

Rajasthan Co-Operative Societies Act, 1965

13 of 1965

[02 September 1965]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar
4. Societies Which May Be Registered And Classified Under This Act
5. Registration With Limited Or Unlimited Liability
6. Application For Registration Of Co-Operative Societies
7. Power Of Registrar To Decide Certain Questions
8. Registration
9. Registration Certificate
10. Co-Operative Societies To Be Bodies Corporate
11. Change Of Name Of Co-Operative Society
12. Change Of Liability
13. Amendment Of Bye-Laws Of A Co-Operative Society
14. Power To Direct An Amendment Of Bye- Laws
15. When Amendments Of Bye-Laws Come Into Force
16. Amalgamation, Transfer Of Assets And" Liabilities And Division Of Co-Operative Societies
17. Power To Direct Amalgamation, Division And Re-Organisation In Public Interest Etc
18. Cancellation Of Registration Certificates Of Co-Operative Societies In Certain Cases

CHAPTER 3 :-MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

19. Persons Who May Become Members
20. Nominal And Associate Member
21. Member Not To Exercise Rights Till Due Payment Made
22. Votes Of Members
23. Manner Of Exercising Votes
24. Restriction On Holding Of Shares
25. Restrictions On Transfer Of Shares Or Interests
26. Transfer Of Interest On Death Of Member

- 27. Liability Of Past Member And Estate Of Deceased Member
- 28. Insolvency Of Members

CHAPTER 4 :- MANAGEMENT OF CO-OPERATIVE SOCIETIES

- 29. Final Authority In A Co-Operative Society
- 30. Annual General Meeting
- 31. Special General Meetings
- 32. Power Of Registrar To Rescind Certain Resolutions
- 33. Appointment Of Committees
- 34. Disqualification Of Membership Etc. Of Committees
- 35. Nominees Of The Government On The Committee
- 35A. Additional Nomination And Appointment Of Chief Executive Officer By The Government In Certain Cases
- 35B. Appointment Of Executive Officer
- 36. Removal Of Committee Or Member Thereof
- 37. Securing Possession Of Records Etc

CHAPTER 5 :- PRIVILEGES OF CO-OPERATIVE SOCIETIES

- 38. First Charge Of Co-Operative Society On Certain Assets
- 39. Charge On Immovable Property To Members Borrowing Lands From Certain Societies
- 40. Vesting Of Lands In Joint Farming Society And Registration Of Agreement
- 41. Deduction From Salary To Meet Societys Claims In Certain Cases
- 42. Charge And Set Off In Respect Of Shares Or Interest Of Members In The Capital Of A Co-Operative Society
- 43. Shares Or Interest Not Liable To Attachment
- 44. Exemption From Certain Taxes, Fees And Duties
- 45. Exemption From Compulsory Registration Of Instruments

CHAPTER 6 :- STATE AID TO CO-OPERATIVE SOCIETIES

- 46. Promotion Of Co-Operative Movement
- 47. Direct Partnership Of Government In Co-Operative Societies
- 48. Indirect Partnership Of Government In Co-Operative Societies
- 49. Principal State Partnership Fund
- 50. Subsidiary State Partnership Fund
- 51. Approval Of Government For Purchase Of Shares
- 52. Liability To Be Limited In Respect Of Certain Shares
- 53. Restrictions Illegible Amount Of Dividend
- 54. Indemnity Of Apex And Central Societies
- 55. Disposal Of Share Capital And Dividend Etc
- 56. Disposal Of Principal State Partnership Fund And Subsidiary State Partnership Fund On Winding Up Of An Apex Or A Central Society
- 57. Principal State Partnership Fund And Subsidiary State Partnership Fund Not To Form Part Of Assets
- 58. Agreement By Government And Apex Societies

- 59. Other Forms Of State Aid Co-Operative Societies
- 60. Provisions Of This Chapter To Override Other Laws

CHAPTER 7 :-PROPERTIESAND FUNDS OF CO-OPERATIVE SOCIETIES

- 61. Funds Not To Be Divided
- 62. Disposal Of Net Profits
- 63. Investment Of Funds
- 64. Restrictions On Borrowings
- 65. Restriction On Loans
- 65A. Interest Not To Exceed Principal
- 66. Restriction On Other Transactions With Non- Members
- 67. Provident Fund

CHAPTER 8 :- AUDIT, INQUIRY, INSPECTION AND SURCHARGE

- 68. Audit
- 69. Communication Of Defects In Audit To Co- Operative Societies
- 70. Inquiry By Registrar
- 71. Inspection Of Books Of A Co-Operative Society
- 72. Inspection Of Books By Financing Bank
- 73. Costs Of Inquiry
- 74. Surcharge

CHAPTER 9 :- SETTLEMENT OF DISPUTES

- 75. Disputes Which May Be Referred To Arbitration
- 76. Limitation
- 77. Reference Of Disputes To Arbitration

CHAPTER 10 :-WINDINGUP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

- 78. Winding Up Of Co-Operative Societies
- 78A. Insured Co-Operative Bank
- 79. Liquidator
- 80. Powers Of Liquidator
- 81. Termination Of Winding Up Proceedings
- 82. Disposal Of Surplus Assets
- 83. Cancellation Of Registration Of A Co- Operative Society

CHAPTER 11 :- LAND DEVELOPMENT BANKS

- 84. Application Of Chapter To Land) Development Banks
- 85. State And Other Land Development Banks
- 86. Appointment, Powers And Functions Of Trustee
- 87. Issue Of Debentures
- 88. Guarantee By State Government
- 89. Vesting Of Property In Trustee And Debenture Holders Charge On Assets
- 90. Powers Of Land Development Banks To Advance Loans And To

Hold Lands

91. Mode Of Dealing With Applications For Loans
92. Order Granting Loan Conclusive Of Certain Matters
93. Priority Of Mortgage
94. Mortgages Executed In Favor Of Land Development Banks To Stand Vested In State Land Development Bank
95. Registration Of Mortgages And Leases In Favor Of Land Development Banks
96. Mortgages Not To Be Questioned On Insolvency Of Mortgagers
97. Right Of Land Development Bank To Pay Prior Debts Of Mortgager
98. Mortgages Executed By Managers Of Joint Hindu Families
99. Section 8 Of The Central Act 32 Of 1956 To Apply To Mortgages
100. Restrictions On Leases
101. Land Development Bank To Receive Money And Give Discharge
102. Power Of Land Development Banks Where Mortgaged Property Is Destroyed Or Security Becomes Insufficient
103. Right Of Land Development Bank To Buy Mortgaged Property
104. Recovery Of Loans By Land Development Banks
105. Power To Distain
106. Sale Of Mortgaged Property
107. Confirmation Of Sale
108. Disposal Of Sale Proceeds
109. Certificate To Purchase, Delivery Of Property, And Title Of Purchases
110. Recovery Of Loans On Certificate By Registrar
111. Collector To Make Recoveries During Certain Period
112. Officers Of Banks Not To Bid At Sales
113. Provision For Guarantee Funds To Meet Certain Loss
114. Registrars Power To Permit Any Financing Bank To Function As A Land Development Bank
115. Service Of Notice
116. Power Of Committee Of State Land Development Bank To Supervise Land Development Banks And Make Regulations

CHAPTER 12 :-EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

117. Enforcement Of Charge
118. Execution Of Orders, Etc
119. Registrar Or Person Empowered By Hint To Be A Civil Court For Certain
120. Attachment Of Property Before Award Or Order
121. Recovery Of Sums Due To Government
122. Transfer Of Property Which Cannot Be Sold

CHAPTER 13 :- APPEALS, REVISION AND REVIEW

123. Constitution Of And Appeals To The Tribunal
124. Appeals To Other Authorities

- 125. Revision By Tribunal
- 126. Review Of Orders By Tribunal
- 127. Interlocutory Orders By Tribunal
- 128. Power Of The Government And Registrar To Call For Proceeding Of Subordinate Officers And To Pass Orders Thereon

CHAPTER 14 :- OFFENCES AND PENALTIES

- 129. Prohibition Against Use Of The Word "Co- Operative"
- 130. Offences
- 131. Punishment For Offence Under Section 130
- 132. Cognizance Of Offences

CHAPTER 15 :- MISCELLANEOUS

- 133. Address Of A Co-Operative Society
- 134. Rights Of Members To See Books, Etc
- 135. Powers Of Civil Court
- 136. Registrar And Other Officers To Be Public Servants
- 137. Bar Of Jurisdiction Of Courts
- 138. Power To Exempt Societies From Conditions Of Registration
- 139. Power To Exempt Class Of Societies
- 140. Register Of Members
- 141. Proof Of Entries In Co-Operative Societys Books
- 142. Service Of Notice Under The Act
- 143. Notice Necessary In Suits
- 144. Acts Of Co-Operative Societies Not To Be Invalidated By Certain Defects
- 145. Indemnity
- 146. Certain Acts Not To Apply
- 147. Delegation Of Powers
- 148. Power To Make Rules
- 149. Rules To Be Laid Before State Legislature
- 150. Branches Etc Of Societies Outside The State
- 151. Power To Remove Difficulties
- 152. Bar To Legal Practitioner
- 153. Repeal And Savings

Rajasthan Co-Operative Societies Act, 1965

13 of 1965

[02 September 1965]

An Act to consolidate and amend the law relating to co-operative societies in the State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Sixteenth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Rajasthan Co-operative Societies Act, 1965.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

1. Came into force w.e.f. 2.10.1965 vide Govt. Order No. F. 17(2)/Coop/58 dated 30.9.1965, Pub. in Raj.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "bye-laws" means the bye-laws registered or deemed to be registered under this Act and for the time being in force and includes the registered amendments of such bye-laws;

1(aa) "Chief Executive Officer" means an individual who, subject to the superintendence, control and direction of the Committee is entrusted with the management of the whole or substantially the whole of the affairs of a society and includes any other person occupying the position of a Chief Executive Officer by whatever name called;"

2(aaa) "Executive Officer" means an officer who, subject to the superintendence, control and directions of the Committee, is appointed under section 35-B to assist the Chief Executive Officer in the management of the affairs of a society."

(b) "Collector" means the Collector of a district, appointed under section 20 of the Rajasthan Land Revenue Act, 1956;

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

(d) "Co-operative society" or "society" means society registered or deemed to be registered under this Act;

(e) "Co-operative society with limited liability" means a co-operative society, in which the liability of its members for the debts of the society in the event of its being wound up is limited by its bye-laws,-

(i) to the amount, if any, unpaid on the shares respectively held by them, and

(ii) to such amount, not less than five times the amount of the share capital subscribed by the members, which they may respectively undertake to contribute to the assets of the society;

(f) "Co-operative society with unlimited liability" means a co-operative society the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficit in the assets of the society,

(g) "financing bank" means a co-operative society, the main object of which is to lend money to other societies and includes a Land Development Bank;

(h) "Government" means the Government of the State of Rajasthan;

(i) "member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal and an associate member;

(j) "officer" means the President, Vice-President, Chairman, Vice-Chairman, Secretary, Manager, Liquidator, Administrator or a member of a committee and includes any other person empowered under the rules and the bye-laws to give directions in regard to the business of a co-operative society;

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

(l) "Registrar" means a person appointed to perform the functions 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;

(m) "Revenue Appellate Authority" means the officer appointed or designated as such authority under section 20A of the Rajasthan Land Revenue Act, 1956;

(n) "Tribunal" means the Tribunal constituted under section 123;

3[(nn) "weaker sections" means such landless agricultural laborers, rural artisans, marginal farmers, small farmers and other economically and socially backward or neglected persons as the State Government may, by order published in the Official Gazette, specify, having regard to the size of their holding, income and the various ones into which the State is divided for the purpose of determining the ceiling limits under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973); and]

(o) "year" means such period of twelve months as may be prescribed for keeping the accounts of a co-operative society.

1. Inserted Vide Amnd. Act 1991 Pub. in Raj. Gaz. Exty. Pt. 4. (A) dated 27.3.1991"

2. Inserted vide Notification No. F. (18) Vidhai/91 Pub. in Raj. Gaz., Exty. Pt. IV A dated 24.9.1991

3. Inserted by section 2 of Rajasthan Act No. 17 of 1976, Pub. in Raj. Gaz. Pt. IV-A, Ext. Ord., dated 13.2.1976

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, all or any of the powers of the Registrar under this Act.

(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.

4. Societies Which May Be Registered And Classified Under This Act :-

(1) Subject to the provisions of this Act, a co-operative society which has as its objects the promotion of the economic interests of its members in accordance with the co-operative principles, or a co-operative society established with the object of facilitating the operations of such society, may be registered under this Act.

(2) The Registrar shall classify societies of the nature specified in sub-section (1), with reference to their objects, area of operation, membership or any other prescribed matter, into such classes or sub-classes as may be prescribed.

(3) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another, and may, in the public interest and subject to such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.

(4) A list of all societies so classified shall be published by the Registrar from time to time, in the prescribed manner.

5. Registration With Limited Or Unlimited Liability :-

(1) A co-operative society may be registered with limited or unlimited liability:

Provided that the liability of a co-operative society of which any member is a co-operative 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 co-operative society registered under this Act with limited liability.

6. Application For Registration Of Co-Operative Societies :-

(1) AN application for the registration of a co- operative society shall be made to the Registrar in such form as the Registrar may, from time to time, specify; and the applicant shall furnish to him all such information about the society as he may require.

(2) Every such application shall conform to the following requirements, namely:-

(a) the application shall be accompanied by three copies of the proposed bye-laws of the co-operative society;

(b) where all the applicants are individuals, the number of applicants shall not be less than fifteen and each of such persons shall be a member of a different family;

(c) where all the applicants are co-operative societies the number of applicants shall not be less than five:

Provided that in the case of a service co-operative society, as classified under the rules, such minimum number of individual applicants shall not be less than fifty, each of whom shall be a member of a different family, and of whom at least ten per centum shall belong to the weaker sections of the community;

(d) the minimum share capital of a service co-operative as aforesaid shall be Rs. 750.- and each member shall have not less than one share;

(e) Where the objects of the co-operative society include the creation of funds to be lend to its members and where all the applicants are individuals save where the Registrar by general or special order otherwise directs, the applicant shall reside or own immovable property in the same village or town or in the same group of villages or belong to the same class or pursue the same occupation;

(f) the application shall be signed by every one of the applicants who is an individual and in the case of applicants other than individuals, by a person duly authorised by such applicant in that behalf.

