

Uttar Pradesh Co-Operative Societies Act, 1965

11 of 1966

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Uttar Pradesh Co-Operative Societies Act, 1965

11 of 1966

An Act to consolidate and amend the law relating to co-operative societies in Uttar Pradesh As Amended by U.P Act No. 1 of 1972 U.P Act No. 25 of 1994 U.P Act No. 12 of 1976 U.P Act No. 17 of 1995 U.P Act No. 40 of 1976 U.P Act No. 1 of 1997 U.P Act No. 17 of 1977 U.P Act No. 2 of 1998 U.P Act No. 5 of 1983 U.P Act No. 19 of 1998 U.P Act No. 5 of 1987 U.P Act No. 30 of 2000 U.P Act No. 4 of 1989 U.P Act No. 8 of 2003 U.P Act No. 12 of 1990 U.P Act No. 29 of 2007 U.P Act No. 7 of 1994 U.P Act No. 46 of 2007 and U.P Act No. 17 of 1994 U.P Act No. 47 of 2007 It is hereby enacted in the Sixteenth Year of Republic of India as follows: Statement of objects and reasons.--The following is the relevant brief extract from the statement of objects and reasons published in the U. P. Gazette, Extraordinary, dated April 5, 1966. 1. In Uttar Pradesh the Co-operative Societies Act, 1912, is still in force with a few modifications which have been made from time to time by the State Government. The co-operative movement has developed in various directions since this Act was placed on the Statute Book. There has also been a reorientation of the Government's policy towards cooperation and it is now recognized that co-operative technique should be adopted in the various spheres of development activity. Experience has shown that provisions should be made in

the law for certain additional functions and responsibilities of co-operative societies and the authorities entrusted with their supervision, guidance and control. Many of the existing provisions need to be liberalised or modified to suit the changed circumstances. Government, therefore, consider it expedient to repeal existing Act and replace it by a new one and it is with this object that the Bill is being introduced. 2. The salient and distinguishing features of this Bill are noted below: (1) Provision has been made for the association of non-officials to the maximum possible extent in the management of a cooperative society. For this purpose it has been provided that the Chairman of the Committee of Management of such societies will be elected from amongst the elected members of the Committee. (2) With a view to placing the co-operative societies on sound footing financially and also to enable the weaker section of the public to derive benefit of the co-operatives, provisions has been made for State aid to co-operative societies in various forms such as loans, subsidies, purchase of shares and guarantees for the repayment of the principal and interest on debentures, and the establishment of a (1) Principal State Partnership Fund and (2) Subsidiary State Partnership Fund. (3) It is proposed to establish Appellate. Tribunals to hear appeals against awards made by the Registrar in arbitration proceedings. (4) Provisions has also been made for appeal against the orders of the Registrar in important matters. (5) Provision has been made in the bill to widen the membership of the co-operative society and to give a right of appeal to an applicant against the decision a society refusing to admit him as a member. (6) Special provisions have been made for the organization and working of Co-operative Farming Societies and the corresponding provisions on the subject contained in U.P. Zamindari Abolition and Land Reforms Act, 1950, are proposed to be repealed herewith. (7) Procedure for the execution of awards, decrees, orders and decisions under the Act is proposed to be simplified and made more effective. (8) Provisions regarding liquidation of a co-operative society have been made more rational and useful by providing that the registration of a society shall be cancelled after completion of winding up proceedings. (9) Keeping in view democratisation and deofficialisation as the object of co-operative movement a provision has been made in the Bill for the State Government to constitute or recognise one or more Co-operative Federal Authority or Authorities to supervise the working of co-operative societies or class of cooperative societies and the Registrar has been empowered to

authorise any officer or officers of such Authority to exercise powers of inspection and audit in respect of the societies under the supervision of the Federal Authority. Interpretation of Statutes Rules of.--The rules of interpretation of statute has been amply laid down by Das C. J. in the Supreme Court decision of Bengal Immunity Company v. State of Bihar, A.I.R. 1955 S.C. 661 relying on Heyden's case (1584) 3 Co. Rep 7 (a) V, wherein it was held that for the sure and true interpretation of all Statute in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered: Firstly.--What was the common law before the making of the Act. Secondly.--What was the mischief or defect for which the common law did not provide. Thirdly.--What remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth. Fourthly.--The true reason of the remedy; and then the office of all Judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress suitable inventions and evasions for continuance of the mischief, and "proprieate comode" and to add force and life to the cure and remedy according to the true intent of the makers of the Act "pro bono publico". 1. Note: Published in U.P. Gazette, dated 5th April, 1966 and received the assent of the President on 24th March, 1966.

CHAPTER 1

Preliminary

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Uttar Pradesh Co-operative Societies Act, 1965. (2) It extends to the whole of the State of Uttar Pradesh. (3) It shall come into force from such date as the State Government may, by notification in the Gazette, appoint in this behalf: Provided that while appointing such date the State Government may declare that any provisions to be specified in the declaration shall, not come into force from the date so appointed and in that case such provisions shall come into force from such date or dates as the State Government may similarly appoint in that behalf. Enforcement.--The whole Act was enforced w.e.f. 26-1-1968 vide Notification No. 9171-CA/10-9-62, dated 30-12-1967, except Section 135.

2. Definitions :-

In this Act, unless the context otherwise requires-- (a) "Arbitrator" means a person appointed under this Act to decide disputes referred to him by the Registrar: 1(a-1) "agricultural credit society"

means a credit society majority of the ordinary members whereof are primarily engaged in agricultural occupation; (a-2) "agricultural occupation" shall include-- (i) production, processing or marketing of agricultural crops; (ii) horticulture, sericulture or animal husbandry which includes piggery, pisciculture, poultry fanning and dairying; (a-3) "agricultural society" means a co-operative society the majority of the ordinary members whereof are primarily engaged in agricultural occupation; (a-4) "apex society", "apex level society" or "State level co-operative society" means"-- (1) U. P. State Co-operative Land Development Bank Ltd., Lucknow; (2) U. P. Co-operative Bank Ltd., Lucknow; (3) U. P. Co-operative Federation Ltd., Lucknow; (4) Pradeshik Co-operative Dairy Federation Ltd., Lucknow; (5) U. P. Co-operative Union Ltd., Lucknow; (6) U. P. Upbhokta Sahkari Sangh Ltd., Lucknow; (7) U. P. Co-operative Sugar Factories Federation Ltd.; (8) U. P. Cane Unions Federation Ltd., Lucknow; (9) U. P. Industrial Co-operative Association Ltd., Kanpur; or (10) any other central co-operative society fulfilling the following conditions: (i) it includes in its membership at least one other central co-operative society in the same line of business or trade; and (ii) its area of operation covers the whole of Uttar Pradesh; and (iii) its primary object is to facilitate the operation of the co-operative societies affiliated to it as ordinary members]; (b) "Board of Arbitrators" means a body appointed under this Act to decide disputes referred to it by the Registrar; (c) "bye-laws" means the registered bye-laws of a co-operative society for the time being in force; (d) "Central Government" means the Government of the Indian Union; 2[(d-1) "Central society" or central co-operative society means a cooperative society, which has any other co-operative society as its ordinary member and is not a primary co-operative society;] (e) "Committee of management" means the committee of a cooperative society, by whatever name called, to which the management of the affairs of the society is entrusted under Section 29; (f) "Co-operative society" means a society registered or deemed to be registered under this Act; (g) "Co-operative society with limited liability" means a cooperative society in which the liability of its members for the debts of 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; or (ii) to such amount as they may respectively undertake to contribute to the assets of the society; (h) "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 all its obligations and to contribute to any deficit in the assets of the society; 3(i) "Co-operative Year" means the year commencing on the first day of April and ending on the thirty first day of March next following] 4[(i-1) "credit society" means a society which has as its primary object the raising of funds to be lent to its members;] (j) "Dividend" means the interest paid (to a member) on the shares held by the member in the share capital of a cooperative society out of its profits and includes bonus provided it is paid on the share capital; 5("(j-1) "Federal Structure" means a group of apex, central and primary co-operative societies of similar, nature and pursuing similar business and work; (j-2) "Federal tier" means any one of the three levels of societies of a particular federal structure i.e. apex or central or primary;" (k) "Financing Bank or "Central Bank" means a co-operative society the main object of which is to lend money to cooperative societies which are its ordinary members; (l) "Liquidator" means a person appointed by the Registrar under, this Act to wind up the affairs of a co-operative society; (m) "maximum liability" means the maximum amount that can be borrowed by a co-operative society. It does not include share capital; (n) "Member" means a person who joined in the application for registration of a society or a person admitted to membership after such registration in accordance with the provisions of this Act, the rules and the bye-laws- for the time being in force but a reference to members anywhere in this Act in connection with the possession or exercise of any right or power or the existence or discharge of any liability or duty shall not include reference to any class of members who by reason of the provisions of this Act do not possess such right or power or have no such liability or duty; 6["(n-1) "National Bank" means the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1961;" (o) "Officer of a co-operative society" means the president, vice-president, chairman, vice-chairman, secretary, member of committee of management, treasurer, liquidator, administrator or any other person employed by co-operative society whether with or without remuneration to carry on the business of the society or to supervise its affairs; (p) "Ordinary member" means a member of a co-operative society other than a sympathiser-member having a right to vote in the affairs of the society in accordance with the provisions of this Act, the rules and the bye-laws; (q) "Prescribed" means prescribed by rules; 7[(q-1) "primary society" means a co-operative society

ordinary membership whereof is not open to any other co-operative society: Provided that-- (i) a co-operative marketing society, the area of operation whereof is only a part of a district or part of more than one district shall be deemed to be a primary society whether or not any other co-operative society is its ordinary member; (ii) a primary co-operative society any share whereof has been purchased under Chapter VI, by a central or apex society shall continue to be a primary society notwithstanding the purchase of such shares; (iii) a co-operative society, the area of operation whereof is only a part of a district and the primary object whereof is to arrange for the storage and distribution of seeds, fertilizers, pesticides, agricultural appliances or consumers goods to its ordinary members and the membership whereof includes any other co-operative society as its ordinary member, shall be deemed to be primary society notwithstanding the membership of other cooperative society in it;]; 8["(q-2) "Reserve Bank" means the Reserve Bank of India established under Section 3 of the Reserve Bank of India Act, 1934. (r) "Registrar" means the person for the time being appointed as Registrar of Co-operative Societies under sub-section (1) of Section 3 and includes any person appointed under subsection (2) of that section when exercising all or any of the powers of the Registrar; (s) "Rules" means rules made under this Act; (t) "State Government" means the Government of Uttar Pradesh; (u) "Tribunal" means a co-operative Tribunal constituted under this Act; (v) "Land Development Bank" means a bank defined in sub-clause (c) of Section 2 of the Uttar Pradesh Co-operative Land Development Bank Act, 1964. 1. Added by U.P. Act 12 of 1976 (w.e.f. 3-10-2075) 2. Added by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 3. Subs, by U.P. Act 4 of 1989 (w.e.f. 1-4-1989). 4. Added by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 5. Clause (J-1) and (J-2) Inserted by U.P. Act No. 47 of 2007 Published in U.P. Gazette Extra part I Section (Ka) dated 10 December, 2007. 6. Clause (n-1) Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra part I Section (Ka) dated 10 December, 2007. 7. Added by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 8. Clause (q-2) Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra part I Section (Ka) dated 10 December, 2007.

CHAPTER 2

Registration of Co-operative Societies

3. Registrar :-

(1) The State Government may appoint a person to be the

Registrar of Co-operative Societies for the State. (2) The State Government may, for the purposes of this Act, also appoint other persons to assist the Registrar and by general or special order confer on any such person all or any of the powers of the Registrar. 1[(3) Where any order has been made under sub-section (2) conferring on any person all or any of the powers of the Registrar under any provision of this Act, such order shall be deemed to confer on him all the powers under that provision as may be amended from time to time.] 1. Ins. by U.P. Act 12 of 1976, S. 71 (w.e.f. 3-10-1975).

4. Societies Which May Be Registered :-

Subject to the provisions of this Act, a society which has as its object the promotion of the economic interest of its members in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society, may be registered under this Act. Explanation.--Co-operative principles shall include-- (a) advancement of economic interest of the members in accordance with public morals, decency and the relevant directive principles of State policy enunciated in the Constitution of India; (b) regulation and restriction of profit motive; (c) promotion of thrift, mutual aid and self-help; (d) voluntary membership; and (e) democratic constitution of the society.

5. Registration With Limited Or Unlimited Liability :-

(1) A society may be, registered as a co-operative society with limited or unlimited liability: Provided that a society having another co-operative society as its ordinary member shall be registered only with limited liability. (2) The word "???(I)" or its equivalent in English "Limited" shall be the last word in the name of society registered under this Act with limited liability.

6. Application For Registration :-

(1) An application for the registration of a society shall be made in the manner prescribed to the Registrar in such forms as the Registrar may from time to time specify; and the applicants 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) that it is accompanied by three copies of the proposed bye-laws of the society; (b) that the applicants are eligible for membership under Section 17; (c) that the application is duly signed by every applicant himself, if he is an individual, and by a duly authorized person if the applicant is any of the persons

mentioned in any of the clauses (b) to (f) of Section 17; (d) that the number of applicants, who are to be ordinary members of the society, is not less than ten, if all the applicants are individuals, and is not less than five in all other cases; (e) that where the objects of the society include the creation of funds to be lent to its members, all the applicants who are to be the ordinary members of society, if individuals reside in the same town or village or a group of contiguous villages, or belong to the same class. Explanation.--For the purposes of this clause, any two or more persons shall be deemed to belong to the same class, if they pursue the same occupation or are under a common employer.

7. Registration :-

(1) If the Registrar is satisfied-- (a) that the application complies with the provisions of this Act and the rules; (b) that the objects of the proposed society are in accordance with Section 4; (c) that the proposed bye-laws are not inconsistent with the provisions of this Act and the rules: and (d) that the proposed society complies with the requirements of rules in regard to the existence of any conditions in general or for the class of societies to which the particular society belongs and with the requirements of sound business and has reasonable chances of success, the Registrar shall register the society and its bye-laws: Provided that where the bye-laws accompanying the application for registration are such as have, after the enforcement of this Act, already been approved by the Registrar or the type or class of co-operative societies to which the proposed society belongs, the Registrar shall pass final orders thereon either registering the society or refusing its registration within three months from the date of the receipt of the application by him and if he fails to do so, the applicants may make a representation to the authority competent to hear under Section 98 appeals against Registrars order of refusal to register a society and if such authority, after calling for a report from the Registrar, passes an order for registration of society, the society shall be deemed to have been duly registered from the date of communication of such order to the Registrar. (2) Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefor to such applicant as has been named in the application for this purpose and in default of such naming, to any one of the applicants.

8. Registration Certificate :-

(1) Where a society is registered under this Act or deemed to be

registered under the proviso to sub-section (1) of Section 7, the Registrar shall issue a certificate of registration signed by him which, unless the registration is proved to have been cancelled, shall be conclusive evidence that the society therein mentioned is a cooperative society duly registered under this Act. (2) No person or society shall commence, business in the name of, or professing to be, a co-operative society unless a certificate of registration has been obtained under sub-section (1) for such society and every person or member of society carrying on business in contravention of this sub-section, shall be personally liable for all liabilities incurred in such business.

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

The registration of a 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 purpose for which it was constituted.

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

(1) A co-operative society may, by amending 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 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 society or of any of its members, past members, officers, past officers, or the heirs of any of them, if deceased, or render defective any legal proceeding by or against the co-operative society, and any legal proceeding which might have been continued or commenced by or against the society by its former name, may be continued or commenced by its new name.

11. Change Of Liabilities :-

(1) A co-operative society may, by amending 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 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 society or of any of its members, past members, officers, past officers, or the heirs of any of them, if deceased, or render

defective any legal proceeding by or against the co-operative society, and any legal proceeding which might have been continued or commenced by or against the society by its former name, may be continued or commenced by its new name.

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

(1) A cooperative society may, subject to the provisions of this Act and the rules, amends its bye-laws in the manner prescribed: Provided that no such amendment shall be valid and operative unless it has been registered under this Act. (2) The proposal for an amendment of the bye-laws shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment-- (i) is not contrary to the objects specified in Section 4 of the Act; and 1[**(ii) is not contrary to the other provisions of the Act or the rules, he shall register the amendment within one month from the date of receipt of such proposal. If the Registrar does not register the amendment within one month then it will be deemed that he has refused to register the amendment and in this case it will be obligatory for the Registrar to intimate the society within next one month, the reasons for not registering the amendment." 2[(3) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal, together with the reasons thereof, to the society. 1. Sub-clause (ii) subs, by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 2. Clause (3) omitted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007.

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

An amendment of the bye-laws of a co-operative society shall, if it is expressed to come into operation on a particular day after registration, come force on that day, but in all other cases on the day on which it is registered.

14. Power To Direct Amendments In Bye-Laws :-

(1) Where the Registrar is of the opinion, whether on the representation of a member of a co-operative society or otherwise, that an amendment in the bye-laws of a co-operative society is necessary or desirable in the interests of such society or in public interest, he may, under such circumstances as may be prescribed, by order in writing issued to the society by registered post, require the society to make the amendment within such time as he may specify in the order. (2) If the society fails to make the amendment

within the time specified the Registrar may, after giving the society an opportunity of being heard, 1[* * *] register such amendment and issue to the society by registered post a copy of the amendment certified by him as a copy and shall be conclusive evidence that the amendment has been duly made and such copy registered. 2(3) (a) Notwithstanding anything contained in sub-section (1) and (2), where the Registrar is of the opinion that an amendment in the bye-laws of a Co-operative Society or a class co-operative societies is necessary and desirable in the interest of such society or class of societies, as the case may be, or in public interest, he may by notice in the Gazette, require the society or the class of societies to file objection, if any, against the amendment proposed, within the time as he may specify in the notice. (b) If any objection is filed within the time specified, then after having considered the same, and in case objection is filed, then on expiry of the time specified, the Registrar may register the amendment with such modifications, if any, as he considers necessary, and the amendment certified by him shall be published in the Gazette which shall be conclusive evidence that the amendment has been duly made and registered in relation to such society or the class of societies, as the case may be.] 1. Omitted by U.P. Act 1 of 1972. 2. Sub-section (3) Ins. by Notification No. 3295/XII-E-4-4(101)-78 dated 10-7-1978 published in U.P. Gazette Extra ordinary dated 10-7-1978.

