgement of receipt of the information received.

(5) When special resolutions passed under Sub-section (1) take effect the resolution shall be sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

(6) When a Co-operative transfers the whole of its assets and liabilities to any other Co-operative, under this section, the registration of the former Co-operative shall stand cancelled and it shall be deemed to have been dissolved and the Registrar shall delete the name of the Co-operative from the register of Co-operatives.

### **11. Division :-**

(1) A Co-operative may, by a special resolution, decide to divide itself into two or more Co-operatives.

(2) Where a special resolution is passed under Sub-section (1), it will be treated to be a scheme according to which the Co-operative shall give notice thereof together with a copy of the resolution to all its members and creditors and, notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed division, or creditor shall, during a period of thirty days from the date of issue of the notice upon him/her, have the option of withdrawing his/her shares, deposits or loans, as the case may be, subject to the discharge of his/her obligations to the Co-operative.

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

(4) A special resolution passed under Sub-section (1) shall not take effect until -

(a) all claims of the members and creditor of the Co-operative who have exercised the option under Sub-section (2) have been met in full or otherwise satisfied;

(b) information of the intended division and information about settlement of claims of members and creditors along with memorandum of association and articles of association of the Co-operatives are sent to the Registrar by registered post; and

(c) the certificates of registration and the certified copy of memorandum of association including articles of association of such Co-operative signed and sealed by the Registrar, are issued to them in accordance with Section 4.

(5) When a Co-operative divides itself into two or more Co-operative under this section, the registrations of the Co-operative shall stand cancelled and it shall be deemed to have been dissolved and the Registrar shall delete the name of the Co-operative from the register of Co-operatives. On the other hand, the names of the



newly formed Co-operatives which are registered by the Registrar shall find place in the register of Co-operatives.

(6) When a Co-operative divides itself into two or more Co-operatives, each member who has assented or deemed to have assented to the division shall be deemed to have become a member of that newly formed Co-operative to which his/her interests were transferred, in accordance with the scheme of division approved by the general body.

(7) When a special resolution passed under Sub-section (1) takes effect, the resolution shall be sufficient conveyance to vest the assets and liabilities in the respective Co-operatives so formed without any further assurance.

## **12. Amalgamation :-**

(1) Any two or more Co-operatives may, by special resolutions, decide to amalgamate themselves and form a new Co-operative.

(2) Where special resolutions are passed under Sub-section (1) each Co-operative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and notwithstanding any provision of the articles of association or contract to the contrary, any member other than those who voted in favour of the proposed amalgamation, or creditor shall, during a period of thirty days from the date of issue of the notice upon him/her, have the option of withdrawing his/her shares, deposits or loans from the Co-operative, as the case may be, subject to the discharge of his/her obligations to the Co-operative.

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

(4) The special resolutions passed under Sub-section (1) shall not take effect until -

(a) all claims of the members and creditors of each Co-operative who have exercised the option under Sub-section (2) have been met in full or otherwise satisfied;

(b) information of the intended amalgamation and information about settlement of claims of members and creditors is sent to the Registrar by registered post along with memorandum of association and articles of associations of the Co-operative; and

(c) the certificate of registration and certified copy of the memorandum of association including articles of associations of the Co-operative, signed and sealed by the Registrar, are issued to

such Co-operative in accordance with Section 4.

(5) When two or more Co-operatives amalgamate themselves into a new Co-operative under this section, the registration of the Co-operatives so amalgamated shall stand cancelled and shall be deemed to have been dissolved and the Registrar shall delete the names of the Co-operatives from the register of Co-operatives. On the other hand the name of the newly formed Co-operative which is registered by the Registrar shall find place in the register of Co-operatives.

(6) When two or more Co-operatives amalgamate themselves into a new Co-operative under this section, all the members of the Co-operatives who have assented to or deemed to have assented to the amalgamation shall be deemed to have become members of the new Co-operative.

(7) When special resolution passed under Sub-section (1) take effect, the resolutions shall be sufficient conveyance to vest the assets and liabilities in the Co-operative so formed without any further assurance.

### **13. Merger :-**

(1) A Co-operative may, by a special resolution, decide to merge itself into any other Co-operative which agrees, by a special resolution, to such merger.

(2) Where special resolutions are passed under Sub-section (1), each Co-operative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and notwithstanding any provision in the articles of association or contract to the contrary, any member, other than those who voted in favour of the proposed merger, or creditor shall, during a period of thirty days from the date of issue of the notice upon him/her, have the option of withdrawing his/her shares, deposits or loans from the Co-operative, as the case may be, subject to the discharge of his/her obligations to the Co-operative.

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

(4) The special resolutions passed under Sub-section (1) shall not take effect until -

(a) all claims of the members and creditors of each Co-operative who have exercised the option under Sub-section (2) have been met in full or otherwise satisfied; and

(b) information of the intended merger and information about settlement of claims of members and creditors is sent to the Registrar and his/her acknowledgement of receipt of the information is obtained.

(5) When a Co-operative merges itself into any other Co-operative Under this section, the registration of the former Co-operative shall stand cancelled and it shall be deemed to have been dissolved and the Registrar shall delete the name of such Co-operative from the register of Co-operatives. On the other hand, the name of the newly formed Co-operative which is registered by the Registrar shall find place in the register of Co-operatives.

(6) When a Co-operative merges itself into any other Co-operative under this section, the members of the first Co-operative who assented or deemed to have assented to the merger, shall be deemed to have become the members of the Co-operative formed after merger.

(7) When special resolutions passed under Sub-section (1) take effect, the Resolutions shall be sufficient conveyance to vest the assets and liabilities in the Co-operative so formed without any further assurance.

#### **14. Registrar And Registration :-**

(1) The Registrar of Co-operative Societies appointed under Sub-section (1) of Section 3 of the Co-operative Societies Act and the Additional Registrar of Co-operative Societies, the Joint Registrar of Co-operative Societies, the Deputy Registrar of Co-operative Societies and the Assistant Registrar of Co-operative Societies appointed under Sub-section (2) of Section 3 of the same Act may be empowered by the State Government to exercise such powers and perform such duties of the Registrar under this Act.

(2) The State Government may specify the local area of the jurisdiction of the officers mentioned under Sub-section (1).

(3) The State Government may also by order empower any society or local body to assist the Registrar and other officers who shall exercise the powers of Registrar as may be specified in the said order.

(4) State Government may declare any existing office under the administrative control of the Registrar of Co-operative Societies to be the place for the purpose of registration of Co-operatives under this Act.

#### **15. Fee For Services :-**

(1) Every memorandum of association for registration under this Act shall be accompanied by a registration fee amounting to one percent of the authorised equity capital of the proposed Co-operative, subject to a minimum of rupees one hundred and maximum of rupees five thousand :

Provided that the fee shall be rupees two hundred in the case of such Co-operatives who do not intend to have any equity capital.

(2) The Registrar may declare a reasonable scale of fee to be paid by Co-operatives for various services rendered by the Registrar under this Act.

### **CHAPTER 3 MEMBERSHIP**

#### **16. Eligibility For Membership In A Co-Operative :-**

(1) Any person who needs the services of a Co-operative, expresses willingness to accept the responsibilities of membership, meets such other conditions as may be specified in the articles of association of the Co-operative, is in a position to use the services, and is competent to contract under the Indian Contract Act, 1872, may be admitted as a member, subject to the condition that the Co-operative is in a position to extend its services to such person.

(2) Every applicant for membership, and every member of a Co-operative must keep each Co-operative of which the applicant is a member, informed of membership in other Co-operative, and a Co-operative may refuse admission or remove from membership on grounds, among others, of dual or conflicting membership, in other Co-operative having similar business.

#### **17. Admission As Member :-**

(1) Admission to membership shall be made, in accordance with the procedure specified in the articles of association. The articles of association shall have provision for constitution of a board by way of election from among its members and such board may be called by any other names as the articles of association provide.