Explanation:- For the purposes of clause (b) of sub-section (2), the expression-

(i) "family" means a family consisting of a husband and a wife, their children and grand-children being dependant on them and the widowed mother of the husband so dependant;

1(ii) Omitted]

1. Omitted by section 3 of Rajasthan Act No. 17 of 1976, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.2.1976.

7. Power Of Registrar To Decide Certain Questions :-

When any question arises whether for the purpose of this Act, a person is an agriculturist or not or whether any person is a resident in a town or village or group of villages or whether two or more village shall be considered to form a group or whether any person belongs to a particular class or occupation or a weaker section of the community, the question shall be decided by the Registrar whose decision shall, subject to the provisions contained in section 128, be final.

Explanation.-- For purposes of this section, the word "agriculturist" shall mean a person who earns his livelihood wholly or substantially, by agriculture or raising livestock or cattle breeding.

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 aims of the proposed society are not inconsistent with the principles of social justice, co-operation and public morality and that they facilitate the establishment of a socialistic pattern of society,

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

(e) that the proposed society complies with the requirements of the sound business,

The Registrar may register the co-operative society and its bye-laws.

(2) If the Registrar is unable to dispose of an application for registration within the period of three months from the date of making the application for registration under section 6, he shall forward the papers to the Government with this report stating the

reasons there for and for seeking extension and he shall thereafter act in accordance with such directions as may be issued to him by the Government within two months.

(3) Where the Registrar refuse to register a co-operative society, he shall communicate the order of refusal, together with the reasons there for, to such of the applicants as may be prescribed.

9. Registration Certificate :-

Where a co-operative 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 a co-operative society duly registered under this Act, unless it is proved that the registration of the society has been cancelled.

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

The registration of a co-operative society shall render it 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 contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

11. Change Of Name Of Co-Operative Society :-

(1) A co-operative society may, by an amendment of its bye-laws, change its 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 the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a co-operative society shall not affect any rights or obligations of the co-operative society, or render defective any legal proceedings by or against it; and any legal proceedings which may have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

12. Change Of Liability :-

(1) Subject to the provisions of this 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-law 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 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 into be registered or take effect until, either-

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

(b) all claims of the members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

13. Amendment Of Bye-Laws Of A Co-Operative Society :-

(1) No amendment of any bye-law of a co-operative society shall be valid unless such amendment has been registered or is deemed to be registered under this Act specified in sub-section (2) are complied with.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment-

(a) is not contrary to the provisions of this Act and the rules,

(b) does not conflict with principles of co-operation social justice and public morality, but facilitates the establishment of a socialistic pattern of society,

(c) satisfies the requirements of sound business, and

(d) will promote the economic interests of the members of the society, he may register the amendment.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) 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 there for, to the society.

(5) If the Registrar is unable to register the proposed amendment within the period of three months from the date of making the application for registration under section 6, he shall forward the papers to the State Government along with his report stating the reasons therefore and for seeking extension, and he shall thereafter act in accordance with such directions as may be issued to him by the State Government within two months.

14. Power To Direct An Amendment Of Bye- Laws :-

(1) If at any time, it appears to the Registrar that an amendment of the bye-laws of a co-operative society is necessary or desirable in the interests of such society, he may, by an order in writing, require the society to make such amendment within such time as he may specify in such order.

(2) If the society fails to make such amendment within the time so specified, the Registrar may, after giving the society an opportunity of being heard, make such amendment himself and register the same, and issue to the society a copy of such amendment certified by him and thereupon such amendment shall be subject to appeal, if any, be binding on the society and its members.

15. When Amendments Of Bye-Laws Come Into Force :-

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.

16. Amalgamation, Transfer Of Assets And Liabilities And Division Of Co-Operative Societies :-

(1) A co-operative society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds 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.

(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-law or contract to the contrary, any member or creditor shall, during a period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or 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, either-

(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,

(8) The amalgamation, transfer or division made under this section shall not affect any rights or obligations of the societies so amalgamated, or of the society so divided or of the transferee, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated or divided or the transferee; and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society, the new societies or the transferee, as the case may be.

17. Power To Direct Amalgamation, Division And Re-Organisation In Public Interest Etc :-

(1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any co-operative society that two or more co-operative societies should amalgamate

or any co-operative society should be divided to form two or more societies or should be reorganised then, notwithstanding anything contained in section 16, but subject to the provisions of this section, the Registrar may by order provide for the amalgamation, division or reorganisation, of these societies into a single society, or into societies with such constitution, property rights, interests and authorities and such liabilities, debts and obligations, as may be specified in the order.

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

(a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned,

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf either from the society or from any member or class of members thereof or from any creditor or class creditors.

(3) 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, division or reorganisation.

(4) Every member or creditor of each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of order of amalgamation, division or reorganisation, his share or interest if he be a member and the amount in satisfaction of his debts if he is a creditor.

(5) On the issue of an order under sub-section (1), the provision contained in sub-section (7) and (8) of section 16 shall apply to the society so amalgamated divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.

18. Cancellation Of Registration Certificates Of Co-Operative Societies In Certain Cases :-

(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 16 or 17, the registration

of the first mentioned co-operative society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 16 or 17, the registration of each of the amalgamated societies shall stand cancelled on the registration of the new society and each society shall be deemed to have been dissolved and shall cease to exist a corporate body.

(3) Where a co-operative society divides itself into two or more co-operative societies in accordance with the provisions of section 16 or is to be divided by the Registrar in accordance with the provisions of section 17, the registration of the society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER3 MEMBERS OF CO-OPERATIVE SOCIETIES END THEIR RIGHTS AND LIABILITIES

19. Persons Who May Become Members :-

(1) No person shall be admitted as a 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 (Central Act 9 of 1872);

(b) any other co-operative society;

(c) the State Government; or

(d) any other person, body, or local authority as may be prescribed:

Provided that an individual shall not be eligible to the membership of a financing bank other than a Land Development Bank or such class of co-operative society as may be prescribed in this behalf:

Provided further that the provisions of clause (a) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or college:

Provided also that where a money-lender as defined in the Rajasthan Money-Lenders Act, 1964 is a member of a co-operative society, he shall not be entitled to receive credit from the society.

(2) An application for admission as a member of a co-operative society shall lie to the committee of that co-operative society. Such committee shall decide the application³ and communicate its decision to the applicant within a period of 30 days from the receipt

of the application, and where the application is refused, it shall also be necessary for the committee to communicate to the applicant, the reasons for such refusal, within the said period:

1[Provided that subject to the provisions of sub-section (1), every person including one belonging to weaker sections who applies for membership to the Assistant Registrar or to the committee of a village service society, Primary Land Development Bank or a farmers service society shall be deemed to have been admitted to such membership" with effect from the date of receipt of his application 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 admitted to such membership, if, after giving to such person an opportunity of being heard against the proposed removal and 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 a complaint made by the committee of the society or by any aggrieved person, shall be passed within thirty days of the receipt of the complaint by him.]

(3) If the committee-

(i) refuses the application for admission as a member, an appeal shall lie against such refusal to the Registrar; or

(ii) fails to communicate its decision or the reasons of refusal under sub-section (2) within the time specified therein, the applicant may, within a period of sixty days from the expiration of such time, move the Registrar for the decision of his application:

Provided that nothing contained in this sub-section shall apply to an application for admission as a member of a farming or Producers Society, as prescribed under the rules:

Provided further that if a committee of such society refuses admission as a member or. fails to communicate its decision within the time specified in sub-section (2), an appeal or application, as the case may be, shall lie, within the prescribed period and in the prescribed manner, to the general body of the society, against such refusal or failure or communicate such decision.

(4) Where the Registrar is moved under sub-section (3) he may, on the application of such person, after giving the society a reasonable opportunity of being heard, himself decide the application in accordance with this Act and the rules and bye-laws made there under and the decision of the Registrar shall be final.

(5) Where an individual is a member of a financing bank other than a Land Development Bank or of such class of co- operative societies as may be prescribed under the first proviso to sub-section (1), on the day immediately before the commencement of this Act or rules whereby such class of co- operative societies have been prescribed than notwithstanding anything contained in this Act or the rules or byelaws, he shall cease to be such member upon such commencement.

1 Inserted by section 4 of Rajasthan Act No. 17 of 1976, Pub. in the Raj. Gaz., Pt. IV-A, Exty., dt. 13.2.1976.

20. Nominal And Associate Member :-

(1) Notwithstanding anything contained in section 19, a co- operative society may admit-

- (i) a prescribed class of persons as a nominal member; or
- (ii) a prescribed class of persons or a prescribed local authority, an associate member.

(2) A service co-operative society, a marketing society and a central co-operative bank, as classified under the rules, shall respectively have the Sarpanch of the Panchayat of the village, Pradhan of the Panchayat Samiti and the Pramukh of the Zila Parishad of the district concerned, as an associate member.

(3) A nominal or an associate member shall not be entitled to any share in any form whatever in the assets or profits of the society.

(4) Save as provided in this section, a nominal or 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 this Act, rules or by-laws of the society.

21. 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 membership or has acquired such interest in the society, as may be specified in the bye-laws.

22. Votes Of Members :-

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

Provided that-

- (a) a nominal or an associate member shall not have right of vote;
- (b) Where the Government is a member of the co-operative society, each person nominated by the Government on the committee of the co-operative society shall have one vote.

23. Manner Of Exercising Votes :-

1(1) Every member of a co-operative Society shall irrespective of the number and value of the shares he holds, have only one vote which shall be exercised in person and no member shall be permitted to vote by proxy."

(2) Notwithstanding anything contained in sub-section (1),-

2["(a) a co-operative society which is a member of another co-operative society shall, subject to any rules made under this Act, be represented by its Chairman or, in his absence, (b) by the Vice-Chairman to vote on its behalf in the affairs of that other society;

(b) a local authority or body which is a member of a co-operative society under section 19, may, subject to any rules made under this Act, be represented by its Chairman or in his absence, by the Vice-Chairman to vote on its behalf in the affairs of the society".

1 Substituted vide Amnd. Act 1991 Pub. in Raj. Gaz. Exty. Pt. 4(A), dt. 27.3.1991.

2 Substituted vide Noti. No. F. 2(18) Vidhai/91 Pub. in Raj. Gaz. Exty. Pt. 4A, dt. 24.9.1991.

24. Restriction On Holding Of Shares :-

In any co-operative society, no member belonging to the category mentioned in clause (a) of sub-section (1) of section 19 shall-

- (a) hold more than such portion of the total share capital of the society , not exceeding one fifth thereof, as may be prescribed, or
- (b) have or claim any interest in the shares of the society exceeding five thousand rupees:

Provided that the Government may, by notification in the Official Gazette, specify in respect of any class of co-operative societies, a higher maximum than one fifth of the share capital or a higher amount than five thousand rupees, as the case may be.

25. Restrictions On Transfer Of Shares Or Interests :-

(1) The transfer of a share or interest of a member in the capital of a co-operative society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section

24.

(2) No transfer by a member of his share or interest in a co-operative society shall be valid unless,-

(a) the member has held such share or interest for not less than one year;

(b) the transfer is made to the society or to a member of the society or to a person approved by the committee of the society; and

(c) the transfer is approved by the committee of the society.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign or is expelled or ceases to be a member on account of his being disqualified by the Act or by the rules made there-under or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital of the society by paying for it at the value determined in the manner prescribed:

Provided that the total payment of share capital of the society in any financial year for such purposes does not, except with the previous permission of the Registrar, exceed ten per centum of the paid up capital of the society on the last day of the financial year immediately preceding.

26. Transfer Of Interest On Death Of Member :-

(1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member to the person or persons nominated in accordance with the rules, or if no person has been so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member:

Provided that such nominee, heir or legal representative, as the case may be, is admitted as a member of the society:

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in co-operative society.

(2) Notwithstanding contained in sub-section (1), any such nominee heir or legal representative, as the case may be, may require the society to pay him the value of the share or interest of the deceased member ascertained in accordance with the rules.

(3) Where such nominee, heir or legal representative, as the case may be, is not admitted as a member of the society under sub-

section (1), the society shall pay him all other moneys due to the deceased member from the society.

(4) All transfer and payments made by a cooperative 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.

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

(1) Subject to the provisions of sub- section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for 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, and

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

(2) Where a co-operative society is. ordered to be wound up under section 78, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of 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 the date of his death, as the case may be.

28. Insolvency Of Members :-

Not with standings any things contained in any law relating to insolvency for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to Government or to a local authority.

CHAPTER 4 MANAGEMENT OF CO-OPERATIVE SOCIETIES

29. Final Authority In A Co-Operative Society :-

The final authority in a co-operative society shall, subject to the provisions of this Act and the rules, vest in the general body of the members:

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegated members of the society elected in accordance with such bye-laws,

the smaller body shall exercise such. powers of the general body as may be prescribed or as may be specified in the bye-laws of the society:

Provided further that nothing in this section shall affect any powers conferred on a committee or any officer of a co-operative society by the rules or the bye-laws.

30. Annual General Meeting :-

(1) Every co- operative society shall, within the time prescribed therefore, call an annual general meeting for the purpose of-

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

(b) election, if any, in the prescribed manner of the members of the committee other than nominated members;

(c) consideration of the audit report and the annual report;

(d) disposal of the net profits; and

(e) consideration of any other matter which may be brought forward in accordance with the bye-laws:

Provided that if no such meeting is called within the time aforesaid, the Registrar or any person authorised by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting fully called by the society:

Provided further that the Registrar may order that the expenditure incurred in calling such a meeting under the foregoing proviso shall paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the general meeting.

(2) At every annual meeting of a society, the committee shall lay down before the society, a balance sheet and profit and loss account for the year in the manner prescribed by the Registrar by general or special order for any class or classes of societies.

Explanation.-- In the case of a society not carrying on the business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account; and all references to profit and loss account, and to "profit" or "loss" in this Act, shall be construed in relation to such society as reference respectively, to the "excess of income over expenditure" and "excess of expenditure over income."

(3) There shall be attached to every balance sheet laid before the society in general meetings, a report by its committee, with respect to (a) the state of the societys affairs: (b) the amounts, if any,

which it proposes to carry to any reserve either in such balance sheet, or in specific balance sheet; (c) the amounts, if any, which it recommends should be paid by way of dividend, bonus, or honoraria to honorary workers: and (d) list of defaulters along with the amounts outstanding against each of them. The committees report shall also deal with any changes, which have occurred during the year for which the accounts are made up in the nature of the societys business. The committees report shall be signed by its Chairman, or any other member authorised to sign on behalf of the committee.

