

Haryana Co-Operative Societies Act, 1984

22 of 1984

[20 September 1984]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title And Extent
2. Definitions

CHAPTER 2 :- REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar
4. Societies Which May Be Registered
5. Restrictions On Registration
6. Restriction On Holding Of Shares
7. Application For Registration
8. Registration
- 8A. Power Of Registrar To Decide Certain Matters
9. Registration Certificate
- 9A. Power To Make Bye-Laws
10. Amendment Of Bye-Laws
11. Change The Name
12. Change Of Liability
13. Amalgamation, Transfer Of Assets And Liabilities And Division Of Cooperative Societies
14. Compulsory Amalgamation
- 14A. Special Provision In Respect Of Sick Societies
15. Cancellation Of Registration Certificates

CHAPTER 3 :- RIGHTS AND LIABILITIES OF MEMBERS

16. Persons Who May Become Members
17. Restrictions On Individual Membership
18. Associate Members
19. Member Not To Exercise Rights Till Due Payment Made
- 19A. Voting Rights
20. Vote Of Members
21. Manner Of Exercising Vote
22. Restriction On Transfer Of Shares Or Interest
23. Transfer Of Interest On Death Of Members
24. Liability Of Past Member And Estate Of Deceased Member

CHAPTER 4 :- MANAGEMENT OF CO-OPERATIVE SOCIETIES

- 25. Final Authority And Its Meetings
- 26. Summoning Of Meetings
- 27. Rescinding Of Resolutions
- 28. Election And Tenure Of Committees
- 29. Nomination On Committee
- 30. Election Of Office-Bearers
- 30A. No Confidence Motion Against Chairman And Vice-Chairman
- 31. Appointment, Powers, Functions Of Managing Director
- 32. Constitution Of First Committee
- 33. Power To Registrar To Appoint Administrator In Certain Cases
- 34. Removal Of Committee
- 35. Removal Of Committee Member
- 36. Acts Of Co-Operative Societies Not To Be Invalidated By Certain Defects
- 36A. Functions Of A Federal Co-Operative

CHAPTER 5 :- CONSTITUTION OF COMMON CADRE

- 37. Constitution Of Common Cadre
- 38. Annual Review Of Cadre Society

CHAPTER 6 :- PRIVILEGES OF CO-OPERATIVE SOCIETIES

- 39. Co-Operative Societies To Be Bodies Corporate
- 40. Register Of Members
- 41. Register Of Mortgages And Charges
- 42. Admissibility Of Copy Of Entry As Evidence
- 43. Exemption From Compulsory Registration Of Instruments
- 44. Exemptions From Certain Taxes, Fees And Duties
- 45. Deduction From Salary
- 46. State Aid To Co-Operative Societies

CHAPTER 7 :- ACCOUNT AND RECORD

- 47. Account Books
- 48. Balance Sheet And Other Periodical Statements
- 49. Custody Of Record And Other Property
- 50. Securing Possession Of Record Etc.
- 51. Production Of Record

CHAPTER 8 :- CHARGES AND MORTGAGES

- 52. First Charge On Movable Property
- 53. Charge And Mortgage On Immovable Property
- 54. Registration Of Charge And Mortgage
- 55. Charge And Set Off
- 56. Share Contribution Or Interest Not Liable To Attachment
- 57. Transfer Or Mortgages, Charges And Assets
- 58. Power To Lease
- 59. Insolvency Or Mortgagor And Charger

- 60. Prior Debts Of Members
- 61. Grant Of Valid Discharge
- 62. Mortgages And Charges Created By Joint Hindu Family

CHAPTER 9 :- LOANS AND BORROWINGS

- 63. Restriction On Borrowings
- 64. Restriction On Loan
- 65. Limitation Of Interest
- 66. Issue Of Debentures And Bonds
- 67. Appointment Of Trustee
- 68. Guarantee
- 69. Power To Make Regulations
- 70. Insufficient Security
- 71. Recovery Of Unutilised Loans

CHAPTER 10 :- DISTRAINT AND SALE OF PRODUCE

- 72. Distrain When To Be Made
- 73. Distrain How To Be Effected
- 74. Sale Of Property Distrained
- 75. Power Of Sale When To Be Exercised
- 76. Application For Sale And Manner Of Sale
- 77. Application To Set Aside Sale
- 78. Distribution Of The Proceeds Of Sale
- 79. Certificate To Purchaser
- 80. Delivery Of Property To Purchaser
- 81. Right Of Society To Purchase The Mortgaged Property
- 82. Appointment Of Receiver
- 83. Title Of Purchaser Not To Be Impeached
- 84. Appointment Of Sale Officers

CHAPTER 11 :- PROPERTIES AND FUNDS

- 85. Investment Of Funds
- 86. Funds Not To Be Divided
- 87. Distribution Of Profits
- 88. Provisions For Guarantee Funds To Meet Certain Losses
- 89. Acquisition Or Disposal Of Property
- 90. Writing Off Bad Debts

CHAPTER 12 :- REHABILITATION OF WEAK SOCIETIES

- 91. Creation Of Rehabilitation Fund
- 92. Credit To Fund
- 93. Utilisation Of Fund

CHAPTER 13 :- SPECIALPROVISION FOR INSURED CO-OPERATIVE BANKS

- 94. Special Provision For Insured Co-Operative Banks

CHAPTER 14 :- AUDIT, INQUIRY, INSPECTION AND SURCHARGE

- 95. Audit
- 96. Rectification Of Defects
- 97. Inspection Of Societies
- 98. Inquiry By Registrar
- 99. Inspection Of Books Of Indebted Societies
- 100. Costs Of Inquiry
- 101. Surcharge

CHAPTER 15 :- SETTLEMENT OF DISPUTES

- 102. Dispute For Arbitration
- 103. Reference Of Dispute To Arbitration
- 104. Certificate For Sums Due

CHAPTER 16 :- WINDING UP OF CO-OPERATIVE SOCIETIES

- 105. Winding Up Orders
- 106. Liquidator
- 107. Powers Of Liquidator
- 108. Priority Of Contribution
- 109. Cancellation Of Registration

CHAPTER 17 :-EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

- 110. Execution Of Orders Etc.
- 111. Attachment Before Order Etc.
- 112. Registrar Or Person Empowered By Him To Be Civil Court
- 113. Recovery Of Sums Due To Government

CHAPTER 18 :- APPEALS AND REVISION

- 114. Appeals
- 115. Revision
- 116. Interlocutory Orders

CHAPTER 19 :- OFFENCES AND PENALTIES

- 117. Offences
- 118. Cognizance Of Offence

CHAPTER 20 :- GENERAL

- 119. Address Of Society
- 119A. Affiliation Or Disaffiliation With Federal Society
- 120. Copy Of Act, Rules And Bye-Laws Etc, To Be Open To Inspection
- 121. Prohibition Against The Use Of The Word "Co-Operative"
- 121A. Use Of Words Bank, Banking, Banker Or Any Other Derivative Of Word Bank
- 122. Power To Exempt

- 123. Employees Etc. To Be Public Servants
- 124. Notice Necessary In Suits
- 125. Service Of Notice Under This Act
- 126. Companies Act Not To Apply
- 127. Saving Of Existing Societies
- 128. Bar Of Jurisdiction Of Courts
- 129. Exercise Of Powers Of Civil Court
- 130. Indemnity
- 131. Power To Make Rules
- 132. Repeal

SCHEDULE 1 :- SCHEDULE I

Haryana Co-Operative Societies Act, 1984

22 of 1984

[20 September 1984]

An act to consolidate and amend the law relating to co-operative societies. Be it enacted by the Legislature of the State of Haryana in the Thirty-fifth Year of the Republic as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title And Extent :-

- (1) This Act may be called the Haryana Cooperative Societies Act, 1984.
- (2) It extends to the whole of the State of Haryana.

2. Definitions :-

1[(1)]In this Act, unless the context otherwise requires,-

(a) "apex society" means a co-operative society whose area of operation extends to the whole of the State and the primary object of which is the promotion of the objects and the provision of facilities for the operation of other co-operative societies which are its members;

2[(aa) "area of operation" means an area from which the persons are admitted as members;]

(b) "bye-laws" means the registered bye-laws for the time being in force;

(c) "cadre society" means an apex society which is required to constitute a common cadre under section 37;

(d) "central society" means a co-operative society the primary

object of which is to facilitate the working of other co-operative societies which are its members;

2[(da) "certified copy" means a copy of an entry in the books of society together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the books of the society and was made on usual and ordinary course of business and that book is still in the custody of the society. Such certificate shall be signed by the Chief Executive of the society with his name and official title;

(db) "chartered accountant" means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);]

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

2[(ea) "co-operative bank" means a co-operative society which undertakes banking business;

3{(eaa) "Co-operative Credit Structure" means the Haryana State Cooperative Apex Bank Limited, Central Co-operative Banks, Primary Agriculture Co-operative Societies, Farmers Service Societies, the Haryana State Co-operative Agriculture and Rural Development Bank and the Primary Co-operative Agriculture and Rural Development Banks;}

(eb) "co-operative principles" means the co-operative principles specified in the Schedule;]

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

(g) "co-operative society with limited liability" means a co-operative society, the liability of whose members is limited by its bye-laws;

(h) "co-operative society with unlimited liability" means a co-operative society, the liability of whose members is unlimited for the purpose of contributing jointly and severally to any deficiency in the assets of the society in the event of its being wound up;

2[(ha) "delegate" means a person elected by a group of members to represent them on the general body of the society in accordance with its bye-laws;]

(i) "financing institution" means an institution to be notified by the Government in this behalf;

(j) "Government" means Government of the State of Haryana;

2[(ja) "interest" means an interest of a member in a society and includes shares, loans, deposits and obligations that arise by virtue of its bye-laws; and are owed by the society to a member;]

(k) "member" means an individual or a society joining in the application for the registration of a co-operative society and a person or society admitted to the membership after such registration in accordance with this Act, the rules and the bye-laws and includes an associate member and the Government when it subscribes to the share capital of a society;

3[(ka) "National Bank" means the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);]

(l) "net profits" means profit after deduction of establishment charges, contingent charges, interest payable on loans and deposits, audit fee and such other sums as may be prescribed;

(m) "officer" means the president, vice-president, chairman, vice-chairman, managing director, secretary, manager, member of committee, treasurer, liquidator, administrator and includes any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "primary society" means a co-operative society, object of which is to promote the common interests of its members and whose membership consists exclusively of individuals;

(p) "producer society" means a society formed with the object of producing and disposing of goods and commodities as a collective property of its members and includes a society formed with the object of the collective disposal of the labour of its members;

3[(pa) "Reserve Bank" means the Reserve Bank of India established under the Reserve Bank of India Act, 1934 (2 of 1934);]

(q) "rules" means the rules made under this Act;

(r) "Registrar" means a person appointed to perform the function of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

2[(ra) "Schedule" means Schedule appended to this Act;]

(s) "section" means a section of the Act;

2[(sa) "share" means an interest of a member in the society measured by a sum of money including both rights and liabilities;]

(t) "trustee" means the trustee referred to in section 67 of this Act; and

(u) "weaker section" means-

(i) agricultural labourers, marginal farmers and small farmers, as defined in section 2 of the Haryana Relief of Agricultural

Indebtedness Act, 1976;

(ii) members of Scheduled Castes and such other economically and socially backward or neglected persons as the Government may, from time to time, specify in this behalf.

2[(2) All other words and expressions used and not defined in this Act but defined in the Multi-State Co-operative Societies Act, 2002 (39 of 2002), shall have the meaning respectively assigned in the said Act.]

1. Existing Section 2 re-numbered as sub-section (1) by Haryana Act No. 19 of 2006.

2. Inserted by Haryana Act No. 19 of 2006.

3. Inserted by Haryana Act No. 18 of 2007.

CHAPTER 2

REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar :-

(1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint other persons to assist him.

(2) The Government may by general or special order, confer on any person appointed to assist the Registrar 1[***] any of the powers of the Registrar under this Act and the rules.

2[(3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2), subject to the general superintendence and control of the Registrar. For carrying out the purposes of this Act, the Registrar may issue directions to the persons appointed to assist the Registrar under sub-section (1) which shall be binding upon them.]

(4) Notwithstanding anything contained in this Act, wherein power of the Registrar is exercised by any person by virtue of the order issued by the Government under sub-section (2), the order passed or decision made by such persons for the purpose of appeal shall be deemed to be the order or decision of that person and not of the Registrar.

1. The words "all or" omitted by Haryana Act No. 19 of 2006.

2. Substituted by Haryana Act No. 19 of 2006.

4. Societies Which May Be Registered :-

(1) Subject to the provisions hereinafter contained a society which has its object the promotion of the economic interests of its members in accordance with co-operative principles as prescribed

or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability:

Provided that, unless the Government by general or special order otherwise directs, the liability of the society for which a member is a cooperative society shall be limited.

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

5. Restrictions On Registration :-

No society, other than a society of which a member is a co-operative society, shall be registered under this Act, unless it consists of at least ten individuals above the age of eighteen years or such other higher number of individuals, as may be determined by the Registrar, in each case, from time to time, belonging to such number of families as prescribed.

6. Restriction On Holding Of Shares :-

No member other than the Government or a co-operative society shall hold more than such portion of the share capital of a co-operative society, subject to a maximum of one-fifth, as may be prescribed or have or claim any interest in the shares of such society exceeding 1[five lacs] rupees, whichever is less.

1. Substituted for the words "fifty thousand" by Haryana Act No. 16 of 1992.

7. Application For Registration :-

(1) For purposes of registration, an application in prescribed form along with proposed bye-laws shall be made to the Registrar.

(2) The application shall be signed,-

(a) in the case of a society of which no member is a co-operative society, by at least ten persons qualified in accordance with the requirements of section 5; and

(b) in the case of society of which a member is a co-operative society, by a duly authorised person on behalf of every such society and where all the members of the society are not cooperative societies by ten other members, or when there are less than ten other members, by all of them.