(2) Where admission is refused, the decision with the reasons thereof shall be communicated by registered post to such applicant within fifteen days of the date of the decision, or within sixty days from the date of submission of applicant for membership, whichever is earlier.

(3) Where an applicant has been refused admission by the board,

or has had no response from the board, the applicant may request the board to place the matter for review by the general body. The board shall place the matter before the general body at its next general meeting and the decision of the general body shall be final :

Provided that the applicant shall be given an opportunity to be heard by the general body before refusal of admission.

### **18. Withdrawal From Membership :-**

(1) A member may withdraw from membership in a Co-operative in accordance with the procedure specified in the articles of association of that Co-operative.

(2) Withdrawal from membership will nonetheless require the member to fulfil such obligations as were undertaken/assumed as a member, under the provisions of this Act, the articles of association or other agreements.

### **19. Cessation Of Membership :-**

(1) A member shall cease to be a member on the grounds as may be specified in the articles of association.

(2) Every Co-operative shall, inform the nominee of the member in the event of the death of the member, and inform the member about the cessation of membership.

### **20. Termination Of Membership :-**

(1) The board may terminate the membership of a member who has acted prejudicial to the objects and interest of the Co-operative, violated any of the provisions of the articles of association of the Co-operative, the policies of the general body or board, and/or conditions stipulated in contracts entered into by the member with the Co-operative :

Provided that membership under this sub-section shall not be terminated unless the members has been given a reasonable opportunity of showing cause against such termination.

(2) Where the membership of a member has been terminated by the board, the member may request the board, within thirty days of such termination, to place its decision for review by the general body. The board shall place the matter before the general body at its next general body meeting and the decision of the general body shall be final :

Provided that pending the decision of the general body the member may have only such transaction, if any, with the Co-operative, as may be permitted by the board.

### **21. Register Of Members :-**

(1) Every Co-operative shall maintain a register of members. The name of every member of the Co-operative shall be entered in the register along with such other particulars as deemed necessary by the board.

(2) The name of every member whose membership has ceased, or who was terminated or withdrawn, shall be struck off from the register.

### **22. Co-Operative Education :-**

(1) Every Co-operative shall include in its budget annually, provision for expenses for the education and training of members, potential members, staff and members of board for the development of their Co-operative in accordance with the Co-operative principles as specified in Scheduled D.

(2) Any unspent amount from the budget provided under Sub-section (1) shall be transferred at the end of the Co-operative business year to a Co-operative education fund, and may be used only for the purpose of educating and training of members, potential members, staff and members of the board in Co-operative principles and practices.

### **23. Services Primarily For Members :-**

(1) A Co-operatives services shall normally be available to members only.

(2) After completion of two Co-operative business years of its being registered under this Act, any Co-operative found to be providing more than 25% of its core services, as specified in its articles of association, in terms of the value of transactions, to non-members in any given financial year, shall be deemed to be an aberrant Co-operative and stand to lose for that Co-operative business year exemptions, if any, provided to it.

(3) Any Co-operative found to be aberrant for three Co-operative business years in any continuous period of five Co-operative business years, shall be deemed to be a Co-operative not operating on a Co-operative basis.

## **24. Exercise Of Rights :-**

(1) No member of a Co-operative shall exercise the rights of membership, including the right to vote, unless the member has made such payment to the Co-operative in respect of membership or has acquired and continues to have such interest in the Co-operative, including a minimum use of the services of the Co-operative, as may be specified in the articles of association.

(2) Within twenty days of closure of the previous financial year, the chief executive shall prepare a list of members with the right to vote, and a list of members without the right to vote with reasons thereof, valid for the current financial year. The list shall be affixed to the notice board of the Cooperative for information of all members, and any member, not satisfied with the specific instances of inclusion or non-inclusion of members in the lists, may appeal to the board within ten days of the affixation of the lists on the notice board, for re-examination of the records, and the board shall, within forty-five days of closure of the previous financial year, review the lists, finalise them, and have them affixed to the notice board of the Cooperative.

## **25. Voting Right Of Members :-**

(1) In primary and Secondary Co-operatives, members shall have equal voting rights i.e. one member, one vote, and shall be organised in a democratic manner :

Provided that a member shall have to be a member for at least one full financial year, before being eligible to cast his/her vote except the case of promoters.

## **26. Liability Of Members :-**

(1) A Co-operative may be registered with limited or unlimited liability.

(2) Where a Co-operative amends its articles of association to change the form and extent of its members liability, it shall give notice thereof together with a copy of the amendment to its members and creditors and, notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed change, or creditor shall, during a period of thirty days from the date of issue of the notice, have the option of withdrawing his/her shares, deposits or loans, as the case may be, subject to the discharge of

his/her obligations to the Cooperative.

(3) Any member or creditor who does not exercise his/her option within the period specified under Sub-section (2) shall be deemed to have assented to the resolution.

(4) An amendment passed under Sub-section (2) shall not take effect until -

(a) all claims of the members and creditors of the Co-operative who have exercised the options under Sub-section (2) have been met in full or otherwise satisfied; and

(b) notice of the amendment of the articles of association of the Co-operative has been received by the Registrar in accordance with this Act.

(5) Subject to the provisions of Sub-section (6) the liability of a member or of the estate of a deceased member for the debts of the Co-operative as they existed -

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

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

(6) Where a Co-operative is ordered to be dissolved, the liability of a past member, who ceased to be a member, or of the estate of a deceased member, who died, within two Co-operative business years immediately precedings the date of order of dissolution, shall continue until completion of the liquidation proceedings, but such liability shall be limited only to the debts of the Co-operative as they existed on the date of cessation of membership or death, as the case may be.

Explanation I - A "Co-operative with limited liability" means a Cooperative in which the liability of its members for the debts of the Co-operative is limited by its articles of association, to such form and such extent as they may undertake to contribute to any deficit in the assets of the Co-operative, in the event of its being wound up.

Explanation II - A "Co-operative with unlimited liability" means a Cooperative in which its members are jointly and severally liable for the debts of the Co-operative and to contribute to any deficit in the assets of the Cooperative, in the event of its being wound up.

## **27. General Body :-**

(1) There shall be a general body for every Cooperative consisting



of all the members of such Co-operative :

Provided that where the general body of a Co-operative decides that the size, spread requires a smaller body for more effective decision making, its articles of association may provide for a smaller body called representative general body, to be formed taking some members as representatives in such a democratic manner, with such functions and powers, and such relationship with members, as may be specified in the articles of association.

(2) Any reference to the words "general body" in this Act except Subsection (1) and this sub-section shall apply to the representative general body where it exists :

Provided that the representative general body shall not alter any provision in the articles of association or take any decision relating to such subjects as the general body may have explicitly retained for itself.

(3) Subject to the provisions of this Act and the articles of association of a Co-operative, the ultimate power of a Co-operative shall vest in the general body :

Provided that nothing contained in this Sub-section shall affect the exercise by the board or any other authority of a Co-operative of any power conferred on such board or such other authority by this Act.

(4) Any power, function or responsibility, falling within the scope of a Co-operative as a corporate body, which has not been specifically entrusted by this Act or the articles of association, to any of the several authorities within the Co-operative, may be dealt with by the general body, on a reference by the board or directors.

