

## **Punjab Co-Operative Societies Rules, 1963**

**[24 December 1963]**

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### **Punjab Co-Operative Societies Rules, 1963**

**[24 December 1963]**

No. GSR/PA-25/61/S. 85/64 - In exercise of the powers conferred by section 85 of the Punjab co-operative Societies Act, 1961 ( Punjab Act. No.25 of 1961), the Government of Punjab is pleased to make the following rules namely:-

## **CHAPTER 1 PRELIMINARY**

### **1. Short Title :-**

These rules may be called the Punjab Co-operative Societies Rules, 1963.

### **2. Definition :-**

In these rules, unless the context otherwise requires.

- (a) "The Act" means the Punjab Co-operative Societies Act, 1961.
- (b) Appendix means an appendix to these rules;
- (c) "Co-operative Year" means the year ending with the 31st day of March or in the case of any co-operative society or class of co-operative societies, the accounts of which are made up to any other date, with the previous sanction of the Registrar, the year ending with such date;
- (d) "decree" means any order, decision or award referred to in section 63 of the Act.
- (e) "decree holder" means - any person holding a decree as defined in clause (d);
- (f) "maximum credit limit" means the extent to which a co-operative society may receive deposits and loans from member and non-members;
- (g) "model bye-laws" means a set of bye-laws approved and proposed by the Registrar for general adoption by a class of co-operative societies;
- (h) "owned capital" means the total paid-up share capital and reserve fund and other funds created out of profits and undistributed profits minus accumulated losses;
- (i) "paid-up share capital" mean such portion of the subscribed share capital as is actually paid up;
- (j) recovery officer" means a person subordinate to the Registrar who is empowered to exercise in a district, the powers of the Registrar under section 63 of the Act;
- (k) "relative" includes anyone related to the person concerned his wife, his son/daughter or his sons wife or daughter s husband through a common ancestor, not more remote than a grandfather or any one married to a person so related;
- (l) "reserve fund" means a fund to which at least one tenth of the net profits of a co operative society in any year shall be carried as

required by Section 41 of the Act;

(m) sale officer means an officer empowered by the Registrar by general or special order, to attach and sell the property of defaulters or to execute any decree by attachment and sale of property;

(n) "section" means a section of the Act,

(o) share capital" means the subscribed share capital;

(p) "working capital" means the total of owned capital plus the borrowed capital;

(q) words and expression defined in the Act and used in the rules shall have the meanings, respectively, assigned to them in the Act.

## **CHAPTER2** REGISTRATION OF CO-OPERATIVE SOCIETIES AND THEIR BYE-LAWS APPLICATION FOR REGISTRATION

### **3. Form Of Application :-**

Section 85(2)- An application for registration of a co-operative society shall be made in the form given in Appendix A and shall specify the name and address of one of the applicants to whom the Registrar may address his correspondence under rules 5(2) and 6.

### **4. Documents Which Shall Accompany The Application :-**

The application for registration shall be accompanied by three copies of the bye-laws which the co-operative society proposes to adopt. Such copies of bye-laws shall bear the signatures of not less than two of the applicants, duly authorized by the members of the proposed co-operative society.

### **5. Procedure On Receipt Of Application :-**

(1) Before passing final orders under Section 8 the Registrar may call for such further Information from the applicants or make such independent inquiries as he may deem necessary.

(2) After the Registrar is satisfied with regard to the matters stated in sub-section (1) of section 8, he may register the co-operative society and its bye-laws. A copy of the registered bye-laws shall be returned by him to the co-operative society by Registered A.D.

### **6. Person To Which Order Under Section 8(2) To Be Communicated :-**

The order passed by the registrar under sub-section (2) of section 8 shall be communicated by registered post to the applicant referred in rule 3.

## **7. Appeal Against Refusal Of Registration :-**

Where an application for registration of a Cooperative Society is rejected by the Registrar the appeal. If made, shall be signed by the persons joining in the application for registration.

Provided that where the application for registration has been signed by more than ten persons, the appeal shall be signed by at least two-third persons, joining the application for registration.

## **8. Subject Matters Of Bye-Laws :-**

(1) A co-operative society shall make bye-laws in respect of the following matters:-

- (a) name and address of the co-operative society;
- (b) area of operation;
- (c) the objects for which the cooperative society is established;
- (d) the manner in which the funds may be raised;
- (e) the qualifications for membership and the terms of admission of members.
- (f) the nature and the extent of the liability of the members;
- (g) Withdrawal and expulsion of members, and the payments, if any, to be made to such members.
- (h) Transfers of shares or interests of the members.
- (i) General meeting and the procedure and powers of such meeting.
- (j) Appointment, suspension and removal of the officers of the co-operative society and members of the committee;
- (k) Constitution of the committee and procedure of holding its meeting;
- (l) powers and duties of the committee and the officers of the co-operative society;
- (m) disposal of profits;

Provided that if in the opinion of the Registrar the bye-laws of any co-operative society do not contain with regard to the matters specified in clause (I) and (k) or contain insufficient provision with regard to these matters, the provisions specified in appendix B shall apply to such society as if these had been a part of the bye-laws

registered under section 8;

(2) The bye -laws of a co-op. Society may further provide for such matters as are incidental to the Organisation of the co-op. society and the management of its business.

### **9. Amendment Of Bye-Laws- Section 85(2) :-**

Subject to the provision of section 10 and rule 8 a Co-op. Society may from time to time amend its bye-laws.

### **10. Resolution For Amendment- Section 85(2) :-**

No amendment under rule 9 shall be carried out save in accordance with a resolution passed at a general meeting of the co-operative society of which due notice of the intention to discuss the amendments has been given;

Provided that no such resolution shall be valid unless it is passed by a majority of members present at the general meeting at which not less than two-third of members for the time being of the co-operative society are present :

Provided further that model bye-laws for amendments previously approved by the Registrar by a majority at an ordinary general meeting.

### **11. Application To Registrar For Registration Of Amendment :-**

Three copies of the amendment adopted by the co-operative society under rule 10, signed by two officers of the co-op. Society duly authorised by the general meeting in this behalf, shall be submitted to the Registrar along-with an application for registration duly signed as aforesaid. Such copies of the amendments shall be accompanied by the certificate signed by any one of the above two officers of the co-operative society to the effect that the provisions of rule 10 have been complied with.

### **12. Registration Of Amendment :-**

(1) After the Registrar is satisfied with regard of the matters stated in sub-section(2) of section 10, he may register of amendments and return a copy of the registered amendments to the co-

operative society by registered A . D.

(2) The order of the registrar passed under the sub-section (4) of section 10, shall be communicated by registered post of the co-operative society.

### **13. Appeal Against Refusal To Register Amendments Of Bye-Laws :-**

where an application for registered of an amendment in bye-laws of a cooperative society is rejected by the registrar under sub-section(4) of section 10, the appeal, if any, shall be made only after a meeting of the general body has reconsidered the matter and has decided to prefer an appeal and shall be signed by an officer of the co-operative society duly authorised in this behalf by a general meeting.