15. Amalgamation And Merger Of Co-Operative Societies :-

(1) any two or more co-operative societies may, after duly informing the Registrar, at their respective ordinary general meetings, called for the purpose, of which at least fifteen clear days notice shall be given to their respective members, resolve, by a majority of at least two-thirds of the members present, to amalgamate into one society or to merge into any of them. The resolution (hereinafter called preliminary resolution) shall contain all particulars of amalgamation or merger, as the case may be, including the transfer of assets and liabilities to the new society in case of amalgamation and to the continuing society in case of merger and also the bye-laws of such a society. 1[(2) Notwithstanding any other provision of this Act or of any bye law of any society, notices of any meeting referred to in sub-section (1) or sub-section (4) shall be given to the members of the societies concerned, and copies of the preliminary resolution shall be served on the members and creditors of such societies in anyone or more

of the following manners, namely-- (a) by delivery in person under acknowledgment in writing, or (b) except in respect of any person who has acknowledged receipt in writing under clause (a), by post under certificate of posting at the address of each such person as noted in the society's records, and also by publication in a newspaper having circulation in the area of operation of the society.] (3) (i) Any member of any such society may, notwithstanding any bye-law to the contrary, by notice to the society of which he is a member 2[within a period of thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub-section (2) or, as the case may be, from the date of its publication in a newspaper under clause (b) of that sub-section], intimate his intention not to become a member of the new society in case of amalgamation, or to be a member of the continuing society in case of merger. (ii) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period, intimate his intention to demand a return of the amount outstanding to his credit. (4) After the expiry of 3[the period referred to in clause (i) of subsection (3)], a joint meeting of the members of such societies of which at least fifteen clear days notice shall be given to them, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members, present, either without changes or with such changes as in the opinion of the Registrar, which shall be final, are not material, he may-- (i) in the case of amalgamation, subject to the provisions of subsections (5) and (6) and Section 7, register the new society and the bye-laws thereof; and (ii) in the case of merger, give subject to the provision of sub-section (5) and (6), his sanction thereto. Explanation.--For the purposes of this sub-section the term "members" shall include any delegates of members selected for the purpose in accordance with rules, made in this behalf. (5) While confirming the preliminary resolution under sub-section (4), provision shall be made by another resolution for-- (i) the repayment, subject to the provision of Section 41, of the share capital of all the members who have given notice under clause (i) of sub-section (3), and (ii) the satisfaction of the claims of all the creditors who have given notice under clause (ii) of sub-section (3). (6) If, within such time as the Registrar considers reasonable, the share capital of the members, referred to in sub-section (5) is not repaid or the claims of the

creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new society or to sanction the merger, as the case may be. (7) The registration of a new society or the sanction of merger under sub-section (4) shall be sufficient conveyance to vest in the new society in the case of amalgamation and in the continuing society in the case of merger, all the assets and liabilities of the amalgamated societies or merged society or societies, as the case may be, anything contained in any other law for the time being in force to the contrary notwithstanding; and on such registration of a new society or sanction of merger, as the case may be, the registration of the amalgamated societies or of the society or societies which has or have merged into another society, shall be deemed to have been cancelled. 1. Subs. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2. Sub-section (3) Ins. by Notification No. 3295/XII-E-4-4(101)-78 dated 10-7-1978 published in U.P. Gazette Extra ordinary dated 10-7-1978. 3. Subs. by U.P. Act. 12 of 1976 (w.e.f. 3-10-1975).

16. Division Of Co-Operative Societies :-

(1) Any co-operative society may, after duly informing the Registrar, at a general meeting called for the purpose of which, at least fifteen clear days notice shall be given to its members, resolve to divide itself into two or more societies, The resolution (hereinafter in this section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operation of and specify the members who will constitute each of the new societies. 1[(2) Notwithstanding any other provision of this Act or of any bye-law of such society, notice of any meeting referred to in this section shall be given to the members of the society and a copy of the preliminary resolution shall be served on the members and creditors of the society in anyone or more of the manners specified in sub-section (2) of Section 15, which shall mutatis mutandis apply.] (3) (i) Any member of the society may, notwithstanding any bye-law to the contrary, by notice given to the society 2[within a period of thirty days from the date of receipt of a copy of the preliminary resolution under clause (a) of sub-section (2) of Section 15 as applicable by virtue of subsection (2) of this section, or as the case may be, from the date of its publication in a newspaper under clause (b) thereof], intimate his intention not to become a member of any of the new societies. (ii) Any creditor of the society may,

notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount outstanding to his credit. (4) After the expiry of 3[the period referred to in clause (i) of subsection (3)] a general meeting of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes, as in the opinion of the Registrar, which shall be final, are not material, he may, subject to the provisions of sub-sections (5) and (6) and Section 7, register the new societies and the bye-laws thereof, On such registration, the registration of the old society shall be deemed to have been cancelled. (5) While confirming the preliminary resolution under sub-section (4), provisions shall be made by another resolution for- - (i) the repayment, subject to the provisions of Section 41, of the share capital of all the members who have given notice under clause (i) of sub-section (3); and (ii) the satisfaction of the claims of all the creditors who have given notice under clause (ii) of sub-section (3). (6) If, within such times as the Registrar considers reasonable, the share capital of the members, referred to in sub-section (5) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new societies. (7) Notwithstanding anything in any other law for the time being in force, the registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (4). 1. Subs. by U.P. Act. 12 of 1976 (w.e.f. 3-10-1975). 2. Subs. by U.P. Act. 12 of 1976 (w.e.f. 3-10-1975). 3. Subs. by U.P. Act. 12 of 1976 (w.e.f. 3-10-1975).

CHAPTER 3

Members of Co-operative Societies and their Rights and Liabilities

17. Persons Who May Be Members Of A Co-Operative Society :-

(1) No person shall be a member of a co-operative society except the following, namely-- (a) an individual who, except as provided in sub-section (4) of Section 18, Section 80 and sub-section (2) of Section 81, is of the age of majority according to the law to which he is subject and who is of sound mind and is not disqualified from

contracting by any law to which he is subject; (b) any other co-operative society; (c) the State Government; (d) the Central Government; (e) the State Warehousing Corporation established or deemed to be established under the Warehousing Corporation Act, 1962 (Act LVIII of 1962); 1[(ee) a firm registered under the Indian Partnership Act 1932;] (f) a body corporate not covered by any other clause and approved by the Registrar, for ordinary or nominal membership of co-operative societies in general or any particular co-operative society or class of co-operative societies on the ground of its being useful in the development of such societies, society or class of societies. 2[(g) any association or body of persons whether incorporated or not; Provided that a student, who has not attained the age of majority according to the law to which he is subject, shall be eligible for the membership of a co-operative society formed in an educational institution to which he belongs.] (2) Notwithstanding anything contained in sub-section (1) a joint-stock company or an individual shall not be admitted as an ordinary member in such co-operative society or societies or class of co-operative societies as may be prescribed. 1. Clause (ee) Ins. by U.P. Act 5 of 1987 (w.e.f. 24-3-1987). 2. Clause (g) Ins. by U.P. Act 30 of 2000 dated 1-11-2000 (w.e.f. 27-7-2000).

18. Classes Of Members :-

(1) A co-operative society may, in addition to ordinary members, have the following kinds of members-- (a) sympathiser members; (b) nominal members; (c) associate members. (2) (a) A person may be admitted as a sympathiser member if he is genuinely interested in the promotion of the object of the society or in the welfare of the member workers. (b) The number of sympathiser members in a society shall at no time exceed five per cent of the total number of ordinary members and the number of sympathiser members on the committee of management shall neither exceed two nor ten per cent of their total membership in the society nor even one-fifth of the total number of members on the committee of management. (3) (a) A person with whom the co-operative society has or proposes to have business dealings may be admitted as a nominal member. (b) A nominal member shall have no right to share in the profits of the society nor shall be eligible for the membership of the committee of management. (4) (a) Any individual including a minor who is a seasonal or temporary worker or apprentice in the business of the society or who is otherwise interested in such business may be admitted as an associate

member. (b) An associate member shall not be eligible for the membership of the committee of management nor have a right to share in the profits otherwise than as wages and bonus. (5) Save as provided in this section or elsewhere in this Act, a nominal or associate or sympathiser member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society, or the rules.

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

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

20. Vote Of Members :-

A member of a co-operative society shall, notwithstanding the quantum of his interest in the capital of the society, have one vote in the affairs of the society- Provided that-- 1(a) no nominal or associate member shall have the right of vote; (aa) a member shall have no right of vote if-- (i) he is defaulter and has been a defaulter for a period of not less than six months; or (ii) he is a delegate of a society which is such defaulter as is referred to in sub-clause (i). 2[Explanation I--For the purposes of this clause, the word "defaulter" means:-- (i) a member (whether individual or body corporate) who has failed to pay any dues of the society concerned on the due date; or (ii) a member co-operative society which has failed to pay not less than 75 per cent of the total dues on the due date.] 3[Explanation II-In the case of a transaction between a society and its members where there is no document evidencing the transaction in which the due date is specified the expression due date, for the purposes of the preceding explanation shall mean the date of expiration of six months from the date of transaction. Explanation III---A member shall cease to be treated as defaulter if he pays the sum for non-payment of which such member became defaulter-- (i) in the case of an election, on or before the date fixed under the rules for deciding objections against the provisional voters list; (ii) in any other case, before the commencement of the meeting]; (b) where a co-operative society, the State Warehousing Corporation or a body corporate is a member of such society, each delegate of such co-operative societies, State Warehousing Corporation or body corporate, [appointed in the prescribed manner]4 to the general body of such society shall have one vote; (c) where the State Government or the

Central Government is a member of such society, each person nominated according to the bye-laws by the State Government or the Central Government on the committee of management or the general body of the co-operative society shall have one vote; (d) the rules or the bye-laws may provide for a group of members or any class of members partaking in the affairs of the society through a delegate or delegates, each delegate having one vote. 5["(iii) he has not maintained deposit of at least rupees one thousand in his deposit account for a period of two years preceding the date fixed for publication of the provisional voters list." 1. Ins. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2. Original Explanation renumbered as Expl. No. I and Expl. II & III added by U.P. Act No. 17 of 1977. 3. Ins. by U.P. Act 17 of 1977. 4. Subs, by U.P. Act 17 of 1977. 5. Clause (iii) inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007.

21. Manner Of Exercising Vote :-

Every individual member, every delegate and every nominee shall exercise his vote in the affairs of a cooperative society in person and no member, delegate or nominee shall be permitted to vote by proxy.

22. Restriction On Holding Of Shares :-

A member who is an individual shall-- (a) neither hold more than such portion of the total share capital of the society, nor exceeding one-fifth thereof, as may be prescribed. (b) nor have or claim any interest in the shares of the society exceeding¹[such amount as may be prescribed] in nominal value. 1. Subs. by U.P. Act No. 1 of 1972.

23. Restrictions On Transfer Of Shares Or Interest :-

(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 holding as are specified in Section 22. (2) No transfer by a member of his share or interest in the capital of 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 a member of the society; and (c) the transfer is approved by the committee of management of the society. (3) Notwithstanding anything contained in sub-section (2) a cooperative society may, subject to such conditions as may be prescribed, permit the transfer of, acquire or retain the share or interest of any member in the capital of the society.

24. 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 the manner prescribed, or if no person has been so nominated, to such person as may appear to the committee of management to be the heir or legal representative of the deceased member: Provided that no such transfer shall be made unless such nominee, heir or legal representative, as the case may be, is admitted as a member of the society: Provided further that if any dispute arises whether any person is the heir or legal representative of the deceased member, it shall be referred to the Registrar who shall thereupon refer it for arbitration under Section 71 and such society shall treat for the purposes of this section the person so determined in the arbitration proceedings as the heir or legal representative of the deceased member. (2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in the manner prescribed and the society shall pay the amount due within three months from the expiry of the period provided in Section 25 for the continuance of liability. (3) A co-operative society shall pay all other moneys which may be found due to the deceased member from the society to such nominee, heir or legal representative, as the case may be. (4) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person: Provided that nothing herein shall affect the right of the rightful heir or legal representative to make any claim against the persons to whom any transfer or payment has been made under this section. (5) Nothing contained in sub-sections (2) and (3) shall prejudice the right of society under this Act to realize its outstanding claims against the deceased member out of the value of share or interest of, or other moneys due to, the deceased member.

25. 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 a period of two years from such date. (2) Where a co-operative society is ordered to be wound up under Section 72, 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 the order of winding up, shall continue until the entire winding up proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

26. Admission To And Withdrawal From Membership :-

(1) A person may be admitted as member of a co-operative society subject to the provisions of this Act, the Rules and the bye-laws. (2) Where a person is refused admission as a member in a cooperative society, the decision refusing admission shall be communicated by the society to that person within seven days of the date of the decision. (3) A member of a co-operative society, if he is not in debt to the society or is not a surety for any unpaid debt, may withdraw from the membership of the society after giving at least one months notice to the society, provided that he has put in such minimum period of membership if any, as may be laid down in the bye-laws of the society which may also provide for a longer period of notice not exceeding six months. After the expiry of the period of notice of withdrawal he shall be deemed to have withdrawn and after the expiry of the period specified under Section 25, he shall be entitled to re-payment of his dues outstanding against the society in respect of his shares as ascertained in the manner prescribed. Section

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- Universal membership for primary agricultural credit society 1[26-A. Universal membership for primary agricultural credit society.— (1) Any individual who is qualified for admission to membership under the provision of this Act, the rules and the bye-laws and makes an application in the manner prescribed, for membership of a primary agricultural credit society shall be deemed to have been admitted to the membership of such society from the date of receipt of such application in the office of the society. (2) If at any time after the date of admission of the individual under sub-section (1), it is discovered that the individual concerned is not qualified, under this Act, the rules or the bye-laws, to become a member of such society, the Registrar may, notwithstanding anything contained in this Act, either suo motu or on the application of the concerned society within a period of three months from the date of such discovery give notice to such individual to show cause why he should not be removed from the membership of the society, and upon an order of the Registrar made in this behalf such individual shall, from the date of the order, cease to be the member of such society.] 1. Ins. by U.P. Act No. 40 of 1976 and

shall be deemed to have been inserted (w.e.f. 25-6-1976).

27. Removal Or Expulsion Of A Member By A Society Or The Registrar :-

(1) A co-operative society may, by resolution, remove, or expel a person from its membership in accordance with such procedure and for such causes and within such period as may be prescribed. (2) The Registrar may also remove or expel a person from the membership of a co-operative society-- (a) if the person has ceased to fulfil the qualifications required for membership, or is disqualified to be a member under this Act or the rules or the bye-laws of the society, and the cooperative society, even when required by the Registrar by order in writing, fails to remove or expel him, in accordance with the provisions of sub-section (1) within thirty days from the receipt of the order of the Registrar; or (b) if the person was admitted to the membership of the society in contravention of the provisions of this Act, the rules or the bye-laws of the society. (3) No resolution under sub-section (1) and no order under subsection (2), shall be; passed unless the member concerned has been afforded reasonable opportunity of being heard in respect of the grounds on which his removal or expulsion is proposed to be made. (4) A resolution under sub-section (1), or an order under sub-section (2), shall, subject to the result of appeal, if any, against the resolution or the order, as the case may be, with effect from the date of communication of the resolution or the order, have the effect of terminating the membership of the member so removed or expelled, but without prejudice to his rights and liabilities under this Act, the rules or the bye-laws of the society, as a past member. (5) No member of a co-operative society, expelled under sub-section (1) or sub-section (2), shall be eligible for re-admission as a member of that society for a period of two years from the date the resolution or order of expulsion takes effect and he shall further be not eligible to hold any office under that society, or to seek election to its committee of management for a period of three years from the date of his re-admission as a member.

CHAPTER 4

Management of Societies

28. Final Authority In Co-Operative Society :-

Subject to the provisions of this Act and the rules the final authority of a co-operative society shall vest in the general body of its members in general meeting: Provided that, in such circumstance as may be prescribed, 1[the final authority shall vest

in the delegates of such members elected in the manner prescribed], and assembled in general meeting and in such case all references in this Act, the rules or the bye-laws to the general body and general meeting shall be deemed to be references to the body consisting of such delegates of members and to the general meeting of such delegates. 1. Subs, by U.P. Act 17 of 1977.