## **28. Functions, Responsibilities And Powers Of General Body**

:-

(1) The following and such other matters, as are considered necessary by the board, shall be dealt with by the general body at its annual general body meeting :

- (a) long term plan and budget;
- (b) annual operational plan and budget for the current financial year;
- (c) appointment of auditors for the current financial year;
- (d) annual report of activities for the previous financial year;
- (e) annual audited statements of accounts, and the auditors report relating to the previous financial year;
- (f) report on deviations, if any, from the approved budget relating

to the previous financial year;

(g) disposal of surplus, if any, of previous financial year;

(h) management of deficit, if any, of previous financial year;

(i) creation of specific reserves and other funds;

(j) actual utilisation of reserves and other funds;

(k) report on the attendance at meetings by directors;

(l) use of the Co-operatives services by the directors;

(m) remuneration paid to any director or member of any committee or internal auditor in connection with his/her duties in that capacity or his/her attendance at related meetings;

(n) quantum and percentage of services provided to non-members vis-a-vis services provided to the members;

(o) appeal petition of a person whose application for membership has been rejected by the board;

(p) appeal petition of a person whose membership has been terminated by the board;

(q) report of activities and accounts related to education and training of members of the board and Co-operative and staff thereof; and

(r) appointment of liquidator on suggestion of the board.

(2) The following and other matters when considered necessary by the board, shall be dealt with by the general body at its annual or any general body meeting :

(a) election of directors;

(b) amendments of articles of association;

(c) removal of President, Vice-President and directors;

(d) elections/appointments to casual vacancies in the board;

(e) removal, and consequent appointment, of auditors;

(f) membership of the Co-operative in Secondary Co-operatives;

(g) partnership with other Co-operatives;

(h) amalgamation, division, merger, transfer of assets and liabilities;

(i) dissolution, of the Co-operative and appointment of the liquidator; and

(j) consideration of the Registers report of inquiry or reasons for the non-completion of the inquiry :

Provided that such meeting of General Body considering the removal of President or Vice-President shall not be presided by President or Vice-President against whom such resolution is to be considered.

## **29. Meetings Of The General Body :-**

(1) The board may, at any time, call a general body meeting of the members of the Co-operative :

Provided that one such meeting known as annual general body meeting shall be held within one hundred and fifty days of the closure of the Co-operatives financial year to deal with the matters specified under Sub-section (1) of Section 28.

(2) The board shall hold a special general body meeting within thirty days from the date of receipt of a requisition from -

(a) at least 500 or 20% of the members whichever is less having the right to vote; or

(b) the Registrar as required under this Act :

Provided that any such requisition shall contain the reasons for holding the meeting and the proposed agenda. No subject other than the subjects included in the proposed agenda shall be discussed at the special general body meeting.

(3) All directors shall cease to be directors at the end of the period within which an annual general body meeting under Sub-section (1) or a special general body meeting under Sub-section (2) is required to be held, even if the board fails to convene such general body meetings within the specified period.

(4) All directors shall cease to be directors at the annual general body meeting, if the audited annual financial statement and auditors report, along with the report of activities for the previous financial year were not made available to the members along with the notice to attend the annual general body meeting in which the report and accounts are required to be considered by the general body

(5) The quorum for a general body meeting shall be as specified in the articles of association, but shall not be less than fifty percent of the members eligible to vote at the meeting :

Provided that quorum for a representative general body meeting shall not be less than fifty percent of the representatives eligible to vote at the representative general body meeting.

### **30. Minutes Of General Body Meetings :-**

(1) Every Co-operative shall record, in the language specified by the articles of association, minutes of all proceeding of every general body meeting in the minutes book and send the copy of the minutes in the manner as specified in the articles of association within fifteen days of the conclusion of every such meeting to all

members.

(2) The minutes so recorded shall be signed by the member who presided over the said meeting.

(3) The minutes so recorded shall be deemed to have been confirmed on the thirtieth day after its despatch to all members, if no comments on the correctness or otherwise of the recorded minutes are received from members within that time :

Provided that where comments have been received from members, the board shall take them into consideration while taking action on the resolutions and place the matter before the general body at its next meeting.

## **CHAPTER 4 MANAGEMENT**

### **31. Board Of Directors :-**

(1) There shall be an elected board of directors for every Co-operative constituted and entrusted with the direction of the affairs of the Co-operative in accordance with the provisions of this Act and the articles of association :

Provided that in the case of a Co-operative newly registered under this Act, the persons who have signed the application for the registration of the Co-operative may constitute a promoter board, for a period not exceeding one calendar year from the date of registration, to direct the affairs of the Co-operative and to get elections of directors conducted within the period mentioned above; and such promoter board shall cease to function as soon as a regular board has been constituted in accordance with the articles of association. The date on which the first meeting of the board shall be held, will be treated as the date on which the regular board is constituted :

Provided further that in the case of a Co-operative Society originally registered under the Co-operative Societies Act and subsequently registered under this Act, the elected members of the board, whose term has not expired at the time of registration under this Act, may be deemed to be the promoter board, for a period not exceeding one calendar year from the date of registration under this Act, to direct the affairs of the Co-operative and to get elections of directors conducted within the period mentioned above; and such deemed promoter board shall cease to function as soon as a regular board has been constituted in accordance with the articles of association. The date on which the first meeting of the board shall be held, will be treated as the date on which the regular board is

constituted.

(2) In no case the number of members of the board of directors shall be less than three.

(3) There shall be a President and a Vice-President of the board who shall be elected from amongst the directors of the board in accordance with the previous of articles of association.

(4) The board shall, on a motion of no confidence moved by one-third of its directors and passed by two-third of its directors, at a meeting held for the purpose, remove the President or Vice-President, as the case may be, on any of the grounds mentioned in Sub-section (1) of Section 20. Such meeting shall not be presided over by the President or Vice-President against whom such resolution is to be considered.

### **32. Functions, Responsibilities And Powers Of Board :-**

(1) The board may perform functions, discharge responsibilities and exercise powers as specified under and in accordance with the terms, conditions and procedure (sic) down in the articles of association; which shall, inter alia, include the following functions, responsibilities and powers-

(a) to interpret the organisational objectives, to set up specific goals to be achieved towards these objectives, and to make periodic appraisal of operations;

(b) to elect and remove office bearers;

(c) to appoint and remove the chief executive;

(d) to make provisions for regulating the appointment of all employees of the Co-operative, the scales of pay, allowances and other conditions of service including disciplinary action;

(e) to finalise long term perspective plan, annual plan and budget to be placed before the general body, and to direct the affairs of the Co-operative in accordance with the plan and budget approved by the general body;

(f) to arrange for funds;

(g) to decide acquisition and disposal of movable and immovable property;

(h) to frame, approve and amend regulations relating to services, funds, accounts and accountability, and information and reporting systems; and

(i) to consider the matter specified under Sub-section (2) of Section 28.

(2) Every director of a Co-operative while performing duties,

discharging responsibilities, and exercising powers shall

- (a) act honestly and in the best interests of the Co-operative; and
- (b) exercise such due care, diligence and skill as a reasonably prudent person would exercise in similar circumstances:

Provided that any director who is guilty of misappropriation, breach of trust or any other omission or commission, resulting in loss or shortfall in revenue to the Co-operative, shall be personally liable to make good that loss or shortfall, without prejudice to any criminal action to which the director may be liable under law.

### **33. Eligibility For Directorship In A Co-Operative :-**

In addition to such other conditions as may be specified in the articles of association, a member of a Co-operative shall be eligible for being chosen as a director of the Cooperative, if -

- (a) such member has the right to vote in the affairs of the Co-operative;
- (b) such member has patronised the services of the Co-operative during the previous financial year to the extent and in the manner specified in the articles of association;
- (c) such member has no interest in any subsisting contract made with or work being done for the Co-operative except as otherwise specified in the articles of association; and
- (d) three calendar years have elapsed from the date on which such member may have ceased to be a director of the Co-operative for reasons of, -
  - (i) non-holding of general body meeting;
  - (ii) non-conduct of elections to the board;
  - (iii) non-submission of annual report of activities, audited annual financial statements and/or auditors report to the general body; or
  - (iv) absence from board meetings.

### **34. Elections :-**

(1) The conduct of elections of directors to the board and of representatives to the representative general body of a Co-operative shall be the responsibility of the incumbent board or the promoter board, as the case may be, of the Co-operative.