(4) At every annual general meeting, the balance sheet, the profit and loss account, the audit memorandum submitted by auditor appointed under section 68 and the compliance report of the previous years reports and the committees report shall be placed for adoption and such other business will be transacted as may be laid down in the bye-laws and of which due notice has been given.

(5) If default is made in calling a general meeting within the period prescribed therefore under sub-section (1), or in complying with sub-sections (2), (3) or (4), the Registrar may, by order, declare any officer or member of the committee whose duty it was to call such a meeting or comply with sub-sections (2), (3) or (4) and who without reasonable excuse failed to comply with any of the aforesaid sub-sections, disqualified for being elected or being an officer or a member of the committee for such period not exceeding three year, as he may specify in such an order and, if the officer is a servant of the society, impose a penalty on him of an amount not exceeding one hundred rupees:

Provided that no order or disqualification or imposition of penalty under this sub-section shall be made without-

(a) giving such officer or member of the committee or servant of the society, an opportunity to call the general meeting of the society or comply with the requirements of sub-section (2), (3) and (4), within the time specified by the Registrar, and such officer or member of the committee or servant of the society has failed to do so within such time; and

(b) giving such officer or member of the committee or servant of the society, a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(6) Any penalty imposed under sub-section (5) may be recovered in the manner provided by the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), for the recovery of fines imposed by a Magistrate as such fine was imposed by the Magistrate himself.

31. Special General Meetings :-

(1) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of requisition in writing from the Registrar or from such number of members, not being less than one-fifth of the total number of members as may be specified in the bye-laws.

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

(3) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (2) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the meeting.

32. Power Of Registrar To Rescind Certain Resolutions :-

(1) If in the opinion of the Registrar, any resolution passed at the meeting of any co-operative society or committee thereof is opposed to the objects of the society or is prejudicial to the interests of the society, or is in excess of the powers of the society, the Registrar, after giving the co-operative society an opportunity of being heard, may by order in writing rescind the resolution in whole or in part specifying the reasons therefore.

(2) On receipt of an intimation from the Registrar, of his proposal to rescind the resolution under sub-section (1), the said resolution shall cease to have effect until the Registrar passes final orders in the matter.

33. Appointment Of Committees :-

The general body of a co-operative society shall constitute a committee in accordance with the bye-laws and shall entrust the management of the affairs of the society to such committee:

Provided that in the case of a society registered after, the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for the period of three months from the date of the registration, but the committee appointed

under this proviso shall cease to function upon the constitution of a new committee which shall be constituted in accordance with the bye-laws within the said period of three months.

1[Provided further that at least one-third of the members of the committee of a village service Society a farmers service society, a Primary Land Development Bank and a Central Co- operative Bank shall be from weaker sections and if for any reason whatsoever, the members of weaker sections to the extent as aforesaid are not elected on the committee of any society or a vacancy occurs amongst them, the deficiency or the vacancy shall be made good or filled in, as the case may be, by the State Government or by the Registrar if so authorised by the State Government in relation to any society, by nominating persons belonging to weaker sections on the committee of such society:

Provided further that in the case of a Central Co-operative Bank or a Land Development Bank or a farmers service society, where the term of the elected members of the committee of such society has not expired on the date of the coming into force of the Rajasthan Co-operative Societies (Amendment) Act, 1976 and the committee of such society does not have at least one-third of its members from amongst the weaker sections, the State Government shall, notwithstanding anything to the contrary contained in this Act or the rules framed there under, or the bye-laws of such society, nominate on the committee of such society such further number of members, as may be necessary, to have at least one-third of its members from amongst the weaker section.]

2[Provided also that notwithstanding anything to the contrary contained in this Act or the rules framed there under, or the byelaws of a society, there shall be in all nine elected members in a committee and in the case of an Agricultural marketing Society, out of such nine members two shall be from amongst the individual agriculturist members of such society".

1 Inserted by section 5 of Rajasthan Act No. 17 of 1976, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.2.1976.

2. Inserted by Amnd. Act 1992, Pub in Raj.Gaz Exty Pt. 4(A), dt. 17.3.1992

34. Disqualification Of Membership Etc. Of Committees :-

(1) No person shall at the same time, be a chairman of more than one apex or central society, as classified under the rules.

(2) If any person is, on the date of his election or appointment as a chairman of- such apex or central society as aforesaid already a chairman of any such apex or central society then his election or appointment as the case may be, on the date aforesaid, shall be avoid.

(3) If any person is, at the commencement of this Act, a chairman of more than one of such apex or central society then at the expiration of a period of ninety days from such commencement, he shall cease to be a chairman of such societies unless he has previously resigned his chairmanship of more than one of such societies.

(4) No person shall be eligible for being elected or appointed as a member of a committee if he is in default to the society or to any other society, in respect of any loan or loans taken by him for such period as is specified in the bye-laws of the society concerned or in any case for a period exceeding three months and such a member as aforesaid shall cease to hold office as soon as he has incurred the disqualification mentioned in this sub- section.

(5) (a) No money-lender as defined in the Rajasthan Money-Lenders Act, 1964, shall be eligible for being elected or appointed as an officer of a service co-operative society, as classified under the rules, nor shall he continue as an officer thereof upon the commencement of this Act;

(b) Where an officer of such society as aforesaid; at any time after the commencement of this Act, starts money lending business, he shall, thereupon, cease to be an official of such society.

1[" (6) No person against whom an order under section 74 has been passed, such order not having been set aside, shall eligible for election or appointment as a member of a committee until the expiry of a period of three years from the date he repays or restores the money or other property or part thereof with interest or pay contribution and costs or compensation in satisfaction of such order."; and

(7) No member of a committee, who has been removed under section 36, shall be eligible for election or appointment to the committee for a period of three years from the date of expiry of the period of removal.

2[(7-A) No person shall be eligible for election as a member of a committee if he has continuously remained a member of the committee of the same society for a period of six years or for two terms, whichever is less, unless a period of three years from the date of expiry of the said period or the said terms, as the case may

be, has elapsed.]

3["7-B) No person shall remain both a member of a committee and a Member of Parliament or a State Legislature or the Pramukh of a Zila Parishad or the Pradhan of a Panchayat Samiti and if already a member of Parliament or a State Legislature or the Pramukh of a Zila Parishad or the Pradhan of a Panchayat Samiti, he shall, at the expiration of a period of fourteen days from the date he becomes a member of such committee, cease to be such member of such committee unless, before such expiration, he resigns his seat in the Parliament or the State Legislature or the office he holds in the Zila Parishad or the Panchayat Samiti, as the case may be".

(8) Any question as to whether a member of the committee shall or has become subject to any of the disqualifications mentioned under this section or the rules shall be decided by the Registrar.

(9) Nothing in this section shall apply to a person nominated as chairman of any society by the Government or the Registrar.

1 Substituted by Amnd. Act 1992 Pub. in Raj. Gaz. Exty. Pt 4(A), dt. 17.3.1992.

2 Inserted w.e.f. 3.12.1981 by section 2 of Rajasthan Act No. 1 of 1982, Published in Rajasthan Gazette, part IV-A, Extraordinary, dated 16.3.1982.

3 Inserted Amnd, Act 1992 Pub. in Raj. Gaz. Exty. Pt4(A), dt. 17.3.1992.

35. Nominees Of The Government On The Committee :-

(1) Where the Government-

- (a) has subscribed to the share capital of a co-operative society; or
- (b) has assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in Chapter VI; or
- (c) has guaranteed the repayment of the principal and payment of interest of debentures issued by a co-operative society; or
- (d) has guaranteed the repayment of principal amount and payment of interest on loans and advances to a co-operative society;

the Government or any authority specified by the Government in this behalf shall have the right to nominate not more than three members or one-third of the total number of members of the committee of a co-operative society, whichever is less:

Provided that such nominees shall only be Government servants.

(2) A member nominated on the committee of a co-operative society under sub-section (1) shall hold office during the pleasure

of the Government or the specified authority as the case may be.

35A. Additional Nomination And Appointment Of Chief Executive Officer By The Government In Certain Cases :-

1[(1) Notwithstanding anything contained in this Act or in the bye-laws of the society, where the Government has subscribed to the share capital of a co- operative society to the extent of two lacs of rupees or more, the Government in this behalf may nominate another member in addition to those nominated under section 35 and appoint him as Chief Executive Officer of such society. The member thus nominated and appointed shall hold office during the pleasure of the Government or the specified authority as the case may be.

(2) Where the Government appoints a Chief Executive Officer under this section, the Chief Executive Officer holding office immediately before such appointment shall cease to hold office on such appointment.

(3) The terms and conditions of the Chief Executive Officer appointed under this section shall be such as may be determined by the Government and the remuneration payable to him shall be paid out of the funds of the co-operative society."

1 Inserted vide Amnd. Act 1991, Pub. in Raj. Gaz. Exty. Pt 4(A), dt. 27.3.1991, P. 91.

35B. Appointment Of Executive Officer :-

1[(1) Notwithstanding anything contained in this Act or in the bye-laws of the society, where the Government has subscribed to the share-capital of a co- operative society to the extent of two lacs of rupees or more, the Government or any authority specified by the Government in this behalf may appoint an Executive Officer of such society. The officer thus appointed shall hold office during the pleasure of the Government or the specified authority as the case may be.

(2) The terms and conditions of the Executive Officer appointed under this section shall be such as may be determined by the Government and the remuneration payable to him shall be paid out of the funds of the Cooperative Society."

1 Inserted vide Noti No. F. 2(18) vidhai/91, Pub. in Raj, Gaz. Exty., Pt 4(A), dt. 24.9.1991, P. 55.

36. Removal Of Committee Or Member Thereof :-

(1) If, in the opinion of the Registrar, the committee of an co-operative society or any member of such committee persistently makes default or is negligent in the performance of the duties imposed on it or him 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, or willfully disobeys directions issued by the Registrar for the purpose of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Government, or is otherwise not discharging its or his functions properly, the Registrar may, after giving the committee or the member, as the case may be, a reasonable opportunity to state its or his objections, if any, by order in writing-
1(a) remove the committee and appoint a Government servant as an administrator to manage the affairs of the society and shall submit his report justifying the removal of the committee, to the State Government within a period of fifteen days from the date of removal of the committee; or]

(b) remove the member and get the vacancy filled up for the remainder of the term of the outgoing member, according to the bye-laws;

2(1A) Where a committee is removed under sub- section (1)-

(a) any member of the committee so removed may appeal to the State Government against the decision of the Registrar removing the committee, within a period of thirty days from the date of the order of the removal;

(b) the State Government, after perusing the report of the Registrar and where an appeal has been filed against the order of the removal of a committee, after hearing the appellant, shall, within a period of three months from the date of the order of removal of the committee, pass an order-

(i) confirming the removal of the committee; or

(ii) accepting the appeal and setting aside the order of removal;

(c) if the State Government confirms the order of removal of a committee, it may allow the administrator to continue or may nominate another committee, and where the State Government accepts the appeal, and sets aside the order of removal, the committee so removed shall start functioning to all intents and for all purposes, as if it had never been removed;

(d) the administrator appointed under clause (a) of sub-section (1) shall cease to hold office immediately upon the nomination of another committee or upon the setting aside of the order of

removal, as the case may be. The nominated committee shall cease to hold office upon the expiry of the remainder of the term of the elected committee removed under clause (a) of sub-section (1):

Provided that the State Government may, by order, extend the period of office of a nominated committee for such time not exceeding one year as may be specified in the order; and

(e) the State Government may delegate its power of nomination of a committee under clause (c) to such officer of the State Government and in relation to such co-operative society as may be prescribed.]

3["1B) If, before the expiry of the term of the committee as specified in the bye-laws, a new committee is not constituted, the Registrar may appoint a Government servant as administrator to manage the affairs of the society for a period not exceeding 4[two years] or till a new committee is constituted, whichever is earlier:

Explanation.-- A member of the committee for which an administrator is appointed under this sub-section shall not be deemed to be disqualified under sub-section (7) of section 34."

(2) The administrator so appointed 5[or the committee so nominated, as aforesaid] shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have powers to perform all or any of the functions of the committee or of any officer of the society and take all such action as may be required in the interest of the society.

(3) The Registrar may fix the remuneration payable to the person appointed as administrator. The amount of such remuneration and the other costs, if any, incurred in the management of the society shall be payable from its funds.

6(4) The nominated committee before ceasing to hold office under clause (d) of sub-section (1-A), shall arrange for the election of a new committee in accordance with the bye-laws of the Society, and the newly elected committee shall function with effect on and from the date of the nominated committee cease to hold office as aforesaid.]

7[(5) Notwithstanding anything contained in this Act, during the period the administrator or the nominated committee holds office under sub-section (1-A), the general body of the society shall have no right to constitute any committee under section 33 except as provided under sub-section (4).]

(6) Before taking any action under sub-section (.1) in respect of a co-operative society, the Registrar shall consult the financing bank to which the society is indebted.

(7) No member of a committee in respect of which or against whom , proceedings for removal under this section are pending shall be ineligible for election or appointment to the committee till the termination of such proceedings, unless the Registrar, is satisfied that prima facie charges are found against him after giving to such member, an opportunity of being heard debars him for such election or appointment.

Explanation.-- A member of such committee,-

(i) who is nominated to the committee by the Government or the Registrar under this Act or by an apex or central society, as classified under the rules; or

(ii) who, in the opinion of the Registrar, is not guilty of any act or omission specified under sub-section (1) of this section, shall not be deemed to be disqualified under sub-section (7) of section 34.

8[(8) Nothing contained in this section shall affect the provisions of section 78A.]

1 Substituted by section 6(i) of Rajasthan Act No.17 of 1976, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.2.1976.

2 Inserted by section 6(ii) of Rajasthan Act No. 17 of 1976, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.2.1976.

3 Inserted vide Amnd. Act 1991, Pub. in Raj. Gaz. Exty Pt 4(A), dt. 27.3.1991, P. 91.

4 Substituted vide Noti. No. F. 2(18) Vidhai/91, Pub. in Raj. Gaz. Exty. Pt. 4(A), dt. 24.9.1991, P. 55

5 Inserted by section 6 (iii). Raj. Act No. 17 of 1976, Pub. in Raj. Gaz. Pt. IV-A, Exty. dt. 13.2.1976

6 Substituted by section 6 (iv) of Raj. Act No. 17 of 1976, Pub. in Raj. Gaz. Pt. IV-A, Exty. dt. 13.2.1976

7 Substituted by section 6(V) of Rajasthan Act No. 17 of 1976, Pub. in Raj. Gaz. Pt. IV-A, Exty. dt. 13.2.11976.

8 Inserted by section 6 (vi) - ibid.

37. Securing Possession Of Records Etc :-

(1) If the committee of a co-operative society is reconstituted at a general meeting of the society or the committee of a co-operative society is removed by the Registrar under section 36 or if the society is ordered to be wound up under section 78, and the outgoing members of the committee refuse to handover charge of the records and property of the society to the new committee or

the administrator or the liquidator, as the case may be, the 1[re-constituted or nominated committee] or the administrator or the liquidator may apply to the Magistrate, within whose jurisdiction the society functions, for securing the records and property of the society.

