



## The Maharashtra Co-Operative Societies Act, 1960

Act 24 of 1961

### Keyword(s):

Auditor, Bonus, Central Bank, Committee, Consumers, Co-Operative Bank, Dividend, Farming Society, Federal Society, Firm, General Society, Housing Society, Liquidator, Local Authority, Officer, Processing Society, Producers Society, Registrar, Resource Soc

Amendments appended: 20 of 2006, 30 of 2007, 31 of 2007, 11 of 2008, 2 of 2011, 40 of 2014, 24 of 2015

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THE MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960

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(4) "bonus" means payment made in cash or kind out of the profits of a society to a member, or to a person who is not a member on the basis of his contribution (including any contribution in the form of labour or service) to the business of the society, and in the case of a farming society, on the basis both of such contribution and also the value or income or, as the case may be, the area of the lands of the members brought together for joint cultivation as may be decided by the society <sup>1</sup>[but does not include any sum paid or payable as bonus to any employee of the society under the Payment of Bonus Act, 1965 ;]

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1965.

(5) "by-laws" means by-laws registered under this Act and for the time being in force, and includes registered amendments of such by-laws ;

(6) "Central Bank" means a co-operative bank, the objects of which include the creation of funds to be loaded to other societies ;

(7) "committee" means the committee of managements, or other directing body, to which the management of the affairs of a society is entrusted ;

(8) "Company" means a company as defined in the Companies Act, 1956 <sup>1</sup> and includes a Banking Company and also any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any industry ;

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1956.

(9) "consumers' society" means a society, the object of which is,—

(a) the procurement, production or processing, and distribution of goods to, or the performance of other services for, its members as also other customers, and

(b) the distribution among its members and customers, in the proportion prescribed by rules or by by-laws of the society, of the profits accruing from such procurement, production or processing, and distribution ;

<sup>2</sup>[(10) "co-operative bank" means a society which is doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949, and includes any society which is functioning or is to function as a Land Development Bank under Chapter XI ;]

<sup>3</sup>[(10-ai) "Co-operative Appellate Court" means the Maharashtra State Co-operative Appellate Court constituted under this Act ;

(10-aii) "Co-operative Court" means a Court constituted under this Act to decide disputes referred to it by the Registrar ;]

<sup>4</sup>[(10A) "crop protection society" means a society, the object of which is protection of the crops, structures, machinery, agricultural implements and other equipment such as those used for pumping water on the land ;]

(11) "dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him ;

(12) "farming society" means a society in which, with the object of increasing agricultural production, employment and income and the better utilisation of resources, lands are brought together and jointly cultivated by all the members, such lands (a) being owned by or leased to the members (or some of them) or (b) coming in possession of the society in any other manner whatsoever ;

(13) "federal society" means a society,—

(a) not less than five members of which are themselves societies, and

(b) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meeting of such society ;

<sup>1</sup> This portion was added by Mah. 27 of 1969, s. 2(a).

<sup>2</sup> Clause (10) was substituted by Mah. 33 of 1963, s. 2.

<sup>3</sup> Clauses (10-ai) and (10-aii) were inserted by Mah. 3 of 1974, s. 2(b).

<sup>4</sup> Clause (10-A) was inserted by Mah. 27 of 1969, s. 2(b).

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1932.

(14) "firm" means a firm registered under the Indian Partnership Act, 1932;

(15) "general society" means a society not falling in any of the classes of societies defined by the other clauses of this section;

(16) "housing society" means a society, the object of which is providing its members with dwelling houses;

[(16A) "lift irrigation society" means a society, the object of which is to provide water supply, by motive power or otherwise to its members, for irrigation and otherwise;]

(17) "Liquidator" means a person appointed as liquidator under this Act;

(18) "local authority" includes a school board and an agricultural produce market committee constituted by or under any law for the time being in force;

(19) (a) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered, or a person duly admitted to membership of a society after registration, and includes a nominal, associate or sympathiser member;

(b) "associate member" means a member who holds jointly a share of a society with others, but whose name does not stand first in the share certificate;

(c) "nominal member" means a person admitted to membership as such after registration in accordance with the by-laws;

(d) "sympathiser member" means a person who sympathises with the aims and objects of the society and who is admitted by the society as such member;

(20) "officer" means a person elected or appointed by a society to any office of such society according to its by-laws, and includes a chairman, vice-chairman, president, vice-president, managing director, manager, secretary, treasurer, member of the committee, and any other person elected or appointed under this Act, the rules or the by-laws, to give directions in regard to the business of such society;

(21) "prescribed" means prescribed by rules;

(22) "processing society" means a society, the object of which is the processing of goods;

(23) "producers' society" means a society, the object of which is, the production and disposal of goods or the collective disposal of the labour of the members thereof;

(24) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under this Act;

(25) "resource society" means a society, the object of which is the obtaining for its members of credit, goods or services required by them;

(26) "rules" means rules made under this Act;

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

(28) "society with limited liability" means a society having the liability of its members limited by its by-laws;

<sup>1</sup> Clause (16A) was substituted by Mah. 3 of 1974, s. 2(c).

(29) "society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society;

(31) "working capital" means funds at the disposal of a society inclusive of paid up share capital, funds built out of profits, and money raised by borrowing and by other means.

## CHAPTER II.

### REGISTRATION.

Registrar  
[and his  
subordina-  
tes.] 3. The State Government may appoint a person to be the Registrar of Co-operative Societies for the State; and may appoint one or more persons to assist such Registrar <sup>2</sup>[with such designations, and in such local areas or throughout the State, as it may specify in that behalf,] and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar. <sup>3</sup>[They shall be subordinate to the Registrar, and subordination of such persons amongst themselves shall be such as may be determined by the State Government].

Societies  
which may  
be registered. 4. A society, which has as its objects the promotion of the economic interests or general welfare of its members, or of the public, in accordance with co-operative principles, or a society established with the object of facilitating the operations of any such society, may be registered under this Act:

Provided that, no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the Co-operative movement.

Registration  
with limited  
or unlimited  
liability. 5. A society may be registered with limited or unlimited liability.

Conditions  
of Act,  
registration. 6. (1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons (each of such persons being a member of a different family), who are qualified to be members under this Act, and who reside in the area of operation of the society:

<sup>4</sup>[Provided that, a lift irrigation society consisting of less than ten but of five or more such persons may be registered under this Act.]

(2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same town or village, or in the same group of villages.

<sup>1</sup> Clause (30) was deleted by Mah. 3 of 1974, s. 2(d).

<sup>2</sup> These words were inserted by Mah. 27 of 1969, s. 3 (a).

<sup>3</sup> These words were added, *ibid.*, s. 3(b).

<sup>4</sup> These words were added, *ibid.*, s. 3(c).

<sup>5</sup> This proviso was added, *ibid.*, s. 4 (a).

4(2A) No crop protection society shall be registered, unless the Registrar is satisfied, after such inquiry as he thinks necessary, that a draft of the proposal made by the society for protecting the crops, structures, machinery, agricultural implements and other equipment such as those used for pumping water on the land, was duly published for inviting all owners of lands likely to be affected by the proposal and all other persons likely to be interested in the said lands to join the proposal or to send their objections or suggestions and that the objections and suggestions received, if any, have been duly considered by the society and that the owners in possession of not less than 66 per cent. in the aggregate of the lands included in the proposal have given their consent in writing to the making of the proposal and that the proposal made is feasible. For this purpose, the society shall submit to the Registrar :—

- (a) a plan showing the area covered by the proposal and the surrounding lands as shown in the map or maps of the village or villages affected ;
- (b) an extract from the record of rights duly certified showing the names of the owners of the lands and the areas of the lands included in the proposal ;
- (c) statements of such of the owners of the lands as consented to the making of the proposal signed by owners before two witnesses ;
- (d) a detailed estimate of the cost of implementing the proposal ;
- (e) a detailed statement showing how the cost is proposed to be met.

When such society is registered, the cost of implementing the proposal shall be met wholly or in part by contribution to be levied by the society from each owner of the land included in the proposal, including any such owner who may have refused to become a member of the society. The owner of every land included in the proposal shall also be primarily liable for the payment of the contribution leviable from time to time in respect of such land.]

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<sup>1</sup> Sub-section (2A) was inserted by Mah. 27 of 1969, s. 4 (b).