29. Committee Of Management :-

(1) the management of every cooperative society shall vest in a committee of management constituted in accordance with this Act, the rules and the bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed by this Act, the rules and the bye-laws. 1[(2) (a) The term of every Committee of Management shall be 2(two years] and the term of the elected members of the Committee of Management shall be co-terminus with the term of such committee. (b) The Provisions of clause (a) shall apply also to a Committee of Management in existence on the date of the commencement of the Uttar Pradesh Co-operative Societies 3[The Uttar Pradesh Co-operative Societies (Second Amendment) Act, 2007] and to the elected members of such Committee. 4["(c) The term of a Committee of Management, which has completed, on or before the date of the commencement of the Act referred to in clause (b), the period of two years from the date of its constitution and the term of its elected members, shall expire o n such commencement." 5[(3) Election to reconstitute the Committee of Management of a Cooperative Society shall be completed in the prescribed manner under the superintendence, control and direction of the Registrar least fifteen days before the expiry of the term of the Committee of Management and the members so elected shall replace the committee of Management whose term expires under sub-section (2): Provided that where the Registrar is satisfied that circumstances exist which render it difficult for him to hold the election on the date fixed, he may postpone the election, and all proceedings with reference to the election be commenced afresh in all respects]. 6[(4) It shall be the duty of the Secretary or the Managing Director of the Co-operative Society, as the case may be, to send to the Registrar, four months before the expiry of the term of Committee of Management, a requisition for conducting the election and to furnish all such information as may be required by him within such period as may be fixed by him.]. 7[(5) (a) Where, for any reason whatsoever, the election of the elected members of the Committee of Management

has not taken place or could not take place before the expiry of the term of elected members, the Committee of Management shall, notwithstanding anything to the contrary in any other provision of this Act or the rules thereunder, or the bye-laws of the society, cease to exist on the expiry of such term. (b) On or as soon as may be after the expiry of such term, the Registrar shall appoint an Administrator or a Committee of Administrators (hereinafter, in this section, referred to as the Committee) for the management of the affairs of the society until the reconstitution of the Committee of Management in accordance with the provisions of this Act, the rules and the bye-laws of the society and the Registrar shall have the power to change the Administrator or, as the case may be, any member of the Committee or to appoint a Committee in place of an Administrator or vice versa from time to time. (c) Where a committee is appointed under clause (b), it shall consist of a Chairman and such other members not exceeding eight as may be nominated by the Registrar out of which at least two shall be Government servants. (d) The procedure for summoning and holding of meetings of the Committee the time and place of holding such meetings, the conduct of business at such meetings and the number of members necessary to form quorum thereof shall be such as may be prescribed. (e) So long as no Administrator or the Committee, as the case may be, is appointed under clause (b), the Secretary or the Managing Director, as the case may be, of the society shall be in charge only of the current duties of the Committee of Management. Explanation.--Where results of the election of members of the Committee of Management have not been or could not be declared, for any reason whatsoever, before the expiry of the term of the elected members of the outgoing Committee of Management, it shall be deemed that the election of the elected members of the Committee of Management has not taken place within the meaning of this subsection. 8[(6) The Administration or the Committee appointed under subsection (5) shall, subject to any directions which the Registrar may from time to time give, have the powers to perform all or any of the functions of the Committee of Management or of any officer of the society and shall be deemed for all purpose under this Act, the rules and the bye-laws of the society to be the Committee of Management and the Chairman of such Committee shall exercise the powers and perform the functions of the Chairman of the Committee of Management. 9[(7) The Administration or the Committee, as the case may be, appointed under sub-section (5), shall as soon as

may be, but not later than the expiry of six months from the date of appointment, arrange for the reconstitution of the Committee of Management in accordance with the provisions of this Act, the rules and the bye-laws of the society to take over the management of the society from the Administration or the Committee, as the case may be: Provided that where an Administrator is replaced by a Committee or a Committee by an Administrator as provided in clause (b) of sub-section (5), the period of six months shall count from the date the Administrator or the Committee, as the case may be, was originally appointed. Explanation.--Notwithstanding that the process of election may have commenced before the appointment of Administrator or the Committee under sub-section (5), a fresh process of election shall commence after such appointment.] 10["(8) Notwithstanding anything to the contrary contained in any other provision of this Act, there shall be at least three professional with full voting rights on the committee of Uttar Pradesh Co-operative Bank or a Central Co-operative Bank having special knowledge or experience in the field of accounting, law, banking, management, agriculture or rural economy as stipulated by the Reserve Bank of India. Incase such professionals do not get elected, they shall be co-opted by the Committee of Management of the Bank as aforesaid." 1. Sub-section (2) Subs, by U.P. Act 19 of 1998, dated 9-7-1998. Subs, by U.P. Act 17 of 1994, (w.e.f. 15-7-1994), the position of old sub-section (2) of Section 29. (2) The term of every Committee of Management, including a Committee of Management constituted before the Commencement of the U.P. Co-operative Societies (Second Amendment) Act, 1994 whose term has not expired on the date of such commencement, shall be five years, and the term of the elected members of the Committee of Management shall be co-terminus with the term of such Committee. Explanation.--For the purpose of the sub-section, the expression "term" in respect of a Committee of Management constituted before the commencement of the Uttar Pradesh Co-operative Societies (Second Amendment) Act, 1994, means a period of three years. 2. The word "Two years" subs. by U.P. Act No. 46 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007 (w.e.f. 5-9-2007). 3. The word "The Uttar Pradesh Co-operative societies (Second Amendment) Act, 2007 subs, by U.P. Act No. 46 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 4 Clause (c) subs. by U.P. Act No. 46 of 2007 (w.e.f. 5-9-2007). 5. Sub-section (3), (4), (5), (6) and (7) subs. by U.P. Act No. 47 of 2007.

Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007 (w.e.f. 5-9-2007). 6. Sub-section (3), (4), (5), (6) and (7) subs. by U.P. Act No. 46 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007 (w.e.f. 5-9-2007). 7. Sub-section (3), (4), (5), (6) and (7) subs, by U.P. Act No. 46 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007 (w.e.f. 5-9-2007). 8. Sub-section (3), (4), (5), (6) and (7) subs, by U.P. Act No. 46 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007 (w.e.f. 5-9-2007). 9. Sub-section (3), (4), (5), (6) and (7) subs, by U.P. Act No. 46 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 10. Sub-section (8) Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. Section

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- Special provision for Primary Agricultural Co-operative Credit Societies, Central Co-operative Banks and Apex Bank 29-A. Special provision for Primary Agricultural Co-operative Credit Societies, Central Co-operative Banks and Apex Bank.-- Notwithstanding anything to the contrary in any other provision of this Act, rules and Bye-laws of the society, the Committee of Management of a Primary Agricultural Co-operative Credit Society or a Central Cooperative Bank or an apex bank shall exercise such powers and perform such duties as may be necessary and expedient for the purpose of and expedient for the purpose of carrying out its functions under this Act which shall include,-- (a) the power to,-- (i) admit members and dispose of applications for shares; (ii) interpret the organizational objectives and set specific goals to be achieved towards those objectives; (iii) prepare annual and supplementary budgets and get the approval of the General Body thereto; (iv) raise, and invest funds in accordance with the bye-laws; (v) sanction all expenditure above the prescribed level, and the plan of capital development for the coming year or years; (vi) enforce any debt or demand of the society and institute, defend or compromise legal proceeding for or against the society; (vii) assess the existing man power resources and future requirements in the context of changes that might have taken to ensure availability of the required resources and consider and remove constraints in the process or progress of manpower planning at least once at the beginning of every year; (viii) appoint officers or other staff to conduct the business of the society and define inter alia their duties, service conditions, leave concessions and disciplinary matters subject to the provisions of this Act, the rules and the bye-laws; (ix) arrange for the education and training of members and employee and review the programmes and progress, relating thereto, at least once at the beginning of every year; (x) dispose of applications for loans, fix rate of interest subject to the directions of the Reserve Bank of India and the National Bank for Agriculture and Rural Development and determine securities to be taken for such loans; (xi) appoint sub-committees, as may be considered necessary; (xii) make periodical appraisal of its operation; (xiii) acquire, hold and dispose off the properties in the prescribed manner; (xiv) take loans from any financial institution regulated by the Reserve Bank of India and refinance from National Bank for Agriculture and Rural Development or any other refinancing agency directly or through any financial institution regulated by the Reserve Bank of India and not necessarily from only the federal tier to which it is affiliated, and similarly, placing its deposits with, or making investments in, any

regulated financial institution and not necessarily with only the federal tire to which it is affiliated; (xv) decide issues relating to affiliation and disaffiliation with any federal structure including entry and exit at any level; (xvi) decide its area of operation according to the business requirement; (xvii) take such other measures or do such other act as may be prescribed or required under this Act, the rules and the Bye-laws; and (b) the duty of-- (i) observing, in all affairs under the provisions of this Act, the rules and the bye-laws; (ii) causing-- (A) proper receipt and disbursement of moneys of the society and maintenance of the account, assets and liabilities of the society; (B) preparation of Annual Report of the society for every year; (C) preparation of Annual Returns prescribed by the Registrar; (D) preparation of the statement of account required at audit and placement of the same before the auditors; (E) preparation of all other statement, and returns and submission of the same to the Registrar; (F) maintenance of accounts of the society regularly in proper books; (G) maintenance of the register of members up-to-date; (iii). formulating recommendation in accordance with the guidelines of National Bank, if any, for appropriation of the net profits declared as distributable under the provisions of this Act and the rules and submitting the same to General Body; (iv) facilitating the inspections, inquiries and audits under this Act and considering the Audi,, inspection and Inquiry Reports received from the concerned authority and furnishing compliance thereto in accordance with the provisions of this Act and the rules; (v) convening the meetings and special meetings of the General Body in time; (vi) watching that the loans and advances are utilized for the purposes for which they are meant and also that they are repaid punctually; (vii) examining and taking prompt action in cases of all arrears and defaults in repayment of loans and advances; (viii) liaisoning with the members in all matters of the society and ensuring the observance of the co-operative principles; (ix) making arrangements for holding elections in time; and (x) performing such other functions as may be entrusted to it by the General Body or required by or under this Act, the rule and the bye-laws. (c) (i) A member of the Committee of Management shall be disqualified for continuing in the Committee if he is representing a non-credit society on the board of a Central Co-operative Bank or apex bank and the society has committed a default for a period exceeding 90 days. (ii) A person who is a defaulting member or office-bearer of a defaulting Primary Agricultural Co-operative Credit Society shall not be eligible to be elected to the board of the society or the bank as the case may be, or continue on the Board for more than one year unless the default is cleared, (d) "A Primary Agricultural Co-operative Credit Society shall abide by all such directions regarding financial norms as may be prescribed by the Registrar in consultation with the National Bank." 1. Section 29-A Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazetted Extra part I, Section (ka) dated 10 December, 2007.

30. Chairman :-

1(1) Every co-operative society shall have a Chairman and Vice-Chairman elected, nominated or appointed in accordance with the provisions of this Act, the rules and the bye-laws.] (2) The Chairman shall be responsible for the control, supervision and guidance of the affairs and business of the society and shall exercise such powers and perform such duties as may be conferred or imposed on him by this Act, the rules, the bye-laws and the resolutions of the committee of management. When present, he shall, except as otherwise provided in the rules, preside at the meeting of the general body and the committee of management. (3) The Vice-Chairman shall, except as otherwise provided in the rules, preside, in the absence of the Chairman, at the meeting, of

the general body or the committee of management, and shall exercise such powers and perform such duties as may be delegated to him in writing by the Chairman subject to the bye-laws. 2[(4) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or removal or otherwise the Vice-Chairman shall perform the duties of the Chairman until the date on which a new Chairman is duly elected, nominated or appointed. 1. Subs, by U.P. Act 1 of 1972. 2. Ins. by U.P. Act 1 of 1972. Section

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- Motion of non-confidence against Chairman or Vice-chairman 1[30-A. Motion of non-confidence against Chairman or Vice-chairman.-- (1) A motion expressing non-confidence against the Chairman or the Vice-Chairman of a Co-operative society shall be made and proceeded with in accordance with the procedure as may be prescribed. (2) When a motion for non-confidence is carried the Chairman or the Vice-Chairman against whom it is carried shall cease to hold that office forthwith and shall be succeeded by his successor, who shall be elected by another resolution in the same meeting in the manner as may be prescribed.] 1. Section 30-A Ins. by U.P. Act 2 of 1998 date 2-2-1998 (w.e.f. 15-11-1997).

31. The Secretary, His Emoluments And Functions :-

1[(1) Except in the case of an apex society there shall be a secretary of every co-operative society, to be appointed and removable by the society subject to the provisions of the rules and regulations framed under Sections 121 and 122. The emoluments and other conditions of service of the Secretary shall be such as may be prescribed in the bye-laws of the society made in conformity with the rules and regulations made in this behalf: Provided that where a service for the post of secretaries common to any class of co-operative societies has been created under Section 122-A, the recruitment, appointment, removal and other conditions of service of persons appointed to such posts, including persons appointed to such posts before the creation of such service, shall be governed by the provisions of that section and the rules made thereunder.] (2) The Secretary shall be the Chief Executive Officer of the society and subject to such control and supervision of the Chairman and the committee of management as may be provided in the rules or the bye-laws of the society shall-- (a) be responsible for the sound management of the business of the society and its efficient administration; (b) carry on the authorized and normal business of the society; (c) subject to the provisions of the bye-laws of the society, operate its accounts and, except where the society has a cashier or treasurer, handle and keep in his custody

its cash balances; (d) sign and authenticate all documents for and on behalf of the society; (e) be responsible for the proper maintenance of various books and records of the society and for the correct preparation and timely submission of periodical statements and returns in accordance with this Act, the rules, the bye-laws and the instruments of the Registrar or the State Government; (f) convene meetings of the general body, the committee of management and any sub-committee constituted by the committee of management and maintain proper records of such meetings; and (g) perform such other duties and exercise such other powers as may be imposed or conferred on him under the rules or the bye-laws of the society. (3) A co-operative society may, subject to the provisions of the rules and the bye-laws and the regulations made under 2[Section 121, Section 122 or Section 122-A], appoint, if necessary, one or more persons to assist the secretary and to entrust him or them with such powers and duties of the secretary as the society may deem fit. (4) After a co-operative society has been registered and till such time as its secretary is appointed under sub-section (1) or for six months, whichever is earlier, the functions and duties of the secretary shall be performed by such member of the society as may be provided in the rules and the bye-laws of the society. 1. Subs. by U.P. Act 17 of 1977 (w.e.f. 3-10-1975). 2. Subs. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975).
Section

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- Appointment of Managing Director instead of Secretary for Apex Societies 1[31-A. Appointment of Managing Director instead of Secretary for Apex Societies.-- (1) For every apex society there shall be, instead of a Secretary, a Managing Director who shall be a Government servant not below the rank of a Class I Officer, nominated by the State Government, and his services shall be deemed to be on deputation with the society and his salary and allowances, as determined by the State Government, shall be paid from the funds of the society. (2) The Managing Director shall be ex officio member of the Committee of Management. (3) All references in the Act to Secretary shall in relation to an apex society be construed, wherever practicable, as references to the Managing Director. (4) The Managing Director shall be the Chief Executive Officer of the apex society and subject to such control of the Committee of Management and the Chairman, as may be provided in the rules and the bye-laws of the society, he shall have the following duties and responsibilities, namely-- (i) to have general control over the administration of the society; (ii) to convene meetings of the Committee of Management and the general body; (iii) to receive all moneys and securities on behalf of the society and to make arrangements for the proper maintenance and custody of cash balances and other properties of the society; (iv) to endorse and transfer promissory notes, Government and other securities and to endorse, sign and negotiate cheques and other negotiable instruments on behalf of the society; (v) to be responsible for the general conduct, supervision and management of the day-to-day business and

affairs of the society; (vi) to sign all deposit receipts and operate the accounts of the society with banks; (vii) to sign all bonds and agreements in favour of the society; (viii) to create, subject to provisions contained in the budget of the society, Class III and class IV posts for a period of 3 months and to make, as appointing authority, recruitment thereto through the Board as provided in the regulations framed by the State Government in exercise of the powers under subsection (2) of Section 122; (ix) to determine the powers, duties and responsibilities of the employees of the society; (x) to institute, conduct, defend, compound or abandon any suit or other legal proceeding by or against the society or otherwise concerning the affairs of the society and also to compound and allow time for payment or satisfaction of any claims or demand by or against the society; (xi) subject to the regulations, if any, which may be framed by the Committee of Management to enter into negotiations and sanction contracts up to the value of Rs. 5 lakhs each during the construction phase and up to Rs. 2½ lakhs each thereafter and to do all such acts, deeds and things in the name of and on behalf of the society in relation to any of the matters aforesaid for the purposes of the society; (xii) to delegate all or any of the powers, authorities and discretions vested in him to an employee or employees of any society, subject to the ultimate control and authority being retained by him.] 1. Ins. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975).

32. Annual General Meeting :-

(1) A meeting of the general body of a co-operative society (hereinafter referred to as the annual general meeting) shall be held, once in a co-operative year within such period as may be prescribed, for the purposes of-- (a) approval of the programme of the activities of the society prepared by the committee of management for the ensuing cooperative year; 1(b) election, if any, of the members of the committee of management in accordance with the provisions of the rules and of the bye-laws of the society; (c) consideration of the balance-sheet and the annual report for previous co-operative year unless the audit has not been completed within the period specified in the rules; (d) consideration in the prescribed manner of the audit certificate and the audit report for previous co-operative year unless the audit has not been completed within the prescribed period; (e) fixation of the maximum liability of the society for the ensuing co-operative year; (f) disposal of the net profits; (g) consideration of the budget for the ensuing co-operative year; and (h) consideration of any other matter as may be brought before it in accordance with the bye-laws. (2) Notwithstanding anything contained in Section 31, it shall be the duty of the secretary, and in the absence of the secretary, of the Chairman of the committee of management, to call the annual general meeting in accordance with the provisions of subsection (1), failing which the Registrar, or any person duly authorised by him in this behalf, may call the annual general meeting. 1. Clause (b) omitted by U.P. Act 17 of 1994 (w.e.f. 15-7-1994).

33. Other General Meeting :-

(1) The committee of management may as often as may be necessary for the transaction of business of the cooperative society call a general meeting of the general body of the society (to be called ordinary general meeting). (2) The committee of management shall call a general meeting of the general body of the society (to be called extraordinary general meeting) within one month after the receipt of the requisition in writing from the Register or from at least one-fifth of the members of the general body of the society. In default of the committee of management to call a meeting, the Registrar or any person duly authorized by him in this behalf shall have the power to call the extraordinary general meeting at such place and time as he may direct.