8. Registration :-

(1) If the Registrar is satisfied-

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

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

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

(d) that the proposed society has reasonable chances of success;
the Registrar may register the society and its bye-laws.

1[(2) Where the Registrar refuses to register a society, he shall communicate within a period of one month from the date of receipt of the application for registration, the order of refusal together with the reasons thereof to such of the applicants as may be prescribed: Provided that no order of refusal shall be made unless the applicant has been given a reasonable opportunity of being heard:

Provided further that if the application for registration is not disposed of within a period of one month specified in sub-section (2) or the Registrar fails to communicate the order of refusal within the said period, the application shall be deemed to have been accepted for registration and the Registrar shall issue the registration certificate in accordance with the provisions of this Act and the rules made thereunder.]

1. Substituted for sub-section (2) and (3) by Haryana Act No. 19 of 2006.

8A. Power Of Registrar To Decide Certain Matters :-

1[Where in connection with the formation, registration or the admission of a member, a question arises whether a person resides in the area of operation of the society or whether a person belongs to a particular class or occupation or such other matter pertaining to the eligibility of the person to become a member of the society, such question shall be decided by the Registrar and his decision in this regard shall be final.]

1. Inserted by Haryana Act No. 19 of 2006.

9. Registration Certificate :-

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

9A. Power To Make Bye-Laws :-

1[(1) Every co-operative society subject to the approval of the Registrar, may make its own bye-laws consistent with provisions of this Act and the rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely:-

- (i) the name, address and area of operation of the society;
- (ii) the objects of the society;
- (iii) the services to be provided to its members;
- (iv) the eligibility for obtaining membership;
- (v) the procedure for obtaining membership;
- (vi) the conditions for continuing as member;
- (vii) the procedure for withdrawal of membership;
- (viii) the transfer of membership;
- (ix) the procedure for expulsion from membership;
- (x) the rights and duties of the members;
- (xi) the nature and amount of capital of the society;
- (xii) the manner in which the maximum capital to which a single member can subscribe;
- (xiii) the sources from which the funds may be raised by the co-operative society;
- (xiv) the purpose for which the funds may be applied;
- (xv) the manner of allocation or disbursement of net profits of the co-operative society;
- (xvi) the constitution of various reserves;
- (xvii) the manner of convening general meetings and quorum thereof other than those provided under this Act;
- (xviii) the procedure for notice and manner of voting, in general and other meetings;
- (xix) the procedure for amending the bye-laws;
- (xx) the number of members of the Board of Directors/Managing Committee not exceeding twenty-one;
- (xxi) the tenure of directors, chairperson and other office bearers of the society, not exceeding five years;
- (xxii) the procedure for removal of members of the Board of Directors/Managing Committee and for filling up of vacancies;
- (xxiii) the manner of convening Board /Committee meetings, its quorum, number of such meetings in a year and the venue of such meetings;
- (xxiv) the powers and functions of the Chief Executive;
- (xxv) the manner of imposing penalty;
- (xxvi) the appointment, rights and duties of auditors and procedure for conduct of audit;
- (xxvii) the authorization of officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society;
- (xxviii) the terms on which a co-operative society may deal with persons other than members;
- (xxix) the terms on which a co-operative society may associate with other co-operative societies;
- (xxx) the terms on which a co-operative society may deal with organizations, other than co-operative societies;
- (xxxii) the rights, if any, which the co-operative society may confer on any other co-operative society or federal co-operative and the circumstances under which such rights may be exercised by the federal co-operative;
- (xxxiii) the educational and training programmes to be conducted by the co-operative society;
- (xxxiv) the principal place and other places of business of cooperative society;
- (xxxv) the minimum level of services to be used by its members;
- (xxxvi) any other matter which may be prescribed."

1. Inserted by Haryana Act No. 19 of 2006.

10. Amendment Of Bye-Laws :-

1[(1) No amendment of any bye-laws of a co-operative society shall be valid, unless such amendment has been registered under this Act.

(2) The amendment to the bye-laws of a co-operative society shall be made by a resolution passed by a two-third majority of the members present and voting at general meeting of the society.

(3) No such resolution shall be valid unless fifteen clear days notice of the proposed amendment has been given to the members.

(4) In every case in which a co-operative society proposes to amend its bye-laws, an application to register such amendments shall be made to the Registrar together with--

(a) a copy of the resolution referred to in sub-section (2);

(b) a statement containing the particulars indicating--

(i) the date of the general meeting at which the amendment to the bye-laws was made;

(ii) the number of days notice given to convene the general meetings;

(iii) the total number of members of the co-operative society;

(iv) the quorum required for such meeting;

(v) the number of members present at the meeting;

(vi) the number of members who voted in such meeting;

(vii) the number of members who voted in favour of such amendment to bye-laws;

(c) a copy of the relevant bye-laws in force with the amendment proposed to be made together with reasons justifying such amendment;

(d) four copies of the text of the bye-laws incorporating therein the proposed amendment signed by an officer duly authorized in this behalf by the general body;

(e) a copy of the notice given to the members and the proposal to amend the bye-laws;

(f) a certificate signed by the person who presided at the general meeting certifying that the procedure specified in sub-sections (2) and (3) and the bye-laws had been followed;

(g) any other particular which may be required by the Registrar in this behalf.

(5) Every such application shall be made within sixty days from the date of the general meeting at which such amendment to the bye-laws was passed.

(6) If on receipt of application under sub-section (5), the Registrar is satisfied that the proposed amendment--

- (a) is not contrary to the provisions of this Act or the rules;
 - (b) does not conflict with co-operative principles; and
 - (c) will promote the economic interests of the members of the co-operative society, he may register the amendment within a period of three months from the date of receipt thereof by him.
- (7) The Registrar shall forward to the co-operative society a copy of the registered amendment together with a certificate signed by him within a period of fifteen days from the date of registration thereof and such certificate shall be conclusive evidence that the amendment has been duly registered.
- (8) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons thereof to the society in the manner prescribed within a period of ninety days from the date of receipt of application:
- Provided that if the application for registration is not disposed of within a period of three months specified in sub-section (6) or the Registrar fails to communicate the order of refusal specified in sub-section (8), the application shall be deemed to have been accepted for registration and the Registrar shall issue registration certificate in accordance with the provisions of this Act.
- (9) An amendment of the bye-laws of a co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.]
1. Section 10 substituted by Haryana Act No. 19 of 2006.

11. Change The Name :-

- (1) A co-operative society, may, by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the society or any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.
- (2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

12. Change Of Liability :-

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

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

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

(4) An amendment of the bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until all claims of members and creditors who exercise the option, referred to in sub-section (2) within the period specified therein, have been met in full.

13. Amalgamation, Transfer Of Assets And Liabilities And Division Of Cooperative Societies :-

1[(1) A co-operative society may by a resolution passed by a two-third majority of the members present and voting at a general meeting of the society,--

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

(b) divide itself into two or more co-operative societies:

Provided that where the Government has assisted the society by way of share capital contribution, the society shall take the prior approval of the Registrar.]

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

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

(4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or repay loans, as the case may

be.

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

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

(a) the assent thereto of all the members and creditors has been obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

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

1. Substituted by Haryana Act No. 19 of 2006.

14. Compulsory Amalgamation :-

(1) Where the Registrar is satisfied that it is essential or desirable in the interest of the co-operative society or cooperative societies that-

(i) one or more co-operative societies be amalgamated with any other co-operative society; or

(ii) two or more co-operative societies be amalgamated to form a new co-operative society, then notwithstanding anything contained in section 13, the Registrar, may, by order, after consulting the financing institutions, if any, provide for the amalgamation of the said society or societies,-

(a) with any other co-operative society, or

(b) to form new co-operative society, with such constitution, property, rights, interests, liabilities, duties and obligations, as may be specified in the order.

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

(i) a copy of the proposed order has been sent to the society or each of the concerned societies requiring them to file objections or suggestions on the proposed order within 15 days from the date of its receipt;

(ii) the Registrar has considered all objections or suggestions received from such societies or members or creditors thereof, and

has made such modifications in the proposed order as he may deem proper;

(iii) every member or creditor of each of the societies to be amalgamated, who has objected to the scheme of amalgamation, shall be entitled to receive within the period specified in the order of amalgamation his share or interest if he be a member, and the amount in satisfaction of his dues if he be a creditor;

(iv) the order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation.

14A. Special Provision In Respect Of Sick Societies :-

1[(1) Notwithstanding anything contained in this Act or the rules made thereunder or the bye-laws of the societies concerned or in any other law for the time being in force, where, in the opinion of the Registrar, a Cooperative Society, in which majority of the shares are held by the Government, is or has become sick, and that there is no possibility to rehabilitate the same, the Registrar shall, after consulting the Government and the financing institution, if any, to which such Co-operative Society is indebted, call upon the Committee concerned by notice in writing containing such particulars as may be prescribed in the notice to transfer its assets and liabilities to any other society or a company or a firm or a body whether incorporated or not on such terms and conditions as may be formulated in the manner prescribed and on such transfer, the said sick society, shall stand dissolved.

(2) If within the time specified in the notice referred to in sub-section (1), the said sick society fails to comply with the direction of the Registrar, he shall after giving an opportunity in the manner prescribed to the committee of such a sick society and the creditors thereof to make their representation, if any, by order notified in the official Gazette, take such action as he deems fit in the matter, including the issue of a direction to the society to transfer its assets and liabilities in the manner referred to in sub-section (1):

Provided that no order under sub-section (2) shall be passed by the Registrar until-

(a) all the suggestions/objections made by the creditors/members have been fully considered; and

(b) all the claims submitted by the creditors including National Co-operative Development Corporation have been fully repaid.

(3) Government shall be competent to make rules and to give such directions as it deems fit to the Registrar, for the purposes of this section.

Explanations.-- (1) "sick society" means a Co-operative society which at the end of any one of the preceding three financial years, has accumulated losses equal to or exceeding its entire net worth-

(i) "net worth" means the sum total of the paid up capital and free reserves;

(ii) "free reserves" means all reserves credited out of the profit and loss account but does not include reserves credited out of re-evaluation of assets and write back of depreciation provisions.

(2) "transfer" means a transfer of assets and liabilities of sick society by means of sale or lease.]

1. Inserted vide Haryana Act No.1 of 1999.

15. Cancellation Of Registration Certificates :-

(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another cooperative society in accordance with the provisions of sections 13 and 14, the registration of the former co-operative society shall stand cancelled and the society shall be deemed to have been dissolved.

(2) Where one or more co-operative societies are amalgamated with any other co-operative society in accordance with the provisions of clause (i) of sub-section (1) of section 14, the registration of the co-operative society or co-operative societies, as the case may be, so amalgamated shall stand cancelled and the same shall be deemed to have been dissolved on the date of the order of amalgamation and the members thereof shall become the members of other co-operative society.

(3) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with provisions of sections 13 and 14, the registration of each of the amalgamating societies, shall stand cancelled on the registration of the new society, and each society shall be deemed to have been dissolved.

(4) Where a co-operative society divides itself into two or more cooperative societies in accordance with the provisions of section 13, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved.

(5) The amalgamation and splitting of co-operative societies shall not in any manner whatsoever affect any right or obligation of the resulting cooperative society or societies or render defective any legal proceedings by or against the co-operative society or societies and any legal proceedings that might have been continued or commenced by or against the cooperative society or societies, as the case may be, before the amalgamation or splitting, may be continued or commenced by or against the resulting co-operative society or societies.

CHAPTER 3

RIGHTS AND LIABILITIES OF MEMBERS

16. Persons Who May Become Members :-

No person shall be admitted as member of a co-operative society except the following, namely:-

- (a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (9 to 1872);
- (b) any other co-operative society; 1[***]

(c) the Government 2[; and]

3[(d) such class or classes of persons or association of persons, corporate bodies, firms or joint stock companies, as provided in the bye laws of the society:]

Provided that every person eligible for admission as a member of a cooperative credit and service society, the farmers service society or primary agricultural development bank shall be deemed to have been admitted as a member thereof on the expiry of 60 days from the date of receipt of the application for such admission in the office of the society;

Provided further that the Registrar, of his own motion or on a complaint made by the committee of the society concerned or by any aggrieved person may, notwithstanding anything to the contrary contained in this Act, order for the removal of the person deemed to have been admitted to such membership, if, for reasons to be recorded by the Registrar, he is not eligible to be a member of such society and every such order in the case of complaint made by the committee of the society or of any aggrieved person shall be passed within thirty days of the receipt of the complaint.

1. The word "and" omitted by Haryana Act No. 15 of 1990.

2. Substituted for the sign ":" vide Haryana Act No. 15 of 1990.

3. Added by Haryana Act No. 15 of 1990, and later on substituted by Haryana Act No. 19 of 2006.

17. Restrictions On Individual Membership :-

No individual shall be admitted as member of a central or apex society 1[unless such society has been exempted by the Registrar by a general or special order.]

1. Added by Haryana Act No. 19 of 2006.

18. Associate Members :-

(1) A co-operative society may admit any person 1[or self-help group] or a co-operative society or any other statutory body notified by the Government in this behalf as an associate member in accordance with its bye-laws.

1[Explanation.-- For the purposes of this sub-section " self-help group" means and includes a group of persons for their economic development.]

(2) An associate member shall not be entitled to any share in any form whatsoever, in the assets or profits of the co-operative society.

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

1. Inserted by Haryana Act No. 19 of 2006.

19. Member Not To Exercise Rights Till Due Payment Made :-

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

19A. Voting Rights :-

1[Any person desirous of making a deposit in any unit of Co-operative Credit Structure other than co-operative banks, shall become a member of that society and on admission as such, he shall be entitled to full membership voting rights.]