(3) No federal society shall be registered, unless it has at least five societies as its members.

(4) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.

(5) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act.

*Explanation.*—For the purposes of this section and section 8 the expression "member of a family" means a wife, husband, father, mother, [son, or unmarried daughter].

7. Notwithstanding anything contained in this Act, the State Government may, <sup>2</sup>[by general or special order, exempt any society or class of societies from any of the requirements of this Act as to registration, subject to such conditions (if any) as it may impose.]

Power to exempt societies [or class of societies] from conditions as to registration.

8. (1) For the purposes of registration, an application shall be made to the Registrar in the prescribed form, and shall be accompanied by four copies of the proposed by-laws of the society <sup>4</sup>[and such registration fee as may be prescribed in this behalf. Different registration fees may be prescribed for different classes of societies, regard being had to the service involved in processing an application for registration.] The person by whom, or on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.

Application for registration.

(2) The application shall be signed—

(a) in the case of a society other than a federal society by at least ten persons (each of such persons being a member of a different family), who are qualified under this Act, and

(b) in the case of a federal society, by at least five societies.

No signature to any application on behalf of a society shall be valid, unless the person signing is a member of the committee of such a society, and is authorised by the committee by resolution to sign on its behalf the application for registration of the society and its by-laws; and a copy of such resolution is appended to the application.

9. (1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, and that its proposed by-laws are not contrary to this Act or to the rules, he may, within six months from the date of receipt of the application register the society and its by-laws.

Registration.

(2) If the Registrar is unable to dispose of an application for registration within the period mentioned in the foregoing sub-section, he shall make a report to the State Government stating therein the reasons therefor; and he shall thereafter act in accordance with such directions as may be issued to him by the State Government.

<sup>1</sup> These words were substituted for the portion beginning with "grand-father, grand-mother" and ending with "wife of brother or half-brother" by Mah. 33 of 1963, s. 3.

<sup>2</sup> This portion was substituted for the original portion by Mah. 27 of 1969, s. 5(a).

<sup>3</sup> These words were inserted *ibid*, s. 5 (b).

<sup>4</sup> These words were inserted by Mah. 3 of 1974, s. 3.

(3) Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefor, to the person making the application and if there be more than one to the person who has signed first thereon.

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under this Act.

**Evidence of registration.** 10. A certificate of registration signed by the Registrar, shall be conclusive evidence that the society therein mentioned, is duly registered, unless it is proved that the registration of the society has been cancelled.

**Power of Registrar to decide certain questions.** 11. When, for the purpose of the formation, or registration or continuance, of a society, any question arises whether a person is an agriculturist or not, or whether any person resides in the area of operation of the society or not, such question shall be decided by the Registrar <sup>1</sup>[and his decision shall be final, but no decision adverse to any such person shall be given without giving him an opportunity of being heard.]

**Classification of societies.** 12. (1) The Registrar shall classify all societies into one or other of the classes of societies defined in section, 2 and also into such sub-classes thereof as may be prescribed by rules.

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

(3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the State Government may, from time to time, direct.

**Amendment of by-laws of society.** 13. (1) No amendment of the by-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the by-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar. <sup>2</sup>[Every application of registration of an amendment of the by-laws shall, as far as possible, be disposed of by the Registrar within a period of two months from the date of its receipt:

Provided that where such application is not so disposed of within the said period of two months the Registrar shall record the reasons for the delay.]

(2) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

(3) Where the Registrar refuses to register an amendment of the by-laws of a society, he shall communicate the order of refusal, together with his reasons therefor, to the society.

**Power to direct amendment of by-laws.** 14. (1) If it appears to the Registrar that an amendment of the by-laws of a society is necessary or desirable in the interest of such society, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

<sup>1</sup> These words were inserted by Mah. 3 of 1974, s. 4.

<sup>2</sup> This portion was added by Mah. 27 of 1969, s. 6.



(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 and after consulting such State federal society as may be notified by the State Government register such amendment, and issue to the society a copy of such amendment certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the by-laws shall be deemed to have been duly amended accordingly; and the by-laws as amended shall, subject to appeal (if any); be binding on the society and its members.

15. (1) A society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the society, or of any of its members, or past members, or deceased members; and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name. Change of name.

(2) Where a society changes its name, the Registrar shall enter the new name in its place in the register of societies, and shall also amend the certificate of registration accordingly.

16. (1) Subject to the provisions of this Act and the rules, a society may, by amendment of its by-laws, change the form or extent of its liability. Change of liability.

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

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

(4) An amendment of the by-laws of a society, changing the form or extent of its liability, shall not be registered or take effect until, either—

(a) all members and creditors have assented, or deemed to have assented, thereto as aforesaid; or

(b) all claims of members and creditors who exercise the option, given by sub-section (2), within the period specified therein, have been met in full or otherwise satisfied.

17. (1) A society may, with the previous approval of the Registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—

Amalgamation, transfer, division or conversion of societies.

(a) to amalgamate with another society;

(b) to transfer its assets and liabilities, in whole or in part, to any other society;

(c) to divide itself into two or more societies; or

(d) to convert itself into another class of society;

Provided that, when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that—

(i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882, IV of 1882, or the Indian Registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be. XVI of 1908.

(3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.

(4) Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

Power to direct amalgamation, division and reorganisation in public interest, etc.

18. (1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganised then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government by order notified in the *Official Gazette*, provide for the amalgamation, division or reorganisation of those societies into a single society, or into societies with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations, as may be specified in the order.

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

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

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

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

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

(5) On the issue of an order under sub-section (1), the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section and to the society amalgamated, divided or reorganised.

<sup>1</sup>[(6) Nothing contained in this section shall apply for the amalgamation or <sup>2</sup>[two or more co-operative banks or two or more primary agricultural credit societies.]]

<sup>3</sup>[18A. (1) Where the Registrar is satisfied that it is essential in the public interest, or in order to secure the proper management of one or more co-operative banks that two or more such banks should be amalgamated, then notwithstanding anything contained in section 17, the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in the *Official Gazette*, by order provide for the amalgamation of those banks into a single bank, with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order. Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in or against any bank to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that bank having due regard to the proportion of the assets of such bank to its liabilities. Such order may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation of the banks.

(2) No order shall be made under sub-section (1), unless—

(a) a copy of the proposed order has been sent in draft to each of the banks concerned ;

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the banks) as the Registrar may fix in that behalf, either from the banks or any members, depositors, creditors, employees or other persons concerned.

<sup>1</sup> Sub-section (6) was added by Mah. 5 of 1976, s. 2.

<sup>2</sup> These words were substituted for the words "two or more co-operative banks" by Mah. 4 of 1977, s. 2.

<sup>3</sup> Section 18A was inserted by Mah. 5 of 1976, s. 3.

(3) On the issue of an order under sub-section (1), notwithstanding anything contained in this Act or in any law for the time being in force or in any contract, award or other instruments for the time being in force, the provisions thereof, shall be binding on all banks and their members, depositors, creditors, employees and other persons having any rights, assets, or liabilities in relation to all or any of the banks concerned.

(4) Notwithstanding anything contained in the Transfer of Property Act, 1882<sup>4 of 1882.</sup> or the Registration Act, 1908, the order issued under sub-section (1) shall be sufficient<sup>16 of 1908.</sup> conveyance for transfer or vesting the rights, assets and liabilities of the banks concerned as provided in the order.

(5) The amalgamation of banks under this section shall not affect any rights or obligations of the banks so amalgamated or render defective any legal proceedings which might have been continued or commenced by or against any such bank ; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated bank.

(6) Where two or more banks have been amalgamated, the registration of the bank in which the other banks are amalgamated may be continued and the registration of the other banks may be cancelled, or where the amalgamated bank is newly registered, the registration of all the amalgamating banks shall be cancelled.

(7) Any order made by the Registrar under this section shall be final and conclusive, and shall not be called in question in any Court.]

Amalgama-  
tion of  
primary  
agricultural  
credit  
societies.