(2) Elections shall be conducted in the manner specified in the articles of association. Elections shall be conducted before expiry of the term of office of the outgoing directors or representatives, as the case may be.

(3) Where a board fails to conduct elections in time in accordance

with the articles of association of the Co-operative, all directors on the board shall cease to be directors from the date of expiry of the term of office of the outgoing director(s) or representative(s), as the case may be.

(4) Elections of directors shall take place at the general body meeting.

(5) Where a board fails to conduct elections before the expiry of the term of the directors or representatives, or, where there are no directors remaining on the board, such person (s), within such time and in such manner (sic) specified in the articles of association, shall convene a general body (sic), for appointing an ad hoc board for the specific purpose of conducting elections within ninety days and to perform all functions of the board during (sic) interregnums except those prescribed by the general body.

(6) The term of the ad hoc board so appointed shall not exceed three months and the ad hoc board shall cease to function as soon as a regular board is elected in accordance with the articles of association.

(7) The directors shall hold office for the period for which they were elected (sic) and the newly elected directors shall assume office at the end of his period.

(8) The directors may not be eligible for re-election, if so specified in (sic) articles of association.

(9) Where there are vacancies on the board in spite of holding of (sic) or due to death or resignation and where there is a quorum, the remaining director (s) shall exercise all the powers of the board and may fill (sic) vacancies by co-option from among the members of the Co-operative having right to vote for the remainder of the respective terms.

(10) Where there are vacancies on the board and where there is not sufficient number of directors to constitute a quorum for board meetings, (sic) remaining directors shall call a general meeting for the purpose of electing directors to fill the vacancies.

### **35. Tenure Of Directors :-**

(1) The articles of association shall provide (sic) retirement of directors by rotation in case of primary co-operative.

(2) The articles of association shall provide for retirement of directors by rotation or at a time, as the case may be, in case of Secondary Co-operative.

(3) The tenure of the director shall in no case exceed five years.

### **36. Meeting Of The Board :-**

(1) The President of a Co-operative may, at any time, call a meeting of the board of directors :

Provided that at least four board meetings shall be held in a financial year, and the period between two consecutive board meetings shall not (sic) one hundred and twenty days.

(2) The President shall hold a special board meeting within fifteen days of the date of receipt of a requisition from -

(a) at least one-third of the directors on the board; or

(b) the Registrar; or

(c) the Auditor.

(3) Such requisition shall contain the reasons for requisitioning the meeting along with the proposed agenda, and no subject other than the subjects included in the proposed agenda shall be discussed at the special board meeting.

(4) The President shall cease to be the President at the end of the period within which a board meeting under Sub-section (1) or (2) or the articles of association has to be held, if he/she fails to hold such board meeting within the specified period.

(5) An individual who ceases to be the President under Sub-section (4) shall not be eligible to hold the office of President for a period of five years from the date of such cessation.

(6) The quorum for a board meeting shall be as specified in the articles of association, but shall in no case be less than fifty percent of the total number of directors of the board.

(7) The procedure to convene and conduct the board meetings shall be such as may be specified in the articles of association.

(8) If a director fails to attend three consecutive board meetings without sufficient reason (s), he/she shall cease to be a director, from the date of the third board meeting.

### **37. Minutes Of Board Meetings :-**

(1) Every Co-operative shall maintain, in the language specified by the articles of association, minutes of all proceedings of every board meeting in the minutes book, and send the copy of the minutes within seven days of the conclusion of every such meeting to all directors.

(2) The minutes so recorded shall be signed by the member who presided over the said meeting.

(3) The minutes so recorded shall be deemed to have been



confirmed on the fifteenth day after its despatch to all directors, if no comments on the correctness or otherwise of the minutes are received from directors within that time :

Provided that where comments have been received from directors, corrections, if any, shall be made by the board when the said minutes are placed before the next meeting of the board for confirmation.

## **CHAPTER 5 FINANCE**

### **38. Mobilisation Of Funds :-**

(1) A Co-operative may mobilise funds in the shape of equity capital, deposits and loans from its members in such form, to such extent and under such conditions as may be specified in the articles of association.

(2) A Co-operative may raise funds and other forms of financial support such as guarantee from non-members, including banks, other financial and non-financial institutions, on mutually agreed terms, to such extent and under such conditions as may be specified in the articles of association.

### **39. Deployment Of Funds :-**

(1) The funds mobilised by a Co-operative shall be for the furtherance of its objectives.

(2) Such of its funds as are not needed for use in its business, a Cooperative may invest or deposit, outside its business, in the manner specified under Sub-section (5) of Section 11 of the Income Tax Act, 1961.

### **40. Disposal Of Surplus :-**

(1) Surplus, if any, arising out of the business of a Co-operative in a financial year may be used in one or more of the following ways, namely :

- (a) deficit cover fund;
- (b) surplus refund among its members;
- (c) development of its business;
- (d) reserves and funds constituted in accordance with the articles of association;
- (e) common services to its members;
- (f) rewards or incentives to employees; and
- (g) non-divisible corpus fund.

- (2) Surplus arising out of services provided to potential members may not be distributed amongst members or staff, but may be used for the purpose of common services to the community at large, and for encouraging potential members to become members.
- (3) Surplus must be fully disposed of at the annual general body meeting in which the audited statements of accounts for the financial year in which the surplus arose are presented for the consideration of the general body.

#### **41. Management Of Deficit :-**

- (1) Deficit, if any, arising out of the business of a Co-operative in a financial year, shall be fully settled by debiting a part or all of the deficit to the deficit cover fund, if any, and/or as deficit charge, among its members :

Provided that nothing in this sub-section shall preclude a Co-operative from proceeding against its directors or employees for recovery of amounts contributing to the deficit, where such deficit is the result of deviation from the approved plan and/or budget, and where such deviation does not receive the approval of the general body, or is the result of gross negligence or mismanagement :

Provided further that where such amounts are recovered, the general body may resolve to credit a part or all of the amount to the deficit cover fund and/or to the account of each member in proportion to the deficit charge levied on him/her in this regard.

- (2) No member shall be permitted to withdraw from the membership of the Co-operative without paying his/her share towards clearing the deficit, if any.

#### **42. Operation Of Special Funds :-**

- (1) A Co-operative may, in the interest of its members and towards the fulfilment of its objectives, create reserves and such other funds as are specified in the articles of association.

(2) Funds so created may be used in the business of the Co-operative, but at the end of every co-operative business year, on that portion of each fund which was not applied for the purpose for which it was created, the Co-operative shall credit to the account of such fund an annual interest, at no less than the rate paid by scheduled banks on long term fixed deposits debiting such interest as operational expenditure.

### **43. First Charge :-**

Notwithstanding anything in any law for the time being in force, but subject to any claim of the Government in respect of land revenue, any debt or other amount due to a Co-operative by any member shall be a first charge upon such properties of the member as agreed to by the Co-operative, and as the member may declare in the manner specified in the articles of association.

## **CHAPTER 6 ACCOUNTABILITY**

### **44. Accounts, Records And Documents To Be Maintained :-**

(1) Every Co-operative shall keep at its registered office, at least the following account records and documents, namely :

- (a) an up-to-date copy of this Act;
- (b) objective of the Co-operative;
- (c) an up-to-date copy of its articles of association;
- (d) the minutes books;
- (e) account of all sums of money received and expended by the Co-operative and their respective purposes;
- (f) account of all purchases and sales of goods by the Co-operative
- (g) account of the assets and liabilities of the Co-operative;
- (h) a list of members, their fulfilment of responsibilities over the previous financial year, their eligibility to exercise their rights (sic) the current financial year updated within forty-five days of closure of the Co-operatives financial year; and
- (i) all such other accounts, records and documents as may be required by this Act or other laws and regulations.

( 2 ) Where a Co-operative has branch offices, summarised statement of accounts relating to such branch office (s), shall be available at the registered office for each quarter, within fifteen days of the end of that quarter.