(2) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with, or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar or the person authorised by him may apply to the Magistrate within whose jurisdiction the society is functioning for seizing and taking possession of the records and property of the society.

(3) On receipt of an application under sub-section (1) or sub-section (2), the Magistrate may, by a warrant, authorize any police officer, not below the rank of a Sub-Inspector, to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the 2[re-constituted or nominated committee] or administrator of the society or the liquidator or the Registrar, or the person authorised by him, as the case may be.

1 Substituted by section 7 of Rajasthan Act No. 17 of 1976, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated. 13.2.1976.

2 Substituted by section 7-ibid.

CHAPTER 5 PRIVILEGES OF CO-OPERATIVE SOCIETIES

38. First Charge Of Co-Operative Society On Certain Assets

:-

(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-

(a) any debt 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 for cattle, agricultural or industrial implements, or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the assets of the deceased member, as the case may be; and

(b) any outstanding demands or dues payable to a co-operative

society formed with the object of providing its members, with dwelling houses by any member or past member in respect of rent, shares, loans or purchase money or any other rights or amount payable to such society shall be a first charge upon his interest in the immovable property of the society.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative 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.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Rajasthan Agricultural Loans Act, 1956 (Rajasthan Act 1 of 1957) after the grant of the loan by the society.

39. Charge On Immovable Property To Members Borrowing Lands From Certain Societies :-

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

(a) any person who makes an application to a society of which he is a member for a loan, other than a short term loan as defined in section 84 shall, make a declaration in the prescribed form which shall state that the applicant thereby creates a charge on the immovable property owned by him and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him from time to time which the society may make to him as such member, subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

(b) any person who has borrowed a loan, other than a short term loan as defined in section 84 from a society of which he is member before the date of the coming into force of this Act shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (a) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

(c) a declaration made under clause (a) or clause-(b) may be varied at any time by a member with the consent of the society in favor of which such charge is created and shall, subject to any prior claim of

the Government in respect of land revenue or any money recoverable as land revenue or of a landholder in respect of rent or any money recoverable as rent, have the same effect as if the property covered by the declaration were mortgaged to the society for the repayment of the loan and advances therein specified and, notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act XVI of 1908) or in any other law for the time being in force, the registration of such declaration shall not be compulsory;

(d) no member shall alienate the whole or any part of the immovable property specified in the declaration made under clause (a) or clause (b) until the whole amount borrowed by the member together with interest thereon is paid in full and any such alienation shall be void;

(e) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue or to the claims of Land Development Bank in respect of its dues, there shall be a first charge in favor of the society on the immovable property specified in the declaration made under clause (a) or clause (b) for and to the extent of the dues owing by him on accounts of the loan and advances; and

(f) an entry relating to a charge created by a declaration under clause (a) or clause (b) on the agricultural holding of the person making the declaration shall, upon an application made, at any time after the declaration by such person or by the society in whose favor the charge is created, to the Tehsildar either direct or through the village Patwari or Land Records Inspector, be made in the annual registers maintained under Chapter VII of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) in the manner provided for in that Chapter and the rules there under and for that purpose such application shall be deemed to be report under section 133 of that Act.

Explanation:- For the purpose of this section, a society shall mean-

(a) any credit society the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members; or

(b) any society or class of societies specified in this behalf by the Government by a general or special order.

40. Vesting Of Lands In Joint Farming Society And Registration Of Agreement :-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, every member of a joint farming society as classified under the rules, whose lands have been pooled in the manner set out in the bye-laws of the society concerned, shall execute an agreement with the joint farming society specifying the period for which the land shall vest in the joint farming society, and the basis on which the share of his income shall be determined and such other matters as may be specified in the bye-laws.

(2) The agreement executed under sub-section (1) shall be sent by registered post by the joint farming society to the Sub- Registrar having jurisdiction over the area in which the lands are situated.

(3) On receipt of the agreement, the Sub-Registrar shall, notwithstanding anything contained in any law for the time being in force, register such agreement and issue a copy thereof to the joint farming society.

(4) Any agreement executed under sub-section (1) which has not been registered under sub-section (3) shall, notwithstanding anything contained in this Act or in any other for the time being in force, be null and void.

41. Deduction From Salary To Meet Societys Claims In Certain Cases :-

(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 such form as may be prescribed in favor 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 an agreement the employer shall, if so required by the co-operative society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within fourteen days from the date of the deduction.

(3) Where a reacquisition in writing from any society registered or deemed to be registered under any law in force in any State, in respect of a member of the society who for the time beings is employed in this State, is received by the employer, the requisition

shall be acted upon as if it had been made by a society in the State.

(4) After receipt of a requisition made under the foregoing sub-section, if 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 employer shall be personally liable for the payment thereof and the amount shall be recoverable on behalf of the society from him as arrears of land revenue and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears.

(5) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (1) as were in force on the date of the commencement of this Act.

(6) Nothing contained in this section shall apply to persons employed in Railways as defined in Article 366 of the Constitution of India and Mines and Oilfields.

42. Charge And Set Off In Respect Of Shares Or Interest Of Members In The Capital Of A Co-Operative Society :-

A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set off any sum credited or payable to a member towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

43. Shares Or Interest Not Liable To Attachment :-

Subject to the provisions of Section 42, the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of court in respect of any debt, or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share

or interest.

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

(1) The Government may, by notification in the Official Gazette, remit in respect of any class of co-operative 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 member 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;

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

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

(2) The Government may, by notification in the Official Gazette, exempt any class of co-operative societies from taxes on-

(a) agricultural income;

(b) sale or purchase of goods;

(c) professions, trades, callings and employments; and

(d) any other tax, surtax, duty or surcharge levied or imposed-

(i) by or under any other law for the time being in force; or

(ii) by any local authority.

45. Exemption From Compulsory Registration Of Instruments :-

Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908) shall apply to-

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

(b) any debentures 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 entitled the holder 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

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

CHAPTER 6 STATE AID TO CO-OPERATIVE SOCIETIES

46. Promotion Of Co-Operative Movement :-

It shall be the duty of the Government to encourage and promote the co-operative movement in the State and to take such steps in this direction as may be necessary.

47. Direct Partnership Of Government In Co-Operative Societies :-

(1) The Government may subscribe directly to the share capital of a co-operative society with limited liability.

(2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to a dividend on the shares of any such co-operative society at a rate higher than that at which such dividend is payable to any other shareholder of the society.

48. Indirect Partnership Of Government In Co-Operative Societies :-

The Government may, subject to the appropriate bye-laws, provide moneys to co-operative society (hereinafter in this chapter referred to as an apex society) for the purchase of shares in other co-operative societies with limited liability.

49. Principal State Partnership Fund :-

(1) An apex society which is provided with money by the Government under section 48 shall, with such moneys, establish a fund to be called the "Principal State Partnership Fund".

(2) An apex society shall utilise the "Principal State Partnership Fund" for the purpose of-

(a) directly purchasing shares in other co-operative societies with limited liability;

(b) providing moneys to a co-operative society (hereinafter in this chapter referred to as central society) to enable that society to purchase shares in other co-operative societies with limited liability

(hereinafter in this Chapter referred to as primary societies);

(c) making payments to the Government in accordance with the provisions of this Chapter; and for no other purpose.

50. Subsidiary State Partnership Fund :-

(1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the "Subsidiary State Partnership Fund".

(2) A central society shall utilise the Subsidiary State Partnership Fund" for the purpose of-

(a) purchasing shares in primary societies;

(b) making payments to the apex society in accordance with the provisions of this Chapter; and for no other purpose.

51. Approval Of Government For Purchase Of Shares :-

No shares shall be purchased in a co-operative society from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund, except with the previous approval in writing of the Government.

52. Liability To Be Limited In Respect Of Certain Shares :-

Where any shares are purchased in a co- operative society by-

(a) the Government, or

(b) an apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the amount paid in respect of such shares.

53. Restrictions Illegible Amount Of Dividend :-

An apex society which has purchased shares in other co-operative societies from the money in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Provident Fund, shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share holders of that society.

54. Indemnity Of Apex And Central Societies :-

(1) If a co-operative society in which shares are purchased from the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase, but the Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) if a co-operative society in which shares are purchased from the Subsidiary State Partnership Fund is wound up or is dissolved, neither the Government nor the apex society shall have any claim against the central society which the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

55. Disposal Of Share Capital And Dividend Etc :-

(1) All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the Principal State Partnership fund on redemption of such shares or by way of dividends or otherwise, shall be credited to that Fund.

(2) All moneys received by a central in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the Principal State Partnership Fund.

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the Government.

(4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 48.

56. Disposal Of Principal State Partnership Fund And Subsidiary State Partnership Fund On Winding Up Of An Apex Or A Central Society :-

(1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the Government.

(2) If a central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 49.

57. Principal State Partnership Fund And Subsidiary State Partnership Fund Not To Form Part Of Assets :-

Any amount to the credit of Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the Assets of the apex society or the central society, as the case may be.

58. Agreement By Government And Apex Societies :-

Subject to the foregoing provisions of this Chapter,-

(a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 48;

(b) an apex society may with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 49.

59. Other Forms Of State Aid Co-Operative Societies :-

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

(a) give loans or make advances to co-operative societies;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;

(c) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the Government;

(d) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and

(e) give financial assistance in any other forms, including subsidies, to any co-operative society.

60. Provisions Of This Chapter To Override Other Laws :-

The provisions of sections 48 to 58 of this Chapter shall have effect notwithstanding inconsistent therewith contained in any other law for the time being in force.

CHAPTER 7 PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

61. Funds Not To Be Divided :-

No part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members:

Provided that a member may be paid remuneration, allowances or honoraria on such scale as may be laid down by the bye-laws for any services rendered by him to the co-operative society.

62. Disposal Of Net Profits :-

(1) A co- operative society shall, out of its net profits in any year-1["(a) transfer, to the reserve funds, such percentage of its profits and within such period as may be prescribed; and".

(b) credit such portion of the profits, as may be prescribed, to the Co-operative Education Fund constituted under the rules.

(2) The balance of the net profits may be utilised for all or any of the following purposes, namely:-

(a) payment of dividend to members on their paid up share capital at a rate not exceeding the prescribed limit;

(b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and in the manner specified in the bye-laws,

(c) constitution of, or contribution to, such special fund as may be specified in the bye-laws;

(d) donations of amounts not exceeding ten per centum of the net profits for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890); and

(e) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws.

1 Substituted vide Amnd. Act, 1991, Pub. in Raj. Gaz. Ex. Ord. Pt. 4(A), dt. 27.3.1991, P. 91

63. Investment Of Funds :-

(1) Except as otherwise provided in sub-section (2), a co-operative society shall invest its funds in one or more of the following-

- (a) Central Co-operative Bank;
- (b) Apex Bank;
- (c) in the shares or securities or debentures issued by any other cooperative society with limited liability;
- (d) in any other mode permitted by the rules or by general or special order of the Government.

(2) A co-operative society may deposit its funds for a temporary period in such manner as may be prescribed.

64. Restrictions On Borrowings :-

A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

65. Restriction On Loans :-

(1) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, Co-operative Society may make loans to another co-operative society.

1[(1-A) At least one-third of the total amount of loan to be sanctioned by a primary village service society or farmers society in a year, and not less than twenty-five per cent of the total amount of loan to be sanctioned by a Primary Land Development Bank in a year, shall be sanctioned to those members who belong to weaker sections:

Provided that where in the opinion of the State Government such reservation is not workable, the State Government may fix different percentages of reservation of such loan for weaker sections in different areas.]

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor on the security of his deposit.

(3) The Government may, by general or special order, prohibit or restrict the lending of money on the security of movable property or on mortgage of immovable property by any society or class of societies.

(4) The lending policy of a financing bank shall be approved by the Government.

1 Inserted by section 8 of Rajasthan Act No. 17 of 1976, published in the Rajasthan Gazette Part V-A, Extraordinary, dated 13.2.1976.

65A. Interest Not To Exceed Principal :-

1[Notwithstanding anything contained in any agreement or in any law for the time being in force, a society other than a Land Development Bank shall not charge by way of interest an amount exceeding that of the principal from a member taking short-term loan for a period not exceeding fifteen months or from a member initially taking such short-term, loan but subsequently getting it converted into a medium-term loan on account of any natural calamity, irrespective of whether the loan was or is given before or after the commencement of the Rajasthan Co-operative Societies (Amendment) Act, 1984, subject, however, that the amount of such short-term loan including such portion there of as has been converted into a medium-term loan does not exceed Rs. 2,000/-.]

1 Inserted w.e.f. 21.7.1984 by section 2 of Rajasthan Act No. 14 of 1984, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 9.11.1984.

66. Restriction On Other Transactions With Non- Members :-

Save as provided in section 64 and 65, the transaction of a co-operative with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

67. Provident Fund :-

(1) A co-operative society may establish a Contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the bye-laws of the society.

(2) A Contributory Provident Fund established by a co-operative society under sub-section (1)-

- (a) shall not be used in the business of the society;
- (b) shall not form part or the assess of the society, and
- (c) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER 8 AUDIT, INQUIRY, INSPECTION AND SURCHARGE

68. Audit :-

(1) The Registrar shall audit or cause to be audited by a person

authorised by him general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of over due debts, if any, the verification of the cash balance and securities; and a valuation of the assets and liabilities of the society.

(3) The Registrar or the authorised person shall have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the head quarters of the society or any branch thereof.

(4) Every person, who is, or has at any time been, an officer or employee or agent of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him may require.

(5) If at the time of audit the accounts of a co-operative society are not complete the Registrar or with his approval the person authorised by him under sub-section (1) may cause the accounts to be written up at the expense of the society.

(6) The Registrar or the authorised person shall have the right to receive all notices, and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat.

69. Communication Of Defects In Audit To Co- Operative Societies :-

(1) If the result of the audit held under section 68 discloses any defects in the working of a co-operative society the Registrar may bring such defects to the notice of the society and if the society is affiliated to another co-operative society, also to the notice of that other society.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit.