34. Nominee Of The Government On The Committee Of Management :-

1[(1) Where the State Government has- (a) subscribed directly to the share capital of a co-operative society under Chapter VI: or (b) assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in Chapter VI; or (c) given loans or made advances to a co-operative society or guaranteed the repayment of principal and payment of interest on debentures issued by a co-operative society or guaranteed the repayment of principal and payment of interest on loans or advances to a co-operative society. the 2[Joint Registrar-in-charge or Deputy Registrar-in-charge] shall have the right to nominate on the Committee of Management of such society not more than two persons one of whom shall be a Government servant, so, however, that the Government servant shall not vote at an election of an office-bearer of the society: 3[Provided that where the society is engaged in production of sugar and-- (i) the share capital subscribed to by the State Government is not less than one crore rupees, or (ii) the share of the State Government in the share capital of the society exceed fifty per cent of the total share capital of the society, or (iii) the State Government has given loans or made advances to the society, or guaranteed the repayment of principal or payment of interest on debenture, issued by the society or guaranteed the repayment of principal and interest on loans and advances to the society and the amount exceeds fifty per cent in the aggregate of the total amount so borrowed by the society. the 4[Joint Registrar-in-charge or Deputy Registrar-in-charge] shall also have the right to nominate the Chairman of the Committee of

Management, who shall be a Government servant, of such societies and their apex society, namely, the Uttar Pradesh Co-operative Sugar Factories Federation Ltd.] 5[* * *] (1-A) 6[* *] (1-B) 7[* * *] 8["Provided further that in the case of a Central Co-operative Bank or the Uttar Pradesh Co-operative Bank the State Government shall nominate not more than one person who shall be a government servant in the committee of management thereof. 9["Provided also that on the Committee of Management of a Primary Agricultural Co-operative Credit Society, there shall be no nominee of the State Government." (2) A person nominated under sub-section (1) shall hold office during the pleasure of the State Government. 10[(3) The right of nomination vested in the 11[Joint Registrar-in-charge or Deputy Registrar-in-charge] under this section may be delegated by it to any authority specified by it in that behalf.] Explanation.--For the purpose of this section any guarantee given by the Central Government on the recommendation of the State Government shall be deemed to be a guarantee given by the State Government.] 1, Subs, by U.P. Act 4 of 1989 (w.e.f. 1-7-1989). 2. Subs, by Noti. No. 963/XLIX-1-99, dated 23-2-1999. 3. Ins. by U.P. Act 17 of 1995 (w.e.f. 30-11-1994) The earlier proviso inserted President Act 3 of 1993 and omitted by U.P. Act 7 of 1994 (w.e.f. 18-2-1994). 4. Subs, by U.P. Act 4 of 1989 (w.e.f. 1-7-1989). 5. Proviso and sub-sections (I-A) and (1-B) omitted by U.P. Act 7 of 1994 (w.e.f. 18-2-1994) 6. Ins. by U.P. Act 17 of 1995 (w.e.f. 30-11-1994) The earlier proviso inserted President Act 3 of 1993 and omitted by U.P. Act 7 of 1994 (w.e.f. 18-2-1994). 7. Ins. by U.P. Act 17 of 1995 (w.e.f. 30-11-1994) The earlier proviso inserted President Act 3 of 1993 and omitted by U.P. Act 7 of 1994 (w.e.f. 18-2-1994). 8. Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 9. Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part 1, Section (Ka) dated 10 December, 2007. 10. Ins. by U.P. Act 12 of 1990. 11. Subs, by Notification No. 963/XLIX-1-99 dated 23.2.1999.

35. Supersession Or Suspension Of Committee Of Management :-

(1) Where, in the opinion of the Registrar, the committee of management of any co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws of the society or commits any

act which is prejudicial to the interest of the society or its members, or is otherwise not functioning properly, the Registrar after affording the committee of management a reasonable opportunity of being heard and obtaining the opinion of the general body of the society in a general meeting called for the purpose in the manner prescribed may, by order in writing, supersede the committee of management: 1[Provided that where under the prescribed circumstances it is not feasible to convene a general meeting of the general body of the society, the Registrar may dispense with the requirement of obtaining the opinion of the general body of the society. 2["Provided further that in the case of a Central Co-operative Bank or the Uttar Pradesh Co-operative Bank, the suspension or supersession of the Committee of Management shall not be made by the Registrar unless the Reserve bank of India has been consulted. Provided also that the Committee of Management of a Primary Agricultural co-operative Credit society can be superseded by the Registrar only on the following grounds-- (i) if a society incurs losses for three consecutive years; or (ii) if serious financial irregularities or fraud have been committed; (iii) if there are judicial directives to this effect or there is perpetual lack of quorum;" (2) Where the Registrar, while, proceeding to take action under subsection (1) is of opinion that suspension of the committee of management during the period of proceeding is necessary in the interest of the society, he may suspend the committee of management which shall thereupon cease to function, and make such arrangement as he thinks proper for the management of the affairs of the society till the proceedings are completed Provided that if the committee of management so suspended is not superseded it shall be reinstated and the period during which it has remained suspended shall count towards its terms. 3[* * *] 4["(3) Where the Registrar has superseded the Committee of Management under sub-section (1), he may appoint in its place-- (a) a new committee consisting of one or more members of the society, or (b) an administrator or Committee of administrators who need not necessarily be members of the society; Provided that if the Committee of Management is superseded under sub-section (1), the Committee of Management shall be reconstituted within three months from the date of supersession after holding the election in accordance with the provisions of this Act." (4) The Registrar shall have the power to change the committee or any members thereof or the administrator or administrators appointed under clause (a) or (b) of sub-section

(3) at his discretion during the period specified under that sub-section. (5) The committee, administrator or administrators appointed under sub-sections (3) and (4) shall, subject to any directions which the Registrar may from time to time give, have the power to exercise all or any of the function of the committee of management or of any officer of the society and shall be deemed for all purposes under this Act, the rules and the bye-laws of the society to be the committee of management. 5[(6) Before the expiry of the period specified under sub-section (3), the committee, administrator or administrators, appointed under subsections (3) and (4), shall arrange for the re-constitution of the Committee of Management in accordance with this Act, the rules and the bye-laws of the society to take over the management of the co-operative society on the expiry of the said period: Provided that the committee or an administrator or administrators whose term has expired before the commencement of 6[the Uttar Pradesh Co-operative Societies (Amendment) Act, 1994 shall arrange for reconstitution of the Committee of Management by December 31, 1994]. 7[(7) The provisions 8[* * *] of Section 29 shall apply in respect of respect of re-constitution of the Committee of Management under this section.] 9["(8) The members of the superseded Committee of Management shall not be entitled to contest the election again for a period of three years from the date of supersession." 1. Proviso ins. by U.P. Act 1 of 1997 dated 1-5-1997 w.e.f. (16-4-1997). 2. Proviso ins. by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 3. Proviso omitted by U.P. Act I of 1997 dated 1-5-1997 (w.e.f. 16-4-1997) old Proviso of Section 35 sub-section (2) before 16-4-1997. Provided further that the proceedings under sub-section (1) shall be completed within six months, and if it is not completed within this period, the proceeding initiated under sub-section (1) shall be deemed to have been dropped and the Committee of Management, if under suspension shall stand reinstated. 4. Sub-section (3) Subs. by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 5. Subs. by U.P. Act No. 5 of 1983, S. 3 (b) w.e.f. (April 7, 1982). 6. Subs. by U.P. Act 7 of 1994 (w.e.f. 1-7-1993). 7. Ins. by U.P. Act No. 5 of 1983, S. 3 (c) (w.e.f. 12-3-1983). 8. Omitted by U.P. Act 17 of 1994 (w.e.f. 19-7-1994). 9. Sub-section (8) Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. Section

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- Section 35-A 1[35-A. (1) Without prejudice to other provisions of this Chapter, where for two successive co-operative years (including any period before the commencement of this section)-- (a) more than seventy per cent of the total dues of any primary society, which is a credit society against its members during any co-operative year, remain unpaid at the end of such year; or (b) the number of defaulting members exceeds seventy per cent of the total number of indebted members of such society, at the end of any such year, then, the Chairman and all members of the Committee of Management of any such society shall, upon an order coming into effect under subsection (3), vacate their respective offices as such. (2) The provisions of sub-section (1), as they apply to a primary credit society, shall mutatis mutandis apply to a financing bank with the substitution of references to seventy per cent by references to sixty per cent. (3) In relation to any society or banks as referred to in sub-section (1) or sub-section (2), the Registrar may make such arrangements as he thinks proper for the management of the affairs of such society or bank, as he thinks fit and the provisions of sub-sections (3), (4), (5) and (6) of Section 35 shall mutatis mutandis apply.] 1. Ins. by U. P, Act 12 of 1975 (w.e.f. 3-10-1975).

36. Securing Possession Of Records, Etc :-

(1) When the committee of management of a co-operative society is suspended or superseded under Section 35 or if the society is ordered to be wound up under Section 72 and outgoing members of the committee of management fail to hand over charge of the records and property of the society to a nominee of the Registrar or the committee, the administrator or administrators appointed under sub-sections (2), (3) and (4) of Section 35, or the Liquidator, as the case may be, such nominee of the Registrar, or the committee, the administrator or administrators or the Liquidator may apply to any Magistrate within whose jurisdiction the society functions for securing the records and property of the society. (2) On receipt of an application under sub-section (1) the Magistrate shall take such action as may be necessary to take possession of the records and property of the society and may authorize any police officer by warrant to take possession of such records and property and the records and property so seized shall be handed over to the applicant.

37. Registrars Emergency Powers To Seize Records, Etc. :-

(1) Where the Registrar is satisfied that the books and records of a cooperative society are likely to be tampered with or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar may issue an order directing a person duly authorised by him in writing, to seize and take possession of such books, records, funds and property of the society and the officer or officers of the society responsible for the custody of such books, records,

funds and property shall give delivery thereof to the person so authorised. (2) A person authorised by the Registrar under sub-section (1) may, for the purpose of execution of the said order, request the officer-in-charge of the nearest police station to give him necessary police help and such police officer shall thereupon give him such help.

38. Removal Of An Officer Of A Co-Operative Society :-

(1) If in the opinion of the Registrar, any officer of a co-operative society has contravened or omitted to comply with, any provisions of this Act, the rules or the bye-laws of the society, or has forfeited his right to hold office, the Registrar may, without prejudice to any other action that may or can be taken against him, call upon the society to remove, within a specified period, such officer from the office held by him and where necessary also to disqualify him from holding any office under that society for a period not, exceeding three years, whereupon the society shall, after affording opportunity of being heard to the officer concerned, pass such orders as it may deem fit. 1["Provided that on the request of the Reserve Bank of India the competent authority shall remove a director or the secretary/chief executive officer of a Central Co-operative Bank or the Uttar Pradesh Cooperative Bank, who do not fulfill the criteria stipulated by the Reserve bank of India after giving him an opportunity of being heard." (2) On the failure of the society to take action under sub-section (1), the Registrar may, after affording opportunity of being heard to the officer and for reasons to be recorded and communicated to the person and the society concerned, remove, or remove and disqualify for a period not exceeding three years, the officer from holding any office under that society. (3) An officer removed under sub-section (1) or sub-section (2), shall, with effect from the date of communication of the order, cease to hold that office and if disqualified, shall not be eligible to hold any office under that society for the period specified in the order. 1. Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007.

CHAPTER 5

Privileges of Co-operative Societies

39. First Charge Of Co-Operative Society On Certain Assets :-

Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (Act V of 1920), or in the Code of Civil Procedure, 1908

(Act V of 1908), or in any other enactment relating to land tenure for the time being in force, any debt of outstanding demand due to a co-operative society by any member, past or present, or standing against the estate of any deceased member, shall subject to any claim of the Central Government or the State Government arising from a loan granted by it before, but not after, the grant of the loan by the society, or in respect of land revenue or any, sum recoverable as arrears of land revenue, be a first charge-- (a) if such debt or demand is due in respect of the supply of, or any loan to provide the means for, seed, manure, labour subsistence, fodder for cattle or any other thing incidental to the conduct of agricultural operations, upon the crops and agricultural produce of such members: (b) if such debt or demand is due in respect of any loans to provide the means for paying the rent or revenue of the land or for irrigation facilities, upon the land whose rent or revenue has been so paid or, as the case may be, on which the irrigation facilities have been provided; (c) if such debt or demand is due in respect of supply of, or any loans to provide the means for the purchase of cattle, or other live-stock, or for the purchase, repair or maintenance of agricultural implements, transport equipments or equipment for dairy or for other activities relating to animal husbandry, or for making, repairing or purchasing of farm-house or shed for cattle or for other livestock or for making, repairing or purchasing of ware-house for storage of agricultural produce, the upon the farm-produce of such members and also upon the cattle, livestock so purchased, or upon the equipments, warehouse, farm-house or shed so purchased, repaired, maintained or made wholly or partially out of any such loan, and if the borrower is a land-holder, then upon his land also, at any time within three years from the date on which the last instalment of such loan becomes repayable; (d) if such debt or demand is due in respect of the supply of, or any loan for the purchase of raw material, industrial implements, plant and machinery, workshops, warehouse or business premises, upon the raw material or other things so supplied or purchased by such member and in the case of a debt or demand in respect of the supply, or for the purchase of raw materials also upon the articles manufactured from such raw material; (e) if such debt or demand is due in respect of any loan for the purchase or redemption of land, upon the land so purchased or redeemed; (f) if such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof or in respect of the supply of materials for such

constructions upon the house or building or materials so purchased or constructed or supplied; and (g) if such debt or demand is due in respect of any loan of Rs. 500 or more for reclaiming or protecting land or for effecting improvement on land or for preparation of land for orchard or plantation or for purchase of cattle, agricultural implements, machinery, upon the land so sought to be reclaimed, protected, improved or prepared, or upon the land for the use of which the implements or machinery are sought to be purchased and in case of purchase of cattle, upon any land of the borrower; Provided that along with the charge created under this section all other property of the indebted member including any amount payable to him by a society shall be liable to attachment and sale in execution of a decreed favour of the society irrespective of the object of the loan.

40. Deduction From Salary To Meet Societys Claim In Certain Cases :-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to such conditions, if any, as may from time to time be laid down by the State Government, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society. (2) Notwithstanding anything in any law for time being in force, 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 executed under sub-section (1) and pay the amounts so deducted to the society within fourteen days from the date of the deduction. (3) An employer who without sufficient cause fails to make the deduction in terms sub-section (2), or having made, any such deductions fails to pay the amount so deducted to the society within fourteen days from the date of deduction, shall be liable to the society to the extent of the amount which the employer has failed to deduct or to pay, as the case may be.

41. 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 on the share or interest

in the capital and on the deposits of a member, a pastmember or a deceased member and on any dividend, bonus or profits, payable to a member or a past member, or the heirs or legal representatives of a deceased member in respect of any debt or out-standing demand owing to the co-operative society and may notwithstanding anything to the contrary contained in any other law of the time being in force, set off any sums so credited or payable to such member or his heirs or legal representatives 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 financing bank as reserve fund by the society if the banks share in the total amount of loans taken by the society is less than 75 per cent, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

42. Share Or Interest Not Liable To Attachment :-

Subject to the provisions of Section 31, 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 a court of justice 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 claims on, such share or interest.

43. 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 (Act XVI of 1908), shall apply to-
- (a) any instrument relating to shares in a co-operative society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or (b) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder 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 holder 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

44. Promotion Of Co-Operative Movement By Government :-

(1) It shall be the duty of the State Government to encourage and promote the co-operative movement in the State and to take such steps in this direction as may be necessary. (2) Without prejudice to the generality of the provisions contained in sub-section (1) the State Government may-- (a) with a view to aid the growth of co-operative societies in general or of any class of co-operative societies subscribe directly to the share capital of a co-operative society with limited liability with its consent; (b) subject to any rules made in this behalf provide money to a state level co-operative society 1[*...*...*] for the purchase of shares in other co-operative societies with limited Liability. 2[" Provided that in case of a Co-operative Bank or a Primary Agriculture Credit Co-operative Society the State Government shall not subscribe more than twenty five percent in the share capital of such society and where the share capital of the State Government is more than twenty five percent, it shall bring down the same to twenty five percent or less and shall convert the rest of its share capital in grant to the society." (3) The State Government shall be entitled to dividend on its shares in any such co-operative society at the same rate as paid to other shareholders of the society. 1. Omitted by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2. Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007.

45. Principal State Partnership Fund :-

(1) An apex society which is provided with moneys by the State Government under Section 44 shall with such money 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 which includes in its membership other co-operative societies, tenable that society 1[* * *] to purchase shares in other affiliated cooperative societies with limited liability (hereinafter in this Chapter referred to as primary societies); (c) making payments to the State Government in accordance with the provisions of this Chapter; (d) making such other payment as may be permitted by the State Government after the requirements in sub-clauses (a), (b) and (c) have been met, in full, and for no other purpose. 1. Omitted by U.P. Act 12 of 1976 (w.e.f. 3-10-1975).

46. 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 utilize 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.

47. Subsidiary State Partnership Fund :-

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 State Government.

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

Where any shares are purchased in a co-operative society by-- (a) the State Government; or (b) an apex society from the Principal State Partnership Fund; or (c) a central society from the Subsidiary State Partnership Fund, the liability in respect of such shares shall, in the event of the cooperative society being wound up, be limited to the nominal value of the shares.

49. Restrictions On Amount Of Dividend :-

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

50. 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 State Government shall not have any claim against an apex society which purchased the shares in respect of any loss arising from such purchase, but the State Government shall be entitled to any moneys received in connection with such shares by the apex society in winding up 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 State Government nor the apex society shall have any claim against the central society which purchased the shares in

respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received in connection with such shares by the central society in winding up proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

51. Disposal Of Share Capital And Dividends, 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 dividend or otherwise shall be credited to that fund. (2) All moneys received by a central society 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 Principal State Partnership Fund. (3) All moneys and dividends referred to in sub-sections (1) and (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 State Government. (4) Save as provided in sub-section (3) the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under Section 44.

52. 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 to the Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the State 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 (d) of subsection (2) of Section 45.

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

Any amount to the credit of a 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.