## **CHAPTER3 MEMBER OF CO-OPERATIVE SOCIETY, THEIR RIGHTS AND LIABILITIES**

### **14. Disqualification For Membership :-**

(1) No person shall be eligible for admission as a member of a co-op. Society if he-

( a ) has applied to be adjudicated an insolvent or is an undischarged insolvent; or

(b) has been sentenced for any offence other than an offence not involving moral turpitude, and a period of five years has not elapsed from the date of expiry of the sentence.

(2) If a member becomes subject to any of the disqualification specified in sub-rule (1), he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

### **15. Section 15 :-**

(1) Prohibition of membership in two co-operative Credit or Service Societies. No individual, who is member of a primary co-op. Society having one of the objects the creation of the funds to be lent to its members, shall be a member of any other such co-op. Society without the general or special permission of the Registrar, and where an individual has become a member of two such co-op. Societies, either or both of the co-op. Societies shall be bound to



remove him from membership upon a written requisition from the Registrar to that effect.

(2) No individual who is an officer of any co-op. Society shall without the general or special permission of the Registrar, be a member of any other co-op. Society whose objects are similar to the objects of the society of which he is an officer; and where such an individual has become a member of another Co-op. Society with similar objects, either or both of the co-op. Societies shall be bound to remove him from membership upon written requisition from the Registrar to that effect. If any question arises as to whether or not two Co-op. Societies have similar objects the decision of the Registrar on the point shall be final.

### **16. Admission Of Members Before General Meeting Of Co-Op. Society :-**

Section 85(2)-No co-op. Society shall admit members within fourteen days prior to the date of its annual general meeting.

### **16A. Member Not To Exercise Rights Till Due Payment Made :-**

Section 85(2)(v)2-(1) No member of a co-operative Society shall participate in the general meeting of the Co-op. Society or in the election to the committee unless he has made all such payments to the Co-op. Society as are due from him.

(2) At the commencement of each general meeting. The Secretary of the co-op. Society shall announce the name of the defaulting members which shall form part of the proceeding of the meeting.

### **17. Disposal Of Application For Admission Of Members :-**

Section 85(2) A co-op. Society, other than a producers co-op. Society, shall dispose of an application received for admission as a member as early as possible and in no case later than the expiration of a period of one month from the date of receipt of the application by the Co-op. Society in case of refusal to admit, such a Co-operative society shall communicate its decision, together with reasons thereof, to the applicant within 15 days

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

In the co-operative society with unlimited liability, a member who is not indebted to a co-operative society and is not a surety for an unpaid debt, may withdraw from the co-operative society after giving such notice to the Secretary of the Co-operative society as may be laid down in the bye-laws of the co-op. Society.

(2) in a co-operative society with unlimited liability, a member who withdraws or is otherwise removed or expelled from the co-op. Society, shall be entitled to repayment without interest of any money paid by him or his predecessor in interest towards the purchase of shares after such period as may be laid down in the bye-laws.

(3) No member of a co-operative society with limited liability shall ordinarily be permitted to seek withdrawal or refund of his shares:

Provided that where the society has created a share-transfer fund out of Its earned profits, its managing committee may, keeping in view the over all interests of the society, allow withdrawal of shares;

Provided further that such withdrawal of shares at any time shall not exceed five percent of the aggregate paid up share capital of the society, excluding Government contributions, as it stood on the 31st March of the proceeding year.

3. Irrespective of the nature of liability of a co-operative society the share capital subscribed by the State Government in a co-operative society or by a Central or Apex co-operative Financing Institution will be retired in such a manner and during such period as may be determined by the registrar from time to time .

**18A.** Retirement Of Shares Of Individuals Who Are Members Of The Central And Apex Co-Operative Societies :-

The central and apex societies (having individuals as members) shall retire the shares of individual members in the following manner, namely:-

- (i) At least one-third of the shares shall be retired every year;
- (ii) The names of the shares are to be retired under clause (i) shall be take in an alphabetical order in Gurmukhi script; and

(iii) The payment in respect of shares to be retired shall be made in full at one time.

### **19. Nomination Of Heir :-**

Every member of a Co-operative shall nominate a person or persons to whom his share or interest referred to in Section 21 or such sums out of shares or interest as may be specified by the member, shall on the death of the member be transferred or paid as laid down in the bye-laws.

(2) Such nomination may, from time to time, be revoked or modified by the member.

(3) The number of persons who may be nominated by a member shall not exceed the number of shares held by the member.

(4) When a member of a Co-operative Society nominate more than one person, he shall, as far as practicable specify the amount to be paid or transferred to each nominee in terms of whole share and the interest occurring thereon.

(5) The record of nomination shall be kept by a Co-operative Society in such manner as may be laid down in the bye-laws.

(6) The value of the share or interest transferred or paid to a nominee or nominees shall be determined on the basis of the sum actually paid by the member to acquire such share or interest, unless the bye-laws provide for calculation on a different basis.

### **20. Maintenance Of Register Of Members :-**

Section 85(2): - Every C-operative Society shall maintain a register of members showing-

(a) the name, address and occupation of each member, and a statement of shares held by him.

(b) The date on which the members name was entered in the register.

(c) The date on which any person ceased to be a member.

(d) The nominee appointed by a member.

### **21. Restriction On Holding Of Shares :-**

Section 6 and 85 (2)- No member other than the Government of a Co-operative Society shall hold more than one 3tenth of shares capital of a Co-operative Society or have or claim any interest in the shares of the Co-operative exceeding 4fifty thousand rupees, whichever is 1less.

#### **CHAPTER 4** General meeting

#### **22. Power Of General Meeting :-**

Section 85(2) - Without prejudice to the provisions of section 24, the general meeting alone shall have the power to transact the following business:-

1(a) fixing the maximum credit limit of the Co-operative society having 1000 or less members subject to the approval of the Registrar.

2(b) .....

(c) expulsion of the members.

#### **23. Election Of Committee :-**

The members of the committee of a Co-operative society shall be elected in accordance with the rules given in Appendix c.

**23A.** The Manner Of Co-Option, The Area Of Agricultural Land To Be Held And The Conditions Required To Be Fulfilled For The Purpose Of Section 26A- (1) :-

The Registrar in his direction under Section 26-A shall intimate the number and class of persons to be co-opted in the committee of a co-operative society.

(2) The committee of a cooperative society, to which a direction under Section 26-A has been issued by the Registrar, shall immediately after the receipt of such direction, call a meeting in accordance with these rules and the bye-laws.

(3) The Committee shall then co-opt. The number of members specified in the direction issued by the Registrar from amongst the members belonging to Schedule Tribes or Backward Classes or from amongst members who hold, as land owner or tenant or as both, not more than two hectares of agricultural land.

Provided that the members so co-opted fulfil the condition and qualifications prescribed for the elected members of the committee in these rules or in the bye-laws of such a co-operative society.

Note:- Standard Acre for the purpose of this rule shall have the same meaning as given in Punjab Security of Land tenures Act, 1953(Act 10 of 1953).

**23B.** Election Of The First Committee After Registration Of The Co-Op. Society- Section 26 (If) :-

Subject to the provisions of sub-section (IF) of section 26, the first committee of a co-operative society. Shall be elected within a period of fix months from the date of its registration.