1. Inserted by Haryana Act No. 18 of 2007.

20. Vote Of Members :-

Every member of a co-operative society shall have one vote in affairs of the society;

Provided that-

(a) in the case of equality of votes, the chairman shall have a second or casting vote;

(b) an associate member shall not have the right to vote;

(c) where the Government is a member of the co-operative society, each person nominated by the Government on the committee shall have one vote;

(d) a member in default of any sum due from him to the society shall not be eligible to exercise his right to vote;

Explanation.-- For the purpose of this clause, the expression, member does not include a society.

(e) a society brought under the process of winding up in liquidation shall not be eligible to exercise its right of vote.

21. Manner Of Exercising Vote :-

Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy:

Provided that-

(a) a co-operative society which is a member of another

cooperative society may, subject to the rules, appoint one of its committee members through a resolution of its committee to vote on its behalf in the affairs of the other society;

(b) in case of a primary society which is a member of another cooperative society may, subject to the rules, appoint one of its members to vote on its behalf in the affairs of other society.

22. Restriction On Transfer Of Shares Or Interest :-

The transfer of the share or interest of a member, in the capital of a co-operative society shall be subject to such conditions as to the maximum holding as are specified in section 6 1[:]

2[Provided that no transfer shall be allowed unless such shares have been held by the member at least for a period of two years.

Explanation.-- For the purposes of this section "capital" refers to the capital owned by members in their individual capacity in the societys funds.]

1. Substituted for the sign"." by Haryana Act No. 19 of 2006.
2. Added by Haryana Act No. 19 of 2006.

23. Transfer Of Interest On Death Of Members :-

(1) On the death of a member, a co-operative society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf and if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member or pay to such nominee, heir to legal representative, as the case may be, a sum representing the value of such members share or interest as ascertained in accordance with the rules or bye-laws:

Provided that-

- (i) in the case of a co-operative society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid;
- (ii) in the case of a co-operative society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative as the case may be, being qualified in accordance with the rules and bye-laws for membership of the society, or on his application within one month of the death of the deceased member, to any person specified in the application who is so qualified;

(iii) no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A co-operative society shall, subject to the provisions of section 52 and unless within six months of the death of member prevented by an order of a competent court, pay to such nominee heir in legal representative, as the case may be, all other moneys due to the deceased member from the society.

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

24. Liability Of Past Member And Estate Of Deceased Member :-

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

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

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

(2) Where a co-operative society is ordered to be wound up under section 105, the liability of a past member or of the estate of a deceased member who ceased to be member or died within two years immediately proceeding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER 4

MANAGEMENT OF CO-OPERATIVE SOCIETIES

25. Final Authority And Its Meetings :-

(1) The final authority in a cooperative society shall vest in the general body of members:

Provided that where the bye-laws of a co-operative society provide for the constitution of smaller body consisting of delegates of members of the society elected or selected in accordance with such bye-laws, the smaller body shall exercise such power of general body as may be prescribed or as may be specified in the bye-laws

of the society.

(2) Notwithstanding anything contained in section 21, each delegate shall have one vote in the affairs of the society.

(3) A general meeting of a co-operative society shall be held once in a year for the purpose of-

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

(b) consideration of the audit report and the annual report; 1[***]

2[(c) review of the performance of the preceding year;

(d) review of the state of affairs of the society including list of defaulters along with amount of default;

(e) creation of specific reserves and other funds and utilization thereof;

(f) consideration of list of employees who are relatives of office bearers of the society;

(g) conduct of election of the managing committee, when due;

(h) amendment of bye-laws;

(i) consideration of any other matter in accordance with bye-laws:

Provided that nothing in this sub-section shall affect any powers conferred on a committee or any office bearer of a society under the rules or the bye-laws framed under this Act.]

1. The word "or" omitted by Haryana Act No. 19 of 2006.

2. Substituted for clause (c) by Haryana Act No. 19 of 2006.

26. Summoning Of Meetings :-

(1) A co-operative society may, from time to time, call a general meeting or a committee meeting of a society and shall call such meetings within one month after receipt of a requisition in writing from the Registrar or from such member or members or proportion of total number of members as may be provided in the bye-laws in case of general meeting or such members of committee as may be prescribed in the bye-laws, in case of committee meetings.

(2) If a general meeting or committee meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf shall have the power to call such a meeting.

1[(3) If a general body meeting is not held within the period as specified in sub-section (3) of section 25 or the requirements of sub-section (1) of this section are not complied with, the Registrar shall, after giving an opportunity of being heard, declare the members of the committee disqualified for continuing as members

of such committee and for being elected as members of the committee of any society, for a period of five years; and if the default is committed by an office bearer or an employee of the society, the Registrar may, after giving him an opportunity of being heard, impose on him a fine not exceeding ten thousand rupees.]

1. Sub-section (3) added by Haryana Act No. 19 of 2006.

27. Rescinding Of Resolutions :-

1[(1) The Registrar may by order in writing, suspend the resolution of a managing committee or of a subcommittee of a co-operative society if in his opinion the resolution is in excess of the powers conferred by this Act, rules or bye-laws or the execution of the resolution will be contrary to the interest of the society or the interest of the members thereof or is likely to cause waste or damage of the funds of the society 2[:]

3[Provided that such suspension shall not exceed a period of six months.]

(2) When the Registrar makes any order under sub-section (1), he may after giving the committee or sub-committee, as the case may be, an opportunity of being heard, rescind such resolution or may order that such resolution may continue in force with or without modification permanently or for such period as he may think fit:

Provided that such resolution may be rescinded or modified even if the same could not be suspended because of its having been acted upon 2{:}]

3[Provided further that no such proceedings under this section shall be initiated after a period of six years from the date of passing of the resolution. However, any proceedings pending under this section in any court or before any authority shall continue as if the provisions of the Haryana Co-operative Societies (Amendment) Act, 2006, were not passed.]

1. Substituted by Haryana Act No. 14 of 1986

2. For sign". Substituted by Haryana Act No. 19 of 2006.

3. Added by Haryana Act No. 19 of 2006.

28. Election And Tenure Of Committees :-

(1) The members of the committee of a co-operative society shall be elected in the manner prescribed and no person shall be so elected unless he is a member of the society 1[:]

2[Provided that at least one member belonging to the Scheduled Caste and one woman member shall also be represented through

election in every committee of a co-operative society in the manner prescribed:

Provided further that at least one member belonging to backward class shall also be represented through election in the committee, if their number is ten per centum or more of the total membership of the society, in the manner prescribed.]

(2) The election process once started shall not be postponed and disputes, if any, pertaining to the election, shall be entertained after the completion of the election process, in accordance with the provisions of this Act.

Explanation.-- The election process shall be deemed to have started from the date of the order of the Registrar fixing the date of election.

3[(3) The committee of each society shall, before the expiry of the term of its committee arrange for the election of a committee in accordance with its bye-laws failing which the Registrar shall arrange to hold such elections within a period of ninety days after the expiry of the term of the committee at the cost of the society and the elected members of the outgoing committee shall be debarred from contesting the elections of the committee of any co-operative society for a period of five years from the date of the expiry of the term of the outgoing committee:

Provided that no such order shall be passed by the Registrar unless an opportunity of being heard has been given.]

4[(4) The committee shall, unless removed earlier by the Registrar, hold office for a period of five years from the date of election:

Provided that if tenure of a committee already constituted has expired on 1st day of January, 1995, or till the promulgation of the Haryana Cooperative Societies (Amendment) Ordinance, 1995, it shall be deemed to have been continued for a period of five years from the date of election:

Provided further that the tenure of the committee of Primary, Central and Apex Milk Producers Co-operative Societies shall be as specified in the bye-laws of such societies.]

(5) Notwithstanding anything contained in the bye-laws of a cooperative sugar mills, the members who are employees in the mills, shall constitute one separate zone for the purpose of election to the members of the committee thereof. In case no such member has been elected, the members of the committee shall co-opt one such member. If no such member is elected or co-opted as a member of the committee, the Registrar may nominate one such member as a member of the committee.

(6) No individual shall, at any time, be a member of a committee of more than two primary societies, one central society and one apex society:

Provided that nothing in this sub-section shall apply to a member nominated under sub-section (1) of section 29 or to a member of the committee of an apex or central society nominated to serve on the committee of another apex or central society, as the case may be, in accordance with the provisions of their bye-laws.

1. For sign "." Substituted by Haryana Act No. 19 of 2006.

2. Added by Haryana Act No. 19 of 2006.

3. Substituted by Haryana Act No. 19 of 2006.

4. Substituted vide Haryana Act No. 7 of 1988 and further substituted by Haryana Act No. 6 of 1995.

29. Nomination On Committee :-

1[(1) Notwithstanding anything contained in sub-section (1) of section 28,-

(a) where the Government has-

(i) subscribed to the share capital of a co-operative society; or

(ii) guaranteed the principal and interest in respect of debentures issued by the society; or

(iii) guaranteed the principal and interest in respect of loans and advances to the society; or

(iv) assisted the society with loans and grants;

by not less than one lakh rupees, the Government or any person authorised by it shall have the right to nominate on the managing committee of such society not more than three members or one-third of the total number of elected members of such committee, whichever is less 2[:]

3[Provided that there shall not be any nominee of the Government in the committee of Primary Agriculture Cooperative Society irrespective of the fact whether the Government has contributed to the share capital or not;]

(b) where the Industrial Finance Corporation, the State Finance Corporation, or any other financial institution or an employer notified in this behalf by the Government has provided finance to a co-operative society the Industrial Finance Corporation, the State Finance Corporation or the other financing institution or the employer, as the case may be, shall have the right to nominate one person on the committee 4{:}

5[Provided that in case of a 6{Co-operative Credit Structure} the

share capital contribution by the Government shall not exceed twenty-five percent of the paid up share capital and the nomination shall be limited to one member only:

Provided further that in case of a co-operative bank two professional directors having experience as specified by the Reserve Bank of India shall be co-opted in the committee 3{with full voting rights}, if not already elected.]

(2) A person nominated under sub-section (1) shall hold office during the pleasure of the authority who nominated him.

(3) Where a difference of opinion in respect of any matter arises between any member nominated by the Government or the Managing Director appointed under section 31 and other members thereof, the matter shall be referred by the society to the Government whose decision thereon shall be final and deemed to be a decision taken by the committee.

(4) 7[***]

1. The words and sign "co-option" omitted by Haryana Act No. 19 of 2006.

2. Substituted for sign ";" by Haryana Act No. 18 of 2007.

3. Inserted by Haryana Act No. 18 of 2007.

4. For sign "." substituted by Haryana Act No. 19 of 2006.

5. Added by Haryana Act No. 19 of 2006.

6. Substituted for "co-operative bank" by Haryana Act No. 18 of 2007.

7. Sub-section (4) omitted by Haryana Act No. 19 of 2006.

30. Election Of Office-Bearers :-

Notwithstanding anything contained in the bye-laws of a co-operative society, the members of the committee including those nominated under section 29, shall elect from amongst themselves office-bearers within sixty days of the date of election of the members of the committee. The meeting for such election shall be summoned and presided over by the Presiding Officer appointed by the Registrar:

Provided that the election of office-bearers shall not be postponed in case no person is nominated under section 29 to the said Committee:

Provided further that the election of office-bearer of a primary, central and apex milk producers societies shall be conducted in accordance with their bye-laws:

Provided further that where the Government have subscribed to the

share capital of an apex co-operative society or a co-operative sugar mill to the extent of ten lakh rupees or more the Government may, notwithstanding anything contained in the bye-laws of the society, appoint one of the members nominated under section 29 as chairman of the committee of such society:

Provided further no committed member shall be eligible for election as Chairman or Vice-Chairman of any co-operative society if he has served as such, whether before or after or partly before and partly after the commencement of this Act, for a continuous period of ten years unless a period of not less than five years has expired since he last so served.

30A. No Confidence Motion Against Chairman And Vice-Chairman :-

1[The elected members of the committee may bring a motion of no confidence against the elected office bearers i.e. Chairman and Vice Chairman other than the Government nominees by levelling specific allegations against such Chairman and Vice-Chairman. If the motion of no confidence is passed by a resolution of 2/3rd majority of the total number of elected members of the society concerned at a meeting specially convened for the purpose, the Chairman or Vice-Chairman shall cease to function as such with immediate effect and the election of new office bearers shall be held within two months of the removal in accordance with section 30 of the Act:

Provided that no such meeting shall be convened before the expiry of one year from the date on which the election of the Chairman or Vice-Chairman, as the case may be, was notified and no further meeting shall, at any time thereafter, be convened for considering a similar motion against such office bearer/bearers unless a period of one year intervenes between the last failure and the date on which such further meeting is convened.]

1. Inserted vide Haryana Act No.20 of 1997.

31. Appointment, Powers, Functions Of Managing Director :-

(1) Where the Government has subscribed to the share capital of a cooperative society to the extent of ten lakh rupees or more, the Government may notwithstanding anything contained in the bye-laws of the society, nominate another member in addition to those nominated under section 29 and appoint him as Managing Director: Provided that no person shall be appointed as Managing Director of a co-operative society unless he is a member of the Indian Administrative Service or Haryana Civil Service (Executive Branch) or Class I or II officer of the Co-operative Department, Haryana 1[or any other professional having qualifications and experience as may be prescribed], except in the case of the Haryana State Co-operative Labour and Construction Federation Limited, the Haryana Housing Apex Finance Society Limited and the Haryana Co-

operative Dairy Development Federation Limited where technical persons may be appointed as Managing Director 2{:}

3[Provided further that in case of a co-operative bank, the appointment of Managing Director shall be made in accordance with the guidelines of the Reserve Bank and such Managing Director who does not fulfill the criteria stipulated by the Reserve Bank shall be removed.]