54. Terms And Conditions For Providing Moneys :-

Subject to the foregoing provisions of this Chapter- (a) the State

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 45; (b) an apex society may, with the previous approval of the State Government, enter into an agreement with a centrals society, setting out the terms and conditions on which it shall provable moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (a) of sub-section (2) of Section 46;

55. Other Forms Of State Aid To Co-Operative Societies :-

Subject to the rules made in this behalf, the State 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 principal and payment of interest on loans and advances to a co-operative society; and (d) give financial assistance in any other form including subsidies, to a co-operative society.

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

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

CHAPTER 7

Properties and Funds of Co-operative Societies

57. Fund Not To Be Divided :-

Except as otherwise specifically provided in this Act, 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 it member may be paid remuneration on such scale as may be laid down in the bye-laws for any services rendered by him to the co-operative society.

58. Disposal Of Net Profits :-

1[(1) The net profit of the Co-operative Society in a co-operative year shall be computed after deducting the following from its gross profit in that year- (a) interest that is overdue; (b) managerial expenses; (c) contributions to the provident fund or the gratuity fund of the employees; (d) interest on loans and deposits; (e) audit fee; (f) working expenses which include repairs, rents taxes and depreciate of property; (g) contribution to the fund created for writing off unadjusted bad debts and losses: Provided that a co-

operative society may add to the net profit of a year, the interest which accrued in the previous year but which was recovered in the year. 2[(1-A) A co-operative society shall distribute the net profits of a year as computed under sub-section (1), including the net profits brought forward from the previous years, in the following manner-- (a) an amount not less than twenty-five per cent shall be transferred to fund called the reserved fund; (b) not less than such amount as may be prescribed, shall be credited to a co-operative education fund to be established in the manner prescribe and this shall be applicable to such cooperative societies also which incur loss in the year; 3["Provided that the provisions of this clause shall not apply to a Primary Agriculture Credit Co-operative Society, a Central Co-operative Bank or the Apex Bank." (c) an amount that may be prescribed shall be credited to the research and development fund created in the apex society of the concerned class of co-operative societies and which shall be maintained for the purpose of research and development in the prescribed manner;] 4[(d) an amount not exceeding twenty per cent as may be prescribed shall be transferred to a fund called the Equity Redemption Fund to be established and utilised in the manner prescribed by such co-operative society which has the subscription of the State Government in its share capitals: Provided that the aggregate amount transferred by a co-operative society to such fund shall not exceed the amount subscribed by the State Government in the share capital of that cooperative society.] (2) Subject to such conditions as may be prescribed, 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 5[not exceeding twenty per cent]; (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 rules or the bye-laws; (c) constitution of, or contribution to 6[* * *] building fund, rural improvement fund or any other fund as may be specified in the rules or the bye-laws; (d) donation of amounts not exceeding 5 per cent for any charitable purpose as defined in Section 2 of Charitable Endowments Act, 1890 (Act VI of 1890): 7[Provided that no amount shall be donated to any organisation, established for any charitable purpose, which has an object, whether directly or indirectly, to further the interest of any political party or a religious faith.] (e) 8[* * *] (f) 9[* * *] (3) Subject to the provisions of any rules made in this behalf, the Registrar may, on the request of a co-operative society, exempt the

society from contributing towards any of the funds, or lower the percentage of contribution to such funds, as mentioned in sub-sections (1) and (2) or enhance the percentage of dividend mentioned in clause (a) of sub-section (2). 1. Subs. by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). 2. Inserted by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). 3. Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 4. Inserted by U.P. Act 25 of 1994 (w.e.f. 20-9-1994). 5. Subs. by U.P. Act 25 of 1994 (w.e.f. 20-9-1994). 6. Omitted by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). 7. Subs. by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). 8. Omitted by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). 9. Omitted by U.P. Act 17 of 1994 (w.e.f. 15-7-1994).

59. Investment Of Funds :-

Subject to the provisions of the rules, a co-operative society may investor deposit its funds-- (a) in any of the securities specified in Section 20 of the Indian Trust Act, 1882 (Act II of 1882); or (b) in the shares or debenture of any other co-operative society; or (c) with any bank approved for this purpose by the Registrar; or (d) in any other mode as may be prescribed. 1["Provided that in the case of a co-operative Credit Society, the committee of management shall be competent to invest its surplus and other funds in any financial institution regulated by reserve bank in the interest of the society." 1. Section 59 Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part 1, Section (Ka) dated 10 December, 2007.

60. 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. 1[" Provided that a Primary Agriculture Credit Co-operative Society shall receive deposits only from its ordinary members admitted under Section 17 of this Act and no other person shall be allowed to make deposit in a Primary Agriculture Credit co-operative society." 1. Section 60 Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007.

61. Restrictions On Loans :-

(1) A co-operative society shall not make a loans to any person other than a member: Provided that with the general or special sanction of the Registrar a co-operative society may make loans to

another co-operative society. (2) Notwithstanding anything contained in sub-section (1) a cooperative society may make a loan to a depositor on the security of this deposit. (3) The State Government may, by a notification in the Gazette generally or specially, prohibit or restrict the lending of money on mortgage of immovable property by a co-operative society.

62. Restrictions On Other Transactions With Non-Members

:-

Save as provided in Sections 60 and 61, the transactions of a co-operative society, including making of deposits of its funds, with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

63. Contributory Provident Fun :-

(1) A co-operative society having such number or class of employees, as may be prescribed, shall establish a contributory provident fund for the benefit of such 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) shall not-- (a) be used in the business of the society; (b) from part of the assets of the society; (c) be liable to attachment or be subject to any other process or any court or other authority; and (d) be subject to a charge or liable to be set off towards payment of any debt or outstanding demand owing to a co-operative society under Section 41.

CHAPTER 8

Audit, Inquiry, Inspection and Surcharge

64. Audit :-

(1) The Registrar, or any other person appointed by the State Government, shall audit or cause to be audited by a person authorised by him by general or special order in writing and possessing such qualifications as may be specified by the state Government in this behalf, accounts of every co-operative society, at least once in each cooperative year. 1["Provided that the audit of Co-operative bank shall be conducted by the Chartered Accountants appointed by the Committee of Management of the concerned bank from the panel approved by the Registrar for this purpose. The Registrar shall also determine the fees of such Chartered Accountants which shall be paid by the concerned bank." (2) The audit under sub-section (1) shall include an examination of overdue

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 any other person appointed by the State Government under sub-section (1) or any other person authorised by him or the Registrar, as the case may be, shall, at all times, have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for the custody of, any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at the headquarters of the society or branch thereof. (4) Every person who is or has at any time been an officer or employee of a 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 any other person appointed by the State Government under sub-section (1) or any person authorised by him or the Registrar, as the case may be, may require. 2["(5) Where the Reserve Bank requests for the special audit of a cooperative bank it shall be conducted and the report of such special audit shall be submitted to the Reserve Bank within the time stipulated in such request." 1. Section 64 Proviso Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007. 2. Section 64 sub-section (5) Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 10 December, 2007.

65. Inquiry By Registrar :-

(1) The Registrar may, of his own accord, himself, or by a person authorised by him by order in writing, hold an inquiry into the constitution, working and financial condition of a cooperative society. (2) An inquiry of the nature referred to in sub-section (1) shall be held by the Registrar or by person authorised by him in writing in this behalf on the application of-- (a) a co-operative society to which the society concerned is affiliated; (b) not less than one-third of the total members of the society; (c) a majority of the members of the committee of management of the society. (3) The Registrar, or the person authorised by him under sub-section (1) shall, for the purpose of any inquiry under this section; have the following powers namely-- (a) he shall, at all time have 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 of, 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 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; (c) 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; and (d) he may in the manner and for the purpose mentioned in clause (e) require to be called or himself call, a meeting of the committee of management. (4) Any meeting called under clause (c) or clause (d) of sub-section (3) shall have the powers of the general meeting or meeting of the committee of management, as the case may be, under the bye-laws of the society and its proceedings shall be regulated by such bye-laws. (5) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and, in the case of inquiry on an application under clause (a) of sub-section (2) also to the applicant co-operative society.

66. Inspection Of Books And Property 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 authorized by him by order in writing in this behalf, to inspect books, cash and other property of the society: Provided that no such inspection shall be made on the application of a creditor unless the applicant satisfied the Registrar that a debt still due to faction within a reasonable time. (2) The Registrar shall communicate the results 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.

67. Costs Of Inquiry :-

Where an inquiry is held under Section 65, or an inspection is made under Section 66 on the application of a creditor, the Registrar may apportion the cost, 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 officer or former officers of the society: Provided that-- (a) no order for such apportionment shall be made unless the society or person sought to be made liable to pay the costs thereunder has been afforded a reasonable opportunity of being heard; (b) the Registrar shall state in writing the grounds on which the costs are apportioned.

68. 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 is or was entrusted with 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 or caused to be 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 with full 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 authorized 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 commenced after the expiry of twelve years from the date of any act or omission referred to in this subsection. (2) Where an inquiry is made under subsection (1) the Registrar may, after affording the person concerned a reasonable opportunity of being heard, make an order of surcharge requiring him to restore the property or repay the money or any part thereof with interest at such rate, or to pay contribution and costs or compensation to such an extent as the Registrar may consider just and equitable. (3) Where an order of surcharge has been passed against a person under sub-section (2) for having caused any deficiency in the assets of the society by breach of trust or wilful negligence, or for having misappropriated or fraudulently retained any money or other property belonging to such society, such person shall, subject to the result of appeal, if any, filed against such order, be disqualified from continuing in or being elected or appointed to an office in any cooperative society for a period of five years from the date of the order of surcharge.

69. Registrars Power To Order Remedying Of Defects :-

If as a result of audit held under Section 64 or an inquiry under Section 65 or an inspection under Section 66, the Registrar is of opinion that the society is not working on sound lines, or its

management is defective he may, without prejudice to any other action under this Act, make an order directing the society or its officers to take such action not inconsistent with this Act, the rules and bye-laws as may be specified in the order to remedy the defects within the time specified therein.

CHAPTER 9

Settlement of Disputes

70. Disputes Which May Be Referred To Arbitration :-

(1) Notwithstanding anything contained in any law for the time being in force, if any dispute relating to the constitution management or the business of a cooperative society other than a dispute regarding disciplinary action taken against a paid servant of a society arises-- (a) among members, past members and person claiming through members, past members and deceased members; or (b) between a member, past member or any person claiming through a member, past member or deceased member, and the society, its committee of management or any officer, agent or employee of the society, including any past officer, agent or employee; 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, heir or legal representative of any deceased officer, deceased agent, or deceased employee of the society; or (d) between a co-operative society and any other co-operative society or societies; such dispute shall be referred to the Registrar for action in accordance with, the provisions of this Act and the rules and no court shall have jurisdiction to entertain any suit or other proceeding in respect of any such dispute: 1[Provided that a dispute relating to an election under the provisions of this Act or rules made thereunder shall not be referred to the Registrar until after the declaration of the result of such election.] (2) for the purpose of sub-section (1), the following shall be deemed to be included in dispute relating to the constitution, management or the business of a co-operative society, namely-- (a) claims for amounts due when a demand for payment is made and is either refused or not complied with whether such claims are admitted or not by the opposite party; (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 or whether such debt or demand is admitted or not; (c) a claim by society for any loss

caused to it by a member, officer, agent, or employee including past or deceased member, officer, agent, or employee whether individually or collectively and whether such loss be admitted or not; and (d) all matters relating to the objects of the society mentioned in the bye-laws as also those relating to the election of office bearers. (3) If any question arises whether a dispute referred to the Registrar under this section is a dispute relating to 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. 1. Ins. by U. P. Act 17 of 1977.

71. Reference Of Dispute To Arbitration :-

On receipt of a reference under sub-section (1) of Section 70, the Registrar may, subject to the provisions of the rules, if any-- (a) decide the dispute himself, or (b) refer it for decision to an arbitrator appointed by him, or (c) refer it, if the parties so request in writing, for decision to a board of arbitrators consisting of the three persons to be appointed in the prescribed manner. (2) The Registrar may, for reasons to be recorded, withdraw any reference made under clause (b) or (c) of sub-section (1) and refer it to another arbitrator or board of arbitrators or decide it himself. (3) The Registrar, the arbitrator or the board of arbitrators, to whom a dispute is referred for decision under this section may, pending the decision of the dispute make such interlocutory orders including attachment of property as he or they may deem necessary in the interest of justice. (4) The decision given by the Registrar, the arbitrator or the board of arbitrators under this section shall hereinafter be termed as award. (5) The procedure to be followed by the Registrar, the arbitrator or the board of arbitrators in deciding a dispute and making an award under this section shall be as may be prescribed. Section

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71A

- Powers of creditor society against debtor society and its members 1[71-A. Powers of creditor society against debtor society and its members. (1) If a co-operative society is unable to pay its debts. (hereinafter in this section referred to as the debtor-society) by reason of its members defaulting in the payment of the moneys due to another Cooperative Society (hereinafter in this section referred to as the creditor-society), and the Committee of Management of the debtor-society omits or neglects to take necessary steps for recovery of money due from its members, the creditor-society may, notwithstanding anything in this Act, direct the said committee by a notice in writing to proceed against the defaulting members in accordance with the provisions of 2[Section 70 as the case may be (2) If the Committee of Management of the debtor-society fails to comply with the notice referred to in sub-section (1) within a period of thirty days from the date of service

of such notice, the creditor-society may its proceed against such defaulting members in accordance with the provisions of3[Section 70, Section 91, Section 92 or Section 95-A] as the case may be, as if they were members of the creditor-society, and in that event, the provisions of this Act and the rules made thereunder and the bye-laws of the debtor-society shall so apply as if all references to the debtor-society and its Committee of Management and officer in the said provisions were references to the creditor-society and its Committee of Management and officers. (3) Where the creditor-society has in respect of any money due from the debtor-society, obtained an award or order referred to in Section 92 against the debtor-society, the creditor-society may proceed to recover such money in accordance with the provisions of this Act and the rules made thereunder, either from the assets of the debtor-society or from the members thereof to the extent of the debts due from them to the debtor-society, or from both.] 1. Ins. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2. Subs. by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). 3. Subs. by U.P. Act 17 of 1994 (w.e.f. 15-7-1994).

CHAPTER 10

Winding UP and Dissolution of Co-operative Societies

72. Winding Up Of Co-Operative Societies :-

(1) If the Registrar, after an inquiry has been held under Section 65 or an inspection has been made under Section 66, or on receipt of an application made by not less than three-fourth of the members of a co-operative society is of the opinion that the society ought to be wound up, he may pass an order directing it to be wound up. (2) The Registrar may of his own motion and after giving such notice as may be prescribed pass an order directing the winding up of a cooperative society-- (a) where the registration of the co-operative society was obtained by fraud or mistake; or (b) where the number of ordinary members has been reduced to less than such minimum as provided in Section 6 for the registration of such society; or (c) where the co-operative society has not commenced working within a reasonable time or has ceased to function; or (d) where the co-operative society is no longer fulfilling its objects or complying with the requirements of clause (d) of sub-Section (1) of Section 7.

73. Liquidator :-

(1) Where the Registrar has made a order under Section 72 for the winding up of co-operative society, he may appoint a person to be liquidator for the purpose and, if necessary, 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. The liquidator shall keep full accounts of all such property effects and actionable claims and be responsible for their safe custody. (3)

Where an appeal is preferred under Section 98 against an order of winding up of a co-operative society passed under Section 72, the further winding up proceedings shall be stayed by the liquidator 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 subsection (2) and have authority to take the steps referred to, in that subsection. (4) Where an order winding up a co-operative society is set aside in appeal; the property, effects and actionable claims of the society re-vest in the society.

74. Power 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 passed, shall vest in the liquidator appointed under Section 73 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 and other dues) 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 officer or past officer, to the assets of the society, after giving to the person or persons concerned an opportunity to answer the claim; (c) to fix the time, which will not be less than thirty days in any case, within which the creditors shall prove their debts and claims or be included for the benefit of any distribution made before these debts or claims are proved, and to give notice of such time in the manner prescribed; (d) to investigate all claims against the co-operative society and subject to the provisions of this Act, to decide question of priority, arising between claimants; (e) 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 of the society may permit, the surplus, If any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case; (f) to determine by what persons and in what proportion the costs of the winding up are to be borne; (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 get disputes covered by Chapter IX referred to arbitration and to represent the society in any arbitration proceeding to which the society is a party; (i) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same; (j) to make all 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; and (k) to compromise all calls 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 of 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 be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof. (3) When the affairs of a co-operative society have been wound up the liquidator shall make a report to the Registrar and deposit the record of the society in such place as the Registrar may direct. (4) Any sum ordered under sub-section (2) to be recovered as contribution (including debts and other dues) to the assets of the society or as costs of winding up may be recovered in the same manner as arrears of land revenue on requisition being made in this behalf to the Collector by the Registrar on a request by the liquidator for recovery. (5) Any debt or claim not proved within the time fixed for it under clause (c) of sub-section (2) shall subject to the power the liquidator to allow it to be proved beyond that in time in case of sufficient cause being shown, be deemed to be discharged.

75. Bar Of Suit In Winding Up And Dissolution Matters :-

Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected with the winding up or dissolution of co-operative society under this Act and when a winding up order has been made, no suit or legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

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

Where in respect of a co-operative society which has been ordered to be wound up under Section 72, the Registrar is of opinion that it

is not necessary to appoint liquidator, or where the affairs of a co-operative society in respect of which a liquidator has been appointed under Section 73, have been wound up, the Registrar shall make an order cancelling 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

Co-operative Farming Societies

77. Registration Of Co-Operative Farming Societies :-

(1) Where any ten or more persons-- (a) holding bhumidhari or sirdari rights in land in a circle, and desiring to pool it; or (b) intending together to obtain, in the name of the society land in a circle, by purchase, lease or otherwise; form a society with the object of jointly using such and for any purpose Connected with agriculture, horticulture sericulture or- animal husbandry which induce, piggery; pisciculture and poultry farming or for the development of any cottage industry subsidiary to any such purpose along with such purpose, such society (to be hereinafter called a "cooperative farming society") may, if it conforms to the requirements of Section 7, and if the bulk of the operations on such land relating to the aforesaid purposes are to be performed by members of society, be registered under this Act as a co-operative society:-- Provided that the Registrar may, having regard to the circumstances of any particular case, grant an exemption from the requirement of the land being in once circle and in the case of such exemption, any reference to a circle hereinafter shall be deemed to be reference to the circle in which land held by the members or desired to be obtained lies. (2) The Registrar shall cause a copy of registration certificate and such other documents as may be prescribed", to be forwarded to the Collector for to the Collector for such action, if any, as may be prescribed.