**24.** Proportion Of Individual And Co-Op. Societies For Constituting Committee Section 85(2) :-

In a Cooperative Society, the membership which is not exclusively confined to individuals, the representation of individuals and Co-op. Societies on the committee and the general body shall be such as may be laid down in the bye-laws of the cooperative Society.

**25.** Disqualification For Section Membership Of Committee :-

No person shall be eligible for election as a member of the committee if-

(a) he is in default to any Co-operative Society in respect of any co-operative due from him to the Co-op. Society or owes to any co-operative Society an amount exceeding his maximum credit limit.

(b) He has, directly or indirectly any interest in any contract to which the Co-op. Society is a party except in transactions made with the Co-operative Society as a member in accordance with the objects of the Co-op. Society as stated in the bye-laws;

(c) He has at any time during a period of one year prior to the dated of scrutiny of nomination papers, engaged in any private

business, trade or profession of any description which is carried on by the society.

(d) He has been convicted for any offence involving dishonesty or moral turpitude during a period of five years prior to the date of scrutiny of nomination papers;

(e) He is subject to any of the restrictions contained in rule 29;

(f) He has, during a period of 12 months preceding the date of filing of nomination papers, remained inactive as member or has been carrying on, through agencies other than the Co-operative Society of which he is a member, the same business as is being carried on, by the Co-operative Society;

(g) he is a member of any Co-operative Society which has ceased to function or which has not fulfilled its objects as stated in its bye-laws and has been included in the list of D class societies maintained by the Registrar if he is a member of a Co-op. Society which is under winding up process.

(gg) he has ceased to be a member of any Co-operative Society within a period of one year preceding the date of inclusion of such Co-op. Society in the list of D class Co-op. Societies maintained by the Registrar or the operation of order of winding up of such Co-op. Society under section 57 of the Act.

Provided that nothing in clause (g) and (gg) shall be deemed to debar any person from seeking selection if the Co-op. Society under winding up process of which he is a member is a Co-op. Society with limited or unlimited liability as a surety, if any, in relation to such a Co-op. Society, within two months from the receipt of assessment orders.

(h) He has incurred any other disqualification laid down in the bye-laws of the society.

## **26. Cessation Of Membership Of Committee :-**

A member of the committee shall cease to hold his office as such if he:

- (a) continues to be in default in respect of any sum due from him to the Cooperative society for such period as may be laid down in the bye-laws;
- (b) ceases to be a member;
- (c) is declared insolvent;
- (d) becomes of unsound mind;
- (e) is convicted of an offence involving dishonesty or moral turpitude; or
- (f) becomes subject to any dis-qualification which would have prevented him from seeking election, had he incurred that qualification before election.

## **27. Division Of Area Of Society Into Zones :-**

The registrar may, in such cases as he thinks fit, divide the area of operation of a co-operative Society into zones not exceeding in number than the number of members to be elected for the committee.

## **28. Qualifications And Conditions Of Service Of Employees :-**

- (1)- The qualifications and conditions of services subject to which any person may be employed by a co-operative society or a class of Co-operative societies shall be such as may be determined by the Registrar from time to time.
- (2) Where the Registrar is of the opinion that it is necessary or expedient so to do, he may by order, for reasons to be recorded in writing relax the provisions of this rule with respect to any Co-operative societies to such extent as he may consider proper.

## **29. Restrictions On Transactions Of Officers And Past Officers With The Co-Operative Society :-**

- (1) - Section 85(2)- Without prejudice to the bye-laws, no officer of a cooperative society shall, without the prior permission in writing of the Registrar, have an interest directly or indirectly, otherwise than as such officer-
  - (a) in any contract made with the society; or
  - (b) in any property sold or purchased or leased by the Co-op. Society; or
  - (c) in any other transaction of the Co-op. Society, except as investment made or as loan taken from the Co-op. Society or the

provision of residential accommodation by the Co-op. Society.

(2) No officer of a Co-operative Society shall without the prior permission in writing of the Registrar, purchase directly or indirectly, any property of a member of the Co-op. Society sold for the recovery of his dues to that Co-op. Society.

(3) The restrictions contained in this rule shall continue to apply for a period of two years after a person ceases to be an officer of the Co-op. Society.

## **CHAPTER 5 WORKING OF CO-OPERATIVE SOCIETIES**

### **30. Manner Of Certifying Copies Of Entries In Books-Section 36(1) And 85(2) (Xv) :-**

For the purpose section 36 a copy of an entry in the books of a Co-operative Society shall be certified by a certificate written at the book containing the entry is still in the custody of the Co-operative Society.

1 Provided that the certificate shall be signed and dated by the Manager or Secretary of the Co-operative society or by an officer authorised by a Cooperative society to do so.

### **31. Loans And Subsidies By Government :-**

Loans and subsidies to a Co-operative Society or class of Co-operative Societies may be granted by Government on such terms and conditions as may be laid down by Government by a general or special order from time to time.

### **32. Manner Of Making Application For Loan Of Subsidy :-**

An Application by a Cooperative Society for a loan or subsidy or both from the Government or a Government sponsored agency shall be made through the Registrar. While forwarding the application, the Registrar shall record his opinion regarding the eligibility of the Co-operative Society for the said loan or subsidy or both, its financial position and the desirability of sanctioning to the Co-op. Society the said loan or subsidy or both.

### **33. Submission Of Information And Returns By Co-Operative Societies Having State Participation :-**



A Co-operative Society receiving Government loan or subsidy or a Co-op. Society in which a share or shares have been subscribed or liability by way of guarantee for borrowing exceeding fifty percent of the working capital of the Co-op. Society has been undertaken by the Government, shall furnish such information and submit such returns as the sanctioning authority or the Registrar may, from time to time, require.

#### **34. Reserve Fund :-**

3(1).....

(2) The reserve fund of a Co-operative Society or class of cooperative Societies, may unless the Registrar by special order otherwise directs to be invested under section 44, be utilized in the business of the Co-operative Society.

(3) The reserve fund shall be indivisible and no member shall be entitled to claim a specified Society.

Provided that the Reserve Fund may be utilized with the prior approval of Registrar in meeting losses when it is necessary so to do to save the Co-op. Society from going under liquidation or to prevent the depositors from making a run on the Co-op. Society for getting back their deposits or any such other eventuality.

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

#### **35. Payment Of Dividend Or Bonus :-**

(1) In no Co-operative Society the dividend shall exceed 20 percent per annum on paid up share-capital.

(2) In a Co-operative Society with unlimited liability on dividend or bonus shall be paid until a period of five years has elapsed from the date of registration.

(3) No dividend shall be paid by the Co-operative Society while any claim due from the Co-operative society to a depositor or lender remains unsatisfied.

(4) The Registrar, may, by a general or special order, direct that a Co-operative Society shall not pay dividend or shall pay dividend at a reduced rate so long as it receives loans and deposits from non-members.

**35A.** Net Profit :-

the net profits of a Co-operative Society shall be the profits remaining after allowing for the following charges, in addition to those specified in clause (gg) of Section 2, namely-

- (a) all other usual working charges, such as repairs, rent, taxes, subsidies received, depreciation and irrecoverable bad debts written off;
- (b) capital expenditure written off, either wholly or in part;
- (c) capital losses actually incurred and not adjusted against bad debts written off;
- (d) provision for estimated bad debts, if any; and
- (e) expenses incurred in connection with election of the committee;

**36.** Creation Of Co-Operative Education Fund :-

Every Co-operative Society shall contribute such amount not exceeding two percent as may be directed by the Registrar, from time to time, out of its net profits of the years to the Co-operative Education fund to be administered by the State Co-operative Education Fund to be administered by the State Co-operative Union.(now Puncofed). The contributions payable by a Co-operative society shall be recoverable in the manner provided in section 63.