70. Inquiry By Registrar :-

(1) The Registrar may of his own motion, by himself or by a person

authorised by him order in writing, hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of-

(a) a co-operative society to which the society concerned is affiliated;

(b) a majority of the members of the committee of the society; or

(c) not less than one-third of the total number of members of the society.

(3) The Registrar, or the person authorised by him under sub-section (1) shall, for the purposes of an inquiry under this section, have the following powers, namely:-

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, 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 any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe, has knowledge of any 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; and

(c) (i) he may, notwithstanding any rule or bye-law 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 or any branch thereof and to determine such matters as may be directed 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;

(ii) any meeting called under sub-clause (i) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by bye-laws.

(4) All officers, members and employees of the society whose affairs are investigated under this section shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorised by the Registrar may require.

(5) It shall be competent for the Registrar to withdraw any enquiry from the officer to whom it is entrusted, and to hold the enquiry himself or to entrust it to any other person as he deems fit.

(6) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated.

(7) The Registrar may, by an order in writing, direct any officer of the society or its financing bank or any other society to take such action as may be specified in the order to remedy, within such time as may be specified therein, the defects, if any, disclosed as a result of the enquiry.

71. Inspection Of Books Of A Co-Operative Society :-

(1) The Registrar may of his own motion, or on the application of a creditor of a co-operative society, inspect or direct any 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 on the application of a creditor unless the applicant-

(a) satisfies the Registrar that the debt is a sum then 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 the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the result of any such inspection-

(a) where the inspection is made of his own motion, to the society, and

(b) where the inspection is made on the application of a creditor, to the creditor and the society.

72. Inspection Of Books By Financing Bank :-

A financing bank shall have the right to inspect the books of any co-operative society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar on the recommendation of the committee of such bank as competent to undertake such inspection. The officer or member so inspecting shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statement and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

73. Costs Of Inquiry :-

Where an inquiry is held under section 70, or an inspection is made under section 71 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society, the members or creditor, demanding an inquiry or inspection, and the officers or former officers of the society:

Provided that-

- (a) no order of apportionment of the costs shall be made under this section unless the society or the person sought to be made liable to pay the costs there under has had a reasonable opportunity of being heard; and
- (b) the Registrar shall state in writing the grounds on which the costs are apportioned.

74. Surcharge :-

(1) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that any person, who has taken any part in the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or willful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person:

Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub-section, 1[or as the case may be from the date of knowledge of the Registrar of such act or omission, whichever is latter.

(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 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.

(3) This section shall apply notwithstanding that such person or officer may have incurred criminal liability by his act omission.

1. Inserted vide Amnd Act. 2 of 1991, Pub. in Raj. Gaz. Ext. Ord. Pt. 4(A), dt. 27.3.1991, P. 91.

CHAPTER 9 SETTLEMENT OF DISPUTES

75. Disputes Which May Be Referred To Arbitration :-

(1) Not with standing anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises-

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

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

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

(d) between the society and any other co-operative society,

(e) between the Society and the surety of a member, past member or a deceased member, or a person other than a member who has been granted a loan by the society or with whom the society has or had transaction under section 66, whether such a surety is or is not a member of a society, [illegible] such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) for the purposes 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 the 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 a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

76. Limitation :-

(1) Notwithstanding anything contained in the Limitation Act, 1963 (Central Act 36 of 1963), but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under section 75 shall-

(a) when the dispute relates to the recovery of any sum, including interest thereon, due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(b) when the dispute is between a society or its committee, any past committee, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose took place;

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 78, or in respect of which an administrator has been appointed under section 36, be six years from the date of the order issued under section 78, or section 36, as the case may be;

(d) when the dispute is in respect of an election of an office bearer of the society, be one month from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section, which are required to be referred to the Registrar under section 75 shall be regulated by the provisions of the Limitation Act, 1963 (Central Act 36 of 1963), as if the dispute were a suit, and the Registrar a civil court.

(3) Notwithstanding anything contained in sub-sections (1) and

(2), the Registrar may admit a dispute after the expiry of the limitation period, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period.

77. Reference Of Disputes To Arbitration :-

(1) The Registrar may, on receipt of the reference of a dispute under section 75-

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf, or
- (c) refer it for disposal to one arbitrator.

(2) The Registrar may withdraw any reference transferred or referred for disposal under sub-section (1) and either decide it himself or transfer or refer it again for disposal to another person or arbitrator mentioned in clauses (b) or (c) of that sub-section if the person or arbitrator to whom the dispute was first transferred or referred.--

- (i) dies, resigns or is transferred; or
- (ii) has become incapable of acting or against whom, a complaint has been received regarding his misconduct or corruption; or
- (iii) neglects or refuses to act.

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

CHAPTER 10 WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

78. Winding Up Of Co-Operative Societies :-

(1) If the Registrar, after an inquiry has been held under section 70, or an inspection has been made under section 71 or on an audit conducted under section 68 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, present at a special general meeting called for the purpose, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representation, issue an order directing it to be wound up.

(2) The Registrar may of his own motion and after giving the society an opportunity of being heard, make an order directing the winding up to such society,-

- (a) where it is condition of the registration of such society-
- (i) that it shall consist of at least fifteen members or fifty members, as the case may be, and the number of members has been reduced to less than fifteen or fifty, as the case may be, or
 - (ii) that the minimum share capital of a society shall be Rs. 750/- the share capital has been reduced to less than this minimum amount; or
- (b) where the co-operative society has not commenced working or has ceased to work 1[or has completed the works as per its objectives,
- (3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

78A. Insured Co-Operative Bank :-

1[Notwithstanding anything contained in 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 re-organisation) 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 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 Corporation Act, 1961 (Central Act 47 of 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 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 therefore 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 such as is referred to in clauses (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 be under an obligation to repay the deposit to the Deposit Insurance Corporation established under the Deposit Insurance 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 as has been defined in the Deposit Insurance Corporation Act, 1961.

(ii) "Insured Co-operative Bank" means a Co-operative Bank which is an Insured Bank under the provisions of the Deposit Insurance Corporation Act, 1961.

(iii) "Transferee Bank" in relation to an Insured Co-operative Bank are transferred; or

(a) with which such Insured Co-operative Bank is amalgamated; or

(b) to which the assets and liabilities of such Insured co-operative Bank are transferred; or

(c) into which such Insured Co-operative Bank is divided or reorganised under the provisions of section 16 or 17 of the Act.]

1 Inserted by section 9 of Rajasthan Act. No. 17 of 1976, Pub. in Raj. Gaz. Pt. IV-A, Exty. dt. 13.2.1976.

79. Liquidator :-

(1) Where the Registrar has made an order under section 78 for the winding up of a co-operative society, he may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall, on appointment, 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.

(3) Where an appeal is preferred under section 124, an order of winding up of a co-operative society made under section 78 shall not operate thereafter until the order is confirmed in appeal.

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 re-vest in the society.

80. 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 79 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise.

(2) Such liquidator shall also have power, 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) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers 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 questions of priority arising between claimants;

(d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or ratably, as the assets or 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 proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a 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 compromise all call or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist, between the society and a contributory or alleged contributory or other debtor or person 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;

(k) to fix the time or times within which creditors shall prove their debts and claims to be included for the benefit of any distribution made before those debts or claims are proved:

Provided that no liquidator shall determine the contribution, debts or dues to be recovered from a member, past member, or a nominee, heir or representative of a deceased member unless opportunity has been given to such member, past member or nominee, heir or representative of the deceased member of being heard.

(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.

81. Termination Of Winding Up Proceedings :-

(1) The winding up proceedings of a society shall be closed within 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 grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall, immediately after the expiry of seven years from the date of the order for winding up of the society deem that the winding up proceedings have been terminated, and pass an order terminating the winding up proceedings. Explanation.-- In the case of the society which is under liquidation proceedings at the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the date of such commencement.

(2) Notwithstanding anything contained in the foregoing subsection, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the liquidator. The final report of the

liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property and claims of the society have been disposed of, and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount, if any, standing to the credit of the society in liquidation after paying off its liabilities including the share or interest of members and suggest how this surplus should be utilised.

(3) The Registrar, on receipt of the final report from the liquidator shall direct the liquidator to convene a general meeting of the members of the society for recording his final report.

82. Disposal Of Surplus Assets :-

After all the liabilities including the paid up share capital of the cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the bye-laws of the society and when no object is so described, to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in consultation with the members either be assigned by the Registrar in whole or in part to any or all of the following-

(a) an object of public utility;

(b) a charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890, or may be placed in deposit with the financing bank until such time as a new society with similar conditions is registered when, with the consent of the Registrar, such surplus may be credited to the reserve fund of such new society.

83. Cancellation Of Registration Of A Co- Operative Society :-

Where in respect of a co-operative society which has been ordered to be wound up under section 78, no liquidator has been appointed under section 79 after two months from the date of such order; or if an appeal has been filed, from the date of confirmation of the order in appeal, or where the affairs of a co-operative society in respect of which a liquidator has been appointed under section [illegible] have been wound up, the Registrar shall make an order canceling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body

from the date of such order of cancellation.

CHAPTER 11 LAND DEVELOPMENT BANKS

84. Application Of Chapter To Land) Development Banks :-

This Chapter shall apply to-

(a) co-operative banks advancing loans, other than short term and medium term loans, for the purposes herein enumerated, (hereinafter referred to as "Land Development Banks"), that is to say-

- (i) land improvement and productive purposes;
- (ii) the erection rebuilding or repairing of houses for agricultural purposes;
- (iii) the purchase or acquisition of title to agricultural lands by tenants or agriculturists under the Rajasthan Tenancy Act, 1955; or
- (iv) the liquidation of debts under the Rajasthan Relief of Agricultural Indebtedness Act, 1957 or any corresponding law for the time being in force in any part of the State; or (v) for the development of animal husbandry;
- (b) any other co-operative bank permitted by the Registrar under section 114 to function as a Land Development Bank.

Explanation :- For purposes of this section, the expressions-

- (i) "Short term loan" means a loan for the duration of less than fifteen months;
- (ii) "medium term loan" means a loan granted for a period ranging from fifteen months for five years; and
- (iii) "land improvement and productive purposes" means any work, construction or activity which adds to the productivity of the land and, in particular, includes the following, that is to say-
 - (a) construction and repair of wells (including tube wells), tanks and other works for the storage, supply or distribution of water for the purpose of agriculture, or for the use of men and cattle employed in agriculture;
 - (b) renewal or reconstruction of any of the foregoing works, or alterations therein, or additions thereto;
 - (c) preparation of land for irrigation;
 - (d) drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is cultivable;
 - (e) bundling and similar improvements;
 - (f) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes;

- (g) horticulture;
- (h) purchase of oil-engines, pumping sets and electrical motors for any of the purpose mentioned herein,
- (i) purchase of tractors or other agricultural machinery;
- (j) increase of the productive capacity of land by addition to it of special variety of soil;
- (k) construction of permanent farm-houses, cattle-sheds, and sheds for processing of agricultural produce at any stage;
- (l) purchase of machinery for crushing sugarcane, manufacturing Gur or Khandsari or Sugar;
- (m) purchase of land for consolidation of holdings under the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954; and
- (n) such other purposes as the State Government may, from time to time, by notification in the Official Gazette, declare to be improvement or productive purposes for the purpose of this Chapter.

85. State And Other Land Development Banks :-

- (1) There shall be a State Land Development Bank for the State of Rajasthan and as many Land Development Banks as may be deemed necessary.
- (2) A reference to Land Mortgage Bank in any law, or instrument, for the time being in force in the State, shall, with effect from the commencement of this Act, be construed as a reference to a Land Development Bank within the meaning of this Chapter.
- (3) With effect from the commencement of this Act, and until such time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of this Act. are changed into Land Development Banks, all acts done by them or mortgages and other documents executed by them, or in their favor, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.

86. Appointment, Powers And Functions Of Trustee :-

- (1) The Registrar, or any other person appointed by the State Government in this behalf, shall be Trustee for the purpose of securing the fulfillment of the obligations of the State Land Development Bank to the holders of debentures issued by it.
- (2) The Trustee shall be a corporation sole by the name of the

Trustee for the debentures in respect of which he is appointed, and shall have perpetual succession and a common seal, and in his corporate name may sue and be sued.

(3) The powers and functions of the Trustee shall be governed by the provisions of this Act, and the instrument of trust executed between the State Land Development Bank and the Trustee as modified from time to time by mutual agreement between them.

87. Issue Of Debentures :-

(1) With the previous sanction of the State Government and the Trustee and subject to such terms and conditions as the State Government may impose, the State Land Development Bank in the discharge of its function as a Land Development Bank may issue debentures of such denominations, for such period, and at such rates of interest, as it may deem expedient, on the security of mortgages, or mortgages to be acquired or partly on mortgages held and partly to be acquired and properties and other assets of the Land Development Banks.

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be re-deemable.

(3) The total amount due on debentures issued by the State Land Development Bank, and outstanding at any time, shall not exceed-

(a) where debentures are issued against mortgages held, the aggregate of-

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 94 by the Land Development Banks to the State Land Development Bank and subsisting at such time, and

(iii) the amounts paid under the mortgages aforesaid and the unsecured amounts remaining in the hands of the State Land Development Bank or the Trustee at the time;

(b) where debentures are issued otherwise than on mortgages held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage.

88. Guarantee By State Government :-

The principal of, and interest on the debentures issued under the preceding section, or any specified portion thereof, may carry the

guarantee of the State Government, subject to such maximum amount as may be fixed by the State Government, and to such conditions as the State Government may think fit to impose.

89. Vesting Of Property In Trustee And Debenture Holders Charge On Assets :-

Upon the issue of debentures under the provisions of section 87, the mortgaged properties and other assets referred to in sub-section (3) of that section held by the State Land Development Bank, shall vest in the Trustee, and the holders of debentures shall have a floating charge on all such mortgages and assets, and on the amount paid under such mortgages, and remaining in the hands of the State Land Development Bank or of the Trustee.

90. Powers Of Land Development Banks To Advance Loans And To Hold Lands :-

Subject to the provisions of this Act and the rules made there under, it shall be competent for the Land Development Banks to advance loans for the purposes referred to in section 84 and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

91. Mode Of Dealing With Applications For Loans :-

(1) When an application for a loan is made for any of the purposes mentioned in section 84, a public notice shall be given of the application in such manner as may be prescribed, calling upon all persons interested to present their objections to the loan, if any, in person, at a time and place fixed therein. The Government may, from time to time, prescribe the persons by whom such public notice shall be given and the manner in which the objections shall be heard and disposed of.