<sup>1</sup>[18-B. (1) Where the Registrar is satisfied that it is essential—

(a) for ensuring economic viability of one or more primary agricultural credit societies ;

(b) for avoiding overlapping or conflict of jurisdictions of such societies in any area ;

(c) in order to secure the proper management of one or more such societies ;

(d) in the interest of the credit structure or co-operative movement in the State as a whole ;

(e) in the interest of the depositors ; or

(f) for any other reason in the public interest<sup>†</sup>

that two or more primary agricultural credit societies should be amalgamated, then notwithstanding anything contained in section 17, the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in this behalf, by order published in the *Official Gazette*, provide for the amalgamation of those societies into a single society. The constitution, property, rights, interests and authorities and the liabilities, duties and obligations of the amalgamated society shall be such as may be specified in the order. Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in, or against, any society to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that society, having due regard to the proportion of the assets of such society, to its liabilities. Such order may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation of the societies.

<sup>1</sup> Section 18B was inserted by Mah. 4 of 1977, s.3.

(2) No order shall be made under sub-section (1), unless—

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

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the societies) as the Registrar may fix in that behalf, either from the societies or any members, depositors, creditors, employees or other persons concerned.

(3) When any order is made by the Registrar under sub-section (1), the provisions of sub-sections (3) to (7) (both inclusive) of section 18-A shall, *mutatis mutandis*, apply to such order, in the same manner as they are applicable to any order made by him under sub-section (1) of that section.]

19. Where a proposal for a compromise or arrangement—

(a) between a society and its creditors, or

(b) between a society and its members,

Reconstruction of societies.

is approved at a special general meeting called for the purpose, the Registrar may on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the Liquidator, order reconstruction in the prescribed manner, of the society.

20. (1) Any two or more societies may, with the prior approval of the registrar, Partnership by resolution passed by three-fourth majority of the members present and voting of Societies. at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member has had clear ten days' written notice of the resolution, and the date of the meeting.

IX of 1932.

(2) Nothing in the Indian Partnership Act, 1932, shall apply to such partnership.

21. The Registrar shall make an order cancelling the registration of a society if Cancellation of registration. it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, [or winding up proceedings in respect of the society are closed or terminated under section 109.]\*\* The society shall, from the date of such order of cancellation, be deemed to be dissolved, and shall cease to exist as a corporate body.

### CHAPTER III

#### MEMBERS AND THEIR RIGHTS AND LIABILITIES

22. (1) Subject to the provisions of section 24, no person shall be admitted Persons who may become member. as a member of a society except the following, that is to say—

IX of 1872.

(a) an individual who is competent to contract under the Indian Contract Act, 1872 ;

XXI of 1860.

(b) a firm, company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860 ;

<sup>1</sup> This portion was inserted by Mah. 33 of 1963, s. 4.

<sup>2</sup> The portion beginning with " or it has not commenced business " and ending with " be cancelled " was deleted by Mah. 3 of 1974, s. 5.

(c) a society registered, or deemed to be registered, under this Act ;

<sup>1</sup>[(d) the State Government or the Central Government ;]

(e) a local authority ;

(f) a public trust registered under any law for the time being in force for the registration of such trusts :

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

Provided further that, subject to such terms and conditions as may be laid down by the State Government by general or special order, a firm or company may be admitted as a member only of a society which is a federal or urban society or which conducts or intends to conduct an industrial undertaking :

Provided also that, any firm or company, which is immediately before the commencement of this Act, a member of a society deemed to be registered under this Act, shall have, subject to the other provisions of this Act, the right to continue to be such member on and after such commencement.

*Explanation.*—For the purposes of this section “an urban society” means a society the business of which mainly falls within the limits of a municipal corporation, municipality, cantonment or notified area committee.

<sup>2</sup>[(1A) Notwithstanding anything contained in sub-section (1), the State Government may, having regard to the fact that the interest of any person or class of persons conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order, published in the *Official Gazette*, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified society or class of societies, so long as such person or persons are engaged in or carry on that profession, business or employment as the case may be.]

(2) Where a person is refused admission as a member of a society, the decision (with the reasons therefor) shall be communicated to that person within fifteen days of the date of the decision, or within three months <sup>3</sup>[from the date of receipt of the application for admission, whichever is earlier. If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been refused admission as a member of the society.]

<sup>1</sup> Clause (d) was substituted for the original by Mah. 27 of 1969, s. 7(a).

<sup>2</sup> Sub-section (1A) was inserted, *ibid.*, s. 7(b).

<sup>3</sup> These words were substituted for the words “ from the date of the application for admission, whichever is earlier ”, *ibid.*, s. 7(c).

23. (1) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its by-laws. Open membership.

(2) Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar.

(3) The decision of the Registrar in appeal shall be final and the Registrar shall communicate his decision to the parties within fifteen days from the date thereof.

24. (1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate or sympathiser member. Nominal, associate and sympathiser member.

(2) A nominal member or sympathiser member shall not be entitled to any share in any form whatsoever in the profits or assets of the society as such member. A nominal or sympathiser member shall ordinarily not have any of the privileges and rights of a member, but such a member, or an associate member, may, subject to the provisions of sub-section (8) of section 27, have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the by-laws of the society.

25. A person shall cease to be a member of a society on his resignation from membership thereof being accepted, or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society. Cessation of membership.

26. No person shall exercise the right of a member of a society, until he has made such payments to the society in respect of membership, or acquired such interest in the society, as may be prescribed by the rules, or the by-laws of such society. No rights of membership to be exercised till due payments are made.

27. (1) No member of any society shall have more than one vote in its affairs: provided that, in the case of an equality of votes the chairman shall have a casting vote. <sup>1</sup>[Save as otherwise provided in sub-sections (2) to (7), every right to vote shall be exercised personally, and not by proxy.] Voting powers of members.

(2) Where a share of a society is held jointly by more than one person, <sup>2</sup>[the person whose name stands first in the share certificate, if present, shall have the right to vote. But in his absence the person whose name stands second, and in the absence of both, the person whose name stands next, and likewise, in the absence of the preceding persons the person whose name is next on the share certificate, who is present and who is not a minor, shall have the right to vote.]

(3) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of that other society; and accordingly such member shall have the right to vote on behalf of the first society:

(4) A company or any other body corporate constituted under any law for the time being in force which has invested any part of its funds in the shares of a society may appoint any one of its directors or officers to vote on its behalf in the affairs of such society; and accordingly such director or officer shall have the right to vote on behalf of the company or body corporate.

<sup>1</sup> These words, brackets and figures were added by Mah. 27 of 1969, s. 8(a):

<sup>2</sup> These words were substituted for the words "only the person whose name stands first in the share certificate, shall have the right to vote.", *ibid.*, s. 8(b).

(5) Where a firm has invested any part of its funds in the shares of a society, any one of its partners <sup>1</sup>[ appointed by the firm] shall be entitled to vote in the affairs of the society on behalf of the firm.

(6) A local authority or public trust which has invested any part of its funds in the shares of a society, may appoint any of its members or trustees, to vote on its behalf in the affairs of that society; and accordingly such person shall have the right to vote on behalf of the local authority or the public trust, as the case may be.

(7) In the case of a federal society, the voting rights of individual members thereof shall be such as may be regulated by the rules made under this Act and by the by-laws of the society.

(8) No nominal <sup>2\*</sup> or sympathiser member shall have the right to vote <sup>3</sup>], and no such member shall be eligible to be a member of a committee or for appointment as a representative of the society on any other society.]

<sup>4</sup>[(9) No nominee of the Government or of any financing bank on any society shall be entitled to vote at any election of its committee.]

<sup>5</sup>[(10) In the case of an agricultural credit society, if a member has taken a loan from the society, such member shall, whenever he is a defaulter in paying two or more consecutive instalments towards repayment of the loan on the due dates, have no right to vote in the affairs of the society:

Provided that, a member shall not be deemed to be a defaulter, if he has discharged his obligation to deliver his marketable produce to the marketing or processing society and the value of such produce is not less than the amount of his dues, even if the actual settlement of his dues, either in whole or in part, takes place at a later stage.

(11) The agricultural credit society may issue suitable orders for the purpose of carrying out the provisions of sub-section (10).]

Restrictions on holding of shares. 28. In any society, <sup>6</sup>[no member, other than the Government, or any other society, or with the previous sanction of the State Government a Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall—]

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1962.

(a) hold more than such portion of the total share capital of the society (in no case exceeding one fifth thereof) as may be prescribed, or

(b) have or claim any interest in the shares of the society exceeding five thousand rupees:

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

Restrictions on transfer of share or interest. 29. (1) Subject to the provisions of the last preceding section as to the maximum holding of shares and to any rules made in this behalf, a transfer of, or charge on, the share or interest of a member in the share capital of a society shall be subject to such conditions as may be prescribed.