The State Co-operative Union (now Puncofed) shall 1frame regulations with the approval of the registrar for the utilization and administration of the fund.

**37.** Section 37 :-

(1) Investment of fund-Besides the manner provided in section 44, a Co-operative society may invest or deposit its funds or any portion thereof-

- (a) in many bonds, certificates or loans issued by the government or the Central Government;

(b) in debentures floated by a Co-operative Society.

(c) With the previous sanction of the Registrar, in the purchase or lease of land or building or in the acquisition, construction or renewal of any building that may be necessary to conduct its business.

(2). The amount of the funds invested under clause (c) of sub-rule (1) shall be recouped on such terms as may be determined in each case by the Registrar.

(3) The provisions of clause (c) of sub-clause (1) shall not apply

(a) to immovable property purchase-

(h) by a Co-operative Society at a sale held in execution of a decree obtained by it, for the recovery of any sum due to it; or

(ii) by a financing bank at a sale held in execution of a decree obtained by a Co-operative financed by it, for the recovery of any sum due to such Co-op. Society or at a sale brought about by the liquidator of such Co-op. Society; or

(b) to the purchase or lease of lands or purchase construction or renovation of buildings by a Co-operative Society whose objects according to its bye-laws include such purchase, lease, construction or renovation.

### **38. Writing Off Bad Debts And Other Sums Due :-**

No Co-operative society shall write off, in whole or in part, any debt or other sums due to it without the previous sanction of the Registrar.

### **39. Maximum Credit Limit Of Members :-**

The bye-laws of a Co-operative society may lay down the limit beyond which a Co-operative society may not advance loan to individual members without the Registrars prior consent.

### **40. Nature And Extent Of Securities For Loan :-**

The Registrar may, in furtherance of the objective of a co-operative society or a class of co-operative societies regulate the lending of money of such co-operative societies, by general or special order,

including;

- (a) the manner in which the application for loan may be given and documents which may be attached therewith.
- (b) the mode of dealing with the application for loans;
- (c) the ratio between the loan to be granted and the shares to be held by the loanees;
- (d) the nature and extent of security to be demanded by a Co-op. Society in respect of loans advanced by it;
- (e) the purpose for which the loan may be given;
- (f) the ratio in which the loan may be given cash and kind;
- (g) the installment in which the loan may be given;
- (h) the mode of disbursement of loan: whether in cash directly to the loanee or through specified suppliers or specified articles for which the loan is sanctioned;
- (i) the mode of supervision over the proper utilization of loan;
- (j) the mode of repayment of loans; and
- (k) generally to ensure the proper flow of credit and its ultimate utilization and recovery in conformity with the objectives of the Co-op. Society concerned.

#### **41. Restriction On Grant Of Loans By A Co-Operative Society Against Its Own Shares :-**

No Co-operative Society shall grant loans or make advances against the security of its own shares.

#### **42. Declaration Under Section 32 :-**

A declaration under clause (i) or 2(ii) of section 32 shall be made in the form given in appendix D.

- (2) A register of such declarations to be kept by the Co-operative Society shall be in the form given in appendix E.

#### **43. Restriction On Borrowing By Co-Operative Society :-**

(1) Subject to the provisions of sub-rule (2) a Co-operative Society Shall not receive deposits and loans whether from members or non-members which exceed the limit fixed from time to time in a General meeting subject to the approval of the Registrar who may at any time reduce it.

- (2) A Co-operative Society which accepts deposits and loans from

members only and has no liability to any person other than the members, may receive such deposits and loans in excess amount in deposited in a Co-operative Bank to which it is affiliated to reserved in Government Securities specified in Section 20 of the Indian Trusts Act, 1882; provided that the amount so deposited or invested, or any part thereof, is not withdrawn or otherwise utilised except for the payment of the deposits accepted in excess of the aforesaid limit.

(3) No Co-operative Society shall accept loans or deposits whether from members or non members at a rate of interest which exceeds by more than three percent the interest paid in similar types of deposits or loans by the Central Co-operative Bank within whose area of operation the Co-op. Society is situated except that the Registrar may class of Co-op. Societies or individual Co-op. Society from the operation of this rule.

#### **44. Maintenance Of Fluid Resources :-**

Every co-operative Society accepting deposits and granting cash credit shall maintain fluid resources in such form and according to such standards as may be fixed by the Registrar from time to time, by general or special order.

#### **45. Powers Of Registrar To Give Directions :-**

(1) The registrar may, from time to time, give directions consistent with the provisions of the Act as he considers necessary for the beneficial and efficient functioning of any co-operative society or class of co-operative societies.

(2) If any question arises whether any directions given under sub-rule (1) are necessary for the beneficial and efficient functioning of the co-operative society or class of co-operative societies, as the case may be, the concerned co-operative society or class of co-operative societies may refer such question to the Government whose decision thereon shall be final.

#### **46. Appointment Of Relatives To Any Office :-**

Save in a producers co-operative society no relative of any member of the committee or of any other officer or a co-operative society shall be appointed to any office in the co-operative society, except

with the previous sanction of the registrar.

## **CHAPTER 6 AUDIT AND ACCOUNT**

### **47. Auditing Of Accounts :-**

The accounts of a co-operative society shall be audited in such manner as the Registrar may specify from time to time.

### **48. Maintenance Of Account Book And Other Record :-**

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

### **49. Of Balance-Sheet And Other Accounts :-**

(1) A co-operative society shall prepare a balance sheet, profit and loss account, trading account and such other statements relating to accounts as may be specified, from time to time, by the Registrar, as soon as practicable after the close of the co-operative year in such form, as may be laid down by the Registrar.

(2) If the Registrar so directs a copy each of the statements referred to in sub-rule (1) shall be supplied by a co-operative society to the registrar by such date as he may specify.

### **50. Audit Fees :-**

(1) Every co-operative society shall pay to the Government a fee for the audit of its accounts for each co-operative year in accordance with the scale fixed by the registrar with the previous approval of the Government in respect of the class of co-operative societies to which it belongs.

(2) The registrar may, subject to such conditions as may be laid down by the Government, remit the whole or any part of the class payable under sub-rule (1) by a co-operative society or a class of co-operative societies for any year or other specified period.

## **CHAPTER 7 SETTLEMENT OF DISPUTES**

### **51. Reference Of Disputes :-**

When a party to the dispute referred to in sub-section (1) of Section 55 desires to have that dispute determined in accordance with the provisions of the said section, the party shall apply to the Registrar in the form given in Appendix F

## **52. Arbitration Fee :-**

(1) The Registrar shall have power to require the person referring a dispute under sub-section (i) of section 55 to deposit in advance the fee, if any, to be specified by the Registrar keeping in view the nature of the case for deciding the dispute.

(2). The Registrar may, in such cases as he thinks fit; order the payment of fee to the arbitrator.