78. Certain Requirements Of Registration :-

An application for registration of farming society shall be accompanied by- (a) extracts for the record of rights showing the total area with the recorded numbers of all fields which will be contributed to the society; (b) in the case of a society covered by clause (b) of sub-section (1) of Section 77, only a description of the land intended to be obtained and the manner of obtaining it and the plans for developing and using the same; (c) such other documents and particulars, as may be prescribed.

79. Consequences Of Registration :-

(1) When a co-operative farming society is registered under Section 77, all land in the circle held by a member, whether as bhumidhar or sirdar, other than land in possession of his asami, till such time as it is so held by the asami, shall be deemed to have passed into the possession, control and management of the cooperative farming society, which shall thereupon hold such land in accordance with the provisions of this Chapter and may use the same for any of the purposes mentioned in sub-section (1) of Section 77: Provided that nothing in this sub-section shall apply to any land on which a farm house has been built or to such land, not exceeding one half of an acre in area, appurtenant to the farm house as the member, at the time of applying for the membership of the society, opts to reserve for his personal cultivation: Provided further that where a member of a co-operative farming society has only a share in a joint holding, his share in that holding shall not, unless all the co-sharers of that holding are members of society, be deemed to pass into the possession, control and management of the society, unless he gets his share partitioned or he is in separate possession of a part of that holding: Provided also that nothing in this section shall be construed to mean that the interest of the bhumidhar or the sirdar in the land contributed by him to the co-operative farming society has except as provided in Section 82, ceased to vest in him.

Explanation--(1) For the purposes of this section, "land" shall not include groveland, or land held and used by the bhumidhar or the sirdar, for purposes connected with horticulture, sericulture or animal husbandry which includes piggery, pisciculture and poultry farming, or for the development of any cottage industry subsidiary to any such purpose, but shall include such land as is held by the bhumidhar or the sirdar for any of the aforesaid purposes if it is also one of the purposes of the society. (2) No member of a co-operative Farming society shall, except as provided in sub-section (3), be entitled to make any disposition of any land contributed by him to the society. (3) Every member of the co-operative farming society who is bhumidhar of any land contributed by him to the co-operative farming society may, subject to the provisions contained in Section 169 of the U. P. Zamindari Abolition and Land Reforms Act, 1950, make a testamentary disposition of such land and, with the permission of the cooperative farming society, any other disposition. (4) Every member of co-operative farming society shall be entitled to such rights and privileges, be subject to such obligations and liabilities, and be bound to discharge such duties as

may be conferred or imposed upon him, by or under this Act. (5) All cases, local rates, rent or land revenue payable by a member of a co-operative farming society, in respect of the land held by the society under sub-section (1) may, as from the date of registration of the society, be recovered from it. Any amount so paid by the society on behalf of a member shall be recovered by it from that member. (6) The Provisions of the U. P. Zamindari Abolition and Land Reforms Act, 1950 (U. P. Act 1 of 1951), shall in so far as they are not inconsistent with the provisions of this Act, continue to govern land and the holder thereof.

80. Lunacy Of Members :-

If a member of a co-operative farming society becomes a lunatic, he may continue to be through his curator who may act in his behalf as if he were the member himself.

81. Admission Of New Members :-

(1) Any person who is a resident of the circle where a co-operative farming society has been formed or who intends to settle down in the circle or who cultivates land therein, may be admitted as a member thereof, upon such terms and conditions as may be laid down in the bye-laws of the society. (2) A minor or a lunatic holding land in the circle as a bhumidhar, or, sirdar, may through his legal guardian or curator, as the case may be, be admitted as a member of a co-operative farming society in that circle and in such a case, the guardian or the curator may act on behalf of the minor or the lunatic as if he were the member himself. (3) Where a person is admitted as a member of the Society on the condition of his contributing land to the society, any land held by him in the circle as a bhumidhar or sirdar, shall stand transferred to the possession, control and management of the society and the provision of Section 79 shall apply to him.

82. Effect Of Cessation Of Membership :-

Subject to the other provisions of this Act and the rules and the bye-laws, where a member who contributed land to the co-operative farming society ceases to be a member, he shall be given back the land contributed by him, or in the interests of compactness of the land left with the society or of the land being returned to the member, any other, land of equivalent value belonging to the society, any other, member whose written Consent to such exchange has been obtained: Provided that the society shall be entitled to reimburse itself from such member the cost of

any improvement or operations effected by the society benefiting, or contributing to or belting in production from the land to be returned: Provided further that if the land to be returned is subject to a mortgage made by the society under the provisions of Section 86, the society shall, before returning the land to the outgoing member, secure redemption of land from such mortgage and the mortgage shall release such land from the mortgagor on payment of proportionate amount of the mortgaged money by the society notwithstanding anything to the contrary contained in the Transfer of Property Act, 1882 (Act IV of 1882): Provided also that with the mutual consent of the society and the outgoing member such cash compensation as may be determined in the prescribed manner, be paid by the society in lieu of the land to such member. (2) Any land received back under sub-section (1) by the outgoing member, shall be held by him in the same right in which the land contributed by him to the society was held immediately before the cessation of his membership of the society, and the society or any other member, as the case may be, shall have the same rights in the land, if any, retained in exchange of the land given to the outgoing member under sub-section (1), as it or he had in the land so given anything to the, contrary contained in Section 161 of the U. P. Zamindari Abolition and Land Reforms Act, 1950, notwithstanding. (3) No member shall, on the cessation of his membership, be entitled to claim any part of the land or other property acquired in any manner by the co-operative farming society, but nothing herein shall affect his right to get the value of any share to which he may be entitled under this Act.

83. Heirs-Entitled To Become Members Of The Co-Operative Farming Society :-

When a member whose land is held by a co-operative farming society, dies, his heirs under the U. P. Zamindari Abolition and land Reforms Act, 1950 (UP. Act I of 1951), in respect of such land, shall become members of the society and, if any such heir is a minor or lunatic, his legal guardian or curator, as the case may be, shall act in his behalf as if he were a member himself.

84. Consolidation Of Land Held By A Co-Operative Farming Society :-

(1) It shall be the duty of every co-operative farming society to take, steps for the consolidation of the land held by it. (2) A co-operative farming society may make an application containing such particulars as may be prescribed to the Assistant Collector in charge

of the sub-division for consolidation of the land held by it. (3) The Assistant Collector shall, unless for reasons to be recorded he considers it inexpedient, pass an order for the consolidation of the land and may, for such purpose: direct exchange of land within theocracies. (4) In directing exchange of the land, the Assistant Collector shall, as far as possible, order land to be given in exchange approximately equal in value to the land taken in exchange; and, where there is a difference in the value, he shall direct payment of compensation in cash. (5) When exchange of land is directed under sub-section (3), the cooperative farming society, its members and the persons whose land is exchanged, shall have the same rights in the land received in exchange as they had in the land given in exchange. (6) An appeal shall lie to the Commissioner, from every order of the Assistant Collector under the section.

85. Distribution Of Profit :-

(1) A co-operative farming society shall carry at least one-twentieth of its net profits to a fund called the reserve fund. (2) A co-operative farming society may out of its net profits pay to such extent and in such manner as may be presented, bonus to its members in respect of their land and labor contributions made to the society. (3) The provisions of Section 58, in so far they are not inconsistent with sub-sections (1) and (2), shall also apply to the utilization of the net profits of a co-operative farming society.

86. Power Of A Co-Operative Farming Society To Raise Loan On The Mortgage Of Land Held By It :-

Subject to such conditions as may be prescribed, a co-operative farming society for may the purpose of raising a loan from the State Government or any co-operative society, mortgage without possession without possession any land held by it in its own name and, after obtaining an authorization in writing from the members concerned, the land contributed by its member under sub-section (1) of Section 79, anything to the contrary contained in the Transfer of Property Act, 1882, or any other law for the time being in force notwithstanding

87. Concessions And Facilities For Co-Operative Farming Societies :-

Without prejudice to any other concession admissible to co-operative societies in general under this Act, the co-operative farming societies shall be entitled to such other concessions,

facilities and priorities as may be prescribed and these may, amongst other, include the following-- (a) reduction in land revenue; (b) reduction in irrigation charges, taxes by local bodies and sales tax on the purchase of diesel oil, petrol and Mobil-oil, for agricultural purposes; (c) priority in the grant taqavi; (d) priority in the constructions of irrigation and other projects by the State Government; (e) priority in the supply of water for irrigation, seed, manures, fertilizers, and other articles necessary for farm production; (f) Priority in marketing of farm produce.

88. Power To Make Rules :-

(1) In addition to rules framed under Section 130, the State Government may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for-- (a) the grounds on which a co-operative farming society may grant permission to a bhumidhar member for disposition of his land under Section 79; (b) principles on which and the manner in which cost and compensation shall be determined or reimbursed or paid under Section 82; (c) the forms in which applications and appeals shall be filed under Section 84 and the amount of court-fee, if any, to be paid on applications and memorandum of appeal; (d) the principles and procedure to be followed in the consolidation of holding, in directing exchange of land in payment of compensation under Section 84; (e) satisfaction of the claim of an outgoing or past member as respects land, funds, agricultural stocks, and implements contributed by him to the co-operative farming society; (f) the contribution by members of property other than land and its evaluation and adjustment; (g) principles governing remuneration to be paid to members working on the farm of a co-operative farming society; (h) any other matter which is to be or may be prescribed under this Chapter.

89. Definitions :-

Words and expressions used in the preceding sections and not defined in this Act but defined in the U. P. Zamindari Abolition and Land Reforms Act, 1950, shall have the meanings assigned to them in that Act.

90. Provisions Of Chapter To Prevail Over Other Law :-

(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 State Government or the Central Government including any costs

awarded to any such Government under any provision of this Act, may, on 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 the State Government or the Central 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 estate 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 25. Chapter XI-A - Insured Co-operative Banks 1[CHAPTER XI-A Insured Co-operative Banks 1. Ins. by U.P. Act 40 of 1976 (w.e.f. 28-8-1976).

CHAPTER 12

Executions of Awards and Orders

91. 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 other gazetted officer subordinate to him and authorized by him in this behalf may, on the approbation of a co-operative society and on being satisfied of the existence of the debt or outstanding demand make an order directing the payment of such debt or outstanding demands 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 Section 39: 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 has failed to pay the debt or outstanding demand within one month from the date of service.

92. Execution Of Certain Orders And Awards 92 :-

Every award made under Section 71, and capable of execution in the manner provided below, and every order so capable of execution made by the Registrar under section 67 or sub-section (2) of Section 68 or under Section 91, or by the liquidator under Section 74 or by an appellate authority on appeal under Section 97 or 98 or on review under Section 99 or as an interlocutory order under Section 100 1[or a certificate for recovery issued under

Section 95-A] shall, if not carried out, be executed-- (a) in the manner provided by law for the time being in force for the recovery of arrears of land revenue: Provided that an application for the recovery of any such sum is made to the Collector and accompanied by a certificate signed by the Registrar or any person authorised by him in this behalf: Provided further that such application is made within 12 years from the date fixed for payment in the order or award if no such date is fixed, from the date of the order or award, as the case may be; or (b) by the Registrar or any other person subordinate to him and empowered by him in this behalf, by attachment and sale or sale without attachment of any property of the person or the co-operative society against whom the order or award has been made; or (c) by the civil court having jurisdiction over the matter as if the order or award were the decree of that court. 1. Ins. by U.P. Act 17 of 1994 (w.e.f. 15-7-1994). Section

1 :-

92A - Appointment of Amins and other staff 1[92-A. Appointment of Amins and other staff.-- (1) There shall be appointed such number of Amins and other staff as may be determined by the State Government from time to time, for collection of an amount due to a Co-operative Society or for execution of a process issued in the proceedings of execution of an award, order or certificate for recovery under clause (a) or clause (b) of Section 92. (2) The State Government may by rules regulate the recruitment and conditions of service of Amins and other staff. 1. New Section 92-A, added by U.P. Act No. 8 of 2003 published in U.P. Gazette Extra Part-I Section (Ka) dated 17 December, 2003 (w.e.f. 30-5-2003). Section

1 :-

92B

- Co-operative Collection Fund 1[92-B. Co-operative Collection Fund.-- (1) There shall be established a fund, to be called the Co-operative Collection Fund to which the following amounts shall be credited, namely:-- (a) all costs of collection recovered on an amount due to a Co-operative Society; (b) all costs of execution recovered on an award, order or certificate for recovery under clause (a) or clause (b) of Section 92; (c) such other amounts as the State Government may direct. (2) The fund established under sub-section (1) shall be utilized for meeting out all expenses relating to collection of dues in the manner as may be prescribed by rules to be framed by the State Government. The expenses relating to collection of dues shall also include payment of commission, salary, leave encashment at the time of retirement, if any, gratuity, other allowances, loans and advances, due interest on Provident Fund and pension to Amins and other staff appointed under Section 92-A." 1. New Section 92-B, added by U.P. Act No. 8 of 2003 published in U.P. Gazette Extra Part-I Section (Ka) dated 17 December, 2003 (w.e.f. 30-5-2003).

93. 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 power 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 steps in aid of such recovery, to be civil court for the purposes of Article 136 of the Schedule to the Indian Limitation Act, 1963 (Act XXXVI of 1963).

94. Attachment Of Property Before Award Or Order :-

If the Registrar is satisfied on 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 provisions of this Act, is about to dispose of, or remove from the jurisdiction of the Registrar, the arbitrator, the board of arbitrators or the liquidator, as the case may be, the whole or any part of his property, 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.

95. 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 State Government or the Central Government including any costs awarded to any such Government under any provision of this Act, may, on 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 the State Government or the Central 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 estate 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 25. Section

95A :-

95A

- Special provision for recovery of certain dues of agricultural society 1[95-A. Special provision for recovery of certain dues of agricultural society.-- (1) the Registrar may, on an application made by society referred to in Section 34 or an agricultural credit society for the recovery of arrears of any loan advanced by it or any installment thereof to any member and on its furnishing a statement of accounts in respect of such loan and after making such inquiries, if any, as he thinks fit, issue a certificate for recovery of the amount due. (2) A certificate issued

by the Registrar under sub-section (1) shall be final and conclusive proof of the dues which shall be 2[executable under Section 92] recoverable as arrears of land revenue. 1. Ins. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2 Subs U.P. Act 17 of 1994 (w.e.f. 15-7-1994)

CHAPTER 13

Appeal and Review

96. Co-Operative Tribunal :-

(1) The State Government may constitute a tribunal or tribunals, each to be called Co-operative Tribunal, to exercise the functions conferred on the tribunal under this Chapter and where more than one tribunal is constituted, the State Government may fix, by order in writing the area within which or the class of case over which each tribunal shall exercise jurisdiction. (2) A Tribunal shall consist of 1[one person or] three persons possessing such qualifications as may be prescribed. (3) where the tribunal consists of three members, any two members shall form the quorum for the disposal of its business: Provided that in the event of a difference of opinion between them the matter over which there is a difference of opinion, shall be placed before the third member and the opinion with which the third member agrees, shall be deemed to be the opinion of the Tribunal. Where a matter is heard by all the three members of the tribunal and there is a difference of opinion, the majority opinion shall prevail. (4) Any vacancy in the membership of the Tribunal shall be filled by the State Government. (5) The procedure for holding the meeting and disposal of business by a Tribunal shall be such as may be prescribed. 1. The word "one Person or" omitted by U.P. Act 17 of 1994 (w.e.f. 15-7-1994)

97. Appeals Against Awards, Of Registrar :-

(1) Any person aggrieved by any award of the Registrar made under clause (a) of sub-section (1) or sub-section (2) of Section 71 may, within thirty days after the date on which the award is communicated to such person, appeal to the Tribunal. (2) The tribunal after hearing an appeal under this section may pass such order as it may deem just.