(3) Every Co-operative shall keep the books of account and other records for inspection by any director during business hours.

(4) Every Co-operative shall make available during its business hours to any member who so requests, copies of this Act, articles of association minutes book of the general body, voters list and such accounts and recon of transaction that relate to that member, on payment of such fees, as may be decided by the board.

### **45. Audit :-**

- (1) Co-operative shall get its accounts audited by-
  - (a) a chartered accountant within the meaning of the Chartered Accountants Act, 1949; or
  - (b) by any other auditor in service under Auditor-General of Co-operative Societies, on payment of fees to be decided by the Auditor-General of Co-operative Societies; or
  - (c) by a retired Co-operative Auditor/Retired Government Auditor with minimum three years of experience.
- (2) A Co-operative, at its annual general body meeting, shall resolve to appoint an auditor. This appointment will be valid only until the close of the next succeeding annual general body meeting.
- (3) The remuneration of an auditor may be fixed by the general body or, if not so fixed, by the board.
- (4) An auditor ceases to hold office when the auditor -
  - (a) resigns; or
  - (b) is removed from office under Sub-section (6); or
  - (c) completes his/her term of office.
- (5) The resignation of an auditor becomes effective when a written resignation is received by the Co-operative, or at the time specified in the resignation whichever is later, subject to acceptance by the board.
- (6) The general body may, by a special resolution, remove an auditor from office.
- (7) An auditor who -
  - (a) resigns; or
  - (b) receives a notice of a general body meeting called for the purpose of removing him/her from office, -is entitled to submit to the general body a written statement giving the reasons for his/her resignation or the comments on the proposed removal, as the case may be.
- (8) A vacancy created by the resignation, death or the removal shall be filled up by the general body. An (sic) appointed to fill a vacancy shall hold office for the unexpired term of his/her predecessor.
- (9) The auditor shall be given notice of every general body meeting and, at the expense of the Co-operative, will be entitled to attend and be heard on matters relating to his/her duties as auditor and their exercise.
- (10) It shall be the duty of the board to ensure that annual financial statements are prepared and presented for audit within forty-five days of closure of the Co-operatives financial year.
- (11) Upon the reasonable demand of the auditor of a Co-operative,

the present or former directors, members, managers or employees of the Co-operative shall -

(a) provide such access to records, documents, books, accounts and vouchers of the Co-operative; and

(b) furnish such information and explanations, as are, in the opinion of the auditor, necessary to enable him/her to make the examination and report.

(12) It shall be the duty of the auditor to ensure that audited annual financial statements and his/her accompanying report are furnished to the Co-operative within forty five-days of the submission of annual financial statements by the board.

(13) The auditors report to the Co-operative shall -

(a) state whether the auditor has obtained all the information and explanations which, to the best of his/her knowledge and belief, were necessary for the purpose of his/her audit;

(b) state whether the Co-operatives balance sheet and income and expenditure account dealt with by the report are in agreement with the books of accounts;

(c) indicate the basis on which each asset and liability was valued, and make specific mention of any change in the manner in which such valuation was done in the year under examination and its effect on surplus/deficit;

(d) indicate the amount of surplus earned/deficit incurred from providing services to potential members as distinct from surplus/deficit accruing because of members in normal course of business;

(e) indicate every deviation in actual expenses and income from the estimated expenses and income in the approved budget;

(f) state whether or not any of the directors had, at any time during the Co-operative business year under audit, become ineligible under this Act to continue in office as a director; and

(g) state whether the decisions on disposal of surplus or assessment of deficit, of the general body, at its previous annual general body meeting were implemented correctly and completely or not.

#### **46. Returns To Be Filed With The Registrar :-**

(1) Within thirty days of the holding the annual general body meeting, every Co-operative shall fill the following returns with the Registrar, namely :

(a) annual report of activities;

(b) annual audited financial statements of accounts with auditor report;

(c) statistical statement indicating name of the Co-operative, con services offered by the Co-operative to its members, total number of members as on the last day of the Co-operative business year total number of, employees, total liabilities expressed as -

(i) funds from members, and surpluses, and

(ii) funds from other external sources as on the last day of the financial year, quantum in rupees of services provided -

(a) to members, and

(b) to potential members, and surplus/deficit at the end of Co operative business year; and

(d) annual disposal of surplus or management of deficit.

(2) Along with the returns specified under Sub-section (1) every Co operative shall furnish the following information to the Registrar, namely :

(a) the date of the annual general body meeting at which the returns to be filed with the Registrar were considered and approved;

(b) the total number of members on the rolls of the Co-operative who were eligible to vote on the date of such annual genera body meeting;

(c) the number of eligible members present at such annual genera body meeting;

(d) list of members of directors, their addresses and their terms of office;

(e) name and address of the auditor appointed for auditing the current years accounts; and

(f) any other relevant and specific information required by the Registrar which will enable him/her to decide whether the Co-operative has conducted its affairs in accordance with the co-operative principles and this Act.

(3) If the returns and information, as specified under Sub-sections (1) and (2), are not filed with the Registrar within the time specified under Sub-section (1), it shall be treated as an offence under this Act and the Co-operative shall be penalised in accordance with the provisions of this Act.

(4) The Registrar shall submit an annual report to the Government by the 31st March of each calendar year, containing statistical information on the Co-operatives in the State compiled from the returns received during the previous calendar year, under Sub-section (1), with regard to the total number of Co-operatives in the

State, their membership, employees, funds, services and surplus/deficit and the report shall also contain information on fee raised under this Act by the Registrar.

(5) A Co-operative may apply in writing to the Registrar seeking a copy of the Registrars annual report, which shall be made available by the Registrar on reasonable fee to be fixed by the Registrar.

#### **47. Inquiry :-**

(1) The Registrar after giving a notice to the Co-operative concerned shall, on the application, of a Secondary Co-operative to which the Co-operative concerned is affiliated, or of a creditor to whom the Cooperative is indebted, or of not less than one-third of the directors, or of not less than one-tenth of the members, hold an inquiry or cause an inquiry to be made into any specific subject or subjects relating to any gross violation of any of the provisions of this Act by the Co-operative.

(2) The Registrar shall order an inquiry under Sub-section (1) only after received of such fee, from the applicant or the applicants, as deemed sufficient to meet the cost of the inquiry.

(3) The inquiry shall be completed within a period of one hundred and twenty days from the date of ordering the inquiry.

(4) If the inquiry is not completed within the time specified in Subsection (3), it shall lapse at the end of the said period, and the Registrar shall refund to the applicants the fee collected from them.

(5) The Registrar shall, within a period of thirty days from the date of the completion of the inquiry, as specified in Sub-section (3) or of the lapse of the inquiry as specified in Sub-section (4), communicate the report of the inquiry or the reasons for the non-completion of the inquiry, as the case may be, -

(a) to the Co-operative concerned;

(b) to the applicant (s); and

(c) to any person, on payment of fee specified by the Registrar.

#### **CHAPTER 7 OFFENCES**

#### **48. Offences :-**

(1) A person who makes or assists in making a report return notice or other document required in this Act to be sent to the Registrar or to any other person which -

(a) contains an untrue statement of a material fact; or

(b) omits to state a material fact required in the report or

necessary to make a statement; or

(c) contains misleading facts in the light of the circumstances in which it was made;

shall be guilty of an offence.

(2) The offender, on conviction through summary trial shall, in case of an individual committing such offence, be liable to be punished with fine which may extend to five thousand rupees and in case of a person other than an individual committing such offence be punished with fine which may extend to ten thousand rupees.

(3) Where the person guilty of an offence under Sub-section (1) is a body corporate and whether or not the body corporate has been prosecuted or convicted, any director or officer of the body corporate who knowingly aids or abets the offence shall be held guilty of an offence and liable for conviction through summary trial to be punished with fine which may extend to one thousand rupees.