(2) The Managing Director appointed under sub-section (1) shall exercise such powers as are assigned to him under the bye-laws or delegated to him by the committee. He shall also discharge all such functions consistent with the bye-laws as are assigned to him by the Government or the Registrar. He shall work under the superintendence and control of the committee.

(3) The Managing Director of a co-operative society shall be its principal executive officer. All employees of the society shall function and perform their duties under his superintendence and control.

1. Inserted by Haryana Act No. 19 of 2006.

2. For sign "." substituted by Haryana Act No. 19 of 2006.

3. Added by Haryana Act No. 19 of 2006, later on substituted by Haryana Act No. 18 of 2007.

32. Constitution Of First Committee :-

Notwithstanding anything contained in this Act, or the rules framed thereunder or the bye-laws of a co-operative society, the first committee of a newly registered society, shall be elected by the promoter member as contained in the application for registration. The tenure of the said committee shall not exceed one year from the date of its registration.

33. Power To Registrar To Appoint Administrator In Certain Cases :-

(1) Where in any co-operative society, a committee constituted in accordance with the provisions of this Act, rules or bye-laws does not exist or has ceased to exist, the Registrar may, notwithstanding anything to the contrary contained in the Act or rules or bye-law, appoint administrators not exceeding five for a period of six months or till a committee is constituted under section 28 whichever is earlier:

Provided that the Managing Director appointed under section 31, if any, shall be one of the administrators:

Provided further that the Registrar may extend the period of six months upto one year:

1[Provided further that the Government may further extend the period of one year upto 2{two years} either prospectively or retrospectively. In case the period is extended retrospectively, the actions taken by the administrator after the expiry of the previous extension shall be deemed to be valid as if the period has been extended on the date of the expiry of the previous extension; and] Provided further that the Registrar shall cause the election to be held within the period of six months or the extended period.

(2) If the number of administrators so appointed is less than five, the Registrar may, from time to time, add an administrator or administrators.

(3) The Registrar may fix such remuneration for the administrators as he may think fit. Such remuneration shall be paid out of the funds of the society.

3[(3A) During the period extended by the Government the administrators shall hold office at its pleasure.]

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

1. Substituted by Haryana Act No. 7 of 1988.

2. For the words "four years but not more than a year at a time," substituted by Haryana Act No. 19 of 2006.

3. Inserted vide Haryana Act No. 7 of 1988.

34. Removal Of Committee :-

(1) If in the opinion of the Registrar, a committee persistently makes default or is negligent in the performance of duties imposed on it by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interest of the society or its members, the Registrar may after giving the committee an opportunity to state of its objections, if any, by order in writing, remove the committee, and order fresh election of the committee or appoint administrators 1[for a period of one year which may be extended by the Government for a further period of one year];

2[Provided that if the committee of a co-operative bank is superseded, the Registrar shall do so with the approval of the Reserve Bank:

Provided further that the Registrar shall ensure implementation of regulatory prescriptions of the Reserve Bank including supersession of the managing committee of Central Co-operative Bank or the Haryana State Co-operative Apex Bank Limited and the appointment of administrators within one month of being so advised by the Reserve Bank. The administrators shall ensure election to the committee within a period of two months which may be extended to a maximum period of six months, if considered necessary by the Registrar:

Provided further that the committee of Primary Agriculture Cooperative Society shall be superseded by the Registrar only under the following conditions:--

- (i) that a society incurs losses for three consecutive years; or
- (ii) that serious financial irregularities or frauds have been identified; or
- (iii) that there are judicial directives to this effect or there is perpetual lack of quorum.]

(2) Where the Registrar, while proceeding to take action under sub-section (1), is of the opinion that suspension of the committee during the period of proceedings is necessary in the interest of the co-operative society, he may suspend the committee and make such arrangements as he thinks proper for the management of the affairs of the society till the proceedings are completed:

Provided that if the committee so suspended is not removed, it shall be reinstated and the period of suspension shall count towards its tenure:

Provided further that the period of suspension shall not exceed six months.

(3) The administrators appointed under sub-section (1) shall arrange for the election of a committee in accordance with the bye-laws of the society failing which the Registrar shall arrange to hold the election.

(4) Before taking any action under sub-section (1) in respect of a cooperative society, the Registrar shall consult the financing institution to which it is indebted.

1. For the words "in accordance with the provisions of section 33" substituted by Haryana Act No. 19 of 2006.

2. Substituted for proviso by Haryana Act No. 18 of 2007.

35. Removal Of Committee Member :-

(1) If in the opinion of the Registrar, any member of the committee

persistently makes default or is negligent in the performance of the duties imposed on him by this Act or rules or bye-laws or commits any act which is prejudicial to the interest of the society or its members, the Registrar may after giving the member an opportunity to state his objections if any, by order in writing, remove the member and get the vacancy filled up for the remaining period of the outgoing member, according to the provisions of this Act, rules and bye-laws.

(2) Where the Registrar while proceeding to take action under sub-section (1) is of the opinion that the suspension of the member during the period of proceedings is necessary in the interest of the co-operative society, he may suspended the member:

Provided that if the member so suspended is not removed, he shall be reinstated and the period of suspension shall count towards his tenure:

Provided further that the period of suspension shall not exceed six months.

(3) A member who is removed under sub-section (1) shall be disqualified for being elected to any committee for such period not exceeding five years as the Registrar may fix and the period shall commence from the date of passing the order.

1[(4) The Register at the request of the Reserve Bank/National Bank shall remove such members of committee who do not fulfill criteria stipulated by the Reserve Bank.]

1. Added by Haryana Act No. 18 of 2007.

36. Acts Of Co-Operative Societies Not To Be Invalidated By Certain Defects :-

No act of a co-operative society or any committee or any officer shall be deemed to be invalid for reason only of the existence of any defect in procedure or in the constitution of the society or of the committee or any vacancy in the membership or office thereof or in the appointment or election of an officer or on the ground that such officer was disqualified for appointment or election.

36A. Functions Of A Federal Co-Operative :-

1[(1) Subject to the provisions of this Act and any other law for the time being in force, a federal co-operative may discharge the functions to facilitate the voluntary formation and democratic functioning of co-operative societies as federal co-operative or co-operative based on self-help and mutual aid.

(2) Without prejudice to the generality of the provisions contained in sub-section (1) the federal co-operative may--

- (a) ensure compliance of the co-operative principles;
- (b) make model bye-laws and policies for consideration of its member co-operatives;
- (c) provide specialized training, education and data-base information;
- (d) undertake research, evaluation and assist in preparation of perspective development plans for its member co-operative;
- (e) promote harmonious relations amongst member cooperative;
- (f) help member co-operative to settle disputes among themselves;
- (g) undertake business services on behalf of its member cooperative, if specifically, required by or under the resolution of the general body or the board, or bye-laws of a member cooperative;
- (h) provide management development services to member cooperatives;
- (i) evolve code of conduct for observance by a member cooperative;
- (j) evolve viability norms for a member co-operative;
- (k) provide legal aid and advice to a member co-operative;
- (l) assist member co-operative in organizing self-help; and
- (m) develop market information system, logo brand promotion, quality control and technology up-gradation.]

1. Inserted by Haryana Act No. 19 of 2006.

CHAPTER 5

CONSTITUTION OF COMMON CADRE

37. Constitution Of Common Cadre :-

(1) The Registrar may required an apex society to constitute a common cadre of all or a specific class of employees in the service of that society or in the services of the central societies which are members of the apex society, or of the service of the primary societies which are members of the apex society or the aforesaid central societies.

(2) When a common cadre is constituted under sub-section (1), the Registrar shall make rules to regulate recruitment and the conditions of service of such employees, and their strength in consultation with the cadre society:

Provided that the Registrar may add or delete any class of employees from the common cadre in consultation with the cadre society.

1[(3) Notwithstanding anything contained in this section there shall not be any cadre system in Co-operative Credit Structure.

(4) The Registrar shall circulate guidelines in consultation with the National Bank in matters relating to personnel policy, staffing, recruitment, posting and compensation of staff.]

1. Added by Haryana Act No. 18 of 2007.

38. Annual Review Of Cadre Society :-

(1) Each cadre society shall submit an annual review of its working and of its member societies, to the Registrar, within six months of

the close or co-operative year, as may be prescribed, in the form specified by the Registrar.

(2) The Registrar may issue such directions as he considers necessary for the efficient conduct of the business of cadre society or its member societies.

CHAPTER 6

PRIVILEGES OF CO-OPERATIVE SOCIETIES

39. Co-Operative Societies To Be Bodies Corporate :-

A co-operative society registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it is constituted.

40. Register Of Members :-

Any register or list of members kept by any co-operative society shall be prima facie evidence of any of the following particulars entered therein, namely:-

(a) the date on which any person became a member;

(b) the date on which any such member ceased to be a member;¹***]

(c) the number of shares held by such member and the date from which so held ²{: and}

³[(d) the nominees of a member, if any:

Provided that every individual enrolled as a member in a primary society shall furnish his photograph, his permanent address and correspondence address to the society and shall communicate the change, if any, within a period of fifteen days of such change to the Registrar.]

1. The word "and" omitted by Haryana Act No. 19 of 2006.

2. Substituted for sign "." by Haryana Act No. 19 of 2006.

3. Inserted by Haryana Act No. 19 of 2006.

41. Register Of Mortgages And Charges :-

Any register or list of mortgages and charges kept by any co-operative society shall be prima facie evidence of any of the following particulars entered therein, namely:-

(a) the date on which the mortgage or charge was created by a

member in favour of the society;

(b) the particulars of the land or other immovable property mortgaged or charged; and

(c) the date on which declaration of the mortgage or charge was sent to the sub-registrar or revenue authority, as the case may be.

42. Admissibility Of Copy Of Entry As Evidence :-

(1) A copy of any entry in a book of co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence of the existence of such entry and shall be admitted as evidence of matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

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

43. Exemption From Compulsory Registration Of Instruments :-

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

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

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

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

44. Exemptions From Certain Taxes, Fees And Duties :-

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

(a) the stamp duty chargeable under any law for the time being in force in respect of any instrument executed by or on behalf of a co-operative society or by an officer or members thereof and relating to the business of such society, or any class of such instruments or in respect of any award or order made under this Act, in cases, where, but for such remission the co-operative society, 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.

(2) The Government may, by notification, exempt any class of cooperative societies from-

(a) land revenue; and

(b) taxes on sale or purchase of goods.

45. Deduction From Salary :-

(1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer shall, if so required by the co-operative society by a requisition in writing and so long as the society does not intimate 1[within a period of fourteen days from the date of deduction] that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society. Such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

(3) If after the receipt of a requisition made under sub-section (2), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the society, the society shall be entitled to recover any such

amount from the employer 2[as per provisions of section 110 of this Act].

3[Explanation.-- employer shall include an officer disbursing salary.]

1. Inserted by Haryana Act No. 19 of 2006.

2. For the words "as arrears of land revenue" substituted by Haryana Act No. 19 of 2006.

3. Added by Haryana Act No. 19 of 2006.

46. State Aid To Co-Operative Societies :-

Notwithstanding anything contained in any law for the time being in force, the Government may-

- (a) subscribe to the share capital of a co-operative society;
- (b) give loans or make advances to a co-operative society;
- (c) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;
- (d) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the Government;
- (e) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and
- (f) give financial assistance in any other form including subsidies to any co-operative society.

CHAPTER 7

ACCOUNT AND RECORD

47. Account Books :-

A co-operative society or a class of co-operative societies shall maintain the accounts books and other record in such form and manner as may be directed by the Registrar by a general or special order, from time to time.

48. Balance Sheet And Other Periodical Statements :-

(1) A co-operative society shall prepare a balance sheet, profit and loss account, trading account and such other statements relating to the working of the society on such intervals as may be specified by the Registrar from time to time.

(2) If the Registrar so directs, a copy of the statements referred to in sub-section (1) shall be supplied by a co-operative society to him or cadre society as the case may be by such date as may be

specified by him.

1[(3) Co-operative Credit Structure other than co-operative bank shall abide by all such directions regarding financial norms as may be specified by the Registrar in consultation with the National Bank.]

1. Added by Haryana Act No. 18 of 2007.

49. Custody Of Record And Other Property :-

A co-operative society shall maintain a list of such of its employees or members of its committee as having custody of books, record, securities and other property of the society in the manner prescribed.

50. Securing Possession Of Record Etc. :-

If the record, registers, the books of accounts, funds and other property of a co-operative society are likely to be tampered with or destroyed, misappropriated or misapplied or if a person having its custody fails to hand over its charge to a person entitled to receive such charge, the Registrar may, suo motu or on an application of an aggrieved party, authorise any officer not below the rank of Inspector, Co-operative Societies to enter and search any place where the record of the property are kept or are believed to be kept and to seize such record and property and hand over such record and property to the person authorised by the Registrar. 1[The person so authorized may seek necessary help from police authority having jurisdiction in the area when need arises in seizing the record and property and the police shall provide the necessary assistance.]

1. Added by Haryana Act No. 19 of 2006.

51. Production Of Record :-

(1) Where the books, record, cash, securities and other property belonging to the society is not produced or handed over to a person entitled to the same under this Act, the Registrar may, suo motu or on an application of the committee, any creditor, cadre society, auditor, liquidator or inspecting officer, inquiry officer, enquire himself or direct any person authorised by him by an order in writing in this behalf to inquire into the conduct of the custodian of books who has failed to produce or hand over the record and other property.

(2) Where an inquiry is made under sub-section (1) the Registrar may after giving the person concerned an opportunity of being heard, make an order requiring the custodian to produce or hand over the money, books, record, securities or property or any part thereof, to the persons entitled to receive and may require such person to pay compensation to such persons and to such extent as the Registrar may consider just and equitable.