<sup>1</sup> These words were inserted by Mah. 33 of 1963, s. 5.

<sup>2</sup> The word "associate" was deleted by Mah. 27 of 1969, s., 8(c).

<sup>3</sup> These words were added, *ibid.*, s. 8(c).

<sup>4</sup> Sub-section (9) was added, *ibid.*, s. 8(d).

<sup>5</sup> Sub-sections (10) and (11) were added by Mah. 3 of 1974, s. 6.

<sup>6</sup> This portion was substituted for the words "no member other than the State Government or any other society, shall—" by Mah. 27 of 1969, s. 9.



(2) A member shall not transfer any share held by him or his interest in the capital or property of any society, or any part thereof, unless—

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

(b) the transfer is made to a member of the society or to a person whose application for membership has been accepted by the society.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign, or is expelled, or cease to be a member on account of his being disqualified by this Act or by the rules made thereunder or by the by-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed, provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten per cent. of the paid-up share capital of the society on the last day of the financial year immediately preceding.

*Explanation* <sup>1</sup>[I].—The right to forfeit the share or interest of any expelled member in the share capital by virtue of any by-laws of the society, shall not be affected by the aforesaid provision.

<sup>1</sup>[*Explanation* II.—In this section, the expression “financial year” means the year ending on the 30th June or, in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day ; the year ending on such day.]

(4) Where the State Government is a member of a society, the restrictions contained in this section shall not apply to any transfer made by it of its share or interest in the capital of the society ; and that Government may, notwithstanding anything in this Act, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

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

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

Provided further that, nothing in this sub-section or in section 22 shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member in a society.

(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 accordance with the rules.

(3) A society may pay all other moneys 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 duly made by a 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.

<sup>1</sup> The *Explanation* was re-numbered as *Explanation I* and *Explanation II* was added by Mah. 33 of 1963, s. 6.

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31. The share or interest of a member in the capital of a society, or in the loan-stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposit, shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member; and accordingly, neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a Receiver under the Provincial Insolvency Act, 1920, nor any such person or authority under any corresponding law for the time being in force, shall be entitled to, or have any claim on, such share or interest.

Share or interest not liable to attachment.

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

Rights of members to see books, etc.

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

32A. (1) A society which gives loans to its members shall furnish each member with a pass book, which shall contain an account of the transactions with the member, such as, the date of the transaction, the amount of loan advanced, the rate of interest, the repayment made by the member, the amount of the principal and interest due, and such other particulars as may be prescribed. The necessary entries shall be made in the pass book, from time to time, which shall be countersigned by such office-bearer of the society as may be authorised in this behalf by the committee. For this purpose, the depositor shall be bound to present the pass book to such office-bearer, and if the pass book is required to be kept for some time for making the necessary entries, the member shall be granted a receipt therefor, by such office-bearer.

Certain societies to give pass books to members and entries in such book evidence of amount due.

(2) The entries in the pass book duly made shall, until the contrary be proved, be *prima facie* evidence of the account of transactions of the society with the member.]

33. (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 society for the debts of the society as they stood,—

Liability of past member and estate of deceased member.

(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 society is ordered to be wound up under any provision of this Act, 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 liquidation proceedings are completed; but such liability shall extend only to the debts of the society as they stood on the date of his ceasing to be a member or death, as the case may be.

<sup>1</sup> Section 32A was inserted by Mah. 3 of 1974, s. 7.

<sup>19/4</sup>, s. 2(1) & (2).

<sup>2</sup> These words were substituted for "remit", *ibid.*, s. 2(1).

<sup>3</sup> These words were substituted for the words "or his nominee or board of nominees" by Mah. 3 of 1974, s. 8.

<sup>4</sup> These words were added by Mah. 40 of 1972.

**Insolvency of members.** 34. Notwithstanding anything contained in the Presidency-towns Insolvency III of Act, 1909, the Provincial Insolvency Act, 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to 1909 of 1920.

**Restrictions on borrowings.** 43. <sup>1</sup>[(1)] A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the by-laws of the society.

<sup>1</sup>[(2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and by-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent up to which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.]

**Regulation of loan making policy.** 44 (1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member : Provided that, with the special sanction of the Registrar, a society may make loans to another society.

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

(3) If in the opinion of the State Government, it is necessary in the interest of the society or societies concerned to do so, the State Government may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property :

<sup>2</sup>[Provided that, the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules, and bye-laws, with the approval of the Apex Bank, by general or special order regulate further the extent conditions and manner of making loans by any society or class of societies to its members or other societies.]

**Limit on interest in certain cases.** <sup>3</sup>[44A. Notwithstanding anything contained in any agreement or any law for the time being in force, a society (other than a land development bank) shall not, for any loan given by it to any member for a period not exceeding 15 years [whether the loan was given before or is given after the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973] charge, on account of interest, a sum greater than the principal of the loan].

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**Restrictions on other transactions with non-members.** 45. Save as is provided in this Act, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

**Charge and set-off in respect of share or interest of member.** 46. A society shall have a charge upon the share or interest in the capital and on the deposits, of a member or past member or deceased member, and upon any dividend, bonus or profits payable to any such member, in respect of any debt due from such member or his estate to the society ; and the society may set-off any sum credited or payable to such member in or towards payment of any such debt :

Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 71, or its reserve fund ; and no co-operative bank shall be entitled to set-off any such sum towards any debts due from the society.

<sup>1</sup> Section 43 was renumbered as sub-section (1) and sub-section (2) was added by Mah. 33 of 1963, s. 8.

<sup>2</sup> This proviso was added, *ibid.*, s. 9.

<sup>3</sup> Section 44A was inserted by Mah. 3 of 1974, s. 9.

31. The share or interest of a member in the capital of a society, or in the loan-stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposit, shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member; and accordingly, neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a Receiver under the Provincial Insolvency Act, 1920, nor any such person or authority under any corresponding law for the time being in force, shall be entitled to, or have any claim on, such share or interest.

Share or interest not liable to attachment.

III of  
1909.  
V of  
1920.

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

Rights of members to see books, etc.

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

32A. (1) A society which gives loans to its members shall furnish each member with a pass book, which shall contain an account of the transactions with the member, such as, the date of the transaction, the amount of loan advanced, the rate of interest, the repayment made by the member, the amount of the principal and interest due, and such other particulars as may be prescribed. The necessary entries shall be made in the pass book, from time to time, which shall be countersigned by such office-bearer of the society as may be authorised in this behalf by the committee. For this purpose, the depositor shall be bound to present the pass book to such office-bearer, and if the pass book is required to be kept for some time for making the necessary entries, the member shall be granted a receipt therefor, by such office-bearer.

Certain societies to give pass books to members and entries in such book evidence of amount due.

(2) The entries in the pass book duly made shall, until the contrary be proved, be *prima facie* evidence of the account of transactions of the society with the member.]

33. (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 society for the debts of the society as they stood,—

Liability of past member and estate of deceased member.

(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 society is ordered to be wound up under any provision of this Act, 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 liquidation proceedings are completed; but such liability shall extend only to the debts of the society as they stood on the date of his ceasing to be a member or death, as the case may be.

<sup>1</sup> Section 32A was inserted by Mah. 3 of 1974, s. 7.

**Insolvency of members.** 34. Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to Government or to a local authority.

**Expulsion of members.** 35. (1) A society may, by resolution passed <sup>1</sup>[by a majority of not less than three-fourths] of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society :

Provided that, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body, and no resolution shall be effective unless it is approved by the Registrar.

(2) No member of a society, who has been expelled under the foregoing subsection shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of one year from the date of such expulsion :

Provided that, the Registrar may, on an application by the society and in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

#### CHAPTER IV.

##### INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES.

**Societies to be bodies corporate.** 36. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all such things as are necessary for the purpose for which it is constituted.

**Address of societies.** 37. Every society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent; and the society shall send notice in writing to the Registrar of any change in the said address, within thirty days thereof.