(2) The prescribed officer shall consider every objection submitted under sub-section (1) and make an order in writing either upholding or over-ruling it:

Provided that when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a civil court, he shall postpone the proceedings on the application until the question has been so decided.

(3) A notice under sub-section (1), published in the manner

prescribed, shall, for the purpose of this Act, be deemed to be proper notice to all persons having or claiming interest in the land to be improved, or offered as security for the loan.

(4) Subject to such rules as may be prescribed, the Land Development Banks shall consider such application after due enquiry for the purpose of making loans under this Chapter.

92. Order Granting Loan Conclusive Of Certain Matters :-

A written order by the land Development Bank, or persons or committees authorised under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 84, granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say-

(a) that the work described or the purpose for which the loan is granted is an improvement or productive purpose, as the case may be, within the meaning of section 84;

(b) that the person had, at the date of the order, a right to make such an improvement, or incur expenditure for productive purpose, as the case may be, and

(c) that the improvement is one benefiting the land specified and productive purpose concerns the land offered in security, or any part thereof as may be relevant.

93. Priority Of Mortgage :-

(1) A mortgage executed in favor of a Land Development Bank shall have priority over any claim of the Government arising from a loan granted after the execution of the mortgage under the Rajasthan Agricultural Loans Act, 1957.

(2) Notwithstanding anything contained in the Rajasthan Tenancy Act, 1955, or any other corresponding law for the time being in force, where a mortgage in favor of a Land Development Bank is in respect of land in which a tenant has an interest, the mortgage may be against the security of such interest, and the rights of the mortgage shall not be affected by the failure of the tenant to comply with the requirements of such law, and the sale of the land and his interest therein under such law shall be subject to the prior charge of the Land Development Bank.

94. Mortgages Executed In Favor Of Land Development Banks To Stand Vested In State Land Development Bank :-

The mortgages executed in favor of and all other assets transferred to, a Land Development Bank, by the members thereof, before or after the commencement of this Act, shall with effect from the date of such execution or transfer, be deemed to have been transferred by such Land Development Bank to the State Land Development Bank, and shall vest in the State Land Development Bank.

95. Registration Of Mortgages And Leases In Favor Of Land Development Banks :-

Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary to register mortgages or leases executed in favor of the Land Development Banks, provided that the Land Development Bank concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged or let out for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or let out is situate, and such Registering Officer shall file a copy or copies, as the case may be, in his Book No. 1 prescribed under section 51 of the Indian Registration Act, 1908.

96. Mortgages Not To Be Questioned On Insolvency Of Mortgagers :-

Notwithstanding anything contained in any law relating to insolvency and for the time being in force, a mortgage executed in favor of a Land Development Bank shall not be called in question in any insolvency proceedings on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the Bank a preference over other creditors of the mortgager.

97. Right Of Land Development Bank To Pay Prior Debts Of Mortgager :-

(1) Where a mortgage is executed in favor of a Land Development Bank for payment of prior debts of the mortgager, such bank shall, notwithstanding anything contained in 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 bank at its registered office, within, such period as may be specified in the notice.

(2) Where any such person fails to accept such notice, or to receive such payments, such debts or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice:

Provided that where there is a 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 Land Development Bank towards the debt, but such receipt shall not prejudice the right, if any, of such person to recover the balance claimed by him.

98. Mortgages Executed By Managers Of Joint Hindu Families :-

(1) Mortgages in respect of loans by a Land Development Bank or the State Land Development Bank either before or after the commencement of this Act, by the manager of a Hindu joint family for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to raise the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

(2) In other cases, where a mortgage executed in favor of a Land Development Bank or State Land Development Bank either before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a Hindu joint family for a purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall; notwithstanding any law to the contrary, lie on the party alleging it.

99. Section 8 Of The Central Act 32 Of 1956 To Apply To Mortgages :-

Section 8 of the Hindu Minority and Guardianship Act, 1956 shall apply to mortgages in favor of a Land Development Bank, subject to the modification that reference to the court therein shall be construed as reference to the Collector or his nominee, and the appeal against the order of the Collector or his nominee shall lie to

the Revenue Appellate Authority.

100. Restrictions On Leases :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, no mortgager of property mortgaged to a Land Development Bank, shall, except with the prior information in writing to the Bank, lease or create any tenancy rights on any such property:

Provided that the rights of the Land Development Bank shall be enforceable against the tenant or the lessee, as the case may be, as if he himself were a mortgager.

(2) Where land mortgaged with possession to a Land Development Bank, is in the actual possession of a tenant, the mortgager or the Land Development Bank shall give notice to the tenant to pay rent to the Land Development Bank during the currency of the lease and the mortgage and on such notice being given, the tenant shall, notwithstanding anything contained in any law for the time being in force, be deemed to have attorney to the Land Development Bank.

101. Land Development Bank To Receive Money And Give Discharge :-

Notwithstanding anything contained in section 94, all moneys due under the mortgage, shall, unless otherwise directed by the State Land Development Bank or the Trustee, and communicated to the mortgager, be payable by the mortgager to the Land Development Bank, and such payments shall be as valid as if the mortgage had not been so transferred and the Land Development Bank shall, in the absence of specific direction to the contrary issued by the State Land Development Bank or Trustee and communicated to the Land Development Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

102. Power Of Land Development Banks Where Mortgaged Property Is Destroyed Or Security Becomes Insufficient :-

Where any property mortgaged to a Land Development Bank is wholly or partially destroyed, or for any reason the security is rendered insufficient and the mortgager, having been given a reasonable opportunity by the Bank to provide further security

enough to render the whole security sufficient, or to repay such portion of the loan as may be determined by the Bank, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once, and the Bank shall be entitled to take action against the mortgager under section 105 or section 106 for the recovery thereof.

Explanation.-- Security shall be deemed insufficient within the meaning of this section, unless the value of the mortgaged property (including improvements made thereon) exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the rules, regulations or the bye-laws of the Land Development Bank.

103. Right Of Land Development Bank To Buy Mortgaged Property :-

(1) Property purchased under sub-section (3) of section 106 by and the property transferred under section 122 to, the Land Development Banks, may be disposed of by such banks by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favor only of agriculturists eligible to hold land under the Rajasthan Tenancy Act, 1955 or any corresponding law for the time being in force, or may be leased out by them on such terms and conditions as may be laid down by the Government from time to time.

(2) Nothing contained in any law for the time being in force fixing the maximum limit of agricultural holdings shall apply to the acquisition or holding of land by the Land Development Banks under this section.

104. Recovery Of Loans By Land Development Banks :-

All loans granted by the Land Development Banks, all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall, when they become due, be recoverable by the Land Development Bank concerned.

105. Power To Distain :-

(1) If any installment payable under a mortgage executed in favor of a Land Development Bank, or any part of such installment, has remained unpaid for more than one month from the date on which it fell due, the committee of such Bank may, in addition to any

other remedy available to the Bank, apply to the Registrar or the Collector for the recovery of such installments or part thereof, by distraint and sale of the produce of the mortgaged land, including the standing crops thereon.

(2) On receipt of such application, the Registrar or the Collector as the case may be, may, notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner prescribed for the purpose of distaining and selling such produce: Provided that no distraint shall be made after the expiry of twelve months from the date on which the installment fell due.

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

106. Sale Of Mortgaged Property :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the Land Development Bank or any person authorised by it in this behalf shall, in case of default of payment of the mortgage money, or any part thereof, have power, in addition to any other remedy available to the Bank, to bring the mortgaged property to sale by public auction in the village in which the mortgaged property is situated or at the nearest place of public resort without the intervention of the Court:

Provided that no action shall be taken under this sub-section and no such power shall be exercised, unless and until-

(a) the Land Development Bank has been previously authorised by the Collector or the Registrar, to exercise the power conferred under this sub-section, after hearing the objections, if any, of the mortgager or mortgagers;

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

(i) the mortgager or each of the mortgagers;

(ii) any person who has any interest in or charge upon the property mortgaged, or in upon the right to redeem the same so far as is known to the bank;

(iii) any surety for the payment of the mortgaged debt or any part thereof, and

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

(c) default has been made in payment of such mortgage money or

part thereof for three months after service of the notice.

(2) If the Land Development Bank fails to take action against a defaulter under section 102 or section 105 or under this section, the State Land Development Bank may direct the Land Development Bank to take appropriate action, and where no action is taken either by the State Land Development Bank, or the Land Development Bank, the Trustee may take such action. If such action is taken by the Trustee, the provisions of this Chapter and of any rules shall apply in respect thereto, as if all reference to the Land Development Bank in the said provision were references to the Trustee.

(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a Land Development Bank or the State Land Development Bank to purchase any mortgaged property sold under this Chapter.

107. Confirmation Of Sale :-

(1) On effecting the sale by a Land Development Bank under section 106, the said Bank shall, in the prescribed manner submit to the State Land Development Bank and the Registrar, a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Land Development Bank may, with the approval of the Registrar, confirm the sale or cancel it.

(2) Where the sale is effected by the State Land Development Bank or the Trustee under section 106, the State Land Development Bank or the Trustee, as the case may be, shall in the prescribed manner, submit to the Registrar, a report setting forth the manner in which the sale has been effected and the result of the sale and the Registrar may confirm or cancel the sale:

Provided that where the Registrar is the Trustee, he shall submit such report to the Government and the Government may confirm the sale or cancel it.

108. Disposal Of Sale Proceeds :-

(1) The proceeds of every sale effected under section 106 and confirmed under the preceding section, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequence whereof the mortgaged property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and

charges incidental to the recovery.

(2) If there be any residue from the proceeds of sale, the same shall be paid to the persons-proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by Land Development Bank:

Provided that before any such payments are made, the unsecured dues owing-

(a) from the mortgager to the Land Development Bank may be adjusted; and

(b) from any member or past member to whom the mortgager is indebted, may also be adjusted under the written authority given by such member and past member, and after holding such inquiry as may be deemed necessary.

109. Certificate To Purchase, Delivery Of Property, And Title Of Purchases :-

(1) Where a sale of mortgaged property has become absolute under section 107 and the sale proceeds have been received in full by the Land Development Bank, the bank shall-grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale becomes absolute, and upon the production of such certificate, the Sub-Registrar appointed under the Indian Registration Act, 1908, within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.

(2) (a) where the mortgaged property sold is in the occupancy of the mortgager, or of some person on his behalf, or some person claiming under a title created by the mortgager, subsequent to the mortgage, in favor of the State Land Development Bank or a Land Development Bank and a certificate in respect thereof has been granted under the foregoing sub-section, the Collector shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any persons appointed by such purchaser to receive delivery on his behalf, in possession of the property.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in

respect thereof has been granted under the foregoing sub-section, the Collector shall, on the application of the purchaser and after notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgager have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of a power of a sale under section 106, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorizing the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised;

Provided that any person who suffers damage on account of unauthorised, improper or irregular exercise of such power shall have a remedy in damages against the Land Development Bank.

110. Recovery Of Loans On Certificate By Registrar :-

(1) Notwithstanding anything contained in sections 75 and 118, on an application made by a Land Development Bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of account in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(2) A certificate by the Registrar under sub-section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.

(3) It shall be competent for Registrar or a person authorised by him to direct conditional attachment of the property of the mortgager until the arrears due to the Land Development Bank together with interest and any incidental charges incurred in recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 120 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

111. Collector To Make Recoveries During Certain Period :-

(1) During such period as the State Government may, by general or special order notify in the Official Gazette, it shall be competent for the Collector, on application being made to him in this behalf by a Land Development Bank, to recover all sums due to the Land Development Bank (including the cost of such recovery).

(2) Any amount due to a Land Development Bank shall be recoverable by the Collector, or any officer specially authorised by the Collector in this behalf, in all or any of the following modes, namely:-

(a) from the borrower, as if they were arrears of land revenue due by him;

(b) out of the land for the benefit of which the loan has been granted as if they were arrears of land revenue due in respect of that land;

(c) from a surety, if any, as if they were arrears of land revenue due by him; and

(d) out of the property comprised in the collateral security, if any, according to the procedure, for the realization of land revenue by the sale of immovable property other than the land on which the revenue is due.

112. Officers Of Banks Not To Bid At Sales :-

At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employees of the Land Development Bank or the State Land Development Bank, except on behalf of the Bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

113. Provision For Guarantee Funds To Meet Certain Loss :-

(1) It shall be competent for the State Government to constitute one or more Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the Land Development Banks on titles to immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the Government, it is necessary to provide for or create a separate Guarantee Fund.

(2) The State Land Development Bank and the Land Development Banks shall contribute to such funds at such rate as may be

prescribed, and the constitution, maintenance and utilization of such Fund shall be governed by such rules as may be made by the State Government in this behalf.

114. Registrars Power To Permit Any Financing Bank To Function As A Land Development Bank :-

It shall be competent for the Registrar to permit any Financing Bank to function as a Land Development Bank under such terms and conditions and for such period as he may deem fit.

115. Service Of Notice :-

The provisions of sections 102 and 103 of the Transfer of Property Act, 1882, and of any rules made under section 104 thereof, shall apply, so far as may be in respect of all notices to be served under this Chapter.

116. Power Of Committee Of State Land Development Bank To Supervise Land Development Banks And Make Regulations :-

The committee of the State Land Development Banks shall have a general power of supervision over Land Development Banks and may, with the previous sanction of the Government, make regulations, not inconsistent with this Act or the rules made there under, for all or any of the following matters, namely:-

- (a) for the inspection of the account books and proceedings of Land Development Banks;
- (b) for the submission of returns and reports by such banks in respect of their transactions;
- (c) for the periodical settlement of accounts between such banks and the State Land Development Bank, being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the State Land Development Bank;
- (d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans;
- (e) for the investment of moneys realized from the mortgagers;
- (f) for the conditions of service of employees of such banks;
- (g) for the programme and policy to be followed by such banks for making loans;
- (h) for the types and extent of security to be obtained by such

banks for advancing loans; and

(i) generally, for the purpose of safeguarding the interest of the parties, furtherance of activities of such banks, and carrying out the purposes of this Chapter.

CHAPTER 12 EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

117. Enforcement Of Charge :-

notwithstanding anything contained in chapter ix, or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this act, the registrar or any person subordinate to him empowered by the registrar in this behalf, may, on his own motion or on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under sub-section (1) of section 38;

provided that no order shall be made under this section unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and,-

(i) where such person disputes the debt or demand, such dispute is finally adjudicated under section 77; or

(ii) where such person does not dispute the debt or demand, he fails to pay such debt or demand within seven days from the date of the service of such notice as aforesaid.