(3). No fee shall be payable to an arbitrator till the dispute referred to him is finally decided.

(4). The Registrar, may, in his discretion, remit the whole or any part of the fee collected under sub-rule (1).

## **53. Communication Of Date, Time And Place Of Hearing :-**

In an arbitration proceeding, the Registrar or the arbitrator, as the case may be, shall communicate the date, time and place of hearing the dispute to all the parties concerned.

## **54. Power To Appoint Guardian For Minors Etc :-**

The registrar or the arbitrator, as the case may be, shall have power to appoint or remove a guardian for the party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interest.

## **55. Section 55 :-**

Heading of Disputes-the registrar or the arbitrator, as the case may be, shall hear the parties and witnesses who attend and record the evidence. On the basis of such evidence and after consideration of any documentary evidence that may be produced by either party, he shall give a decision of good conscience. The decision or award shall be reduced to writing, pronounced to the parties and filed in the office of the registrar. In the absence of any party duly summoned to attend and served, the dispute may be decided by an expert.

## **56. Cost Of Arbitration :-**

The arbitrator or the Registrar, as the case may be, shall have the power to order the expenses of determining a dispute or the costs of either party to be borne by such party or parties to the dispute as he may think fit.

## **57. Maintenance Of Records Of Arbitration :-**

The record of arbitration proceeding shall be kept in such place and in such manner as the Registrar may direct.

(2) A copy of the decision or award shall, on application, be given to a party by the Registrar as soon as soon be possible but not later than 15 days on payment of the fees specified in rule 78 of these rules.

## **CHAPTER 8 WINDING UP AND CANCELLATION**

### **58. Procedures To Be Followed By Liquidators :-**

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

(2) The liquidator shall, be after setting the assets and liabilities of the co-operative society as they stood on the date on which the order for winding up is made proceed next to determine the contribution to be made by each of its members, past members or by the estates or nominees, heirs or legal representatives of deceased member or by any officers or former officers to the assets of the Co-op. Society under clause (b) and (e) of sub section (2) of section 59. Should necessity arise, he may, make a subsidiary order regarding such contributions and such order shall be enforceable in the same manner as the original order.

(3) The liquidator may, at time, call a meeting of the members or of the creditors or a joint meeting of the members and creditors and such meeting shall be called, held and conducted at such time



and place and in such manner as the liquidator may deem fit.

#### **59. Approval By Registrar Or Order Of Liquidator :-**

An order passed by the liquidator under clause (b) of sub-section (2) of section 59 shall be submitted by him to the Registrar for approval. The registrar may modify such order or refer it back to the liquidator for further enquiry or action

#### **60. Submission Of Quarterly Report By Liquidator :-**

The liquidator shall submit to Registrar a quarterly report in such form as the Registrar may specify showing the progress made in the liquidation of the co-operative society.

#### **61. Deposit Of Funds By Liquidator :-**

All funds in charge of the liquidator shall be deposited with such institution or person as the Registrar may approve.

#### **62. Expenses Incurred By Liquidator :-**

All expenses incurred in connection with the winding up of the co-operative society shall be subject to the approval of the Registrar.

#### **63. Distribution Of Assets :-**

The liquidator shall distribute the realised assets in such manner and in such priority as the Registrar may direct.

#### **64. Remuneration To Liquidators :-**

The remuneration fixed under section 58 (1) shall be included in the cost of liquidation which shall be payable out of the assets of the co-operative society in priority to all other claims

#### **65. Disposal Of Surplus Assets :-**

After discharging the liabilities of the co-operative society and repayment of share-capital, the liquidator may utilise the assets of the co-operative society in priority to all other claims.

(a) deposit the amount in the central co-operative bank of the area which the Co-operative society in question operated until a new co-operative society with similar area of operation is registered when it

shall be credited to reserve fund of the new co-operative society.

(b) Any purpose connected with the development of co-operative movement, subject to the approval of the Registrar.

(c) An object of public utility selected with due regard to the wishes of the members and approved by the Registrar.

#### **66. Liability Due To Claimants Whose Where About Not Known :-**

If any liability cannot be discharged by the liquidator owing to the whereabouts of the claimant not being known or for any other cause, the amount covered by such undischarged liability may be deposited in the Central co-operative bank having jurisdiction over the area deposited in the central co-operative society was functioning and shall remain at the disposal of the claimants for a period of three years, after which the undrawn amount, if any, may be transferred to the state co-operative union (now puncofed) for credit to the co-operative education fund.

#### **67. Removal Of Liquidators :-**

a liquidator may, at anytime, be removed by the registrar and he shall on such removal hand over all the property and documents relating to the co-op. Society under liquidation to such person as the registrar may direct.

#### **68. Maintenance Of Accounts By Liquidators :-**

the liquidators shall keep such book and accounts as may be laid down by the registrar from time to time. The registrar may at any time cause such books and accounts to be audited.

#### **69. Final Report By Liquidator :-**

The liquidator shall, after meeting the liabilities of the co-op. Society, submit a final report to the registrar in such forms as may, from time to time, be specified by him.

#### **70. Disposal Of Record :-**

all the books and records of a co-op. Society whose registration has been cancelled may be destroyed under the orders of the registrar after the expiry of a period of three years from the date of cancellation.

## **CHAPTER 9** EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

### **71. Manner Of Service Of Notice :-**

the notice under the proviso to section 62 shall indicate the substance of the demand or debt due to the co-operative society and shall be served in the manner laid down for the service of summons in sub-rule(3) of rule 74. No order under section 52 shall be made until a period of thirty days has expired the date of service of the notice.

### **72. Procedure In Execution Of Award Etc :-**

(1)- any decree holder requiring the provisions of clause (b) of section 63 to be applied shall apply to the recovery officer within whose jurisdiction the defaulter resides or the property of the defaulter.

(2) every such application shall be made in the form specified by the registrar and shall be signed by the decree-holder. The decree holder may indicate whether he wishes to proceed against the immovable property mortgaged to the decree-holder or other immovable property or to secure the attachment of movable property.

(3) On receipt of such application the recovery officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any in the office of the registrar and prepare a demand notice in writing in duplicate in the form specified by the registrar, setting forth the name and address of the defaulter and the amount due and forward it to a sale officer unless the decree-holder has expressed a desire that proceedings should be taken in particular order as laid down in sub-rule (2) execution shall ordinarily be taken in the following manner:-

(i) Movable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity.

(ii) if there is no movable property, or if sale-proceeds of the movable property or properties attached and sold are insufficient to meet in full the demand of the decree-holder, the immovable property mortgaged to the decree-holder or other immovable property belonging to the defaulter may be proceeded against.

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

(a) The sale Officer shall, after giving previous notice to the decree-holder, proceed to the village or locality where the defaulter resides or the property to be distrained is situated and serve a demand notice to the defaulter if he is present. If the amount due together with the expenses is not at once paid, the sale officer shall make the distress and shall immediately deliver to the defaulter a list or inventory of the property distrained and an intimation of place and day and hour at which the distrained property will be brought to sale if the amount due are not previously discharged. If the defaulter is absent, the sale officer shall serve the demand notice on some adult member of his family, or in his authorised agent or when such service cannot be effected, shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix the list of the property attached on the usual place of residence of the defaulter, endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.