98. Appeal Against The Awards, Orders And Decisions :-

(1) An appeal against: (a) an order of Registrar made under sub-section (2) of Section 7 refusing to register a co-operative society: 1(b) an order of the Registrar under sub-section (3) of Section 12 refusing to register or under sub-section (2) of Section 14 registering an amendment, in the bye-laws of a co-operative

society]; (c) a decision of co-operative society refusing to admit any person as a member or the society under sub-section (2) of Section 26 or expelling any member of the society under sub-section (1) of Section 27 2[or an order passed under sub-section (1) of Section 38 for removal of an officer from the office held by him or to disqualify him from holding any office]; (d) an order of the Registrar under sub-section (2) of Section 27 expelling or removing a member or under sub-section (2) of Section 38 removing or disqualifying any officer of a cooperative society; (e) an order of the Registrar superseding the committee of management of co-operative society under Section 35; (f) an order made by the Registrar, under Section 67 apportioning the cost of an enquiry held under Section 65 or an inspection made under Section 66; (g) an order of surcharge made by the Registrar under Section 68; (h) an award made by an arbitrator or board of arbitrators under sub-section (1) or sub-section (2) of Section 71; (i) an order made by the Registrar under Section 72 directing the winding up of a co-operative society; (j) any order made by the liquidator of a co-operative society in exercise of the powers conferred on him by clauses (b) and (g) of Section 74; (k) an order made by the Registrar on a question arising between the parties or proceedings under clause (b) of Section 92 and of the nature referred to Section 47 of the Code of Civil Procedure, 1908 (Act V of 1908). (l) an order for attachment of any property made by the Registrar under Section 94; (m) an order of the Registrar under Section 125 directing amalgamation or merger, or under Section 126 directing division; (n) an order passed by the Registrar under Section 128 annulling any resolution or cancelling any order, may, within thirty days of the communication of the order, decision or award to be appealed against, be preferred by the aggrieved party to the authorities mentioned in sub-section (2) in the manner prescribed.] (2) An appeal under 3[clauses (c), (d), (e), (f), (g), (k) and (l)] of sub-section (1) shall be preferred to the Tribunal, and an appeal under 4[clauses (a), (b), (h), (i), (j) (m) and (n)] of the said sub-section shall be preferred-- (a) if the decision or the order was made by the Registrar, to the State Government; or (b) if the decision of order or award was made by any other person or authority, to the Registrar. 5[(c) if the order or award was made on a dispute relating to an election, to the Tribunal. (3) Notwithstanding anything contained, in clause (b) of sub-section (2), the State Government may by notification in the, Gazette, direct that appeals against awards mentioned in clause (h) of sub-

section (1) shall, in respect of, such cases or class of cases, as may be specified in the said notification lie to the tribunal, and thereupon any person aggrieved by such award, may appeal to the Tribunal. (4) The appellate authority after hearing an appeal under this section, may pass such orders as it may deem fit. 1. Subs. by U.P. Act 1 of 1972. 2. Ins by U.P. Act 17 of 1994 (w.e.f 15-7-1994) 3. Subs by U.P. Act 17 of 1994 (w.e.f. 15-7-1994) 4. Subs by U.P. Act 17 of 1994 (w.e.f. 15-7-1994) 5. Subs by U.P. Act 17 of 1994 (w.e.f. 15-7-1994)

99. Review Of Order Of Appellate Authority :-

(1) The appellate authority under Section 97, or Section 98, as the case may be, may on the application of any party, review its 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 appellate authority is satisfied that there has been a discovery of new and important matter of evidence which, after exercised of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the 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 subsection unless notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard. (2) An application for review under sub section (1) by any party shall be made within thirty days from the date of communication of the order of the appellate authority sought to be reviewed.

100. Interim Orders :-

Where an appeal is preferred under Section 97 or Section 98, the appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal as it may deem fit.

101. Transfer Of Appeals :-

(1) The State Government may, on the application of any party and after affording an opportunity to the other party of being heard, transfer an appeal filed under Section 97 from one Tribunal to another Tribunal. (2) The State Government may transfer to itself an appeal filed under Section 98 pending before the Registrar of Co-operative Societies appointed under sub-section (1) of Section 3 and dispose it of. (3) The Registrar of Co-operative Societies appointed under subsection (1) of Section 3 may transfer an appeal

pending before one officer exercising the powers of Registrar under sub-section (2) of Section 3 to any other officer exercising similar powers, or transfer an appeal pending before and such officer to himself and dispose it of.

102. Finality Of Orders And Decisions :-

Every award made under Section 71 and every order of the nature referred to in sub-section (1) of Section 98 where no appeal has been preferred against such award or order under Section 97 or Section 98, as the case may be, and every decision in appeal under the said sections, shall, subject to Section 99, be final and binding on the parties concerned and shall not be questioned in any court.

CHAPTER 14

Offences and Penalties

103. Offences And Penalties Under The Act :-

(1) it shall be an offence under this Act, if-- (i) a committee of management of a co-operative society or a member or an officer thereof fails without reasonable cause to submit any return, report or information required under the provisions of this Act by the Registrar or by a person of a rank not below that specified by the State Government duly authorised by the Registrar in this behalf, or willfully makes a false return or furnishes false information or fails to maintain proper account; or (ii) an officer, employee or a member of a co-operative society fraudulently destroys, mutilates, alters, falsifies or abets the destruction, mutilation, alteration, or falsification of any books, papers, or securities, or makes or abets the making of any false entry in any register, book of account or document belonging to the society; or (iii) the committee of management of a co-operative society, or an officer in possession of the books, records and property of the society refuses or fails without reasonable cause to hand over the custody of such books, records and property belonging to the society to person lawfully entitled to receive the same under this Act, the rules or the bye-laws; or (iv) the committee of management of a co-operative society, or an officer fails, without reasonable cause, to establish a Contributory Provident Fund for its employees as required by Section 63; or (v) any officer of a co-operative society fails to maintain such accounts and registers as may be prescribed; or (vi) an officer or a member of co-operative society who is in possession of information, books and records, fails, without reasonable cause, to furnish such information or produce books and papers or give assistance to the person appointed by the State Government under

sub-section (1) of Section 64, or any person authorised by him to conduct audit, or the Registrar or a person authorised or appointed by the Registrar under Sections 64, 65, 66, 73 or 123; or (vii) an employer, without sufficient cause, fails to pay to a cooperative society the amount deducted by him under subsection (2) of Section 40 within a period of 14 days from the date on which such deduction is made; or (viii) an officer or member of a co-operative society or any person does any act or omission declared by the rules to be an offence. (2) (a) Whoever commits an offence under clauses (i), (iv) (v), 1[* * *], (vii) or (viii) of sub-section (1) shall on conviction be liable to be punished with fine which may extend to 2[two thousand]. 3[Provided that, any person who does an act in relation to elections which has been made an offence under the rules, shall be punishable with imprisonment for such term not exceeding two years, or with fine not exceeding rupees five thousand as may be provided in the rules, or with both]. 4[(b) Whoever commits an offence under clauses (ii) clause, (iii) or clause (vi) of sub-section (1) shall on conviction be liable to be punished with imprisonment of either description which may extend to two years and shall also be liable to fine which may extend to three thousand rupees. (c) Every offence referred to in clause (b) shall be cognizable and bailable. 1. Omitted by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2. The word Two Thousand "Subs by Act 4 of 1989 (w.e.f. 14-3-1989). 3. Proviso Ins by U.P. Act 17 of 1994 (w.e.f. 15 7-1994). 4. Subs. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975).

104. Penalty For Contravention Of Section 8 Or Section 106

:-

Any person contravening the provisions of sub-section (2) of Section 8 or of Section 106 shall be punishable with fine which may extend to five hundred rupees and in the case of continuing offence with further fine of ten rupees for each day on which the offence is continued after conviction therefor. Section

1 :-

104A

- Compounding of offences 1[104-A. Compounding of offences.-- (1) The Registrar may, either before or after the institution of the prosecution, compound any offence punishable under this Act on realisation of such amount of composition fee as he thinks fit, and where such offence is punishable with fine only then such composition fee shall not exceed the maximum amount of fine fixed for the offence. (2) Where the offence is so compounded-- (a) before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty; (b) after the institution of the prosecution, the composition shall amount to acquittal of the accused.] 1. Ins. by Act 17 of 1977.

105. Cognizance Of Offences :-

(1) No court, inferior to that of a stipendiary magistrate of the first class shall try any offence under this Act. (2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given without affording to the person sought to be prosecuted an opportunity to represent his case.

CHAPTER 15

Miscellaneous and Transitional Provisions

106. Prohibition Against The Use Of Word "Lgdkjh" Or "Co-Operative" :-

106. Prohibition against the use of word or "Co-operative". --No person other than a co-operative society shall trade or carry on business under any name or title of which the word "lgdkjh" or its equivalent in English, "Co-operative" forms part: Provided that nothing in this section shall apply to the use by any person or his successor -in-interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Act II of 1912), had come into operation. Section 106-A - Prohibition of use of certain words by a society other than a bank 1["106-A. Prohibition of use of certain words by a society other than a bank.-- No Co-operative Society other than a Co-operative Bank and the Uttar Pradesh Sahkari Gram Vikas Bank shall use the word Bank "Banker" and "Banking" in its name." 1. New Section 106-A Inserted by U.P. Act No. 47 of 2007. Published in U.P. Gaxette Extra Part I, Section (Ka) dated 10 December, 2007

107. Address Of Co-Operative Society :-

1[(1)] Every co-operative society shall have an address registered in the prescribed manner and all notices and communications to the society may be sent at such address. The society shall send to the Registrar notice of any change of such address within thirty days of the change. 2[(2) Every co-operative society shall, at every office or place where it carries on business, display its name and address of its registered office along with the words "registered under the Uttar Pradesh Co-operative Societies Act, 1965" in legible character at a conspicuous place and shall also mention the same-- (a) in all notices and other publication authorised by it; (b) in all business contracts business letters, order for goods, invoices, statements of accounts, receipts and letters of credits; and (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf.] 1. Renumbered as

sub-section (1) and sub-section (2), inserted by U.P. Act 25 of 1994 (w.e.f. 20-9-1994). 2. Sub-section (2) inserted by U.P. Act 25 of 1994 (w.e.f. 20-9-1994).

108. Copies Of Act Etc. To Be Open For Inspection :-

Every cooperative society shall keep a copy of this Act, the rules made thereunder, its bye-laws, last audited annual balance-sheet, profit and loss account and minutes of the general meetings open to inspection, free of charge at the registered address of the society. 1. Subs. by U.P. Act 25 of 1994 (w.e.f. 20-9-1994).

109. Powers Of Civil Court To Tribunals, Arbitrators And Others In Certain Matters :-

(1) While deciding a dispute, making an enquiry or inspection, hearing an appeal or investigating any claim, the Registrar, the arbitrator, the board of arbitrators, the Tribunal or the liquidator shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Act V 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) An affidavit to be filed under sub-section (1) may be sworn before the Registrar, the arbitrator the board of arbitrators, the Tribunal or the liquidator, as the case may be, or before an officer appointed in this behalf by the Registrar or the Tribunal.

110. Exemption From Indian Limitation Act, 1963 :-

Notwithstanding any provision in the Indian Limitation Act, 1963 (Act XXXIV of 1963), the period of limitation, for the institution of suit recovery any sum, including interest thereon due to a co-operative society by a member thereof, shall be computed from the date on Which such member dies or ceases to be a member of the society.

111. Bar Of Jurisdiction Of Court :-

Save as expressly 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 its bye-laws or of an amendment of a bye-law; (b) the supersession or suspension of a committee of management; (c) any dispute required under Section 70 to be referred to the Registrar, and (d) any other or award made under this Act.

112. Power To Exempt Society From Conditions Of Registration :-

Notwithstanding anything contained in this Act, the State 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.

113. Power To Exempt Class Of Societies :-

1[The State Government may, by general or special order to be published in Gazette, 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. 1. Section 113 Omitted by Act 17 of 1994 (w.e.f. 15-7-1994).

114. 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 particulars 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.

115. Proof Of The Entries In Books Of Co-Operative Societies :-

(1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence of the 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 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, are admissible. (3) No officer of a co-operative society and no officer, in whose office the books of a co-operative society are deposited after its winding up 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, the Registrar or the arbitrator made for special cause.
Section

115 :-

115A

- Pass-Book to members 1[115-A. Pass-Book to members.-- (1) A co-operative society which gives loans to its members or a co-operative society or a class of cooperative societies, as may be notified by the State Government, shall provide to each member a pass-book which shall contain the details of transaction with the member, such as, the date of the transaction, the amount of loan advanced, the rate of interest the repayments made by the member, the amount of the principal and interest due and such other particulars as may be prescribed. The entries of the pass-book shall be made up to date from time to time and shall be countersigned by such officer of the co-operative society as may be authorised by it in this behalf and for this purpose such member shall present the pass-book to such officer who shall issue a receipt thereof, if the pass-book is required to be detained or making entries therein. (2) The entries in the pass-book duly made shall until the contrary is proved, be prima facie evidence of the transaction of the co-operative society with the member.] 1. Ins. by U.P. Act 25 of 1994 (w.e.f. 20-9-1994).

116. Service Of Notice Under The Act :-

Except where otherwise provided by or under this Act, every notice or order issued or made under this Act may be served on any person by properly addressing to the last known place of residence or business of such person 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.

117. Notice Necessary In Suits :-

No suit shall be instituted against a co-operative society or any of its officers in respect of any act relating to 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. Section

117 :-

117A

- Control of expenditure in litigation in certain cases 1[117-A. Control of expenditure in litigation in certain cases.-- No expenditure from the funds of a society shall be incurred without prior sanction in writing of the Registrar for the purposes of defraying the costs of any proceedings filed or instituted in any court by any officer or Committee of Management of the society against any order made or purporting to be made by the Registrar or the State Government under Section 29, Section 34, Section 35 or Section 35-A]. 1. Ins. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975).

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

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

119. Indemnity :-

No suit, prosecution, or other legal proceeding shall lie against the trustee appointed under the U. P. Co-operative Land Development Banks Act, 1964 (U. P. Act No. XVI of 1964), the Registrar or any person subordinate to him or acting on his authority a liquidator, an arbitrator, the board of arbitrators, the Tribunal or any member thereof in respect of anything in good faith done or purporting to have been done under this Act.

120. Qualifications For Appointment As Secretary, Manager, Etc. Of Co-Operative Societies :-

(1) No person shall be appointed by a cooperative society as secretary, manager, accountant or as any other officer to be paid or remunerated by the society unless he possesses such qualifications and furnishes such security, if any, as may be specified by the registrar from time to time in respect of any co-operative society or class of societies. (2) Any person appointed in contravention of the provisions contained in sub-section (1) shall be liable to removal from his office by the Registrar.

121. Power Of Registrar To Determine Terms Of Employment Of Society :-

(1) The Registrar may, from time to time, frame regulation to regulate the emoluments and other conditions of service including the disciplinary control of employees in a co-operative society or a class of co-operative societies and any society to which such terms are applicable, shall comply with those regulations and with any orders of the Registrar, issued to secure such compliance. (2) The regulations framed under sub-section (1) shall be published in the Gazette and take effect from the date of such publication.

122. Authority To Control Employees Of Co-Operative Societies :-

(1) The State Government may constitute an authority or authorities, in such manner as may be prescribed, for the

recruitment, training and disciplinary control of the employees of co-operative societies, or a class of co-operative societies, and may require such authority or authorities to frame regulations regarding recruitment, emoluments, terms and conditions of service including disciplinary control of such employees and subject to the provisions contained in Section 70, settlement of disputes between an employee of a co-operative society and the society. (2) The regulations framed under sub-section (1) shall be subject to the approval of the State Government and shall, after such approval, be published in the Gazette, and take effect from the date of such publication and shall supersede any regulations made under Section 121. Section

₪ :-

122A

- Centralization of certain services 1[122-A. Centralization of certain services.-- (1) Notwithstanding anything contained in this Act, the State Government may by rules provide for the creation of one or more services of such employees of such co-operative societies or class of co-operative societies as the State Government may think fit common to such Co-operative Societies and prescribe the method of recruitment, appointment, removal and other conditions of service of persons appointed to any such service. (2) When any such service is created, all employees of such societies existing on the date of creation of such service on the posts included in such service, shall be deemed to have been provisionally absorbed in the service with effect from the date of creation of such service: Provided that any such employee may, by notice in writing to the prescribed authority within the prescribed period, intimate his option of not becoming a member of such service, and in that event his services in the society shall stand determined with effect from the date of such notice and he shall be entitled to compensation from the society which shall be-- (a) in the case of a permanent employee, a sum equivalent to his salary (including all allowances) for a period of three months or for the remaining period of his service, whichever is less; (b) in the case of a temporary employee, a sum equivalent to his salary (including all allowances) for a period one month or for the remaining period of his service, whichever is less. (3) An employee provisionally absorbed under sub-section (2) may be absorbed finally in the service if found suitable after screening in, accordance with the instructions issued by the Registrar; and the services of any such employee as is not found suitable for absorption in the service shall stand determined with effect from the date of issue of orders in that behalf by the prescribed authority and until such authority is prescribed, by the officer specified by the Registrar in that behalf in such instructions and he shall be entitled to compensation as laid down in clause (a) or clause (b) of sub-section (2) according as he was a permanent or a temporary employee.] 1. Subs. by U.P. Act 17 of 1977 (w.e.f. 3-10-1975). This section was earlier inserted by U.P. Act No. 12 of 1976.

123. Constitution Or Recognition Of Co-Operative Federal Authority To Supervise Working Of Co-Operative Societies

:-

(1) The state Government may constitute or recognise one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government

may impose, for the supervision of co-operative societies or a class of co-operative societies and may grant loans or subsidies to such authority or authorities in the manner prescribed. (2) The State Government may, by general or special order, require a co-operative society or a class of co-operative societies to make contribution of such a sum every year as may be fixed by the Registrar, towards the full or partial recoupment of expenditure incurred or likely to be incurred in respect of supervising of societies by the federal authority or authorities mentioned in sub-section (1). (3) A co-operative society to which sub-section (2) is applicable shall pay to such authority or authorities within such time as may be fixed by the Registrar, the contribution as may be fixed under, that sub-section, and if it fails to make such payment within such time, the amount shall be recovered as arrears of land revenue on a requisition made by the authority or authorities through the Registrar to the Collector of the district in which the registered office of the defaulting co-operative society is situate. (4) Any officer or officers of the federal authority or authorities mentioned in sub-section (1) may be authorised by the Registrar by general or special order in writing to conduct inspection of a co-operative society or class of co-operative societies, the supervision of which has been entrusted to the federal authority or authorities under sub-section (1), provided that such officer or officers shall work under the general guidance, superintendence and control of the Registrar in exercise of such powers and report the result of inspection to the Registrar. Section

1 :-

123A

- Functions of apex society 1[123-A. Functions of apex society.-- An apex society may, for servicing its constituents and in accordance with its bye-laws, perform the following functions, namely:-- (a) to take measures for the observance of co-operative principles; (b) to promote and organise co-operative societies and for this purpose frame model bye-laws, issue guidelines for making regulations and policies for consideration; (c) to provide co-operative training, education and information and promote co-operative principles; (d) to undertake research and evaluation and assist in preparation of perspective development plans of member co-operative societies; (e) to promote harmonious relations amongst member co-operative societies; (f) to represent the interest of member co-operative societies and to make efforts for policies and legislation favorable to cooperative societies, (g) to undertake business services on behalf of its members; (h) to provide co-operative and management of development services to member co-operative societies including participation in board meetings where such member societies are invited; (i) to assist member co-operative societies in regular conduct of general meetings; (j) to evolve code of conduct for its members; (k) to evolve viability norms for its members; (l) to provide legal aid and advice to its members; (m) to provide any other service in the interest of its members.] 1. Ins by U.P. Act

124. Registrar And Others Officers To Be Public Servants :-

The Registrar, or any person appointed or authorised to conduct audit under Section 64 or to hold enquiry under Section, 65 or to make inspection, under Section 66, are authorised under Section 123 to conduct inspection, an arbitrator or a member of the board of arbitrators to whom any dispute is referred under Section 71, or a member of the Tribunal or a liquidator, or any person authorised by the Registrar under Section 93 to make attachment and sale 1[or any other of a co-operative Society] shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code (Act XLV of 1860). 1. Ins by U.P. Act 12 of 1990.