118. Execution Of Orders, Etc :-

(1) every order made by the registrar under sub-section (2) of section 74 or under section 117, every decision or award made under section 77, every order made by the liquidator under section 80 and every order made by the tribunal under sections 123, 125, 126 or 127 and every order made under section 124, shall, if not carried out,-

(a) on a certificate signed by the registrar, or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

provided that any application for the recovery in such manner of any sum shall be made, -

(i) to the collector and shall be accompanied by a certificate signed by the registrar or by any person authorised by him in this behalf;

(ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, from the date of the order, decision or award, as the case may be; or

(c) be executed by the registrar or any other person subordinate to him empowered by the registrar in this behalf by the attachment and sale or 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.

(2) any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the registrar or any person authorised by him, as the case may be, under sub-section (1), shall be null and void as against the society on whose application the said certificate was issued.

119. Registrar Or Person Empowered By Him To Be A Civil Court For Certain :-

purposes

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 the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of article 136 of the first schedule to the limitation act, 1963 (central act 36 of 1963).

120. Attachment Of Property Before Award Or Order :-

if the registrar is satisfied on an application, report, inquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provision of this act,-

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the registrar, the arbitrator or liquidator, as the case may be,

he may, unless adequate security is furnished, direct the attachment of the said property and such attachment shall have the same effect as if made by a competent civil court.

121. Recovery Of Sums Due To Government :-

(1) all sums due from a co-operative society or from an officer or member or past member of a co-operative society as such to the government, including any costs awarded to the government under any provision of this act may, on a certificate issued by the registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) sums due from a society to government and recoverable under sub-section (1) may 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 societies, from the members, past members or the estates of deceased members: provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 27.

122. Transfer Of Property Which Cannot Be Sold :-

(1) when in any execution of an order sought to be executed under section 117, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequent to the issue of the certificate under section 117 by the registrar or any person or persons appointed to assist him under section 3, on whom the power to sign such certificate shall have been conferred, the court or the collator, as the case may be, may with the previous consent of the registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner.

(2) subject to such rules as may be made in this behalf and to any right, encumbrances, charges or equities lawfully subsisting in favor of any person, such property or portion thereof shall be held by the said society on such terms and conditions as may be agreed upon between the court or the collector, as the case may be, and the said society:

provided that any private transfer or delivery of or encumbrance or charge on the property made or created after the issue of the

certificate by the registrar or any person or persons appointed and empowered under section 3 to sign such certificates, as the case may be, under section 117 shall be null and void as against the said society.

CHAPTER 13 APPEALS, REVISION AND REVIEW

123. Constitution Of And Appeals To The Tribunal :-

(1) the government shall constitute a tribunal called the Rajasthan state co-operative tribunal, to exercise the functions conferred on the tribunal by or under this act.

(2) the tribunal may consist of one person or of such number of persons as the government may think fit and where the tribunal consists of two or more members, one of them shall be appointed as the chairman.

(3) a person shall not be qualified for appointment as the presiding officer of the tribunal, unless-

(a) he has retired as a judge of a high court in India; or

(b) he is or has been a district judge; or

(c) he has served as a registrar of co-operative societies for not less than three years in any state in india.

(4) any vacancy other than a casual vacancy in the membership of the tribunal shall be filled by the government and the proceeding may be continued before the tribunal from the stage at which the vacancy is filled.

(5) subject to the previous sanction of the government, the tribunal shall frame regulations consistent with the provisions of this act and the rules made there under, for regulating its procedure and the disposal of its business. the regulations shall come into force on the date, of their publication in the official gazette.

(6) any person aggrieved by,-

(a) any decision of the registrar made under clause (a) of sub-section (1) of section 77, or

(b) any decision of the person invested by the government with powers in that behalf under clause (b) of sub-section (1) section 77, or

(c) any award of an arbitrator under clause (c) of sub-section (1) of section 77, or

(d) any order made under section 120 with a view to prevent any delay or obstruction in the execution of any decision or award that may be made under section 77, or

(e) an order of the registrar removing [x x x] a member of a

cooperative society or debarring a member from election or appointment to a committee under section 36, may within sixty days from the date of the decision, award or order, as the case may be, appeal to the tribunal.
explanation.-- the tribunal hearing an appeal under this act shall exercise all the powers conferred upon an appellate court by section 97 and order xli in the first schedule to the code of civil procedure, 1908.

124. Appeals To Other Authorities :-

- (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 co-operative society;
 - (b) an order of the registrar made under sub-section (4) of section 13 refusing to register an amendment of the bye-laws of a co-operative society;
 - (c) an order of the registrar made under sub-section (2) of section 14;
 - (d) an order of the registrar made under sub-section (1) of section 17;
 - (e) a decision of a co-operative society other than that of a farming and producers society, as classified under the rules, refusing to admit any person as a member of the society or expelling any member of the society;
 - (f) an order of the registrar rescinding in whole or in part any resolution under section 32;
 - (g) a decision under sub-section (5) of section 34;
 - (h) an order declaring an officer or member of a committee as disqualified from being elected or being an officer or a member of the committee or of imposing a penalty on a servant of the society under sub-section (5) of section 30;
 - (i) an order made by the registrar under section 73 apportioning the costs of an enquiry held under section 70 or an inspection made under section 71;
 - (j) an order of surcharge made by the registrar under section 74;
 - (k) an order made by the registrar under section 78 directing the winding up of a co-operative society;
 - (l) any order made by liquidator of a co-operative society in exercise of the powers conferred on him by section 80, with respect to matters specified in the rules; or
 - (m) an order made by the registrar under section 118.

(2) an appeal against any decision or order under sub- section (1) shall be made within sixty days from the date of the decision or order,-

(a) if the decision or order was made by the registrar, to the government; or

(b) if the decision or order was made by any other person, or a cooperative society, to the registrar.

1[explanation.-- for the purpose of this sub-section, registrar shall not include any other person except additional registrar exercising all or any of the powers of the registrar.]

(3) no appeal shall lie under this section from any decision or order made in appeal.

2[xxx]

1. Inserted and shall be deemed always to have been added by section 2 of Rajasthan Act No. 2 of 1983, published in Rajasthan Gazette, Part IV-A, Exty. dt. 14.3.1983.

2. Omitted by section 2 of Rajasthan Act No. 13 of 1974, published in Rajasthan Gazette, Part IV-A, Exty. dt. 3.9.1974.

125. Revision By Tribunal :-

the tribunal may call for and examine the record of any proceedings in which an appeal lies to it 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 appear to the tribunal that any such decision or order should be modified annulled or revised, the tribunal may pass such order thereon as it may deem fit.

126. Review Of Orders By Tribunal :-

(1) the tribunal may, either on the application of the registrar or on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit:

provided that no such application shall be entertained unless the tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:

provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

(2) an application for review under sub-section (1) by any party shall. be made within ninety days from the date of the communication of the order of the tribunal.

127. Interlocutory Orders By Tribunal :-

where as appeal is made to the tribunal under section 123 or where the tribunal call for the record of a case under section 125, it may in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal or revision as it may deem fit.

128. Power Of The Government And Registrar To Call For Proceeding Of Subordinate Officers And To Pass Orders Thereon :-

(1) the state government and the registrar may call for the examine the record of any inquiry or the proceedings of any other matter, of any officer subordinate to them, except those referred to in section 125, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer. if in any case, it appears to the state government, or the registrar, that any decision or order or proceeding so called for should be modified, annulled, or reversed, the state government or the registrar, as the case may be, may after giving persons affected thereby an opportunity of being heard, pass such order thereon as it or he thinks just :
provided that every application to the registrar or the government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant:

1[provided further that the registrar shall not exercise the powers under this section in case in which an appeal lies to him under this act.

explanation.-- for the purpose of this sub-section the assistant registrar, deputy registrar and joint registrar exercising all or any of the powers of the registrar under this act shall be deemed to be subordinate to the registrar.)

(2) pending the hearing under sub-section (1), the government or the registrar may pass such interlocutory order as it or he thinks fit to prevent the ends of justice from being defeated.

1 Inserted by Section 3 of Rajasthan Act No. 2 of 1983, published

in Rajasthan Gazette, Part IV-A, Exty. dt. 14.3.1983.

CHAPTER 14 OFFENCES AND PENALTIES

129. Prohibition Against Use Of The Word "Co- Operative"

:-

(1) 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 a part:

provided that nothing in the sub-section shall apply to the use by any person or his succeed-in-interest of any name or title under which he carried on business at the date on which-

(a) the co-operative societies acts of the covenanting states in the areas respectively covered by those states, and

(b) the corresponding laws applicable in sunel, abu and ajmer areas before the 1st day of November, 1956 in those areas; came into operation.

(2) every person contravening the provisions of sub-section (1) shall on conviction, be punished with fine which may extend to two hundred rupees and in the case of a continuing offence, with a further fine of rupees five for each day on which the offence is continued after conviction there for.

130. Offences :-

it shall be an offence under this act, if-

(a) any person transfers any property in contravention of sub-section (3) of section 38; or

(b) any member or the nominee, .heir or legal representative of deceased member alienates the whole or any part of any property specified in the declaration in contravention of clause (d) of section 39; or

(c) any employer and every director manager, secretary or other officer or agent acting on behalf of such employer who without sufficient cause, fails to make deductions of section 41; or

(d) a committee of a co-operative society or an officer or member thereof fails to invest funds of such society in the manner required by section 63; or

(e) any person collecting share money or any other money for a cooperative society in formation, does not within a reasonable period deposit the same in the government savings bank or with any bank or person carrying on the business of banking, approved

for this purpose by the registrar or in any other mode permitted by the rules; or

(f) any person, collecting the share money or any other money for a

society information makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise; or

(g) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-sections (2), (3) or (4) of section 30; or

1["(h) any officer or member of a society or any other person in possession of, or reasonably believed to be in possession of, or legally bound to keep in possession, any information; books and records, fails to furnish such information or produce books and papers, or give assistance to person appointed or authorised by the government or the registrar under section 36, 37, 68, 70, 71, 77 or 79; or".

(i) any officer of a co-operative society fails to handover the custody of books, records, cash, security and other properties belonging to the society of which he is an officer to a person appointed under section 36 or 79; or to an officer elected or appointed in his place; or

(j) a committee of a co-operative society or an officer or member thereof willfully neglects or refuses to do any act, or to furnish any information required for the purpose of this act by the registrar, or other person duly authorised by him in writing in this behalf; or

(k) a committee of a co-operative society, or an officer or member thereof, willfully makes a false return, or furnishes false information, or fails to maintain proper accounts; or

(l) any officer, member, agent or servant of a co-operative society fails to comply with the requirement of sub-section (4) of section 68; or

(m) any officer or member of a society willfully fails to comply with any decision, award or order passed under section 77; or

(n) a member of a co-operative society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society; or

(o) any officer of a co-operative society willfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested, a loan in the name of

any other person; or

(p) any officer or member of a society destroys, mutilates, tempers with, or otherwise alters, falsifies or secrets or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society; or

(q) any officer or member of a co-operative, or any person does any act declared by the rules to be an offence.

explanation.-- for the purpose of this section an officer or a member referred to in the section shall include a past officer and past member, as the case may be.

1. Substituted vide Amnd Act, 2 of 1991, Pub. in Raj. Gaz. Exty. Pt. 4(A) dt. 27.3.1991, P. 91

131. Punishment For Offence Under Section 130 :-

every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under section 130 shall, on conviction, be punished,-

(a) if it is an offence under clause (a) of that section, with imprisonment of a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;

1["(b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both,"; and

(c) if it is an offence under clause (c) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both;

(d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees;

(e) if it is an offence under clause (e) of that section, with fine which may extend to five hundred rupees;

(f) if it is an offence under clause (f) of that section, with imprisonment for a term which may extend to one year, or with fine, or with both;

1(g) if it is an offence under clause (g) of that section, with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to two thousand rupees;

(h) if it is an offence under clause (h) of that section, with

imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to two thousand rupees;

(i) if it is an offence under clause (i) of that section, with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to two thousand rupees;

(j) if it is an offence under clause (j) of that section with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to two thousand rupees;

(k) if it is an offence under clause (k) of that section, with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to two thousand rupees;

(l) if it is an offence under clause (l) of that section, with fine which may extend to five hundred rupees."]

(m) if it is an offence clause (m) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both,

(n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

(o) if it is an offence under clause (o) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both;

(p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to three years, or with fine, or with both;

(q) if it is an office under clause (q) of that section, with fine which may extend to two hundred and fifty rupees.

1 Substituted vide Amnd. Act 2 of 1991, Pub. in Raj. Gaz. Exty. Pt. 4(A), dt. 27.3.1991, P. 91

132. Cognizance Of Offences :-

(1) no court inferior to that of a magistrate of the first class shall try any offence under this act.

(2) notwithstanding anything contained in the code of criminal procedure, 1[1973 (central act 2 of 1973), it shall be lawful for a magistrate of the first class to pass a sentence of fine on any person convicted of an offence under clause (c) of section 130 as

provided under section 131, in excess of his powers under section 32 of that code.

(3) no prosecution under this act shall be lodged, except with the previous sanction of the government in the case of an offence under clause (c) of section 130 and of the registrar in the case of any other offence under this act. such sanction shall not be given, except after hearing the party concerned, by an officer authorised in this behalf by the government by a general or special order, or by the registrar, as the case may be.

2["explanation:-for -the purpose of giving sanction for prosecution for an offence under this act, the registrar shall not include officer on whom powers of the registrar have been conferred under sub-section (1) of section 2 of the Rajasthan co-operative societies act, 1965."]

1 Substituted vide Amnd. Act. 2 of 1991, Pub. in Raj. Gaz. Exty Pt. 4(A), dt. 27.3.1991, P. 91

2 Inserted vide Arm. Act 2 of 1981, Pub. in Raj. Gaz. Exty. Pt. 4(A), dt. 27.3.1991, P. 91.

CHAPTER 15 MISCELLANEOUS

133. Address Of A Co-Operative Society :-

every co-operative society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the registrar notice of any change thereof within thirty days of the change.

134. Rights Of Members To See Books, Etc :-

(1) every member of a co-operative society shall be entitled to inspect, free of cost, at the societys office during office hours or at any time fixed for the purpose by the society, a copy of the act, the rules and the bye-laws, the last audited annual balance sheet, the profit and loss account, a list of the members of the committee, a register of members, the minutes of general meetings, minutes of committee meetings, and those portions of the books and records in which his transactions with the society have been recorded.