**Register of members.** 38. (1) Every society shall keep a register of its members and enter therein the following particulars, that is to say,—

- (a) the name, address and occupation of each member ;
- (b) in the case of a society having share capital, the share held by each member ;
- (c) the date on which each person was admitted a member ;
- (d) the date on which any person ceased to be a member ; and
- (e) such other particulars as may be prescribed :

Provided that, where a society has by or under this Act, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member, and the date on which the nomination was recorded.

(2) The register shall be *prima facie* evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

<sup>1</sup> These words were substituted for the words " by three-fourths majority " by Mah. 33 of 1963, s. 7.

39. Every society shall keep, at the registered address of the society, a copy of Copy of Act, this Act and the rules and of its by-laws and a list of members, open to inspection etc., to be to the public, free of charge, during office hours or any hours fixed by the society open to inspection. therefor.

40. (1) A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society, shall, if duly certified in such Admissibility of copy manner as may be prescribed, be admissible in evidence of the existence of the entry of entry as and shall be admitted as evidence of the matters and transactions therein recorded evidence. in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.

(2) In the case of such societies, as the State Government may by general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under the foregoing sub-section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

XV of 1908. 41. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908, shall apply— Exemption from compulsory registration of instruments relating to shares and debentures of society.

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

(b) to any debentures issued by any 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 holders of such debentures ; or

(c) to any endorsement upon, or transfer of, any debentures issued by any society.

42. [(1)] The State Government, by notification in the Official Gazette may, in the case of any society or class of societies, [reduce or remit whether prospectively or retrospectively, in the whole of the State or any part thereof].— Power to exempt from taxation ; [power to refund].

(a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar [or Co-operative Court] under this Act, are respectively chargeable,

(b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees, for the time being in force, and

(c) any other tax or fee or duty (or any portion thereof) payable by or on behalf of a society under any law for the time being in force,

which the State Government is competent to levy.

[(2)] The State Government may refund the amount of any tax, fee or duty paid in pursuance of any law referred to in sub-section (1) in such circumstances, to such extent and subject to such terms and conditions, if any, as the State Government may by order determine.]

<sup>1</sup> Section 42 was renumbered as sub-section (1) and sub-section (2) was added by Mah. 40 of 1972, s. 2(1) & (2).

<sup>2</sup> These words were substituted for " remit ", *ibid.*, s. 2(1).

<sup>3</sup> These words were substituted for the words " or his nominee or board of nominees " by Mah. 3 of 1974, s. 8.

<sup>4</sup> These words were added by Mah. 40 of 1972.

**Restrictions on borrowings.** 43. <sup>1</sup>[(1)] A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the by-laws of the society.

<sup>1</sup>[(2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and by-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent up to which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.]

**Regulation of loan making policy.** 44 (1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member :  
Provided that, with the special sanction of the Registrar, a society may make loans to another society.

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

(3) If in the opinion of the State Government, it is necessary in the interest of the society or societies concerned to do so, the State Government may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property :

<sup>2</sup>[Provided that, the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules, and bye-laws, with the approval of the Apex Bank, by general or special order regulate further the extent conditions and manner of making loans by any society or class of societies to its members or other societies.]

**Limit on interest in certain cases.** <sup>3</sup>[44A. Notwithstanding anything contained in any agreement or any law for the time being in force, a society (other than a land development bank) shall not, for any loan given by it to any member for a period not exceeding 15 years [whether the loan was given before or is given after the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973] charge, on account of interest, a sum greater than the principal of the loan].

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**Restrictions on other transactions with non-members.** 45. Save as is provided in this Act, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

**Charge and set-off in respect of share or interest of member.** 46. A society shall have a charge upon the share or interest in the capital and on the deposits, of a member or past member or deceased member, and upon any dividend, bonus or profits payable to any such member, in respect of any debt due from such member or his estate to the society ; and the society may set-off any sum credited or payable to such member in or towards payment of any such debt :

Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 71, or its reserve fund ; and no co-operative bank shall be entitled to set-off any such sum towards any debts due from the society.

<sup>1</sup> Section 43 was renumbered as sub-section (1) and sub-section (2) was added by Mah. 33 of 1963, s. 8.

<sup>2</sup> This proviso was added, *ibid.*, s. 9.

<sup>3</sup> Section 44A was inserted by Mah. 3 of 1974, s. 9.

<sup>1</sup>[48A. (1) <sup>2</sup>[Where a loan has been advanced by any society in accordance with the last preceding section for the growing of any agricultural produce, or has been advanced by any other society which is a Land Development Bank for any of the purposes enumerated in clause (a) of section 111, and if in either case any agricultural produce is tendered by the person who has taken any such loan] for sale at a collection centre under section 30A of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, on any day then the price agreed to be paid therefor shall be paid by the purchaser to the tenderer after deducting the dues of <sup>3</sup>[the societies mentioned] aforesaid \* \* \* \* \* and the amount so deducted shall be paid to the Market Committee constituted under that Act as provided in that section. On making payment to the tenderer and the Market Committee in the manner provided in the aforementioned section 30A the purchaser shall be discharged of his liability to pay the price to the tenderer.

Deductions from sale price of certain agricultural produce to meet society's dues.

<sup>4</sup>[The amount of the deduction on account of loans advanced by societies shall <sup>5</sup>[be made at such rate as may be notified by the State Government in this behalf by general or special order, so, however, that such rate shall] not in the aggregate exceed the following percentage of the total amount to be paid by the purchaser as the price, namely :—

- |   |    |       |
|---|----|-------|
| (i) if the produce tendered for sale is sugarcane | .. | 100 % |
| (ii) if the produce tendered for sale is [cotton] | .. | 60 %  |
| (iii) in any other case                           | .. | 40 %] |

(2) The Market Committee on receiving the amount from the purchaser shall arrange to pay <sup>6</sup>[to the societies concerned] the amount of dues due from the tenderer within a reasonable time to be prescribed for the purpose. If the Market Committee does not pay such dues within 8 days, after the realisation of the cheque the Market Committee shall be liable to pay interest on such dues <sup>7</sup>[to the societies concerned] at a rate prescribed in this behalf, such rate not being in excess of the maximum rate of interest fixed for unsecured loans under the Bombay Money-lenders Act, 1946.]

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<sup>8</sup>[(3) Where any such purchaser is the State Government or an agent or officer appointed by that Government, or is a processing factory notified by the State Government in this behalf by general or special order or an agent or officer appointed by such factory, the purchaser shall pay the price to the tenderer after deducting the dues of the societies mentioned aforesaid and pay the amount so deducted on behalf of the tenderer to the concerned societies direct :

Provided that, where loans have been taken by the tenderer from more than one society, the purchaser may, keeping in view the extent of the dues, on account of financing of crop or seasonal finance or finance for other agricultural purposes, repayable during a period of not less than eighteen months and not more than five years, and the extent of the dues of any Land Development Bank, and subject to such directions (if any) as may be issued by the State Government from time to time, determine the proportion in which the amount of deduction made shall be apportioned between the different lending societies.]

<sup>1</sup> This section was inserted by Mah. 2 of 1972, s. 12.

<sup>2</sup> This portion was substituted by Mah. 44 of 1973, s. 2(a)(i).

<sup>3</sup> These words were substituted for the words "the co-operative society mentioned", *ibid.*,

s. 2(a) (ii).

<sup>4</sup> The words "and to the extent hereinafter stated" were deleted by Mah. 50 of 1977, s. 3(a)(i).

<sup>5</sup> This portion was substituted by Mah. 44 of 1973, s. 2(a)(iii).

<sup>6</sup> These words were inserted by Mah. 50 of 1977, s. 3(a) (ii).

<sup>7</sup> This word was substituted for the word 'Kapas', *ibid.*, s. 3(a) (iii).

<sup>8</sup> These words were substituted for the words "to the society", by Mah. 44 of 1973 s. 2(b).

<sup>9</sup> Sub-section (3) was added, *ibid.*, s. 2(c).



<sup>1</sup>[*Explanation*—For the purposes of this section, "purchaser" shall include any person who pays the purchase price of any agricultural produce tendered for sale, or by whom payment of such price is made, whether on his own account or as an agent or on behalf of another person.]

**Deduction from salary to meet society's claim in certain cases.** 49. (1) A member of a 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 to the society the amount so deducted in satisfaction of any debt, or other demand of the society against the member.