125. Powers Of Registrar To Direct Amalgamation Or Merger Of Cooperative Societies :-

(1) Where in the opinion of the Registrar amalgamation or merger of two or more co-operative societies is necessary or desirable for increasing their strength or usefulness, he may, notwithstanding anything to the contrary contained in this Act; after consulting the financing bank, if any, to which the societies are indebted, call upon such societies by order in writing, to amalgamate or merge, within such time as may be specified by him, into one society, and thereupon the societies shall take all such steps, as may be necessary for that purpose in accordance with the provisions of Section 15. (2) On the failure of the societies to amalgamate or merge in accordance with the order passed under sub-section (1), the Registrar may, 1[* * *], by order in writing, direct amalgamation or merger of the societies into one society. (3) The direction of the Registrar under sub-section (2) shall be deemed to be a preliminary resolution of the societies concerned for the purpose of sub-sections (2) and (3) of Section 15, and the Registrar shall take such further steps as required by that section. (4) After the expiry or 2[thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub-section (2) of Section 15 or, as the case may be, from the date of its publication in a newspaper under clause (b) of that sub-section], the Registrar shall, from the funds of the societies concerned, repay, subject to the provisions of Section 41, the share capital of all the members, and satisfy the claims of all the creditors, who have given notice under clause (i) and clause (ii) respectively of sub-section (3) of Section 15 and thereafter declare the amalgamation or merger, as the case may be, of the societies and

in the case of amalgamation register the new society so formed and its bye-laws. (5) A declaration of merger or registration of the new society under sub-section (4) shall be deemed to be a merger or registration under Section 15 and the provisions of sub-section (7) of that section shall apply to it. 1. Omitted by U.P. Act 12 of 1976 (w.e.f. 3-10-1975). 2. Subs. by U.P. Act 12 of 1976. Section

1 :-

125A

- Special provision in respect of Co-operative Sugar Mills1["125-A. Special provision in respect of Co-operative Sugar Mills.-- (1)(a) Notwithstanding anything to the contrary contained in any other provision of this Act or the rules made thereunder or the bye-laws of the societies concerned or in any other law for the time being in force, where a Co-operative Sugar Mill in which Majority of shares are held by the State Government, and the State Government is satisfied that neither the Sugar Mill is being run as sound business nor there is any chance of it being run as sound business, it may recommend the Registrar to transfer such Co-operative Sugar Mill to any other society, company, firm or body and on the receipt of the recommendation of the State Government, the Registrar shall after consulting the financing bank or financing institution, if any, to which such sugar mill is indebted, call upon the committee concerned by notice in writing containing such particulars as may be prescribed and within such time as may be specified in the notice to transfer its assets or its assets and liabilities in whole or part, to any other society or a company or a firm or a body, whether incorporated or not, on such terms and conditions as may be formulated in the manner prescribed, and on such transfer the society formed for such sugar mill under this Act shall stand dissolved." (b) If, within the time specified in the notice referred to in clause (a), the society fails to comply with the direction of the Registrar, he shall after giving an opportunity in the manner prescribed, the committee of such society and the creditors thereof to make their representation, if any, by order notified in the Uttar Pradesh Gazette, take such action as he deems fit in the matter, including the issue of a direction to the society to transfer its assets or its assets and liabilities, in whole or in part in the manner referred to in clause (a): Provided that in the case of Mill Societies where the State Governments share capital is more than 50 per cent, it will not be mandatory for the registrar to get a resolution passed from the general body of the society to act as per the provisions in clauses (a) and (b); (2) It shall be competent for the State Government to make rules and to give such directions as it may deem fit to Registrar, for the purposes of this section. Explanation.--For the purpose of this section "Company means a company as defined in Companies Act, 1956". 1. New Section 125-A, Subs. by U.P. Act No. 29 of 2007. Published in U.P. Gazette Extra Part I, Section (Ka) dated 19 November, 2007 (w.e.f. 1-7-2007).

126. Power Of Registrar To Direct Division Of A Co-Operative Society Into Two Or More Co-Operative Societies

:-

(1) Where in the opinion of the Registrar it is essential in public interest or in the interest of the co-operative movement, or desirable for the purpose of securing better management of a co-operative society, that any co-operative society should be divided to form two or more societies, he may, notwithstanding anything to the contrary contained in this Act, after consulting the financing

bank, if any to which the society is indebted, call upon such society by order in writing to divide itself into two or more societies with such constitutions, assets, liabilities, rights, duties and obligations as may be specified in the order, and thereupon the society shall take all such steps as may be necessary for that purpose in accordance with the provisions of Section 16. (2) On the failure of the society to divide itself in accordance with the order passed under sub-section (1), the Registrar, 1[* * *] may by order in writing, direct division of the society into two or more societies. (3) The direction of the Registrar under sub-section (2) shall be deemed to be a preliminary resolution of the society concerned for the purpose of Section 16, and the Registrar shall take such further steps as are required by that section. (4) After the expiry of 2[thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub-section (2) of Section 15, or as the case may be, from the date of its publication in a newspaper under clause (b) of that sub-section], the Registrar shall, from the funds of the society concerned repay, subject to provision of Section 41, the share capital of all the members, and satisfy the claims of all the creditors who have given notice under clause (i) and clause (ii) respectively of sub-section (3) of Section 16, and thereafter register the new societies and the bye-law thereof. On such registration, the registration of the old society shall be deemed to have been cancelled. (5) The registration of the new societies under sub-section (4) shall be deemed to be registration under Section 16 and the provisions of subsection (7) of that section shall apply to them. 1. Omitted by U.P. Act 21 of 1976 (w.e.f. 3-10-1975). 2. Subs. by U.P. Act 12 of 1976 (w.e.f. 3-10-1975).

127. Writing Off Of Non-Recoverable Assets :-

A co-operative society may, with the previous approval of the Registrar, write off such of the assets as are bad and can not be recovered.

128. Registrars Power To Annul Resolution Of A Co-Operative Society Or Cancel Order Passed By An Officer Of A Co-Operative Society In Certain Cases :-

The Registrar may-- (i) annul any resolution passed by the committee of management, or the general body of any co-operative society; or (ii) cancel any order passed by an officer of a co-operative society; if he is of the opinion that the resolution or the order, as the case may be, is not covered by the objects of the

society, or is in contravention of the provisions of this Act, the rules or the bye-laws of the society, whereupon every such resolution or order shall become void and inoperative, and be deleted from the Rule records of the society. 1[Provided that the Registrar shall, before making any order, require the Committee of Management, general body or officer of the co-operative society to reconsider the resolution, or as the case may be, the order, within such period as he may fix but which shall not be less than fifteen days, and if he deems fit may stay the operation of that resolution or the order during such period.] 1. Proviso Ins by U.P. Act 17 of 1994 (w.e.f 15-7-1994).

129. Registrars Power To Permit A Co-Operative Society To Function As A Land Development Bank :-

It shall be competent for the Registrar to permit any co-operative society carrying on the business of banking to function as a Land Development Bank under such terms and conditions and for such period as he may deem fit. Thereupon the provisions of any law relating to Co-operative Land Development Banks for the time being in force in Uttar Pradesh shall also be applicable to such co-operative society.

130. Power To Make Rules :-

(1) The State Government may, 1[* * *] make rules to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the power under sub-section (1), the rules to be made under this section may provide for all or any of the following matters-- (i) the applicant to whom, and the manner in which, the order refusing the registration of a co-operative society may be communicated by the Registrar under sub-section (2) of Section 7; (ii) the matters in respect of which a co-operative society shall or may make bye-laws; (iii) the procedure and conditions for change in the form and extent of the liability of a co-operative society, (iv) the procedure to be followed for amendment of bye-laws by a co-operative society; (v) constitution of committees of management; (vi) the provision for a second or casting vote by the Chairman of a general meeting or the committee of management of a cooperative society; (vii) the appointment of a co-operative society of one or more 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) rights and liabilities of ordinary members and the proportion of members who are individuals and other members in the constitution of the general body or the committee of management

of a co-operative society having other co-operative societies also in its membership; (ix) the exercise of the right of vote where a share is held jointly by more than one person; (x) the procedure for the nomination by a member of a person to whom the share or interest of such member on his death may be transferred or the value thereof may be paid; (xi) the mode in which the value of the share of a deceased of past member shall be ascertained and its payment; 2[(xii) the election of the members and Chairman and Vice-Chairman of Committee of Management of a co-operative society, including delimitation of constituencies, reservation of seats of women and members belonging to weaker sections, settlement of election disputes, and levy of fees in respect of any such matter, (xii-A) the nomination of women and members belonging to weaker sections in the committee of management of a co-operative society;] (xiii) the calling of a general meeting or a meeting of the committee of the management of a co-operative society and the quorum and procedure at such meetings; (xiv) the remuneration payable to a committee or administrator or administrators appointed in place of a committee of management superseded or suspended by the Registrar; (xv) the qualifications or disqualifications for membership of committee of a co-operative society; (xvi) the restrictions against officers of a co-operative society being interested in contracts with the society; (xvii) the matters connected with the direct and indirect partnership of the State Government in co-operative societies; (xviii) determination of distributable profits out of net profits for purposes of payment of dividend and bonus, and allocation to funds of a society; (xix) the establishment and control of Co-operative Education Fund, payment to be made to the Fund by a co-operative society out of its net profits and the mode of investment of the Fund and its disposal; (xx) the mode and conditions of investment of funds of a cooperative society and of establishment and investment of Contributory Provident Fund; (xxi) the objects of reserve and other funds of a co-operative society, their utilization and mode of investment; (xxii) the mode of disposal of reserve fund and surplus funds of a co-operative society on its winding up; (xxiii) the extent and conditions subject to which a co-operative society may receive deposits and take loans; (xxiv) the restrictions on transactions by a co-operative society with non-members; (xxv) the restrictions on grant of loans by a co-operative society; (xxvi) the form and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits; (xxvii)

conducting of audit and levy of audit fees on co-operative societies; (xxviii) procedure to be followed in various proceedings under this Act including proceedings before the Registrar, an arbitrator or board of arbitrators or before Tribunals or other authorities in entertaining and disposing of appeals and reviews; (xxix) the fees and expenses that may be charged in proceedings under this Act; (xxx) 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; (xxxi) the procedure for recovery of amounts due or payable to a cooperative society; (xxxii) the mode of making attachment before judgment and the procedure for sale of property in proceedings under this Act; (xxxiii) the qualifications of members of the Tribunal; (xxxiv) the manner of registering the address of a co-operative society; (xxxv) the account books and registers to be kept by a co-operative society and power of Registrar to direct the account books and registers to be written up; (xxxvi) the manner of certification of copies of entries in the books and of documents kept by a co-operative society in the course of business; (xxxvii) the statements, reports and returns to be furnished by cooperative societies to the Registrar; (xxxviii) restrictions on persons appearing as legal practitioners in proceedings under this Act; (xxxix) inspection of documents and levy of fees for granting certified copies thereof; (xl) the maximum rate of interest to be charged by a Central Bank from the co-operative societies; (xli) the levy of supervision fees to be realised from the cooperative societies; (xlii) duties and functions of honorary organizers and honorary managers and payments of allowances and honorarium to them and to the office-bearers, delegates and other members of co-operative societies; (xliii) method of communicating or publishing any order, decision or award required to be communicated or published under the Act the rules; and (xliv) the other matter which may be or is required to be prescribed. 3[(3)[* * *] 1. Omitted by U.P. Act 17 of 1977. 2. Subs. by U.P. Act. 17 of 1977. 3. Omitted by U.P. Act 17 of 1977.

131. Provisions In Regard To Existing Societies And Their Bye-Laws :-

(1) Any co-operative society existing on the date of coming into force of this Act and registered under the Co-operative Credit Societies Act, 1904 (Act X of 1904), or the Co-operative Societies Act, 1912 (Act II of 1912), or under any other law relating to co-operative societies in force in the State of Uttar Pradesh shall be

deemed to be registered under this Act, and its bye-laws shall, so far as the same are not inconsistent with the express provisions of this Act 1[or the rules made thereunder], continue in force until altered or rescinded according to the provisions of this Act 2[and the rules made thereunder]. (2) Any co-operative society to which sub-section (1) applies and which conforms to the requirements of Section 77 shall be deemed to be a co-operative farming society for the purposes of Chapter XI. (3) Every co-operative society covered by sub-section (1) shall, within a period of one year from the date of coming into force of this Act, delete or amend such bye-laws as are inconsistent with the provisions of this Act and the rules and shall make such further bye-laws as may be necessary having regard to the provisions of this Act and the rules. (4) In default of section on the part of any co-operative society as required by sub-section (3), the Registrar may make necessary amendment including deletions and additions in the bye-laws of the society. (5) Every co-operative society shall within a period of one year from the date of coming into force of this Act or such further period as the Registrar may, for reasons to be recorded in writing allow for any cooperative society, adjust its membership according to the classification of members under this Act: Provided that any existing member who cannot be adjusted into one or the other kinds of memberships shall be deemed on the expiry of the period of one year or the extended period, if any, to have withdrawn from the membership of the society with the same rights and liabilities attached as if he had withdrawn from membership before the coming into force of this Act. (6) Where a co-operative society fails to adjust membership as specified in sub-section (5), the Registrar may make the adjustment and direct as to who, if any of the existing members shall be deemed to have withdrawn their membership under the provisions of sub-section (5). (7) Every co-operative society shall within one year of the coming into force of this Act constitute its committee of management in accordance with the provisions of this Act and the rules and in default thereof the Registrar shall in the manner prescribed constitute the committee of management. (8) Notwithstanding, anything in this Act no act or proceeding of a cooperative society or its committee of management shall be invalid or questioned in court merely on the ground that up to the time of adjustment of membership or re-constitution of the committee of management in accordance with the provisions of this section the membership of the society or the constitution of its committee was inconsistent with the provisions of

this Act or the rules. 1. Ins by U.P. Act 17 of 1977. 2. Ins by U.P. Act 17 of 1977.

132. Other Provisions In Regard To Existing Societies :-

(1) Any suit, other proceeding, enquiry or inspection instituted or commenced under the Co-operative Societies Act, 1912 (Act II of 1912), shall so far as may be, be deemed to have been instituted or commenced under this Act and may be continued accordingly.

(2) Any power, function or duty required to be exercised, performed or discharged under this Act by an authority different from the authority provided for that purpose under the Co-operative Societies Act, 1912 (Act II, of 1912), shall until such authority is constituted or appointed under this Act, continue to be exercised, performed or discharged by the authority hitherto exercising, performing or discharged the power, function or duty and the Registrar shall have the power to take measures in the manner prescribed for the early constitution or appointment of the authority under this Act.

133. Power To Remove Difficulties :-

1[(I) The State Government may from time to time, by notification make such incidental and consequential order as may appear to it to be necessary or desirable for the removal of any difficulty in any matter relating to elections under the provisions of this Act or rules made thereunder. (2) An order made under sub-section (1) shall be laid, as soon as may be, before both the Houses of the State Legislature. 1. Subs. by U.P. Act 17 of 1977.

134. Repeals Amendment And Construction Of Enactments :-

(1) The Co-operative Societies Act, 1912 (Act II of 1912), as amended from time to time in its application to Uttar Pradesh, is hereby repealed and the provisions of Sections 6 and 24 of the U. P. General Clauses Act, 1904 (U. P. Act I of 1904), shall apply to the repeal of the Co-operative Societies Act, 1912 (U. P. Act II of 1912), as if it were an Uttar Pradesh Act. (2) All references to the Co-operative Societies Act, 1912 (U. P. Act II of 1912), occurring in any enactment made by any authority in India and for the time being in force in the State of Uttar Pradesh shall, in its application to the said State, be construed as reference to the relevant provisions of this Act. (3) Sections 295 to 318 of the U. P. Zamindari Abolition and Land Reforms Act, 1950 (U. P. Act I of 1951), are hereby repealed. (4) All references to co-operative

farms contained in the U. P. Zamindari Abolition and Land Reforms Act, 1950 (U. P. Act I of 1951), shall be construed as references to co-operative farming societies registered or deemed to be registered under this Act. (5) The Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 (U. P. Act XXIV of 1953), is hereby amended in the manner specified herein: Provision to be amended Amendment 1 2 Sub-section (2) of Section 28 (1) For the existing clause (n) the following shall be substituted--"(n) the constitution, operation, management supervision and audit of councils and control of their staff and finances and conditions relating to the recognition of the U. P. Cane Unions Federation and Cane Growers Co-operative Societies for the purposes of this Act." (2) For the existing sub-clause (i) of clause (r) the following shall be substituted--"(i) regarding the business of the Cane-Growers Co-operative Societies between the society and the factory or between a cane-grower and factory".

135. Certain Acts Not To Apply To Co-Operative Societies :-

The provisions contained in the Industrial Disputes Act, 1947 (Act XIV of 1947), and the U. P. Industrial Disputes Act, 1947 (U. P. Act XVIII of 1947), shall not apply to Co-operative Societies.