CHAPTER 8

CHARGES AND MORTGAGES

52. First Charge On Movable Property :-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue or any prior claim of the Government, 1[in respect of recovery of taxes under any law enacted by Parliament] any debts or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle fodder, agricultural or industrial implements or machinery or raw material for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

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

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

1. Substituted by Haryana Act No. 14 of 1986.

53. Charge And Mortgage On Immovable Property :-

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

(a) it shall be lawful for a member, if he owns any land or any other immovable property or has interest of any land as tenant, to create a charge or mortgage in favour of a society as security for any financial assistance given to him by it;

(b) where a mortgage or a charge is to be created under clause (a) the member shall make a declaration in the prescribed form which shall state that the applicant thereby creates a mortgage or charge

on such land, building or immovable property or interest specified in the declaration for the payment of the amount of loan which the society may advance to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

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

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

Provided that for the purpose of paying in full to the society the whole amount borrowed by the members together with the interest thereon, the member may with the previous permission in writing of the society and subject to such conditions as the society may impose, alienate the whole or any part of such property or interest therein:

Provided further that standing crops on any such land may be alienated without the previous permission of the society;

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

(f) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, there shall be a first charge in favour of the society in the property or interest therein specified in the declaration made under clause (b) for and to the extent of the dues owned by him on account of loan and advances:

Provided that a mortgage or charge created in favour of a society after the commencement of this Act shall have priority over any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884, after the creation of the mortgage or charge.

54. Registration Of Charge And Mortgage :-

(1) Notwithstanding anything contained in the Registration Act, 1908, mortgage or a charge in respect of which a declaration has been made under clause (b) of section 53 or in respect of which a variation has been made under clause (c) of that section in favour

of a society shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of such mortgage, charge, or variation as the case may be.

(2) The society shall send the declaration in duplicate, to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property mortgaged or charged is situated, by registered post, acknowledgment due, and shall retain a copy thereof for its own record.

(3) The Sub-Registrar receiving the declaration referred to in subsection (2) shall record in a register to be maintained in this behalf the fact of the receipt of such declaration or variation for registration. After registration one copy of the declaration shall be returned to the society.

(4) Whenever a charge or mortgage on land or interest therein is created in favour of a society by a member the society may give intimation to the tehsildar or such revenue officer as may be designated in this behalf by the Government of the particulars of the charge or mortgage created in its favour. The tehsildar or the other revenue official shall make a note of the particulars of charge or mortgage in the record of rights relating to the land over which the charge or mortgage has been created.

(5) Notwithstanding anything contained in any law for the time being in force a member who has availed himself of financial assistance from a society by creating a charge or mortgage on land or interest therein shall not, so long as the financial assistance continues to be outstanding, create any tenancy rights on such land or interest therein without prior permission in writing of the society.

55. Charge And Set Off :-

A co-operative society shall have a charge upon the share or contribution or interest in the capital and on the deposits of a member or past member or deceased member and upon any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past members or the estate of such deceased member to the society and may set off any sum credited or payable to a member or past member or the estate of a deceased member in or towards payment or any such debt.

56. Share Contribution Or Interest Not Liable To Attachment :-

Subject to the provisions of section 55, the share or contribution or interest of a member or past member or deceased member in the capital of a cooperative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt or liability incurred by such member and a receiver under the Provincial Insolvency Act, 1920, shall not be entitled to or have any claim on such share or contribution or interest.

57. Transfer Or Mortgages, Charges And Assets :-

Where a society borrows from another society for making advances to its members against mortgages or charges or transfer of its assets by such members, such mortgages or charges and assets shall be deemed to have been transferred to the later society from the date of creation of the mortgages or charges or the date of transfer of assets, as the case may be.

58. Power To Lease :-

Notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, the duration of any lease executed by a member, or property mortgaged or charged to a co-operative society, shall not exceed five years.

59. Insolvency Or Mortgagor And Charger :-

Notwithstanding anything contained in the Provincial Insolvency Act, 1920, a mortgage or charge created by a member in favour of a co-operative society shall not be called in question on the ground that it was not created in good faith, for valuable consideration or on the ground that it was executed in order to give the society a preference over the other creditor of the member.

60. Prior Debts Of Members :-

Where a mortgage or charge is created in favour of a co-operative society, for payment of prior debts of the members, the society may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by notice in writing require any person to whom any such debt is due, to receive payment of such debt or part thereof from the society, within such period as may be specified in the notice. If any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period

specified in the notice:

Provided that where there is dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the society towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

61. Grant Of Valid Discharge :-

Notwithstanding that a mortgage or charge created in favour of a co-operative society has been transferred or deemed to have been transferred to another society, under the provisions of section 57,-

(a) all moneys due under the mortgage or charge shall, in the absence or any specific direction to the contrary issued by the other society or the trustee and communicated to the member, be payable to the society which has advanced loan to the member and such payment shall be as valid as if the mortgage and charge had not been so transferred; and

(b) such society shall, in the absence of any specific direction to the contrary issued by the trustee and communicated to such society, be entitled to sue on the mortgage or charge or take any other proceedings for the recovery of the moneys due under the mortgage or charge.

62. Mortgages And Charges Created By Joint Hindu Family :-

Where a mortgage or charge created in favour of a society is called in question on the ground that it was executed by a person governed by custom or the manager of Joint Hindu Family for a purpose not binding on the reversioners or the members thereof, whether major or minor, the burden of proving the same, notwithstanding any law to the contrary, be on the party raising it.

CHAPTER 9

LOANS AND BORROWINGS

63. Restriction On Borrowings :-

1[(1) A co-operative society may receive deposits, raise loans and receive grants from external sources to such extent and under such conditions as may be specified in the bye-laws:

Provided that the total amount of deposits and loans received during any financial year shall not exceed ten times of the sum of subscribed share capital and accumulated reserves:

Provided further that while calculating the total sum of subscribed share capital and accumulated reserves, the accumulated losses shall be deducted.

(2) Subject to the provisions of sub-section (1), a co-operative society may accept funds or borrow funds for the fulfillment of its objects on such terms and conditions as are mutually contracted upon in the interest of the society.

(3) A co-operative society may issue non-convertible debentures or other instruments subject to the provisions of any law for the time being in force to raise resources for the fulfillment of its objects to the extent of twenty-five per cent of its paid up share capital.]

1. Substituted by Haryana Act No. 19 of 2006.

64. Restriction On Loan :-

(1) A co-operative society shall advance loans to its members, its employees under a scheme approved by the Registrar or to its depositors on the security of their deposits:

Provided that a co-operative society may make a loan to another cooperative society who is not its member with the prior approval of the Registrar.

(2) At least one-third of the total amount of loan to be advanced by a co-operative credit and service society, farmers service society, primary land development bank or a co-operative urban bank, in a year, shall be sanctioned to the members of the weaker section if they apply for the grant of loan.

(3) Loans and advances shall be made on such terms and conditions against such securities, guarantee and for such purposes as may be prescribed:

Provided that all long term loans shall be advanced against mortgage or charge on land or other immovable property:

1[Provided further that in case land or other immovable property is not owned by the loanee, long term loans may be advanced to him, on furnishing two securities and subject to the further condition that he shall hypothecate or create a charge on the assets, movable or immovable acquired out of such loan in favour of the society
2{:}]

3[Provided further that all loans advanced under short term, medium term and long term duration for which Reserve Bank of India/National Bank for Agriculture and Rural Development (NABARD) formulated the loan scheme, shall not require the approval of the Registrar.]

Explanation.-- Long term loans means a loan repayable during a period of not less than five years.

4[(4) Notwithstanding anything contained in sub-section (i) of this section, the Co-operative Credit Structure may take appropriate decisions regarding its loan policies including individual loan decisions to its members, keeping in view the interests of the society and its members.]

1. Inserted vide Haryana Act No. 32 of 1986.

2. Substituted for sign"." by Haryana Act No. 19 of 2006.

3. Inserted by Haryana Act No. 19 of 2006.

4. Added by Haryana Act No. 18 of 2007.

65. Limitation Of Interest :-

Notwithstanding anything contained in this Act, rules, bye-laws or in any agreement in this behalf, a co-operative society shall not recover interest on short-term loans given to members in excess of the principal amount of the loan advanced.

Explanation.-- For the purpose of this section, short-term loan means a loan granted for a period upto fifteen months.

66. Issue Of Debentures And Bonds :-

(1) With the previous sanction of the trustee, a co-operative society may float debentures or issue bonds of one or more denominations, for such periods, as it may deem expedient, on the security of the mortgages and charges and other assets transferred or deemed to have been transferred by a society to it and on the security of all or any of its other assets.

1[Provided that the debentures may be floated or bonds issued for long-term loans advanced without mortgage or charge on land or other immovable property subject to the condition that guarantee is given by the State Government for the repayment of the loans so advanced.]

(2) Such debentures or bonds may contain a term fixing a period not exceeding twenty-five years from the date of issue during which they shall be irredeemable or reserving to the borrowing society the right to call in at any time any of the debentures or bonds in advance of the date fixed for redemption, after giving to the debenture or bond holder concerned not less than three months notice in writing.

(3) The total amount due on the debentures or bonds issued by a society and outstanding at any time shall not exceed the aggregate

of the amount due on the mortgages, 2[charges, the value] of other assets transferred or deemed to have been transferred to the 3[borrowing society and the amount on account of long term loans advanced without mortgage, or charge on land or other immovable property under this Act].

1. Added by Haryana Act No. 32 of 1986.

2. Substituted for the words "charges and the value" vide Haryana Act No. 32 of 1986.

3. Substituted for the words "borrowing society under this Act" vide Haryana Act No. 32 of 1986.

67. Appointment Of Trustee :-

(1) Where the funds are raised by floating of debentures or issue of bonds, the Registrar shall be the trustee for the purposes of securing the fulfilment of the obligation of the borrowing society.

(2) The mortgages, charges and other assets transferred to the borrowing society shall vest in the trustee from the date of transfer.

(3) The holders of the debentures or bonds shall have a first charge on all such mortgages, charges and assets and on the amount paid under such mortgages or charges and remaining in the hands of the society issuing debentures or of the trustee and on their other properties.

(4) The powers and functions of the trustee shall be governed by the instrument of trust executed between the borrowing society and the trustee which may be modified, from time to time, by mutual agreement between them.

68. Guarantee :-

The principal and interest on the debentures or bonds issued under section 66 shall be guaranteed by the State Government on such terms and conditions as it may deem fit to impose.

69. Power To Make Regulations :-

The borrowing society may, subject to the approval of the trustee and of the State Government, make regulations-

(i) for fixing the period of debentures or bonds and the rate of interest payable thereon;

(ii) for calling in debentures or bonds after giving notice to the debenture or bond holders damaged or destroyed;

(iii) for the issue of new debentures or bonds in place of debentures

or bonds damaged or destroyed;

(iv) for converting one class of debentures or bonds into another class bearing a different rate of interest; and

(v) generally for carrying out the provisions of section 66.

70. Insufficient Security :-

Where any property mortgaged and charged in favour of a co-operative society is wholly or partially destroyed, or for any reason the security is rendered insufficient and the loanee, having been given a reasonable opportunity by the society to provide further security in order to make the deficiency good or to repay such portion of the loan as may be determined by the society, has failed to provide such security or repay such portion of the loan, the loan shall be deemed to have fallen due at once and the society shall be entitled to take action against the loanee for the recovery thereof.

Explanation.-- Security shall not be deemed to be insufficient with the meaning of this section unless the value of the property mortgaged or charged including improvements made thereon exceeds the amount for the time being, due on the mortgagee or charge by such proportion as may be prescribed in the rules or regulations or bye-laws of the borrowing society.

71. Recovery Of Unutilised Loans :-

When a loan advanced by a society is not utilised for the purpose for which it was advanced, the society may, irrespective of the period for which the loan was advanced, recall and recover the entire loan along with interest and costs and charges, if any, incurred in advancing and effecting recovery after giving the debtor an opportunity of being heard.

Explanation.-- For the purposes of this Chapter, the borrowing society means a society which borrows loans by way of floating debentures or issuing bonds.

CHAPTER 10

DISTRAINT AND SALE OF PRODUCE

72. Distraint When To Be Made :-

(1) If an instalment of a loan advanced against a mortgage or charge created in favour of a society under section 53 or any part of such instalment has remained unpaid for more than three months from the date it fell due, the society may in addition to any

other remedy available to it apply to the Registrar for the recovery of such instalment or part by the distraint and sale of the produce of the charged or mortgaged land 1[***].

(2) On receipt of such application the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, take action for distraint and sale of such produce:

Provided that no distraint shall be made after the expiry of 2[six months] from the date on which the instalment fell due.

(3) The value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the cost of the sale.

(4) Any mistake, defect or irregularity in this respect shall not invalidate a distraint or sale made under this Act.

1. Omitted by Haryana Act No. 14 of 1986.

2. Substituted for the words "twelve months" by Haryana Act No. 14 of 1986.

73. Distraint How To Be Effected :-

(1) Before or at the time when a distraint is made under section 72, the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(2) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing, a copy of the demand on some conspicuous part of his abode and land.

74. Sale Of Property Distrained :-

(1) If within fifteen days from the date of service of the demand referred to in section 73, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and the cost of the sale 1{:}

2[Provided, however, that the sale of the distrained property shall be subject to the confirmation by the Registrar.]

(2) From the proceeds of such sale, a deduction shall be made at a rate not exceeding ten paise in a rupee on account of the costs of

the sale.

(3) From the balance shall be deducted the expenses incurred by the distrainer on account of the distraint.

(4) The remainder, if any, shall be applied to the discharge of the amount for which distraint was made.

(5) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of the sale.

1. Substituted for sign "." by Haryana Act No. 19 of 2006.

2. Added by Haryana Act No. 19 of 2006.

75. Power Of Sale When To Be Exercised :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, where a power of sale without the intervention of the court is expressly conferred on a society by declaration creating the mortgage, the society or any person authorised by such society in this behalf shall, in case of default of payments of the mortgage money or any part thereof, have power, in addition to any other remedy available to the society, to bring the mortgaged property to sale without the intervention of the Court.