(2) On the execution of such agreement, the employer shall, if so required by the society by a requisition in writing, and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement, and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the Payment of Wages Act, 1936<sup>IV of 1936</sup> on the day on which he makes payment.

(3) If after the receipt of a requisition made under the foregoing sub-section, the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof; and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears.

(4) Nothing contained in this section shall apply to persons employed in any railways (within the meaning of the Constitution), and in mines and oilfields.

## CHAPTER V.

### STATE AID TO SOCIETIES.

**Direct partnership of State Government in societies.** 50. The State Government may subscribe directly to the share capital of a society with limited liability, upon such terms and conditions as may be agreed upon.

**Indirect partnership of State Government in societies.** 51. The State Government may, under appropriation made by law, provide moneys to a society for the purchase directly or indirectly, of shares in other societies with limited liability. (A society to which moneys are so provided for the aforesaid purpose is hereinafter in this Chapter referred to as an "Apex Society".)

**Principal State Partnership Fund.** 52. (1) An Apex society which is provided with moneys as aforesaid shall, with such moneys, establish a Fund to be called the "Principal State Partnership Fund";

(2) An Apex society shall utilise the Principal State Partnership Fund for the purpose of—

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

(b) providing moneys to a society to enable that society (hereinafter in this Chapter referred to, as a "Central society") to purchase shares in other societies with limited liability (the latter societies being hereinafter in this Chapter referred to as "Primary societies") ;

(c) making payments to the State Government in accordance with the provisions of this Chapter ;

and for no other purpose.

<sup>1</sup> This *Explanation* was added by Mah.50 of 1977, s. 3(b).

53. (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".

Subsidiary  
State  
Partnership  
Fund.

(2) A Central society shall utilise the Subsidiary State Partnership Fund for the purpose of—

(a) purchasing shares in Primary societies ;

(b) making payments to the Apex society in accordance with the provisions of this Chapter ;

and for no other purpose.

54. Shares shall not be purchased in a society from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund, except with the previous approval of the State Government.

Approval of  
State  
Government  
for purchase  
of shares.

55. Where any shares are purchased in a society by—

(a) the State Government ; or

(b) an Apex society from the Principal State Partnership Fund, or a Central society from the Subsidiary State Partnership Fund, as the case may be,

Liability  
to be limited  
in respect of  
certain  
shares.

the liability in respect of such shares shall, in the event of the society of which the shares are purchased [being wound up], be limited to the amount paid in respect of such shares.

56. An Apex society which has purchased shares in other 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.\*

Restriction  
on amount  
of dividend.

57. (1) If a 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 the 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 by the Apex society in liquidation proceedings or on dissolution, as the case may be.

Indemnity  
of Apex  
and Central  
societies.

(2) If a society in which shares are purchased from the Subsidiary State Partnership Fund is wound up or 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 by the Central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

\* These words were substituted for the words "is wound up" by Mah. 33 of 1963, s. 11.

58. (1) All moneys received by an Apex society in respect of shares of other societies purchased from the moneys in the Principal State Partnership Fund on redemption of such shares, or by way of dividends or otherwise, shall be credited to that Fund. Disposal of share capital and dividend, etc.

(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 the 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 51.

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

(2) If a Central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 52.

60. 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. Principal or Subsidiary State Partnership Fund not to form part of assets.

61. 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 51; Agreement by State Government and Apex societies.

(b) an Apex society may, with the previous approval of the State Government, enter into an agreement with a Central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 52.

62. Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the State Government by general or special order may specify in this behalf, the State Government may,— Other forms of State aid to societies.

(a) give loans to a society;

(b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the State Government;

(c) guarantee the repayment of loans given by a Co-operative Bank to a society;

(d) guarantee the repayment of the principal of, and payment of interest on, loans and advances given by the Reserve Bank of India, or the Industrial Finance Corporation of India, or any other authority constituted under any law for the time being in force; or

(e) provide financial assistance, in any other form (including subsidies), to a society.

Provisions of this Chapter to override other laws. 63. The provisions of sections 51 to 61 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

## CHAPTER VI.

### PROPERTY AND FUNDS OF SOCIETIES.

Funds not to be divided. 64. No part of the funds, other than <sup>1</sup>[the dividend equalisation or bonus equalisation funds as may be prescribed or] the net profits of a society, shall be paid by way of bonus or dividend, or otherwise distributed among its members:

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

Appropriation of profits. 65. (1) A society earning profit, shall calculate the net profits by deducting from the gross profits for the year, <sup>2</sup>[all interest accrued and accruing in accounts which are overdue,] establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, taxes and depreciation, <sup>3</sup>[bonus payable to employees under the Payment of Bonus Act, 1965, and equalization fund for such bonus, provision for payment of income-tax and making approved donation under the Income-tax Act, 1961, provision for payment of contribution to education fund of the State federal society which may be notified by the State Government in this behalf, <sup>4</sup>[provision for payment of contribution to the Co-operative State Cadre Employment Fund established under section 69A,] development rebate, provision for development fund, bad debt fund, price fluctuation fund, dividend equalization fund; share capital redemption fund, investment fluctuation fund, provision for retirement benefits to employees and in the case of consumers co-operative stores provision for purchase rebate to be paid to purchasers,] and after providing for or writing off bad debts and losses not adjusted against any fund created out of profits. A society may, however, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year. The net profits thus arrived at, together with the amount of profits brought forward from the previous year, shall be available for appropriation. XXI of 1965. XLIII of 1961.

(2) A society may appropriate <sup>5</sup>[its net profits] to the reserve fund or any other fund, to payment of dividends to members on their shares, <sup>6</sup>\* \* \* \* \*  
\* \* \* \* \*  
to the payment or bonus on the basis of support received from members and persons who are not members to its business, to payment of honoraria and towards any other purpose which may be specified in the rules or by-laws:

Provided that no part of the profits shall be appropriated except with the approval of the annual general meeting and in conformity with the Act, rules and by-laws.

<sup>1</sup> These words were inserted by Mah. 33 of 1963, s. 12.

<sup>2</sup> These words were substituted for the words "all accrued interest which is overdue for more than six months," *ibid.*, s. 13(a).

<sup>3</sup> This portion was inserted by Mah. 27 of 1969, s. 10(a).

<sup>4</sup> These words, figures and letter were inserted by Mah. 30 of 1978, s. 2.

<sup>5</sup> These words were substituted for the words "its profits" by Mah. 33 of 1963, s. 13(b).

<sup>6</sup> The portion beginning with the words "to the contribution" and ending with the words "by the State Government," was deleted by Mah. 27 of 1969, s. 10(b).

66. (1) Every society which does, or can, derive a profit from its transactions shall maintain a reserve fund. Reserve fund.

(2) <sup>1</sup>[Every society shall carry at least one-fourth of the net profits each year to the reserve fund;] and <sup>2</sup>[such reserve fund may subject to the rules made in this behalf, if any, be used] in the business of the society or may, subject to the provisions of section 70, be invested, as the State Government may by general or special order direct, or may, with the previous sanction of the State Government, be used in part for some public purpose likely to promote the objects of this Act, or for some such purpose of the State, or of local interest :

<sup>3</sup>[Provided that, the Registrar may, having regard to the financial position of any society or class of societies, fix the contribution to be made to the reserve fund under this sub-section at a lower rate, but not lower than one-tenth of the net profits of the society or societies concerned.]

67. No society shall pay a dividend to its members at a rate <sup>4</sup>[exceeding 12 per cent : Restrictions on dividend. Provided that, where the rate of dividend to be paid to the members exceeds 9 per cent, the amount, which is in excess of the portion of the dividend calculated at the rate of 9 per cent, shall be credited to the share account of the members concerned].

<sup>5</sup>68. (1) Every society shall contribute annually towards the education fund of the State federal society which may be notified in this behalf by the State Government at such rate as may be prescribed, and different rates may be prescribed for different societies or classes of societies depending on their financial condition. Contribution to education fund of the State federal society.

(2) Every society shall pay its contribution to the said fund, within two months from the date on which its accounts are adopted by the general body of members. Any officer wilfully failing to comply with the requirement of this section, shall be personally liable for making good the amount to the federal society notified as aforesaid.]