(4) No person shall be deemed to be guilty of an offence in pursuance of Sub-section (1) or (3) where the untrue statement or omission -

(a) was unknown to him/her; and

(b) in the exercise of reasonable diligence, could not have been known to him/her.

(5) Every person who -

(a) without reasonable cause, contravenes a provision of this Act for which no penalty is otherwise provided; or

(b) fails to give any notice, send any return or document that is required for the purposes of this Act -

shall be deemed to be guilty of an offence and liable, on conviction through summary trial, to be punished with fine which may extend to one thousand rupees.

(6) Where a person is convicted of an offence in pursuance of this Act, the Court may, in addition to any punishment imposed, order the person to comply with the provisions of this Act or the provision of the articles or association for the contravention of which he/she has been convicted. .

(7) No prosecution for an offence under this Act shall commence after six calendar years from the date on which the subject-matter of the complaint is detected.

(8) No civil remedy for an Act or omission under this Act is suspended or affected by reason that the act or omission is an offence under this Act.

(9) No Court inferior to that of a Magistrate of the first class shall



try any offence under this Act.

(10) Any transactions or payment, contrary to the provisions of this Act or the articles of association, deficiency to the assets of the Co-operative, by breach of trust, wilful negligence, or otherwise, misappropriation, fraudulently or unauthorised retention of money or other property belonging to the Cooperative, caused by any present or past employees, member or the director of the Co-operative, shall be treated as an offence under this Act and in addition to the punishment as deemed proper, under the general law of the land, the Court may pass order for recovery of such dues or property of the Co-operative.

(11) Any member of the Co-operative or Secondary Co-operative shall be the person competent to institute prosecution for any offence under this Act.

#### **49. Compounding Of Offence :-**

(1) The Registrar or any officer authorised in his behalf may, either before or after the institution of proceedings for an offence under this Act, permit any person charged with the offence, to compound the offence on payment of such sum, not exceeding ten thousand rupees.

(2) On payment of such sum as may be determined under Sub-section (1), no further proceedings shall be taken against the person respect of the same offence.

(3) Any order passed or proceeding recorded under Sub-section (1) shall be final and no appeal or application for revision shall there from.

#### **50. Protection Of Action Taken In Good Faith :-**

(1) No suit, prosecution or other legal proceedings shall lie against the Registrar or any other officer empowered to take action under this Act for anything which is in good faith done or intended to be done under this Act.

### **CHAPTER 8 DISPUTES**

#### **51. Disputes :-**

(1) Notwithstanding anything contained in any other law for the time being in force, if any dispute touching the constitution, management, or business of Co-operative arises, such dispute shall be referred to the concerned arbitral tribunal, if the parties thereto

are among the following, namely -

- (a) the Co-operative, its board, past board, any past/present officer, any past/present employee, any director, office bearer, or any past director, past office bearer, or the nominee, heir, or legal representative of any deceased employee, deceased director, deceased office bearer, of the Co-operative or the Secondary Co-operative; or
- (b) a member, potential member, past member, a person claiming through a member or past member or deceased member of the Co-operative or the Secondary Co-operative; or
- (c) a surety of a member, potential member, past member or a deceased member.

Explanation - For the purposes of this Sub-section, a dispute shall include -

- (i) a claim in respect of any sum payable to or by Co-operative for any debt or other amount due by or to a member, past member, the nominee, heir or legal representative of a deceased member, whether such debt or other amount be admitted or not; or
- (ii) a claim by surety against the principal debtor where the Co-operative has recovered from the surety amount in respect of any debt or other amount due to it from the principal debtor as a result of the defaulter of the principal debtor whether-such debt or amount due be admitted or not; or
- (iii) a claim by or against a Co-operative, against or by a member, or past member or the nominee, heir or legal representative of a deceased member relating to the delivery of possession of land or other immovable property resumed by it.

(2) If any question arises whether a dispute referred to the arbitral tribunal under this section is a dispute touching the constitution, management or business of the Co-operative, such question shall be decided by the arbitral tribunal.

(3) The arbitral tribunal shall decide the dispute in accordance with provisions of this Act and the articles of association, and such decision; shall be final. Pending final decision on the dispute, the arbitral tribunal may make such interlocutory orders, as it may deem necessary in the interest of justice.

(4) Every order or decision made under this section, shall be executed by the chief executive of the Co-operative, on a certificate issued by the arbitral tribunal.

(5) Notwithstanding anything contained in Sub-section (4) or in any other law for the time being in force, and without prejudice to any other mode of recovery which is being taken or may be taken,

an arbitral tribunal may, on the application made by the Co-operative for the recovery of arrears due to the Co-operative from any of its members, and on its furnishing s statement of accounts in respect of the arrears and after making such inquiry as the tribunal deems fit, issue a certificate for the recovery of the amount stated therein to be due as arrears.

(6) A certificate issued by the arbitral tribunal under Sub-section (5) shall be final and conclusive proof of the arrears stated to be due and the certificate shall be executed by the chief executive in the manner specified in the article of association.

## **52. Arbitral Tribunal :-**

The articles of association of each Co-operative shall provide for the constitution of an arbitral tribunal consisting of an individuals or a group of individuals not exceeding five, chosen by the general body from amount its members or others, whose term of office shall be not more than three years :

Provided that where an arbitral tribunal consists of more than one member, it may choose for reasons to be set forth in writing that a dispute or set of disputes referred to it for settlement be decided by one or more of its members, and the decision of such member or members shall be deemed to be a decision of the arbitral tribunal :

Provided further that where the arbitral tribunal consists of more than one member, the articles of association shall provide for the general body to specify the name of the person who will be the presiding officer in case of joint arbitration. In case of tribunal having more than one member, at least 50% of the number of members shall constitute quorum in case of joint arbitration. In case of difference of opinion amongst members in a joint arbitration, the decision of majority shall prevail and in case of equality of dissenting opinions, the decision supported by the Presiding Officer shall prevail.

## **CHAPTER 9 DISSOLUTION**

### **53. Dissolution By Members :-**

(1) A Co-operative may, by a special resolution, move for its own dissolution :

Provided that a notice of the general body meeting shall be sent by registered post with an invitation to attend such meeting, to the Registrar, to the creditors, if any, to any Secondary Co-operative to

which the Co-operative is affiliated, and to any Co-operative (s) with which a partnership contract has been entered into.

(2) Invitees specified under the proviso of Sub-section (1) shall have the right to make a representation to the general body, if they so wish, on the issue of the proposed dissolution.

(3) Within fifteen days of such move for dissolution, the Co-operative shall send to the Registrar a copy by registered post of the move to dissolve the Co-operative.

(4) The move approved in pursuance of Sub-section (1) is required to set out -

(a) the assets and liabilities of the Co-operative;

(b) the up-to-date audit report;

(c) the claims of creditors;

(d) the number of members;

(e) the nature and extent of the members interest in the Co-operative; and

(f) the name and address of the liquidator appointed by the Co-operative.

(5) When the Registrar receives the special resolution passed in pursuance of Sub-section (1) -

(i) where the Co-operative has no assets and liabilities, he/she may dissolve the Co-operative, strike off its name from the register of Co-operative and issue a certificate of dissolution; and

(ii) where the Co-operative has assets or liabilities, the liquidator shall, within thirty days from the date of passing of special resolution, cause at the expense of the Co-operative a notice of the special resolution to be published once in the gazette and once a week for two consecutive weeks in a newspaper published or distributed in the district where the registered office of the Co-operative is located.

(6) In the case of dissolution, under Sub-section (5) above, the Registrar may require, till the certificate of dissolution is issued by him/her, from the liquidator appointed by the Co-operative or any other person who is required to furnish information, a periodical return showing-

(a) the progress of dissolution;

(b) the distribution of any undistributed surplus or reserve; and

(c) any other relevant information that he/she may require.