(2) No such power shall be exercised unless and until,-

(a) the society has previously authorised the exercise of the power conferred by sub-section (1), after hearing and deciding the objections, if any, of the mortgagor or any other person having any interest in the mortgaged property;

(b) notice in writing requiring payment of such mortgage money or part has been served upon-

(i) the mortgagor or each of the mortgagors;

(ii) any person who has any interest in or charge upon the property mortgaged or the right to redeem the same;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property;

(c) default has been made in payment of such mortgaged money or part of thirty days after such service; and

(d) the Registrar, in case where the amount claimed by the society is disputed, has certified that the amount claimed or lesser amount is due from the mortgagor.

76. Application For Sale And Manner Of Sale :-

(1) In exercise of the power of sale conferred by section 75, the society or any person duly authorised by the society, may apply to the sale officer appointed in that behalf under section 84 to sell the mortgaged property or any part thereof and such officer shall, after giving notice in writing to all the persons referred to in section 75, sell such property in the manner prescribed subject to any previous charge on the basis of a registered deed.

(2) The sale shall be by public auction and shall be held in the village 1[or town] where the mortgaged property is situated or at the nearest place of public resort if the sale officer is of opinion that the property is likely to fetch better price.

(3) The Registrar may set aside a sale on the application of the mortgagor or any other person interested in the mortgaged property, presented to him within 30 days of the sale, if in his opinion there has been an illegality or material irregularity in conducting the sale.

(4) On the sale being set aside by the Registrar under sub-section (3), a fresh sale shall be conducted in accordance with the provisions of this Chapter.

1. Inserted by Haryana Act No. 19 of 2006.

77. Application To Set Aside Sale :-

(1) When a mortgaged property has been sold under this Chapter, the mortgagor or any person having a right or interest therein affected by the sale, may, at any time within thirty days from the date of sale, apply to the society, to have the sale set aside on his depositing at the office of the society-

(a) for payment to the said society, the amount specified in the proclamation of sale together with subsequent interest and the costs, if any, incurred by the society in bringing the property to sale; and

(b) for payment to the purchaser, a sum equal to two per cent of the purchase money.

(2) If such deposit is made, the society shall make an order setting aside the sale.

(3) Where no application is made under sub-section (1) or where such application is made and disallowed, the society shall apply to the Registrar to make an order confirming the sale and on his confirming the sale, it shall become absolute.

78. Distribution Of The Proceeds Of Sale :-

(1) The proceeds of every sale under this Chapter shall be applied by the sale officer, firstly in payment of all costs, charges and expenses properly incurred by him as incidental to the sale or any attempted sale determined in the prescribed manner; secondly in payment of all interest due on account of the mortgage in consequence whereof the mortgaged property was sold; thirdly, in payment of the principal money due on account of the mortgage; and lastly, the residue, if any, shall be paid to the person proving himself interested in the property sold or, if there are more such persons than one, then to such persons according to their respective interest therein upon their joint receipt.

(2) Any person dissatisfied with the decision of the sale officer in regard to the distribution of such residue may, within thirty days of the communication to him of such decision, institute a suit in a civil court to establish the right he claims.

(3) The sale officer shall not distribute such residue until thirty days have elapsed from communication of his decision to all the persons concerned or, if a suit has been instituted within the said period of thirty days by any such person, until the suit is disposed of or otherwise than in accordance with the decision of the civil court therein.

79. Certificate To Purchaser :-

Where a sale of mortgaged property has become absolute, the sale officer shall grant a certificate specifying the property sold and the name of the person who at the time of the sale is declared to be purchaser. Such certificate shall bear date and the day on which the sale became absolute.

80. Delivery Of Property To Purchaser :-

(1) Where the mortgaged property sold is in the occupation of the mortgagor or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the society and a certificate in respect thereof has been granted under section 79, the civil court shall, on the application of the purchaser, order delivery to be made by putting such purchaser, or any person, whom he may appoint to receive delivery on his behalf, in possession of the property.

(2) Where the property sold is in the occupation of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under section 79, the civil court shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming by beat of drum or other customary mode at some convenient place that the interest of the mortgagor has been transferred to the purchaser.

(3) In regard to the cases dealt within sub-sections (1) and (2), the provisions of Rule 97 to 103 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, shall, mutatis mutandis, apply.

81. Right Of Society To Purchase The Mortgaged Property :-

Notwithstanding anything contained in any law for the time being in force, including a law imposing a ceiling on agricultural holdings, it shall be lawful for the society to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such society by sale within such period as may be fixed by the Registrar.

82. Appointment Of Receiver :-

(1) The society which has power to sell under section 75 may, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed by the society and to apply the balance in accordance with the provision of sub-section (8) of section 69-A of the Transfer of Property Act, 1882.

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the mortgagor, be removed by the society.

(3) A vacancy in the office of the receiver may be filled up by the society.

(4) Nothing in this section shall empower the society to appoint receiver where the mortgaged property is already in the possession of a receiver appointed by a civil court.

83. Title Of Purchaser Not To Be Impeached :-

When a sale, purported to have been made in the exercise of power of sale conferred by section 75, has been confirmed under sub-section (3) of section 77, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised but any person dumified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the society.

84. Appointment Of Sale Officers :-

The Government may appoint any person not below the rank of gazetted officer as a sale officer for the purpose of conducting sales under this Chapter.

CHAPTER 11

PROPERTIES AND FUNDS

85. Investment Of Funds :-

1[(1)] A co-operative society may invest or deposit its funds-

- (a) in the post office saving bank;
- (b) in any of the securities specified in section 20 of the Indian Trust Act, 1882;
- (c) in the shares or securities of any other co-operative society;
- (d) with any bank carrying on the business of banking approved for this purpose by the Registrar; or
- (e) in any other mode as may be prescribed.

2[(2) Co-operative Credit Structure may invest its funds with any regulatory financial institution.]

- 1. Existing section 85 renumbered as sub-section (1) thereof by Haryana Act No. 18 of 2007.
- 2. Added by Haryana Act No. 18 of 2007.

86. Funds Not To Be Divided :-

No part of the funds created out of the profit of a co-operative society shall be divided by way of bonus or dividend or otherwise among its members.

87. Distribution Of Profits :-

(1) A co-operative society may distribute profits as per audited balance sheet for any year and from the remainder of such profits

of past years, among the members to such extent and under such conditions as may be prescribed by rules or bye-laws:

Provided that-

(a) at least 10% of the profits of any year are carried each to the reserve fund and the bad and doubtful debt fund;

(b) not exceeding 5% of the profits is carried to the co-operative education fund; 1[***]

(c) such percentage of the profits is carry to such other funds as are specified in the bye-laws or by the Registrar 2{: and}

3[(d)such profits may also be utilized for such purposes and in such percentage as may be prescribed.]

(2) The Registrar may require a co-operative society not to invest the whole or a part of its funds referred to in sub-section (1) in the business of the society.

3[Explanation-(1) The net profits of a co-operative society shall be calculated by deducting from the gross profit for the year, all interest accrued and accruing in relation to amounts which are overdue, establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, taxes and depreciation, bonus payable to employees under any law relating to payment of bonus for the time being in force, and equalization fund for such bonus, provisions for payment of income-tax and approved donations under the Income-tax Act, 1961(43 of 1961), development rebate, provision for development fund, bad debt fund, price capital redemption fund, investment fluctuation fund, provision for retirement benefits to employees and after providing for or writing off bad debts and losses not adjusted against any fund created out of profit.

(2) Society may add to the net profits for the financial year interest accrued in the preceding year, but actually recovered during the current year.]

4[(3) There shall be no compulsion on Co-operative Credit Structure for contribution to any funds other than those required for improving the net worth/owned funds of a co-operative society: Provided that the Registrar shall lay guidelines in consultation with the National Bank regarding payment of dividend.]

1. The word "and" omitted by Haryana Act No. 19 of 2006.

2. Substituted for sign "." by Haryana Act No. 19 of 2006.

3. Added by Haryana Act No. 19 of 2006.

4. Added by Haryana Act No. 18 of 2007.

88. Provisions For Guarantee Funds To Meet Certain Losses

:-

(1) It shall be competent for the Government to constitute one or more guarantee funds on such terms and conditions, as it may deem fit, for the purposes of meeting losses that might arise as a result of loans being made by a co-operative society on titles to immovable property subsequently found to be defective or for any other purposes under this Act, for which in the opinion of the Government it is necessary to provide for or create a separate guarantee fund.

(2) Such society shall contribute to such funds at such rate and the constitution, maintenance and utilisation of such funds shall be governed by such terms as may be prescribed.

89. Acquisition Or Disposal Of Property :-

1[No co-operative society shall purchase, acquire, lease, sell any land or construct any building or other immovable assets of the society except with the prior approval of the Registrar.]

1. Substituted by Haryana Act No. 18 of 2007.

90. Writing Off Bad Debts :-

No co-operative society shall write off as a whole or part of any debt or other sum due to it or any assets without the prior sanction of the Registrar.

CHAPTER 12

REHABILITATION OF WEAK SOCIETIES

91. Creation Of Rehabilitation Fund :-

1[(1) Each apex and central society, if required by the Registrar, shall establish a rehabilitation fund out of its profits in the manner specified by the Registrar.

(2) A central society which establishes a rehabilitation fund shall transfer it to the apex society of which it is a member].

1. Substituted vide Haryana Act No. 14 of 1986.

92. Credit To Fund :-

(1) The Government may provide financial assistance to strengthen the rehabilitation fund.

1[(2) Each apex society shall credit to the rehabilitation fund all moneys received by it on account of repayment of loans advanced

out of rehabilitation fund].

1. Substituted vide Haryana Act No. 14 of 1986.

93. Utilisation Of Fund :-

A n apex 1[***] society shall utilise the rehabilitation fund for providing assistance to its member societies which are financially weak by way of loans and subsidy on such terms and conditions as are approved by the Registrar.

1. The words "and central", omitted vide Haryana Act No. 14 of 1986.

CHAPTER 13

SPECIAL PROVISION FOR INSURED CO-OPERATIVE BANKS

94. Special Provision For Insured Co-Operative Banks :-

1[Save as provided in section 34 of this Act], in the case of an insured co-operative bank,-

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

(ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961;

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

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

question in any manner;

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

Explanation.-

(i) for the purpose of this section "a co-operative bank" means a bank and has been defined in the Deposit Insurance and Credit Guarantee Corporation Act, 1961;

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

(iii) "transferee bank" in addition to an insured co-operative bank means a co-operative bank (which is a society under this Act),--

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

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

(c) into which such insured co-operative bank is divided or converted under the provisions of sections 13 and 14 of this Act;

(iv) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934); and

(v) "Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

1. Substituted for the words "Notwithstanding anything contained in this Act" vide Haryana Act No. 20 of 1997.

CHAPTER 14

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

95. Audit :-

1[(1) Every co-operative society shall get its accounts audited at least once in each year by a person authorized by the Registrar by general or special order in this behalf failing which the Registrar shall get the accounts of the society audited at the expense of the society:

Provided that the Registrar will make necessary arrangement of the audit of societies through his officers or other auditors duly authorised by him.]

(2) The audit under sub-section (1), shall include valuation of

assets and liabilities, an examination of balance sheet, profit and loss accounts and overdue debts, if any, the verification of the cash balance and securities.

(3) The person auditing the accounts of a co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(4) The members of the committee, managers, administrators or any officer, employee and agent of the society shall furnish to the person auditing the accounts of a co-operative society all such information as to its transactions and working, as such person may require.

(5) The Registrar or the person authorised by him under sub-section (1) to audit the accounts of a society shall have power where necessary,-

(a) to summon at the time of its audit any officer/agent, servant, or member of the society, past or present, who, he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to the society, by officer, agent, servant or member in the possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit to take these into custody.

(6) If at the time of audit the accounts of a society are not complete, the Registrar or the person authorised by him under sub-section (1) to audit, may cause the accounts to be written up at the expense of the society or the person responsible to maintain the accounts.

(7) Where the accounts have been caused to be written up under sub-section (6), the Registrar may after giving the person concerned an opportunity of being heard make an order requiring the person concerned or society to pay such costs and compensation as the Registrar may determine.

2[(7A) (i) The Registrar may get the accounts of a society audited by a chartered accountant in accordance with the guidelines approved by him. The remuneration of the chartered accountant shall be approved by the Registrar and the expenditure on this account shall be met out of the funds of the society.

(ii) The audit of the co-operative banks may be conducted by the chartered accountant appointed by the Registrar.

(iii) The Registrar shall prepare a panel of qualified chartered

accountants and fix the remuneration in lieu of audit fees. The Registrar shall also prepare the guidelines for these auditors as to make the audit more meaningful and effective.

(iv) None of the following persons shall be qualified for appointment as a chartered accountant:-

(a) a body corporate;

(b) an officer or employee of the co-operative society;

(c) a person who is a member, or who is in the employment, or an officer or employee of the cooperative society;

(d) a person who is indebted to the co-operative society or who has given any guarantee or provided any security in connection with the indebtedness of any third person to the co-operative society for an amount exceeding five thousand rupees.

(v) A person shall also not be qualified for appointment as a chartered accountant if he is, by virtue of clause (ii) disqualified for appointment as a chartered accountant of any other body corporate or co-operative society.

(vi) If a chartered accountant becomes subject, after his appointment, to any of the disqualification specified in clauses (ii) and (iii), he shall be deemed to have vacated his office as such.]

(8) Audit fee, if any, due from any co-operative society shall be recoverable in the same manner as is provided in section 104.

3[(9) Notwithstanding anything contained in sub-section (7 A), Cooperative Credit Structure other than Primary Agriculture Co-operative Societies shall get its accounts audited by chartered accountant from a panel prepared by the Registrar in consultation with the National Bank.