(b) After the distress is made, the sale officer may arrange for the custody of the property attached with the decree holder or otherwise. If the sale officer requires the decree-holder to undertake the custody of the property he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is livestock, the decree holder shall be responsible for providing the necessary food thereof. The sale officer may, at the instance of the defaulter or of any person claiming and interested in such property leave it in the village or place where it was attached in the charge of such defaulter or person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.

c) The distress shall be made after sunrise and before sunset and not at any other time.

d) The distress levied shall not be excessive that is to say, the property distrained shall be as nearly as possible proportionate to the sum due from the defaulter together with interest and all expenses incidental to the distrained detention and sale.

e) If crops or ungathered products of the land belonging to a defaulter are attached, the sale officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case the expenses of reaping or gathering and storing such crops or products shall be defrayed by the owner

upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

f) The sale officer shall not work the bullocks or cattle or make use of goods or effects distrained and he shall provide the necessary food for the cattle or livestock, the expenses incurred shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

g) It shall be lawful for the sale officer to force open any stable, cow house, granary, godown, out-house. Or other building and he may also enter any dwelling house, the outer-door of which may be open and may break upon the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged herein. Provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriate for the zenana or residence of women except as hereinafter provided.

h) Where the sale officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women, which by custom or usage are considered private, the sale officer shall represent the fact to the officer in charge of the nearest police station. On such representation, the officer in charge of the said station shall send a police officer to the spot in the presence of whom the sale officer may, force open the outer door of such dwelling house in like manner as he may break open the door of any room within the house except the zenana. The sale officer may, also in the presence of a police officer after due notice is given for the removal of women within a zenana and after furnishing means for their removal in a suitable manner if they be women of rank, who according to the custom or usage cannot appear in public, enter the zenana apartments for the purpose of distraining the defaulters property, if any deposited therein, but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

i) The sale officer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village or locality in which the defaulter resides and in such other place or places as the officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or

affixed in the manner prescribed in clause (a) provided that where the property seized is subject to speedy and natural decay or where the expenses of keeping it in custody is likely to be exceed its value, the sale officer may sell it at any time before the expiry of the said period of fifteen days unless the amount due is sooner paid.

j) At the appointed time the property shall be put up in one or more lots, as the sale officer may consider advisable and shall be disposed of to the highest bidder;

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

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

i) The property shall be paid for in cash at the sale or as soon there after as the officer holding the sale shall appoint and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser fail in the payment of purchase money, the property shall be resold.

ii) Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under these rules has been forcibly or clandestinely removed by any person, the court may under forthwith such property to be restored to the sale officer.

iii) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming any interest in the property attached, pays the full amount due including interest, batta and other costs incurred in attaching the property, the sale officer shall cancel the order of attachment and release the property forthwith.

iv) The movable properties mentioned as exempt from attachment in the proviso to section 60 of the code of civil procedure, 1908 (5 of 1908) shall not be liable to attachment or sale under these rules.

(6) Where the movable property to be attached is the salary or allowance or wages of a public officer or of servant of a local

authority or a firm or a company or any other institution the Recovery officer may on receiving a report from the sale officer, order that the amount shall, subject to the provisions of section 60 of Code of civil procedure, 1908 (5 of 1908) be withheld from such salary or allowances or wages either in one payment or by monthly installments as the said Recovery officer may direct and upon notice of the order the officer or other person whose duty it is to disburse such salary or allowances or wages shall withhold and remit to the sale officer the amount due under the order or the monthly installment , as the case may be.

(7) (i) Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the share or interest or charging it in any way.

(ii) Where the property to be attached is a negotiable instrument not deposited in a court, nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Recovery Officer ordering the attachment to be held subject to his further orders.

(iii) Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the Recovery Officer issuing the notice:-

Provided that where such property is in the custody of a court or Recovery Officer of another district, any question of title or priority arising between the decree holder and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such court or Recovery Officer.

(8) (i) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made by the order of the Registrar if the decree sought attached was passed by the registrar under section 56 or by an arbitrator.

(ii) Where the property to be attached is a decree other than a decree of the nature referred to in clause (i), the attachment shall be made by the issue of a notice by Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.

(iii) The holder of decree attached under this sub-rule shall give the

Recovery Officer executing the decree such information and aid as may reasonably be required.

(iv) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer making an order of attachment under this sub-rule shall give notice of such order the judgement debtor bound by the decree attached, and no payment or adjustment of the attached decree made by the judgement debtor in contravention of such order after receipt of notice thereof, either through the said Recovery Office or otherwise, shall be recognized so long as attachment remains in force.

(2) Where the movable property to be attached is:-

(a) a debt due to the defaulter in question;

(b) a share in the capital of a corporation or a deposit invested therein ;or

(c) other movable property not in the possession of the defaulter except property deposited in or in the custody of any civil court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting:-

(i) in case of a debt, the creditor from recovering the debt and the debtor from making payment thereof;

(ii) in the case of a share or deposit the person in whose name the share or the deposit may be standing, from transferring the share or the deposit or receiving interest thereon ; and

(iii) in the case of any other movable property except aforesaid the person in possession of it from giving it over to the defaulter.

A copy of such order shall be sent in the case of the debt to the debtor, and in the case of the share or the deposit to the proper officer of the corporation and in the case of the other movable property except as aforesaid to the person in possession of such property, As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) above matures, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawal, the said recovery officer shall arrange for its sale through a broker. Where the share is withdrawal, its value shall be paid to said Recovery Officer or to the party referred to in clause (c), the person concerned shall place it in the hands of the said Recovery Officer as it becomes deliverable to the defaulter.

(10) Immovable property shall not be sold in execution of a decree unless such property has been previously attached,



Provided that where the decree has been obtained on the basis of a mortgage of such property, it shall not be necessary to attach it.

(11) In the attachment and sale without attachment of immovable property the following procedure shall be observed;

(a) The application presented under sub-rule (3) shall contain a description of the immovable property to be proceeded against, sufficient for its identification on and in case such property can be identified by boundaries or numbers in a record of settlement or survey. The specification of such boundaries or the number in a record of settlements or survey. The specification of boundaries or number and the specification of the defaulters share on interest in such boundaries or number and the specification of the defaulters share on interest in such property to the best of the belief of the decree holder and so far as he has been able to ascertain it.

(b) The demand notice issued by the Recovery Officer under subrule (3) shall contains the name of the defaulter, the amount due, including the expenses , if any, the time allowed for payment and in case of non payment the particular of the properties to be attached and sold or too be sold amount attachment, as the case may be. After receiving the demand notice, the sale Office shall serve the cause to be served a copy of the demand notice upon the defaulter or upon some adult male members of his family at his usual place of residence, or upon his authorised agent or, if such personal service is not possible shall affix a copy thereof on some conspicuous part of the immovable property about to be attached and sold or sold without attachment as the case may be;

Provided that where the Recovery Officer is satisfied that a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property the demand notice issued by the Recovery Officer under sub- rule (3) shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith .

(c) if the defaulter fails to pay the amount specified in the demand notice within the time allowed , the sale Officer shall proceed or attach and sell, or sell without attachment as the case may be, the immovable property noted in the application for execution in the manner specified below.