#### **54. Duties Of A Liquidator :-**

On his/her appointment, a liquidator shall,

- (a) immediately give notice of his/her appointment to the Registrar, the Secondary Co-operative, if any, or to the member Co-operatives, as the case may be, and to each claimant and creditor of the Cooperative;
- (b) take reasonable steps to give notice of the liquidation where the Co-operative carries on business as referred under Sub-section (5) of Section 53;
- (c) place in the notice mentioned in Clauses (a) and (b) a provision requiring any person -
  - (i) indebted to the Co-operative, to render, an account and pay to the liquidator at the time and place specified any amount owing;
  - (ii) possessing property of the Co-operative, to deliver it to the liquidator at the time and place specified; and
  - (iii) having a claim against the Co-operative, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than sixty days after the first publication of the notice;
- (d) take into custody and control the property of the Co-operative;
- (e) open and maintain a trust account for the moneys of the Cooperative;
- (f) keep accounts of the moneys of the Co-operative received and paid out by him/her;
- (g) maintain separate lists of the members, creditors and other persons having claims against the Co-operative;
- (h) where at any time he/she determines that the Co-operative is unable to pay or adequately provide for the discharge of its obligations, seek the suggestion from the general body as to the undischarged liabilities; and
- (i) deliver to the Registrar/general body, periodically as the Registrar/ general body may require, financial statements of the Co-operative in any form which the liquidator considers proper or that the Registrar/general body may require.

## **55. Powers Of Liquidator :-**

- (1) The liquidator may -
  - (a) engage lawyers, accountants, engineers, appraisers and other professional advisors;
  - (b) institute, defend or take part in any civil, criminal or administrative proceeding in the name and on behalf of the co-operative;
  - (c) carry on the business of the Co-operative as required for an

orderly liquidation;

(d) sell by public auction any property of the Co-operative;

(e) do all acts and execute any documents in the name and on behalf of the Co-operative;

(f) borrow money on the security of the property of the Co-operative;

(g) settle or compromise any claims by or against the Co-operative; and

(h) do all other things that he/she considers necessary for the liquidation of the Co-operative and distribution of its property.

(2) Where a liquidator has reasons to believe that any person has in his/her possession or under his/her control, or has concealed, withheld or misappropriated any property of the Co-operative, he/she may apply to the Court for an order requiring that person to restore the said property.

(3) No liquidator shall purchase, directly or indirectly, any part of the stock-in-trade, debts or assets of the Co-operative.

## **56. Final Accounts :-**

(1) A liquidator shall pay the costs of liquidation out of the property of the Co-operative and shall pay or make adequate provision for all claims against the Co-operative.

(2) After paying or making adequate provision for all claims against the Co-operative, the liquidator shall apply to the Registrar for approval of his/her final accounts and for permission to distribute in money or in kind the remaining property of the Co-operative in accordance with the articles of association.

(3) Where the Registrar approves the final accounts rendered by a liquidator in pursuance of Sub-section (2), he/she shall -

(a) issue directions with respect to the custody or disposal of the documents and records of the Co-operative; and

(b) discharge the liquidator.

(4) Where the Registrar discharges a liquidator in pursuance of Subsection (3), he/she shall dissolve the Co-operative, issue a certificate of dissolution and strike off its name from the register of Co-operatives.

(5) The Co-operative ceases to exist on the date shown in the certificate of dissolution, which shall not be later than two years after the appointment of the liquidator.

## **CHAPTER 10 MISCELLANEOUS**

## **57. Exemption From Certain Taxes, Duties And Fees :-**

(1) The Government may, by notification in the official Gazette, exempt or remit in respect of any Co-operative or class of Co-operatives -

(a) the stamp duty chargeable under any law for the time being in force in respect of any class of instruments executed by or on behalf of a Co-operative or by an officer or member thereof and relating to the business of such Co-operative or in respect of any award or order made under this Act, in cases where, but for such remission the Co-operative (s), its officer or member, as the case may be, would be liable to pay such stamp duty; or

(b) any fee payable under any law for the time being in force relating to the registration of documents or Court-fees :

Provided that nothing in Clause (a) shall apply in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policy of insurance, transfer of shares, debentures, proxies and receipts.

(2) The Government may, by notification, exempt any class of Cooperatives from taxes on -

(a) agricultural income;

(b) sale or purchase of goods; or

(c) professions, trades, calling and employment.

## **58. Exemption From Compulsory Registration Of Instruments :-**

Nothing in Clauses (b) and (c) of Sub-section (1) of Section 17 of Registration Act, 1908, shall apply to-

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

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

(c) any endorsement upon or transfer of any debenture issued by any such Co-operatives.

## **59. Power To Remove Difficulties :-**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this Section shall, as soon as it is made, shall be laid before the State Legislature for a period of fourteen days which may be comprised in one or more sessions.

## **60. Prohibition To Receive Share Capital, Loan Etc. :-**

A Co-operative registered under this Act shall not be entitled to receive any share capital, guarantee or loan from the Government.

### **SCHEDULE 1**

#### **SCHEDULE A**

[Section 3(1) and Section 6(3)]

Subject matter for specific consideration when framing articles of association of a Co-operative

1. Identity of the Co-operative.--

(a) the name of the Co-operative;

(b) the village/town/city where the Registered office of the Co-operative is to be located;

(c) the custody and use of the common seal.

2. Aim and services.--

(a) the aim of the Co-operative explicitly stated as common central need of the members which the Co-operative aims at fulfilling;

(b) key service and support services to members to fulfil the common central need stated in the aim;

(c) the conditions under which services may be provided to non-members.

3. Membership.--

(a) form for applying for membership;

(b) form for declaring assets by member upon which arrears due to the Co-operative shall be a first charge;

(c) eligibility, ineligibility for obtaining membership;

(d) eligibility, ineligibility for continuing membership;

(e) procedure for obtaining membership;

(f) procedure for withdrawing membership;

(g) procedure for termination of membership;

(h) circumstances under which membership ceases;

(i) procedure for cessation of membership.

4. Rights and obligations of members.--

(a) the rights of members;

(b) manner of fixation of minimum performance expected annually of each member vis-a-vis use of services, financial commitment, participation in meetings, and adherence to articles of association, in order to be eligible to exercise the



- rights of membership including the right to vote;
- (c) the consequences of performing below the minimum level fixed;
- (d) the consequences of default in payment of any sum due to a member.

5. General body.--

- (a) the role of general body, and of the representative general body, if any, and subjects which must be dealt with by the general body, and by the representative general body, if any;
- (b) the manner and frequency of convening General body meetings, and quorum required;
- (c) the quorum necessary for adjourned meetings;
- (d) the minutes of proceedings of general meetings;
- (e) manner of sending the notices and resolutions;
- (f) the person/s to take responsibility for, and the manner of convening an extraordinary General body meeting, and the period within which such meeting ought to be convened, for the purpose of appointing an ad hoc board.

6. Board of directors.--

- (a) the size and composition of the board of directors;
- (b) eligibility, ineligibility for becoming director;
- (c) eligibility, ineligibility for retaining direction ship;
- (d) the procedure for election and removal of directors;
- (e) the terms of office of the directors;
- (f) the frequency of board meetings;
- (g) the manner of convening board meetings, and quorum; (h) the functions, responsibilities and powers of the board; (i) the minutes of proceedings of board meetings;
- (j) the functions, responsibilities and powers of the directors.

7. President and other office-bearers.--

- (a) the election and removal of president and other office-bearers, if any;
- (b) the functions, responsibilities and powers of the President and other office-bearers, if any.

8. Chief executive and staff.--

- (a) the person to sue or be sued on behalf of the Co-operative;
- (b) the manner-of appointment and removal of chief executive;
- (c) the functions, responsibilities and powers of the chief executive.