(10) The Registrar shall get conducted a special audit of Co-operative Credit Structure other than Primary Agriculture Co-operative Societies on the request of the Reserve Bank and shall endorse a copy of the report of such special audit to the Reserve Bank and National Bank.]

1. Substituted by Haryana Act No. 19 of 2006.

2. Inserted by Haryana Act No. 19 of 2006.

3. Added by Haryana Act No. 18 of 2007.

96. Rectification Of Defects :-

(1) The auditor shall by such date as may be prescribed, submit to the co-operative society and to the Registrar, an audit report including a statement of-

(a) every transaction which appears to him to be contrary to law or

to the rules or bye-laws;

(b) every sum which ought to have been but has not been brought into account;

(c) the amount of any deficiency or loss which requires further investigation;

(d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person;

(e) any of the assets which appears to him to be bad or doubtful; and

(f) any other matter as may be specified by the Registrar.

(2) A co-operative society shall be afforded by the Registrar an opportunity of explaining any defects or irregularities points out by the auditor and thereafter the society shall, within such time and in such manner as the Registrar may direct, remedy such defects and irregularities and report to the Registrar the action taken by it.

97. Inspection Of Societies :-

1[(1)] The Registrar or any person authorised by general or special order in this behalf, by the Registrar, may inspect a co-operative society. For the purpose of inspection he shall at all time have access to all books, accounts, papers, vouchers, securities, stock and other property of the society and may in the event of serious irregularities discovered during the inspection take them into custody and shall have power to verify the cash balance of the society and subject to general or special order of the Registrar to call a meeting of the committee or a general meeting. Every officer or member of the society shall furnish such information as he may require.

2[(2) The apex society and the central society shall inspect every affiliated society annually and shall prepare report regarding their administrative functioning and financial management.]

1. Existing section re-number as sub-section (1) by Haryana Act No. 19 of 2006.

2. Inserted by Haryana Act No. 19 of 2006.

98. Inquiry By Registrar :-

(1) The Registrar may of his own motion or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the

constitution, working and financial condition of a society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely:-

(a) he shall at all times have, for purposes of examination, access to the books, accounts, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of such books, accounts, documents, securities, cash or other properties to produce the same at any place, within the district within which the society has its registered office and may if considered necessary by him, take such books or record into custody after giving receipt for the same:

Provided that the books, accounts or documents so seized shall be retained by him only for so long as may be necessary for their examination and for the purpose of inquiry:

Provided further that the books, accounts or documents shall not be retained for more than sixty days at a time except with the permission of the next higher authority;

(b) he may notwithstanding any rules or bye-laws specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society, to consider such matters as may be specified by him, and where the officers of the society refuse or fail to call such a meeting he shall have power to call it himself;

(c) he may summon any person who is reasonably believed by him to have any knowledge of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated, by such bye-laws.

(4) The Registrar shall communicate a brief summary of the report of the inquiry to the society, the financing institutions, if any, and to the person at whose instance the inquiry is made.

99. Inspection Of Books Of Indebted Societies :-

(1) The Registrar shall on the application of a creditor of co-operative society, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society:

Provided that no such inspection shall be made unless the applicant-

(a) satisfies the Registrar that the debt is due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

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

(2) The Registrar shall communicate the result of any such inspection to the creditor.

100. Costs Of Inquiry :-

Where an inquiry is held under section 98 or any inspection is made under section 99, the Registrar may pass an order to apportion the costs or such part of the costs as he may think fit between the society, the members the creditor demanding an inquiry or inspection, the officers or former officers and the members or past members of the society:

Provided that-

(a) no order of the apportionment of the costs shall be made under this section unless the society or the person liable to pay the costs has been afforded a reasonable opportunity of being heard; and

(b) the Registrar shall state in writing the ground on which the costs are apportioned.

101. Surcharge :-

(1) If it comes to the notice of the Registrar that any person who is or was entrusted with the organisation or management of a co-operative society or who is or has at any time been a member of the committee, officer or an employee of the society, had made any payment contrary to this Act, the rules or bye-laws or has caused any deficiency in the assets of the society by misconduct or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to the society or has caused losses, or depleted profits of the society ignoring diligence of ordinary man of prudence or by acting against the interest of the society, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, enquire himself or direct any person authorised by him by an order in writing in this behalf to enquire into the conduct of such person.

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

heard, make an order in writing requiring him to repay or restore the money or property or any part thereof with interest at such rate, or to pay contribution and costs or compensation to such extent as the Registrar may consider just and equitable 1{:}

2[Provided that no surcharge proceedings shall be initiated under this section in respect of any act or omission in respect of a person against whom an inquiry is made except within five years of the date on which such act or omission was committed. However, any proceedings pending under this section in any court or before any authority shall continue as if the provisions of the Haryana Cooperative Societies (Amendment) Act, 2006, were not passed.]

1. Substituted for sign "." by Haryana Act No. 19 of 2006.

2. Added by Haryana Act No. 19 of 2006.

CHAPTER 15

SETTLEMENT OF DISPUTES

102. Dispute For Arbitration :-

(1) Notwithstanding anything contained in any law for the time being in force, in any dispute touching the constitution, 1[***] management or the business of a co-operative society 2[other than a dispute of disciplinary action or dispute relating to service matters in respect of a paid servant of a society] arises-

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

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

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

(d) between the society and any other society, between a society and liquidator of another society or between the liquidator of one society and the liquidator of another society;

such disputes shall be referred to the arbitration of the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute 3{:}

4[Provided that any proceedings pending or concluded under section 101 shall not constitute a dispute touching the constitution, management or the business of the society.]

(2) For the purpose of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely:-

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

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

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

(3) If any question arises whether a dispute referred to the Registrar under this section is or not a dispute touching the constitution, management or the business of co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

(4) No dispute arising in connection with the election of committee member or officer of the society shall be entertained by the Registrar unless it is referred to him within thirty days from the date of the declaration of the result of election.

1. The word and sign "establishment," omitted by Haryana Act No. 15 of 1990.

2. Inserted by Haryana Act No. 19 of 2006.

3. Substituted for sign "." by Haryana Act No. 19 of 2006.

4. Added by Haryana Act No. 19 of 2006.

103. Reference Of Dispute To Arbitration :-

(1) The Registrar may, on receipt of the reference of dispute for arbitration under section 102,-

(a) decide the dispute himself;

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

(c) refer it for disposal to any other person as arbitrator.

(2) The Registrar may withdraw any reference from an officer who is exercising the powers of Registrar and entrust it for disposal to any other officer who has been vested with the powers of the Registrar.

(3) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that

sub-section and decide it himself or refer the same to another arbitrator for decision.

(4) The Registrar or any other person to whom a dispute is referred for decision under this section may pending the decision of this dispute, make such interlocutory order as he may deem necessary in the interest of justice.

104. Certificate For Sums Due :-

(1) Notwithstanding anything contained in sections 102 and 103 a financing institution or a co-operative society may apply to the Registrar for recovery of arrears of any sum due to it from members, past members, officers or past officers and shall attach with such application a statement of accounts in respect of such sums.

(2) On receipt of an application under sub-section (1) the Registrar may, after making such enquiry as he may deem fit and after affording the members, past members, officers or past officers concerned an opportunity of being heard pass an order granting a certificate for the recovery of amount stated therein to be due, as such arrears.

(3) When the Registrar is satisfied that a co-operative society has failed to take action under sub-section (1) against any of its members, past members, officers or past officers, the Registrar, on his own motion may, after making such enquiry as he deems fit and affording an opportunity of being heard proceed to grant a certificate referred to in sub-section (2).

(4) A certificate granted by the Registrar, under this section shall be final and conclusive proof of arrears due therein and the same shall be recoverable 1[as per provisions of section 110 of this Act].

1. For the words "as arrears of land revenue" substituted by Haryana Act No. 19 of 2006.

CHAPTER 16

WINDING UP OF CO-OPERATIVE SOCIETIES

105. Winding Up Orders :-

(1) If the Registrar, 1[after audit under section 95 or] an inquiry held under 2[section 98], an inspection has been made under section 97 or 99 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up he may issue an order directing it to be wound up.

3[Provided that the Registrar shall ensure implementation of regulatory prescriptions of the Reserve Bank including winding up of Central Cooperative Banks and the Haryana State Co-operative Apex Bank Limited and appointment of liquidator within one month of being so advise by the Reserve Bank.]

(2) The Registrar may of his own motion make an order directing the winding up of a co-operative society-

(a) where the number of members has been reduced to less than that specified under section 5; or

(b) where the society has not commenced working or has ceased to function.

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

(4) A copy of the orders under this section shall be communicated by registered post to the society and to the financing institutions, if any, of which the society is a member.

4[(5) The winding up proceedings of a society shall be completed within a period of three years from the date of the order of the winding up, unless the period is extended by the Registrar:

Provided that the Registrar shall not extend the period exceeding one year for the first time and two years as a whole.

(6) Before taking action under sub-section (1) or subsection (2) except where the society is brought under winding up process on application of members, the Registrar shall issue a notice to the concerned society and the financing institution, if any, and give a reasonable opportunity to show cause as to why the society be not brought under winding up process.]

1. For the word and sign "after," substituted by Haryana Act No. 19 of 2006.

2. Substituted for the word and figure "section 95" omitted by Haryana Act No. 15 of 1990.

3. Added by Haryana Act No. 18 of 2007.

4. Added by Haryana Act No. 19 of 2006.

106. Liquidator :-

(1) Where the Registrar has made an order under section 105 for the winding up of a co-operative society, he shall appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall take into his custody or under his control all the property, effects and actionable claims to which the society is

or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to, such property, effects and claims. He may carry on the business of the society so far as may be necessary with the previous approval of the Registrar.

(3) Where an appeal is preferred under section 114, an order of winding up of the co-operative society made under section 105 shall not operate thereafter until the appeal is disposed of:

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

(4) Where an order of winding up of a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall revest in the society.

107. Powers Of Liquidator :-

(1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society in respect of which an order for winding up has been made shall vest in the liquidator appointed under section 106 from the date on which the order takes effect and the liquidator shall have the powers to realise such assets by sale or otherwise.

(2) Such liquidator shall also have powers, subject to the control of the Registrar-

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

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

(c) to investigate all claims against the co-operative society and subject to the provisions of this Act, to decide question of priority arising between claimants;

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

rate in any case;

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

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

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

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

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

(j) to make any compromise or arrangement with any person between whom and the society there exists any dispute and to refer any such dispute to arbitration;

(k) after consulting the member of the society, dispose of the surplus, if any, remaining after paying the claims against the society in such a manner as may be prescribed; and

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

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

108. Priority Of Contribution :-

Notwithstanding anything contained in the Provincial Insolvency Act, 1920, the contribution assessed by a liquidator shall rank next to debts due to the Government or to any local authority in order of priority in insolvency proceedings.

109. Cancellation Of Registration :-

(1) The Registrar may after considering the report of the liquidator made to him under sub-section (3) of section 107, order the registration of the co-operative society to be cancelled.

(2) An order passed under sub-section (1) shall be communicated to the financing institutions, if any, of which the society was a member and may notify as prescribed.

CHAPTER 17

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

110. Execution Of Orders Etc. :-

Every decision, award or order passed by the Registrar or arbitrator or liquidator under sections 95, 100, 101, 103, 104, 107, 113, 114 and 115 shall-

(a) be deemed to be a decree of a civil court and shall be executed in the same manner as decree of such court; or

(b) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by attachment and sale or by sale without attachment of any property of the person or a co-operative society against whom the order, decision or award has been obtained or passed 1{.}

(c) 2[***]

1. Substituted for sign and word ": or" by Haryana Act No. 19 of 2006.

2. Clause (c) omitted by Haryana Act No. 19 of 2006.

111. Attachment Before Order Etc. :-

Where the Registrar is satisfied that a party to any reference under sections 95, 100, 101, 103, 104, 107, 113, 114 and 115 with intent to defeat or delay the execution of any decision, award or order, is about to-

(a) dispose of the whole or any part of the property; or

(b) remove the whole or any part of the property from the local limits of the jurisdiction of the Registrar, the Registrar may unless adequate security is furnished to his satisfaction, direct the attachment of the said property or such part thereof as he thinks necessary. Such attachment shall be valid till the order, decision or award is satisfied.

112. Registrar Or Person Empowered By Him To Be Civil Court :-

The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by attachment and sale or by the sale without attachment of any property or when passing any order on any application made to him for such recovery, to be civil court.

113. Recovery Of Sums Due To Government :-

All sums due from the cooperative society to the Government including any cost awarded to the Government under any provision of this Act on a certificate issued by the Registrar, in this behalf, be recovered firstly from the property of the society, secondly in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability and thirdly in the case of other society from the members, past members or the estate of the deceased members.