(d) Where attachment is required before sale, the Sale Officer shall, possible, cause a notice of the attachment to be served to be served on the defaulter personally. Where personal service is not possible, the notice shall be affixed in some conspicuous part of the

defaulters last known residence, if any. The fact of attachment shall also be proclaimed by the beat of drum or other customary made at some place on or adjacent to such other place or places as the Recovery Officers may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due to with interest and expenses be paid within the date therein mentioned, the property will be brought to sale.. A copy shall be sent to the decree holder. Where the sale officer so directs the attachment shall also be noticed by public proclamation in the official Gazette

(e) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the Tehsil Officer at least thirty days before the date fixed for the sale and also by beat of drum in the village or locality on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale. Such proclamation shall, where attachment is required before sale, be made after attachment has been effected. Notice shall also be given to the decree holder and the defaulter. The proclamation shall state the time and the place of sale and specify as fully and accurately as possible.

(i) the property to be sold.

(ii) any encumbrance to which the property is liable.

(iii) The amount for the recovery of which sale is ordered ,and

(iv) Every other matter which the sale Officer consider material for a purchaser to know in order to judge the nature and value of property.

(f) where any immovable property is sold under these rules .the sale shall be subject to the prior encumbrances on the property, if any. The decree holder shall, when the amount for realization of which the sale is held exceeds Rs.100, furnish to the sales Officer within such time as may be fixed by him or by the Recovery Officer, a n encumbrance certificate from the Registration Department for the period of not less then twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub rule (10), prior to the date of the application for execution. The time for production for the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer, as the case may be, The sale shall be by public auction to the highest bidder, provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons to be recorded in writing and provided also that the

Recovery Officer or the Sale Officer may, in his discretion , adjourn the sale to a specified day and hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the judgement debtor contents to waive it. The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of a recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale, shall be the village or locality where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer

Provided that, in cases where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village Patwari in regard to the encumbrances known to him supported by a certificate from the registration department that the encumbrance certificate cannot be granted owing to destruction of the connected records, shall be accepted in the place of an encumbrance certificate

(g) A sum of money equal to 15 percent of the price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of purchase, and in default of such deposit, the property shall forthwith be re-sold.

(h) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within fifteen days from the date of sale.

Provided that, the time for payment of the cost of the stamp may, for good and sufficient reasons to be recorded in writing , be extended at the discretion of the Recovery Officer up to thirty days from the date of sale.

Provided further, that in calculating the amounts to be paid under this clause, the purchaser shall have the advantage of any set-off to which he may be entitled under clause (k).

i) In default of payment within the period mentioned in the last proceeding clause, the deposit may, if the Recovery Officer thinking fit after defraying the expenses of the sale be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

j) Every re-sale of immovable property in default of payment of the amounts mentioned in clause (h) within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period there in before prescribed for the sale.

k) Where a decree-holder purchases the property the purchase money and the amount due on the decree shall be set off against one another and the Sale Officer shall enter satisfaction of the decree in whole or in part accordingly.

(12) Where prior to the date fixed for a sale, the defaulter or any person acting on his behalf or any person claiming interest in the property sought to be sold tenders payment of the full amount due together with interest, travelling and other expenses incurred in bringing the property to sale including the expenses of attachment, if any, the Sale Officer shall forthwith release the property after canceling the order of an attachment where the property has been attached.

(13)(i) Where immovable property has been sold by the Sale Officer, any person, either owing such property or holding an interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer

(a) for payment to the purchaser sum equal to five percent of the purchase money, and

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

(ii) If such deposit and application are made within thirty days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so for deposits together with the five percent deposited by the applicant.

Provided that if more persons than one have made deposits and applications under this sub-rule, the application of the first depositor to the officer authorised to set aside the sale shall be accepted.

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

(14) 3(i) At any time within thirty days from the date of the sale of immovable property, the decree-holder or any person entitled to a share in ratable distribution of the assets or whose interests are affected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of illegality, material irregularity mistake or fraud in publishing or conducting it.

Provided that no sale shall be set aside on the ground of illegality, irregularity, mistake or fraud unless the Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such illegality, irregularity, mistake or fraud.

(ii) If the application be allowed, the said Recovery Officer shall set aside the sale and may direct a fresh one.

(iii) On the expiration of thirty days from the date of sale, if no application to have the sale set aside is made or if such application has been made and rejected, the said Recovery Officer shall make an order confirming the sale.

" Provided that, if he has reason to believe that the sale out to better side not with standing that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may after recording his reasons in writing set aside the sale"

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

(v) After the confirmation of may such sale, the said Recover Officer shall grant a certificate of sale bearing his seal and signature to the purchaser, and such certificate shall state the property sold

and the name of the purchaser and it shall be conclusive evidence of the fact of the purchase in all courts and tribunals, where it may be necessary to prove it and no proof of the seal or signature of the Recover Officer shall be necessary unless the authority before whom it is produced has reason to doubt its genuineness.

(15) Where any lawful purchase or immovable property is resisted and prevented by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property on his own account from obtaining possession of the immovable property purchased, any court of competent jurisdiction

(16) It shall be lawful for the sale officer to sell the whole or any portion of the immovable property of a discharge of money due:

Provided always that, so far as may be practicable, no larger section of immovable property shall be sold that may be sufficient to discharge the amount due with interest and expenses, if any, of attachment and sale.

(15) Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein any payment to the defaulter of any debt dividend or other moneys contrary to such attachment shall be void as against all claims enforceable under the attachment.

Explanation:- For the purpose of this sub-rule, claims enforceable under an attachment include claims for the ratable distribution of assets under sub-rule (24).

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

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

(18) Every person making a payment towards and money due for the recovery of which application has been made under this rule shall be entitled to a receipt for the amount signed by the sale Officer or other officer empowered by the Recovery Officer in that

behalf, such receipt shall state the name of the person making the payment and subject-matter in respect of which the payment is made .

(19) (a) Where any claim is preferred to, or any objection is made of the attachment of, any property attached under this rule on the ground that such property is not liable to such attachment the sale officer shall investigate the claim or objection and dispose of it on merits ;

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

(b) Where the property to which the claim or objection relates has been advertised for sale, the Sale Officer may postpone the sale pending the investigation of the claim or objection

(c) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit within six months from the date of the order to establish the right which he claims to the property is dispute but subject to the result of such 2Suit, if any, the order shall be conclusive.

(20) (i) Any deficiency of price which may happen on re-sale held on under clause (j) of sub rule (11) by reason of the purchaser default , and all expenses incurred on such re-sale shall be certified by the sales officer to the recovery Officer and shall at the instance of the either the decree-holder or the default be recoverable from the defaulting purchaser under the provision of this rule. The costs , if any , incidental to such recovery shall also be borne by the defaulting purchaser.

(ii) Where the property may, on the second sale, sell for a higher price than at the first sale, the defaulting purchaser at the first sale shall have no claim to the difference or increase.

(21) Where any property has been attached in execution of a decree. But by reason of the decree-holders default the Recovery officer is unable to proceed further with the application for execution, he shall either dismiss the application or for any sufficient reason adjourn the proceeding to a future date. Upon the dismissal of such application, the attachment shall cease.