9. Finances.--

- (a) the Co-operative business year which the Co-operative wishes to adopt;
- (b) the manner of appointment of auditors and their role;
- (c) the manner of appointment of internal auditors and their role;
- (d) the nature and amount of equity capital, if any, of the Co-operatives;
- (e) the maximum capital which a single member can hold;
- (f) the types and extent of funds to be raised;
- (g) the purposes for which the funds raised by the Co-operative may be applied.
- (h) the equity-debt ratio that the Co-operative wishes to maintain at all times, and the maximum external debt that a Co-operative wishes to permit itself at any point of time;
- (i) procedure for transfer of shares or interest by a member;
- (j) procedure for redemption of shares by the Co-operative;
- (k) procedure for transfer or payment of interest on death of member;
- (l) the nature and extent of the liability of the members for the debts contracted by the Co-operative;
- (m) the nature and extent of the liability of the directors for the debts contracted by the Co-operative;

(n) the manner of disposal of funds if under liquidation; (o) the manner of recovery of dues from members.

10. Secondary Co-operatives.--

(a) the rights, if any, which the Co-operative wishes to confer on any Secondary Co-operative of which it is a member, and the circumstances under which these rights may be exercised by such Secondary Co-operative;

(b) the procedure for appointing and changing delegates to Secondary Co-operative.

11. Arbitral Tribunal.--

(a) the manner of constitution and functioning of Arbitral Tribunal for settlement of disputes;

(b) eligibility, ineligibility for being chosen as arbitrator;

(c) eligibility, ineligibility for being continued as arbitrator.

12. Other matters.--

(a) the language in which the internal affairs of the Co-operative are to be conducted.

(b) any provisions of transitory nature;

(c) the manner of dissolution of the Co-operative;

(d) the manner of amending articles of association.

**SCHEDULE 2**

**SCHEDULE B**

[Section 3 (2)]

Memorandum of Association for Co-operatives to be newly registered

(form in which to be submitted)

1. We, the following persons

SI. No. Full Name in capital letters Fullpostal address in capital letters Occupation, if the promoter (s) are individuals desire to form ourselves into a Co-operative.

(Please have as many rows above, as there are promoters)

For the purposes of registration, Shri/Shrimati.....at serial number.....above shall be our representative, and all communication may be addressed to him/her at his/her address.

3. The name of our Co-operative shall be.....

4. The Registered office of our Co-operative will be situated in.....

(Please provide name of village/town/city in the blank space provided)

5. The object of our Co-operative shall be.....

(Please state here only that need common to all members, which the Co-operative hopes to fulfill, and for which it is being established e.g. increase in returns on dairying/sericulture/paddy farming, etc. or access to quality consumer goods/housing/production inputs at reasonable prices; or access to savings and credit/insurance, etc. Please do not provide here the list of services through which this object will be fulfilled.)

6. We hereby declare that we are committed to the principles of co-operation as provided under Schedule D.

7. We have enclosed -

(a) the original and one true copy of the articles of association of the proposed Co-operative as adopted by us, the promoters;

(b) a true copy of the resolution passed by us, at a meeting, adopting the articles of association.

8. Signed by us, on the.....of.....20....at.....

(Please fill above date, month, year and place, in that order, and then fill the following.)

SI. No. Full Name (Preceded by name and designation of representative, where the promoters are Co-operatives) Signature

### **SCHEDULE 3**

#### **SCHEDULE C**

[Section 3(2) and Section 4(2)]

Memorandum of Association for Co-operatives to be converted from the Co-operative Societies under the Orissa Co-operative Societies Act, 1962

(form in which to be submitted)

1. We, the directors of the board of the .....state hereby, that the general body of our Co-operative Society desires that our Co-operative Society now be registered as a Co-operative under the Orissa Self Help Co-operatives Act.

(Please fill the current complete name of the Co-operative Society.)

2. For the purpose of registration, all communication may be addressed to.....,at.....

(Please fill the first blank with the name and designation of the contact person in the Co-operative Society, and the second blank with the full postal address of the Co-operative Society.)

3. The name of our Co-operative Society, registered under the Orissa Cooperative Societies Act, 1962, on conversion shall remain the same/become.....

(Based on whether or not the name will undergo change, please cross out whatever is inapplicable above.)

4. The Registered office of our Co-operative Society is situated at.....and shall remain the same/change to.....

(Please provide name of village/town/city in the blank space provided, and cross out that which is not applicable.)

5. The object of our Co-operative Society is.....and on conversion shall be the same/change to.....

(Please state in the first blank only that need common to all members, for which the Co-operative society was established, and in the second blank, please fill change, if any, in this object, upon conversion. Please do not provide here the list of services through which this object will be fulfilled.)

6. We have enclosed,-

(a) a true copy of the resolution passed by our general body expressing commitment to the co-operative principles of as provided for in Schedule D of the Orissa Self-Help Co-operatives Act;

(b) the original and one true copy of the articles of association of the proposed Co-operative as adopted by our general body;

(c) a true copy of the resolution passed by the general body, adopting the articles of association;

(d) a true copy of the declaration of the general body stating that our Co-operative Society is not in receipt of any share capital, loan, guarantee or any other dues from the Government or any other external source, and does not intend ever to raise share capital from the Government or any source other than members;

(e) a true copy of the latest annual report and audited statement of accounts;

(f) a true copy of the resolution of the general body along with particulars regarding the wiping off of accumulated losses from various reserves and/or by debiting to the accounts of members as decided at the meeting, (or) a true copy of the resolution of the general body stating that our Co-operative Society does not have losses, accumulated or current.

7. Particulars about the general body meeting at which the decision to convert was taken.

Date of general body meeting No. of members as on date of general body meeting  
No. of members present at general body meeting No. of members who voted for  
the conversion

8. Signed by us, on the.....of.....20.....at.....

(Please fill date, month, year and place, in that order.)

Sl. No. Full Name of the Director Office-bearer/ Member of Board Signature

(Please note that there should be as many rows as there are directors. If the chief executive is not a member of the board, then, he/she, too, should signed.

#### **SCHEDULE 4**

##### **SCHEDULE D**

[Section 2 (12), 3 (3)(d) and 4(3)(d)]

##### **Statement of Co-operative Identity**

###### **1. Definition.--**

A Co-operative is an autonomous association of person; united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controller enterprise.

###### **2. Values.--**

Co-operatives are based on the values of self-help, self-responsibility democracy, equality, equity and solidarity. In the tradition of their founders Co-operative members believe in the ethical values of honesty, openness social responsibilities and caring for others.

###### **3. Principles .--**

The Co-operative principles are guidelines by which Co operatives put their values into practice.

###### **1st Principle : Voluntary and Open Membership**

Co-operative re voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership without gender, social, racial, political or religious discrimination.

###### **2nd Principles : Democratic Member Control**

Co-operatives are democratic organisations controlled by their members who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to membership. In primary Co-operatives members have equal voting rights (one member one vote), and Co-operatives at other levels are also organised in a democratic manner.

###### **3rd Principles : Member Economic Participation**

Members contribute to, and democratically control the capital of their Co-operative. At least part of that capital is usually the common property of the Co-operative. Members usually receive limited compensation, if any, on capital subscribed to as a condition of membership. Members allocate surpluses for any of the following purposes; developing their Co-operative, possibly by Setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the Co-operative and supporting other activities approved by the membership.

###### **4th Principle : Autonomy and Independence**

Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including Governments or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their Co-operative autonomy.

###### **5th Principle : Education, Training and Information**

Co-operatives provide education and training for their members, elected representatives, managers and employees so they can contribute effectively to the development of their Co-operatives. They inform the general public-particularly young people and opinion leaders, about the nature and benefits of co-operation.

6th Principle : Cooperation among Co-operatives

Co-operatives serve their members most effectively and strengthen the Co-operative movement by working through local, national, regional and international structures.

7th Principle : Concern for Community

Co-operatives work for the sustainable development of their communities through policies approved by their members.