CHAPTER 18

APPEALS AND REVISION

114. Appeals :-

(1) An appeal shall lie under this section against-

(a) an order of the Registrar made under sub-section (2) of section 8 refusing to register a society;

(b) an order of the Registrar made under sub-section (4) of section 10 refusing to register an amendment of the bye-laws of a co-operative society;

1[(c) if the decision or order was made by the Additional Registrar or Registrar or any person upon whom the powers of the Registrar were conferred under sub-section (2) of section 3 of this Act and not covered under clauses (a) and (b) above, to the Government; and]

(d) a decision of a co-operative society expelling any of its members;

(e) an order of the Registrar rescinding a resolution under section 27;

(f) an order of the Registrar removing the committee or a member of the committee of a co-operative society under section 34 or 35;

(g) an order made by the Registrar regarding compensation under section 51;

(h) an order passed by Registrar regarding costs, etc. under section 95;

- (i) an order made by the Registrar under section 100 apportioning the costs of any enquiry or an inspection;
 - (j) an order of surcharge under section 101;
 - (k) a decision or award made under section 103;
 - (l) an order granting a certificate under section 104;
 - (m) an order of winding up of a co-operative society under section 105;
 - (n) an order made by the liquidator under section 107; and
 - (o) an order of attachment before award under section 111.
- (2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of decision or order,-
- (a) if the decision or order was made by the Assistant Registrar to the Deputy Registrar;
 - (b) if the decision or order was made by the Deputy Registrar or Joint Registrar, to the Registrar or such Additional Registrar, as may be authorised by the Registrar in this behalf;
 - (c) if the decision or order was made by the Additional Registrar or Registrar, to the Government; and
 - (d) if the decision or order was made by any other person, to the Registrar or such Additional Registrar or Joint Registrar or Deputy Registrar or Assistant Registrar 2[as may be authorised by special or general order of the Registrar in this behalf].
- (3) No appeal shall lie under this section from any decision or order made by any authority in appeal.
- (4) Any appeal under sub-section (1) pending before any authority immediately before the commencement of this Act shall stand transferred to the authority to whom such appeal lies under the provisions of this Act.
1. Substituted by Haryana Act No. 19 of 2006.
2. Substituted for the words "as may be authorised by the Registrar in this behalf by Haryana Act No. 15 of 1990.

115. Revision :-

The Government may suo motu or on an application of 1[an aggrieved party], call for and examine the record of any proceedings 2[under this Act and the rules framed thereunder] in which no appeal lies to the Government under section 114 for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appeal to the Government that any such decision or order should be modified, annulled or revised, the Government may, after giving the persons

affected thereby an opportunity of being heard, pass such order thereon as it may deem fit.

1. For the words "a party to a reference under section 102" substituted by Haryana Act No. 19 of 2006.
2. Inserted by Haryana Act No. 19 of 2006.

116. Interlocutory Orders :-

Where an appeal is made under section 114 or where the Government calls for record of a case under section 115, the appellate authority or the Government, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders, including an order of stay, pending the decision of the appeal or revision, as such authority or the Government may deem fit.

CHAPTER 19

OFFENCES AND PENALTIES

117. Offences :-

(1) Any person other than a co-operative society carrying on business under any name of or title of which the word "Co-operative" or its equivalent in any Indian language is part, without the sanction of the Government shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to 1[five thousand rupees] or both and in case of a continuing breach with a further fine which may extend to 1[five hundred rupees] for every day during which breach is continued after conviction for the first such breach.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society, who contravenes the provisions of sections 52 and 53 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to 1[five thousand rupees].

(3) A co-operative society or an officer or a member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse, disobeying any summons, requisition or lawful written order issued under the provisions of this Act or wilfully not furnishing any information required from him by a person authorised in this behalf under the provision of this Act, shall be punishable with fine which may

extend to 2[five thousand rupees].

(4) Any employer who without sufficient cause fails to pay to a cooperative society the amount deducted by him under section 45 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with fine which may extend to 1[five thousand rupees].

(5) Any officer or custodian who wilfully fails to produce or hand over custody of books, records, cash, security and other property, belonging to a co-operative society to a person entitled under sections 50, 51, 95, 97, 98, 99 and 106 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both and in the case of a continuing breach with a further fine which may extend to one hundred rupees for every day during which the breach is continued after conviction for the first such breach.

(6) Any person who fraudulently acquires or abets in the acquisition of any property which is subject to a charge under sections 52 and 53 shall be punishable with fine which may extend to 3[one thousand rupees].

4[(7) Any person who transfers the property which is subject to a charge of the society with an intent to evade its sale or attachment, shall be punishable with fine which may extend to ten thousand rupees.

(8) Any person being a member of the managing committee who fails to get the accounts audited in accordance with the provisions of section 95 without sufficient cause, shall be punishable with fine which may extend to ten thousand rupees:

Provided that an opportunity of being heard shall be provided before any order is passed under this section.]

1. Substituted for "one thousand rupees" by Haryana Act No. 19 of 2006.

2. Substituted for "five hundred rupees" by Haryana Act No. 19 of 2006.

3. Substituted for "two hundred rupees" by Haryana Act No. 19 of 2006.

4. Added by Haryana Act No. 19 of 2006.

118. Cognizance Of Offence :-

(1) No court inferior to that of a Judicial Magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

CHAPTER 20

GENERAL

119. Address Of Society :-

1[Every co-operative society registered under this Act shall have its head office in the State of Haryana and shall have its address registered in the manner prescribed to which all notices and communications may be sent and shall send to the Registrar, notice of every change thereof within a period of thirty days of such change.]

1. Substituted by Haryana Act No. 19 of 2006.

119A. Affiliation Or Disaffiliation With Federal Society :-

1[Any unit of the Co-operative Credit Structure may, with the prior approval of the Registrar, affiliate or disaffiliate with a federal society keeping in view the financial position of the federal society. It shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for its operation.]

1. Inserted by Haryana Act No. 18 of 2007.

120. Copy Of Act, Rules And Bye-Laws Etc, To Be Open To Inspection :-

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

121. Prohibition Against The Use Of The Word "Co-Operative" :-

No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part:

Provided that nothing in this section shall apply to the use by any person or his successors in respect of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (2 of 1912) came into operation.

121A. Use Of Words Bank, Banking, Banker Or Any Other Derivative Of Word Bank :-

1[No primary Agriculture Co-operative Society shall use the words bank, banking, banker or any other derivative of the word bank.]

1. Inserted by Haryana Act No. 18 of 2007.

122. Power To Exempt :-

Notwithstanding anything contained in this Act, the Government may by general or 1[special order after recording its reasons] and subject to such conditions, if any, as it may impose, exempt any society or class of societies from any of the provisions of this Act.

1. Substituted for the words "special orders" vide Haryana Act No. 14 of 1986.

123. Employees Etc. To Be Public Servants :-

1[Any employee of a cooperative society discharging duties under the provisions of this Act or the rules made thereunder or any person appointed as liquidator or arbitrator shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).]

1. Substituted by Haryana Act No. 19 of 2006.

124. Notice Necessary In Suits :-

No suit shall be instituted against a cooperative society or any of its officers in respect of any act touching the business of society until the expiration of two months next after notice in writing has been delivered to the Registrar or left at his office, standing the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims and the plaint shall contain a statement that such notice has been so delivered or left.

125. Service Of Notice Under This Act :-

Whenever under the provisions of this Act, a notice is required to be given to any person in writing, it shall be sufficient to sent such notice by registered post.

126. Companies Act Not To Apply :-

The provisions of the Companies Act, 1956, shall not apply to the co-operative societies.

127. Saving Of Existing Societies :-

Every society which has been registered under the Co-operative Credit Societies Act, 1904, or the Cooperative Societies Act, 1912, or the Co-operative Societies Act, 1954, or the Punjab Co-operative Societies Act, 1961, shall be deemed to be registered under the corresponding provisions of this Act, and its bye-laws shall, so far as the same are not inconsistent with the provisions of this Act, continue in force until altered or rescinded.

128. Bar Of Jurisdiction Of Courts :-

(1) Save as provided in this Act, no civil court 1[or revenue court], shall have any jurisdiction in respect of-

- (a) the registration of a co-operative society or its bye-laws or of an amendment of bye-laws;
- (b) the removal of a committee;
- (c) any dispute required under section 102 to be referred to the arbitration of the Registrar or any matter in which proceedings under section 104 have been initiated; or
- (d) any matter concerning the winding up and dissolution of a cooperative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award, made under this Act, shall be questioned in any court 2[***] on any ground whatsoever.

1. Substituted for the signs and words, "revenue court, industrial tribunal or labour court" by Haryana Act No. 15 of 1990.

2. The words "or tribunal" omitted by Haryana Act No. 15 of 1990.

129. Exercise Of Powers Of Civil Court :-

While exercising the functions conferred by him by or under this Act, the Registrar, the arbitrator or any other person deciding a dispute under section 103 and the liquidator of a co-operative society or person entitled to audit, inspect or hold an enquiry shall have the same powers as are vested in a civil court, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) proof of facts by affidavits; and
- (d) issuing commissions for examination of witnesses.

130. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done under this Act.

131. Power To Make Rules :-

(1) The Government may, for any cooperative society or class of such societies, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the maximum number of shares or portion of the capital of a co-operative society which may, subject to the provisions of section 6, be held by a member;

(ii) the form to be used, the conditions to be complied with and the procedure for making an application for the registration of a society under section 7;

(iii) the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such alteration or abrogation under section 10;

(iv) the procedure and conditions for change in the form and extent of the liability of a co-operative society under section 12;

(v) the condition to be complied with by persons applying for admission or admitted as members, for the election and admission of members and for the payment to be made and the interest to be acquired before the exercise of the right of membership;

(vi) the manner in which funds may be raised by means of shares and debentures or otherwise;

(vii) for general meeting of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(viii) the prohibitions and restrictions subject to which societies may transact business with persons who are not members;

(ix) to proportion of individuals and societies in the constitution of the committee of management and the general body of a

cooperative society of which another co-operative society is a member;

(x) the election and nomination of members of committees, the appointment or election of officers and the suspension and removal of the members and other officers and the powers to be exercised and the duties to be performed by the committees and other officers;

(xi) appointment of chairman and other office-bearers of a society;

(xii) the appointment and regulation of work entrusted to administrator;

(xiii) prohibiting a co-operative society from electing a defaulting member on its committee or to be its representative;

(xiv) the accounts and books to be kept by a co-operative society, the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a cooperative society;

(xv) the statements to be submitted by a co-operative society to the Registrar, the persons by whom and the form in which such statements shall be submitted and in case of failure for the levy of expenses of preparation;

(xvi) the formation and maintenance of a register of members, register of shares and register of mortgages and charges and the forms to be maintained;

(xvii) the appointment of an arbitrator;

(xviii) the persons by whom and the form in which copies of the entries in books of societies may be certified and for the charges to be levied for the supply of such copies;

(xix) the procedure to be followed in proceedings before the Registrar, arbitrator or other persons deciding dispute;

(xx) the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liability of past members and of the estates of deceased members;

(xxi) the mode in which the value of a deceased members share of interest shall be ascertained for the nomination of a person to whom such share or interest may be paid or transferred;

(xxii) the payments to be made and conditions to be complied with by members applying for loans, the period for which any loan may be made and the maximum amount which may be lent to any member;

(xxiii) the formation and maintenance of reserve fund and other funds and the objects to which such funds may be applied, and for

the investment of any funds under the control of a cooperative society;

(xxiv) the extent to which a co-operative society may limit the number of its members;

(xxv) the conditions under which profits may be distributed to the members of a co-operative society with unlimited liability and the maximum rate of dividend which may be paid by cooperative societies;

(xxvi) the manner of calculation and writing off of bad debts by the co-operative societies;

(xxvii) the procedure to be followed by a liquidator;

(xxviii) the procedure to be followed in presenting and disposing of appeals under this Act;

(xxix) the form of orders referred to in section 110;

(xxx) the issue and service of processes and for proof of service thereof;

(xxxi) the manner of effecting attachment;

(xxxii) the custody, preservation and sale of property under attachment;

(xxxiii) the investigation of claims by persons other than the defaulters to any right or interest in the attached property, and for the postponement of the sale pending such investigation;

(xxxiv) the sale of perishable articles;

(xxxv) the inspection of documents in the office of the Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same;

(xxxvi) the terms and conditions on which the Government may make share capital contribution or give assistance, financial or other, to societies and the terms and conditions on which the Government may guarantee the payment of principal and interest on debentures or bonds issued by societies or loans raised by them;

(xxxvii) the manner in which funds may be raised by a society or a class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;

(xxxviii) the form of declaration for creating a charge or mortgage;

(xxxix) qualifications for members of the committee and employees of a society or class of societies and the conditions of service subject to which persons may be employed by societies;

(xl) the method of communicating or publishing any order, decision or award required to be communicated or published;

(xli) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may

be after it is made before the house of the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is held, or the session immediately following, the house agrees in making any modification in the rule or that the rule should not be made, the rule shall, thereafter have effect only in modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

132. Repeal :-

The Punjab Co-operative Societies Act, 1961 (25 of 1961) and the Punjab Co-operative Agricultural Development Banks Act, 1957 (26 of 1957) are hereby repealed.

SCHEDULE 1

SCHEDULE I

[see section 2 (eb)]

1. Voluntary and Open Membership.--

Co-operatives are voluntary organizations, open to all persons capable of using their services and willing to accept the responsibilities of membership, without discrimination on basis of gender, social inequality, racial, political ideologies or religious consideration.

2. Democratic Member Control.--

Co-operatives are democratic organizations controlled by their members, who actively participate in setting their policies and decision making. Elected representatives of these Co-operatives are responsible and accountable to their members.

3. Members Economic participation.--

Members contribute equitably and control the capital of their Co-operative democratically. At least a part of the surplus arising out of the economic results would be the common property of the Co-operatives. The remaining surplus could be utilized benefiting the members in proportion to their share in the Co-operative.

4. Autonomy and Independence.--

Co-operatives are autonomous, self-help organizations controlled by their members. If cooperatives enter into agreement with other organizations including Government or raise capital from external sources, they do so on terms that ensure their democratic control by members and maintenance of Co-operative autonomy.

5. Education, Training and Information.--

Co-operatives provides education and training to their members, elected representatives and employees so that they can contribute effectively to the development of their Co-operatives. They also make the general public, particularly young people and leaders aware of the nature and benefits of co-operation.

6. Co-operation among co-operatives.--

Co-operatives serve their members most effectively and strengthen the Co-

operative movement, by working together through available local, regional, national and international structures.

7. Concern for community.--

While focusing on the needs of their members, Co-operatives work for the sustainable development of communities through policies accepted by their members.]

1. "Schedule" added by Haryana Act No. 19 of 2006.