(22) (a) Where the sale officer attaches or has attached , under

these rules, any property not in the custody of any court , which is already under attachment made in execution of a decree of any Court such court shall receive and realize such property and shall determine claims thereto and any objections to the attachment thereof ;

Provided that where the property is under attachment in the execution of decree of more courts than one , the court which shall receive or realize such property and shall determine any claim thereto and any objections to the attachment thereof shall be the court of the highest grade, or where there is no difference in grade between such courts, the courts under whose decree the property was first attached .

(b) Where assets are held by them sales officer and before the receipt of such assets demand notices in pursuance of application for execution of decree against the same defaulter have been receive from more than one decree- holder and the decree holders have not obtained satisfaction the assets after deducting the costs of realization shall be ratably distributed by the sales officers among all such decree-holders in the manner provided in Section 73 of the Code of Civil procedure , 1908.

(23) Where a defaulter dies before the decree has been fully satisfied an application under sub- rule (i) may be made against the legal representative of the deceased and there upon the provisions of this rule shall, save as otherwise provided in this sub-rule, apply as if such level representative was the defaulter. Where the decree is executed against such level representative , he shall be liable only to the extent of property of the deceased which has come to his hands and has not been duly disposed of and for the purpose of ascertaining such liability the Recovery Officer executing the decree may. of his own motion or on the application of the decree -holder, compel such legal representative to produce such accounts as he thinks fit.

(24) Where in connection with the proceeding on an application under section 63 of the Act, any person requires the issue of any process or objects to any process issued or objects to any order passed he shall pay such fee as may be specified by the Registrar in this behalf.



### **73. Delegation Of Powers Under Section 65 :-**

The powers of the Registrar under section 65 shall not be exercised by an officer below the rank of Assistant Registrar.

### **74. Mode Of Service Of Summons :-**

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

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

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

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

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

(c) if the address of such person is known to the Registrar or other authorised person , by sending it to him by registered post ; or

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

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

(5) The serving officer shall in all cases in which the summons has been served under sub-rule (4) endorse or annex or cause to be endorsed or annexed . an or to the original summons a return

stating the time and the manner in which the summons was served and the name and address of the person, if any, identifying the person served and witnessing the delivery or tender of the summons.

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

## **CHAPTER 10 MISCELLANEOUS**

### **75. Appeals Section 85 (2) :-**

For the purposes of section 68, no appeal shall be entertained unless it is accompanied by a copy of the order appealed against.

### **76. Returns To Be Submitted By Co-Operative Societies - Section 85 (2) :-**

The registrar may lay down the returns to be submitted by a Co-op. Society and provide for the persons by whom and the form in which such returns will be submitted . if a Co-op. Society fails to comply with the directive within in a reasonable time, the Registrar may have the returns completed at the expenses of the Co-op. Society.

### **77. Inspection Of Documents - Section 85(2) :-**

Any member of the public shall be permitted, on payment of a fee of one rupee for each occasion of inspecting, to inspect, for any lawful purpose, any public document (exclusive of public document privileged under sections 123, 124, 128 and 131 of the Indian Evidence Act, 1972 ) filed in the office of the Registrar, Co-operative Societies , and in particular the following documents namely :-

(1) The registration register

(2) The registration certificate of a Co- op. Society .

(3) The registered bye-laws of a co- op. Society and amendments effected in such bye -laws.

(4) An order canceling the registration of a co- op. Society.

(5) An order directing the liquidation of a registered co- op. Society.

(6) The annual accounts of the Co- op. Society.

(7) Any decision of the Registrar or award of an Arbitrator.

### **78. Fees For Copies Of Public Document :-**

The fees prescribed for certified copies of any public documents, which any person has under the proceeding rule a right of inspection, are as follows:-

1 For registration certificate Rs. 3-00

2 In the case of other documents, sum Calculated at the following rates:-

(i) First two hundred words or under Rs. 0.75

(ii) Every additional hundred words of fraction thereof. Rs. 0.37

### **79. Form Of Order :-**

The order of the liquidator under clauses (b) and (e) of sub-section (2) of section 59 shall be in the form given in Appendix (g) 279-A. The form of certificate to be issued under sub-section (2) of section 67-a shall be in the form given in Appendix H.

(i) At least fifteen days clear notice, specifying the date, place time and agenda for a meeting of a general body/committee and at least seven days clear notice for a meeting of any smaller body set up by either of them, whether convened by the registrar, the President or otherwise, shall be given to all the members of the general body/committee or smaller body, as the case may be:

Provided that a shorter notice may be given to all the members of the general body/committee or smaller body, as the case may be, with the permission of the registrar or under his direction.

(i-a) The Registrar, may, of his own motion or on a reference made

to him, declare the proceeding of the meeting referred to in clause(1) is invalid, if he is satisfied that the meeting was held without proper notice or without all the members having received the notice for the meeting or if the meeting or if the meeting was not conducted at the appropriate place and time; and

(ii) No matter shall 1except with the permission of directions of the Registrar, be considered either in a meeting of a general body/committee or in a meeting of any smaller body, set up by either of them, unless that matter is specifically included in the agenda which is circulated to all members at least fifteen clear days or seven days in advance, respectively.

(iii) Should a difference of opinion in respect of any matter arise between a nominated member of the committee and other members thereof the opinion of the nominated member shall be recorded in the minutes of the proceeding of the meeting in the words of the nominated member and the proceedings. Shall also be got signed from the nominated member. As required by sub-section (4) of section 26 the chairman shall, as soon as possible. Make a reference to the Government and if no reference is made within seven days of meeting, the Registrar may, on receipt of a report from a nominated member, make a reference to the government for getting its decision.

## **80. Section 80 :-**

### **80A. Section 80A :-**

Bar on voting by Government nominated Members on certain matter, the members nominated by the Government to the committee of a Co-operative Society under clause (A) of sub-section (2) of Section 26 shall not vote in the election of the office bears of that Co-operative Society.

### **80B. Section 80B :-**

The Managing Director of a Co-operative Society shall be its Principal Executive Officer and the employees of the Co-op. Society shall exercise their powers and perform their duties under his superintendence and control. The Managing Director shall exercise

has powers and perform his duties under the over all supervision and control of the committee.

**80C.** Section 80C :-

Notwithstanding any thing containing in rule 80-B, when a chairman has been appointed in pursuance of proviso (a) to clause (a) of sub-section (2) of Section 26 of the Act and when such a Chairman is a member of the Indian Administrative Service, or Joint Registrar, or an Additional Registrar, Co-operative Societies. 23 and is also working whole-time in such a capacity, all power of the Principal Executive Officer, by whatever name called, of a Co-operative Society, will vest in the Chairman. All other employees of the Co-op. Society will exercise their powers and perform their duties his superintendence and control. The Chairman, with the prior approval of the Registrar, may delegate any of his powers to any employee of the Co-op. Society.

**81. Repeal** :-

The Punjab Co-operative Societies Rules, 1956, are hereby repealed.

Provided that any action taken, order issued, bye law made under the provisions of the rules hereby repealed shall, in so far as it is not inconsistent with the provisions of these rules, be deemed to have been taken, issued or made under the provisions of these rules.