(2) a society shall furnish to a member, on request in writing, and on payment of such fees as may be prescribed there for, a copy of any of the documents mentioned in sub-section (1) within one month from the date of payment of such fees.

135. Powers Of Civil Court :-

(1) in performing the functions conferred on it by or under this act, the tribunal, the registrar, the arbitrator, or any other person deciding a dispute and the liquidator of a co-operative society shall have all the powers of a civil court, while trying a suit, under the code of civil procedure, 1908 (central act 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.

(2) in the case of any affidavit, any officer, appointed by the tribunal, registrar, the arbitrator, or any other person deciding a dispute or the liquidator, as the case may be, in this behalf may administer the oath to the deponent.

136. Registrar And Other Officers To Be Public Servants :-

the registrar, a person exercising the powers of the registrar, a person authorised to audit the accounts of a society under section 68, or to hold an inquiry under section 70, or to make an inspection under section 71, and a person appointed as an administrator under section 36, or as an arbitrator under section 77, or as a liquidator under section 79, shall be deemed to be public servants within , the meaning of section 21 of the Indian penal code.

137. Bar Of Jurisdiction Of Courts :-

(1) save as provided in this act, no civil or revenue court shall have any jurisdiction in respect of,-

- (a) the registration of a co-operative society or of an amendment of a bye-law;
- (b) the removal of a committee;
- (c) any dispute required under section 75 to be referred to the registrar; and
- (d) any matter concerning the winding up and the 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 on any ground whatsoever.

138. Power To Exempt Societies From Conditions Of Registration :-

Not with standing anything contained in this act, the government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this act as to registration.

139. Power To Exempt Class Of Societies :-

The government may, by general or special order, exempt any co-operative society or any class of societies from any of the provisions of this act or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order.

140. Register Of Members :-

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

- (a) the date on which the name of any person was entered in such register or list as a member;
- (b) the date on which any such person ceased to be a member.

141. Proof Of Entries In Co-Operative Societys Books :-

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

(2) a co-operative society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case

may be.

(3) no officer of a co-operative society and no officer in whose office 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, transactions and accounts therein recorded, except under order of the court, tribunal or the arbitrator made for special cause.

142. Service Of Notice Under The Act :-

every notice or order issued or made under this act may be served on any person, by properly addressing it to the last known place of residence or business of such person prepaying and posting by registered post a letter containing the notice or order and unless the contrary is proved such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

143. Notice Necessary In Suits :-

No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the registrar, or left at his office, stating 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.

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

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

145. 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 any thing in good faith done or purporting to have been done under this act.

146. Certain Acts Not To Apply :-

(1) the provisions of the companies act, 1956 (central act 1 of 1956), shall not apply to co-operative societies.

(2) nothing contained in the Rajasthan relief of agricultural indebtedness act, 1957 or any corresponding law for the time being in force in any part of the state shall apply to loans advanced by co-operative societies under this act.

147. Delegation Of Powers :-

1[(1)] the government may, by notification in the official gazette, and subject to such conditions, if any, as it may think fit to impose, delegate all or any of the powers of the registrar under this act to any apex or central society, as classified under the rules, or to an officer of any such society.

1(2) the government may, by notification in the official gazette, direct that all or any of the powers exercisable by it under this act or the rules may be exercisable by the registrar or such other officer, and subject to such conditions, if any, as may be specified in the notification.]

1 Renumbered and inserted by section 11 of Rajasthan Act No. 17 of 1976, published in the Raj. Gaz.Pt. IV-A, Exty. dt. 13.2.1976.

148. Power To Make Rules :-

(1) The state government may, for the whole or any part of the state and for any class of co-operative societies, after previous publication, make rules to carry out the purposes of this act:

1[provided that any rule may be made under this section without previous publication if the state government considers that it should be brought into force at once.]

(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 application to whom the order refusing the registration of co-operative society may be sent by the registrar;

(ii) the procedure and conditions for change in the form and extent of the liability of a co-operative society

(iii) the matters in respect of which a co-operative society shall, or

may, make bye-laws;

(iv) the qualifications or disqualifications of individuals who may be admitted as members of co-operative societies;

(v) the procedure to be followed for amendment of bye-laws by a cooperative society;

(vi) the provision for a second or casting vote by the chairman of a meeting of a co-operative society;

(vii) the appointment by a co-operative society of one of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;

(viii) the maximum number of shares or portion of the share capital of a co-operative society which may be held by an individual member;

(ix) the withdrawal, removal or expulsion of members, the payments to be made to them, the liabilities of past members and the estates of deceased members;

(x) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;

(xi) the procedure for the admission of members of a joint hindu undivided family, and minors and persons of unsound mind inheriting the share or interest of deceased members and provision for their rights and liabilities;

(xii) the mode in which the value of a deceased members share shall be ascertained;

(xiii) the payments to be made and the conditions to be complied with by members applying for loans; the period for which loans may be made and the amount which may be lent to an individual member;

(xiv) the inspection of documents in the registrars office and the levy of fee for granting certified copies of the same;

(xv) the confirmation and maintenance of a register ^of members, and where the liability of members is limited by shares, of a register of shares and a list of members;

(xvi) providing that the share capital of any society shall be available in such way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;

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

(xviii) the limits for loans to be granted by a society or class of

societies against different classes of securities or without security and the procedure for granting loans;

(xix) manner of recalling a loan;

(xx) the limits for granting credit by a non-credit society or a class of non-credit societies;

(xxi) the requisitioning of a general meeting of co-operative society; and the time within which a general meeting shall be called;

(xxii) general meetings of the members, the procedure at such meetings and the powers to be exercised by such meetings;

(xxiii) the election of members of committee by the general body of a cooperative society;

(xxiv) the remuneration payable to or an administrator appointed in place of a committee removed by the registrar;

(xxv) the qualifications or disqualifications for membership of a committee;

(xxvi) the conditions in which a member of a co-operative society may be disqualified from voting;

(xxvii) the appointment, suspension, removal, term of office and filling of casual vacancies of the members of the committee and other officers and for the appointment of administrator under section 36 and the procedure at meeting of the committee and the powers to be exercised and the duties to be performed by the committee, administrator and other officers;

(xxviii) the procedure to be adopted by the registrar in cases where the taking of possession of books, documents, securities, cash and other properties of a society or of a society the affairs of which have been ordered to be wound up by the registrar or by a person entitled to the same is resisted or obstructed;

(xxix) the procedure to be adopted by taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 68, 70 and 71 in cases where misappropriation of funds, breach of trust, or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tampered with or destroyed or removed;

(xxx) the qualifications of a manager, secretary, accountant or any other officer or an employee of the society and the conditions of their service including discipline and control;

(xxxi) the prohibition against officers of a co-operative society, being interested in contracts with the society;

(xxxii) the conditions on which any charge in favor of a society shall

be satisfied and the extent to which and the order in which the property to the charge shall be used in its satisfaction; and the form of declaration to be made under section 39;

(xxxiii) reasonable notice of the charge under section 39;

(xxxiv) the procedure by which a co-operative society shall calculate and write off bad debts;

(xxxv) the matters connected with the direct and indirect partnership of the government in co-operative societies;

(xxxvi) the rate at which dividend may be paid by co-operative societies;

(xxxvii) the constitution of a co-operative education fund and the payment to be made to that fund by a co-operative society out of its own profits and the mode of its investment;

(xxxviii) the mode of investment of funds of a co-operative society;

(xxxix) maintenance and administration of the provident fund which may be established by a co-operative society for the benefit of officers and servants employed by it and for the administration of such provident fund;

(xl) the objects of the reserve fund of a co-operative society and the mode of its investment;

(xli) the mode of disposal of reserve fund of a co-operative society on its windings up;

(xlii) the extent and conditions subject to which a co-operative society may receive deposits and loans;

(xliii) the restrictions on transactions by a co-operative, society with non-members;

(xliv) the restrictions on grant of loans by a co-operative society against its shares;

(xlv) the forms and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits;

(xlvi) the levy of audit fees on co-operative societies;

(xlvii) the procedure for conducting audit, the matters on which the auditor shall submit a report, the form in which the statement of account shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of a society, the form of audit memorandum and report;

(xlviii) the procedure for appointment of auditors under section 68,

(xlix) the procedure and principles for the conduct of inquiry under section 70 and inspection under section 71;

(l) the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under

section 74 and for recovery of cost and damages;

- (li) the procedure to be followed in proceedings before the registrar, arbitrator or other person deciding disputes;
- (lii) the form in which a dispute shall be referred to the registrar;
- (liii) the issue and service of processes and the mode of proving of service thereof;
- (liv) the procedure to be followed in execution of awards;
- (lv) the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society;
- (lvi) the matters in which an appeal shall lie from the order of a liquidator appointed under section 79;
- (lvii) the procedure for recovery of amounts due or payable to a cooperative society;
- (lviii) the mode of making attachment before judgment;
- (lix) the investigation of claims and objections that may be preferred against any attachment effected by the registrar;
- (lx) the procedure to be followed for the custody of property attached under section 120;
- (lxi) the procedure for the distraint and sale of property mortgaged to a land development bank;
- (lxi) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which chapter xi is applicable;
- (lxiii) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which chapter xi is applicable;
- (lxiv) the qualifications and methods of appointment of an officer to effect sale under section 106 and the powers and functions which such an officer may exercise;
- (lxv) the appointment of a receiver of the proceeds and income of mortgaged property or sale under section 106, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and the remuneration which he may receive;
- (lxvi) the circumstances in which action may be taken by a land development bank against the mortgager under section 106;
- (lxvii) in case of sale of immovable property under chapter xi-
 - (a) the procedure for proclamation and conduct of sale and the conditions on which an attempt of sale may be abandoned;
 - (b) the method of calculating the expenses incidental to the sale or attempted sale;

- (c) the procedure for the receipt of deposit and disposal of the proceeds of sale;
- (d) the procedure for resale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money;
- (e) the form and method of disposal of money by a land development bank under section 108;
- (f) the form of a sale certificate under section 109;
- (g) the procedure for delivery by the court of the property purchased, to the purchaser under section 109;
- (h) the form of the notice referred to in section 115; and
- (i) the fee payable for the service of such notice and the manner of serving such notice;
- (lxviii) the time within which and the procedure according to- which property purchased by land development bank at a sale, of immovable property under chapter xi shall be disposed of by the bank;
- (lxix) the procedure to be followed in presenting and disposing of appeals;
- (lxx) the method of communicating or publishing any order, decision or award required to be communicated or published under this act or the rules;
- (lxxi) offences under the act or contravening any of the rules;
- (lxxii) the manner of registering the address of co-operative society and the change of its address;
- (lxxiii) the account books and registers to be kept by a co-operative society and power of registrar to direct the account and books to be written up;
- (lxxiv) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business;
- (lxxv) the statements and returns to be furnished by a co-operative society to the registrar;
- (lxxvi) the restrictions on persons appearing as legal practitioners;
- (lxxvii) the inspection of documents and the fees to be paid to a co-operative society for grating certified copies thereof, and
- (lxxviii) the matters expressly required or allowed by this act to be prescribed or for which rules may be made.

1. Inserted by section 12 of Raj. Act No. 17 of 1976, Pub. in Raj. Gaz. Pt. IV-A, Exty. dt. 13.2.1976.

149. Rules To Be Laid Before State Legislature :-

All rules made under this act shall be laid as soon as may be after they are so made before the house of the state legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the house of the state legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such 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 there under.

150. Branches Etc Of Societies Outside The State :-

(1) no society shall open a branch or a place of business outside the state of Rajasthan, and no co-operative society registered under any law in any other state shall open a branch or place of business in the state of Rajasthan, without the permission or the registrar.

(2) every co-operative society registered under any law in any other state, and permitted to open a branch or place of business in rajasthan under the foregoing sub-section for which has a branch or place of business in Rajasthan at the commencement of this act, shall, within three months from the opening of such branch or place of business or from the commencement of this act, as the case may be, file with the registrar, a certified copy of the bye-laws and amendments and, if these are not written in English language, a certified translation thereof in english or hindi , and shall submit to the registrar such returns and information as are submitted by similar societies registered under this act in addition to those which may be submitted to the registrar of the state where such society is registered.

151. Power To Remove Difficulties :-

(1) if any difficulty arises in giving effect to the provisions of this act or of any existing law, the government may, as occasion may require, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty:
provided that no such order shall be made after the expiry of a

period of two years from the date of commencement of this act.

(2) the provisions made by order under sub-section (1) shall have effect as if enacted in this act, and any such order may be made so as to be retrospective to any date not earlier than the date of the commencement of this act:

provided that no person shall be deemed to be guilty of an offence by reason of so much of any notification as makes any provision thereof retrospective to any date before the making thereof.

152. Bar To Legal Practitioner :-

notwithstanding anything contained in any law for the time being in force, no legal practitioner shall appear on behalf of any part in any proceeding, other than an appeal or a revision, under this act.

153. Repeal And Savings :-

(1) the rajasthan co-operative societies act, 1953 (rajasthan act 4 of 1953) and the rajasthan sahkari bhumi bandhak bank adhiniyam, 1956.(rajasthan adhiniyam 38 of 1956) are hereby repealed.

(2) the repeal under sub-section (1) shall not affect the previous operation of the enactments so repealed and anything done or action taken or deemed to have been done or taken (including any appointment or delegation made, application or other document filed, certificate of registration granted, agreements executed, notification, order, direction or notice issued, regulation, form or bye-law framed and registered, rule made or deemed to be made or proceeding instituted before any registrar, arbitrator, liquidator, or other officer, authority or person) by or under the provisions of those enactments shall, in so far as it is not inconsistent with the provisions of this act, be deemed to have been done or taken under the corresponding provisions of this act, and shall continue in force unless and until superseded by anything done or any action taken under this act.

(3) accordingly, all societies registered or deemed to be registered under the enactments repealed, the registration of which is in force at the commencement of this act, shall on such commencement be deemed to be registered under this act; and all proceedings pending immediately before such commencement before any registrar, arbitrator, liquidator or other officer, authority or person under the provisions of the repealed enactments shall stand transferred, where necessary, to the registrar, arbitrator, liquidator

or other corresponding officer, authority or person under this act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person, to such officer, authority or person as the state government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this act.

(4) any reference to the act repealed or to any provisions thereof or to any officer, authority or person entrusted with any functions there under, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this act or its relevant provisions or the corresponding officer, authority or person functioning under this act, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions under the repealed acts or under the instrument or document.