69. After providing for the reserve fund as provided in section 66, and for the educational fund as provided in section 68 a society may set aside a sum not exceeding twenty per cent of its net profits, and utilise, with the approval of such federal society as may be notified by the State Government in this behalf from time to time, the whole or part of such sum in contributing to any co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose. Contribution to public purposes

<sup>6</sup>69A. (1) There shall be constituted a Co-operative State Cadre of Secretaries of primary agricultural credit societies, multi-purpose co-operative societies and service co-operative and such other classes of societies as may be prescribed in this behalf (hereinafter in this section referred to as "the Co-operative State Cadre"), consisting of persons recruited for this purpose by the Central Societies notified in this behalf by the State Government. The number of persons to be recruited and their conditions of service shall be determined by the Central Societies in accordance with the general or special orders as may be issued by the State Government, from time to time. Constitution of Co-operative State Cadre of Secretaries of certain societies and establishment of Employment Fund for such Cadre.

<sup>1</sup> These words were substituted for the portion beginning with "In the case of" and ending with "to the reserve fund;" by Mah. 33 of 1963, s. 14(a).

<sup>2</sup> These words were substituted for the words "such reserve fund may be used" by Mah. 3 of 1974, s. 10.

<sup>3</sup> This proviso was added by Mah. 33 of 1963, s. 14(b).

<sup>4</sup> This portion was substituted for the words and figures "exceeding 9 per cent" by Mah. 36 of 1975, s. 2.

<sup>5</sup> Section 68 was substituted for the original by Mah. 27 of 1969, s. 11.

<sup>6</sup> The proviso was deleted by Mah. 3 of 1974, s. 11.

<sup>7</sup> Section 69A was inserted by Mah. 36 of 1975, s. 3.

(2) A Central Society may, from time to time, depute any person appointed by it to that Cadre to work under any society referred to in sub-section (1), as it may consider necessary. Where any such person is posted to work under any society, his services shall be taken over by the society on such post, for such period and on such other terms and conditions, as the Central Society may determine, but the person so posted shall draw his salary and allowances from the Fund established under the next succeeding sub-section.

(3) An Apex society notified in this behalf by the State Government shall establish a Fund to be called "the Co-operative State Cadre Employment Fund", which, when established, shall be deemed to have been established with effect from the 1st day of July 1973. It shall be utilized for meeting the expenses on the salaries, allowances and other emoluments to be paid to the persons appointed to the Co-operative State Cadre and the other expenditure relating to the Cadre.

[(4) (a) Every society or class or classes of societies, which, in the opinion of the State Government, derive any benefit, directly or indirectly, from the services of any Secretary belonging to the Co-operative State Cadre of Secretaries, and

(b) every other body corporate carrying on any trade, business or industry or class or classes of such corporate bodies, which in the opinion of the State Government, derive such benefit as aforesaid,

and which are notified by the State Government in this behalf, from time to time, by general or special order, shall, with effect from the 1st day of July 1977, contribute annually to the said Fund, at such rate and in such manner as may be prescribed, and different rates may be prescribed for different societies or other corporate bodies or class or classes of societies or class or classes of other corporate bodies. In determining the rate or rates of contribution, the State Government shall take into consideration the expenditure referred to in sub-section (3), the services likely to be rendered and the financial condition of the societies or other bodies concerned.

*Explanation.*—Notwithstanding anything contained in any law for the time being in force, for the purposes of levy and collection of the contribution to the said Fund by any other corporate body to which this section applies, such corporate body shall be deemed to be a society governed by this Act.]

(5) Where there is a failure to comply with the requirements of the last preceding sub-section, the Registrar may serve a demand notice on the society concerned to pay the contribution within two months from the date of demand. Such demand shall be a charge on the income of the society. If the contribution is not paid within the period aforesaid, the Registrar may direct any Bank or person having custody of the funds of the society to pay the amount of the contribution immediately, and such Bank or person shall comply with the orders of the Registrar. Every payment made pursuant to such direction shall be a sufficient discharge to such Bank or person from all liability to the society in respect of any sum so paid by it or him out of the moneys of the society in his custody.

(6) The State Government may make rules regulating all matters connected with or ancillary to the custody and maintenance of, the payment of moneys into and the expenditure and withdrawal of moneys from, the said Fund.]

\* Sub-section (4) was substituted for the original by Mah. 30 of 1978, s. 3.

70. A society shall invest or deposit its funds in one or more of the following:— Investment  
of funds.

(a) in a Central Bank or the State Co-operative Bank;

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1882.

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882;

(c) in the shares, or security bonds, or debentures, issued by any other society with limited liability;

(d) <sup>1</sup>[in any co-operative bank (other than those referred to in clause (a) of this section) or banking company.] approved for this purpose by the Registrar, and on such conditions as the Registrar may from time to time impose;

(e) in any other mode permitted by the rules, or by general or special order of the State Government.

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<sup>1</sup> These words were substituted for the words " in any banking company " by Mah. 33 of 1963, s. 15.

71. (1) Any society may establish for its employees a provident fund, into which shall be paid the contributions made by its employees and by the society. Such provident fund shall not be used in the business of the society, nor shall it form part of the assets of the society; but shall be invested under provisions of the last preceding section, and shall be administered in the manner prescribed.

Employees' provident fund.

(2) Notwithstanding anything contained in the foregoing sub-section, a provident fund established by a society to which the Employees' Provident Funds Act, 1952, of 1952. is applicable, shall be governed by that Act.

<sup>1</sup>[71A. No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under section 78, 96 or 144 T. If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.]

Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities.

## CHAPTER VII.

### MANAGEMENT OF SOCIETIES.

72. Subject to the provisions in this Act and the rules, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the by-laws.

Final authority of society.

<sup>2</sup>[Where the by-laws of a society so provide, the general meeting shall be attended by delegates appointed by the members, and such meeting shall be deemed to be the meeting of the general body, for the purpose of exercising all the powers of the general body.]

73. The management of every society shall vest in a committee, constituted in accordance with this Act, the rules and by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the by-laws.

Committee, its powers and functions.

<sup>3</sup>[73A. (1) In this section and in sections 73C, 73D and 73E, "a designated officer" means the Chairman and the President, and includes any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated officer, but does not include any officer appointed or nominated by the State Government or by the Registrar.

Disqualification for being designated officer simultaneously of certain specified societies or for being designated officer of the same society for more than six years.

(2) No person shall, at the same time, be or continue to be, a designated officer of more than one society falling in Category I or Category II or Category III of the categories mentioned below; and shall not be or continue to be a designated officer in more than two societies in the aggregate in the three categories:—

Category I.—Societies, the area of operation of which extends, to the whole of the State.

<sup>1</sup> Section 71A was inserted by Mah. 3 of 1974, s. 12.

<sup>2</sup> This portion was added, *ibid.*, s. 13.

<sup>3</sup> Section 73A to 73G were inserted by Mah. 27 of 1969, s. 12.



*Category II.*—Societies, the area of operation of which does not extend to the whole of the State,—

(a) but extends to Greater Bombay and the authorised share capital of which is more than Rs. 10 lakhs; or

(b) but extends to one or more districts; or

(c) [is less than a district and] the authorised share capital of which is more than Rs. 10 lakhs.

*Category III.*—Societies, the area of operation of which does not extend to the whole of a district but extends to one or more talukas, or the authorised share capital of which is not more than Rs. 10 lakhs but is not less than Rs. 5 lakhs.

[(2A) If any question arises whether or not a society falls under any of the categories referred to in sub-section (2), such question shall be referred to and decided by the Registrar, and his decision shall be final.]

(3) If any person is at the commencement of the Maharashtra Co-operative Mah. Societies (Second Amendment) Act, 1969, a designated officer of more than two societies in the said categories, or of more than one society in the same category, then unless he resigns his office in the society or societies in excess of the number prescribed under sub-section (2) within a period of ninety days from such commencement, he shall, at the expiration of the said period, cease to be a designated officer of all such societies. XXVII of 1969.

(4) If any person becomes, at the same time, after the commencement of the said Act, a designated officer of societies in excess of the number prescribed under sub-section (2), unless he resigns his office in the society or societies in excess of the said number within a period of ninety days from the date on which he is elected or appointed a designated officer of more than the permissible number of society or societies, or if the elections or appointments are held or made simultaneously, from the date on which the result of last of such elections or appointments is declared, he shall, at the expiration of the said period of ninety days, cease to be a designated officer of all such societies.

(5) No person shall be, or shall continue to be, a designated officer of any society of any of the categories referred to in sub-section (2) for a consecutive period of more than six years, and at the expiration of that period any such person shall cease to be a designated officer of that society, and shall not be eligible for being re-elected or re-appointed as a designated officer, until a period of three years has elapsed after the expiry of the aforesaid period of six years.

*Explanation.*—For the purposes of this sub-section,—

(a) in calculating the consecutive period of six years in office, any period for which the person concerned may have been such officer, before the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1969, shall be ignored;

(b) if any person resigns his office as a designated officer at any time within twelve months of the date on which the consecutive period of six years would, but for his resignation, have been completed, he shall be deemed to have completed the period of six years on his resignation. Mah. XXVII of 1969.

<sup>1</sup> These words were substituted for the words "and is also less than a district, but" by Mah. 11 of 1976, s. 3, second schedule.

<sup>2</sup> Sub-section (2A) was inserted by Mah. 3 of 1974, s. 14.

Mah. VI of 1975. <sup>1</sup>[73AA. Where, after the commencement of the Maharashtra Zilla Parishads and Panchayat Samitis (Fourth Amendment) Act, 1974, a designated officer of any society of any of the categories referred to in sub-section (2) of section 73A who is also an associate Councillor of any Zilla Parishad, ceases to be the associate Councillor of such Zilla Parishad by operation of the provisions of section 82 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, he shall also cease to be a designated officer of the said society from the date on which he so ceases to be an associate Councillor of the Zilla Parishad.]

Designated officer who is associate Councillor to cease to be designated officer on ceasing to be such councillor.

73B. On the committee of such society or class of societies as the State Government may, by general or special order, direct, two seats shall be reserved, one for the members who belongs to the Scheduled Castes or Scheduled Tribes \* \* \* and one for the weaker section of the members who have been granted loans from the society of an amount not exceeding Rs. 200 during the year immediately preceding. If no such persons are elected or appointed, the committee shall co-opt the required number of members on the committee from amongst the persons entitled to such representation.

Reservation of seats, on committees of certain societies for [Scheduled Castes and Scheduled Tribes] and for weaker section members.

<sup>2</sup>[Explanation.—For the purposes of this section the expression 'Scheduled Castes' includes 'Nav-Boudhas' and the expression 'Scheduled Tribes' includes 'denotified Tribes and Nomadic Tribes'.]

<sup>1</sup> Section 73AA was inserted by Mah. 6 of 1975, Sch.

<sup>2</sup> The words "or to the jatis declared to be *Vimukta Jatis* by the State Government" were deleted by Mah. 25 of 1979, s. 2(a).

<sup>3</sup> Explanation was added, *ibid.*, s. 2(b).

<sup>4</sup> These words were substituted for the words "Scheduled Castes, Tribes and *Vimukta Jatis*", *ibid.*, s. 2(c).

[73BB. On the committee of such society or class of societies as the State Government may, by general or special order, direct where the number of permanent salaried employees of the society is 25 or more,—

Reservation of seats for employees on committees of certain societies.

(a) if the number of members of the committee thereof is 14 or less— one seat ; and

(b) if the number of such members is 12 or more— one additional seat for every 10 members over and above the first 11 members,

shall be reserved for such employees. The seats so reserved shall be filled by selection made by the recognised union or unions, from amongst such employees. If there be no such union, the members representing such employees may be nominated by the State Government. Any person selected or nominated as a member of the committee to any reserved seat shall not be entitled to be elected as an officer of such society, or to vote at any election of officers.]

73C. (1) In the case of a District Central Co-operative Bank or an Apex Co-operative Bank of the District Central Co-operative Bank, there shall not be more than one representative of individual members on the committee of such Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.

Restrictions on representation of certain class of members on committees of certain societies and for being designated officers

(2) In the case of a Land Development Bank or an Apex Land Development Bank, there shall not be more than one representative on the committee of such Bank, of members, who have not taken any loans from the Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.

(3) In the case of an Agricultural Credit Society which gives loans to individuals for the raising of crops, there shall not be more than one representative on the committee of such society, of members who have not taken any loans from the society ; and that representative shall be elected or appointed only from amongst members, who have not taken loans. Such representative shall not be eligible for being elected or appointed as a designated officer.

73D. No member of a society who is nominated to represent it on any other society, shall be eligible for being elected or appointed as a designated officer of the other society, unless the other society is its federal society.

Society's nominee on other society not eligible to be designated officer except in a federal society.

73E. In the case of such class or classes of societies as may be specified by the State Government, by notification in the Official Gazette, no member shall be eligible for being elected or appointed as a designated officer, if he does not fulfil the minimum qualification relating to his transactions with the society of such monetary limits as may be laid down, from time to time, in such notification.

In specified societies members not having minimum number of transactions of certain monetary limits not entitled to be designated officers.

<sup>1</sup> Section 73BB was deemed always to have been inserted by Mah. 3 of 1974, s. 15.

Member 73F. In the case of a society, which gives loans to members for purchasing machinery, implements, equipment, commodities or other goods, no member, whose near relation is a dealer in such goods or is director of a company or a partner in a firm carrying on business in such goods, shall be eligible for being elected or appointed as a member of the committee of such society.

Explanation.—For the purposes of this section, the expression "near relation" means a wife, husband, father, mother, son, daughter, son-in-law or daughter-in-law.

Provision for conduct of elections to committees [and of officers] of certain societies and term of office of member of such committees.

73G. [(1) The election of the members of the committees and the officers by the committees,] of the societies of the categories mentioned below shall be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter :—

- (i) Such Apex Co-operative Institutions, which the State Government may, by general or special order published in the *Official Gazette*, from time to time, specify in this behalf, regard being had to the financial position and share capital of such institutions;
- (ii) all District Central Co-operative Banks;
- (iii) all Primary Land Development Banks;
- (iv)(a) all District Co-operative Sale and Purchase Organisations;
- (b) all Taluka Co-operative Sale and Purchase Organisations;
- (v) all Co-operative Sugar Factories;
- (vi) all Co-operative Spinning Mills;
- (vii) any other societies or class of societies, which the State Government may by general or special order published in the *Official Gazette*, from time to time, specify in this behalf, regard being had to the financial position and share capital of such institutions.]

(2) When the election of all the members of the committee of any such society is held at the same time, the members elected on the committee at such general election shall hold office for a period of [five years] from the date on which the first meeting is held and shall continue in office until immediately before the first meeting of the members of the new committee.

(3) Notwithstanding anything in the by-laws of any such society, only the committee of management shall be elected by a general body of members of the society; and all other committees authorised by or under the bye-laws may be constituted only by electing or appointing persons from among the persons who are members of the committee of management, any all such committees shall be sub-committees of the committee of management, and shall be subordinate to it.]

<sup>1</sup> Sub-section (1) was substituted by Mah. 24 of 1972, s. 2.

<sup>2</sup> These words were inserted by Mah. 3 of 1974, s. 16.

<sup>3</sup> These words were substituted for the words "three years" by Mah. 36 of 1975, s. 4(1). Sub-section (2) of section 4 of Mah. 36 of 1975 reads as follows :—

(2) Where any members are elected at a general election on the committee of any society to which section 73G of the principal Act applies and the period of three years from the date of Mah. the first meeting is not over in their case before the amendment made in sub-section (2) of that section by the Maharashtra Co-operative Societies (Amendment) Act, 1975, comes into force, VI of such members shall be entitled to hold office for a period of five years as provided in the said 1975, sub-section (2) as amended.

74. The qualifications for the appointment of a manager, secretary, accountant or any other officer of a society shall be such as may, from time to time, be prescribed.

Appointment of manager, secretary and other officers.

75. (1) Every society shall, within a period of three months next after the date fixed for making-up its accounts for the year under the rules for the time being in force, call a general meeting of its members :

Annual general meeting.

Provided that, the Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months :

Provided further that, if in the opinion of the Registrar, no such extension is necessary, or such meeting is not called by the society within the extended period (if any) granted by him, the Registrar or any person authorised by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly [called by the society ; and the Registrar may order that the expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the general meeting].

(2) At every annual general meeting of a society, the committee shall lay before the society [a statement showing the details of the loans (if any) given to any of the members of the committee or any member of the family (as defined in the Explanation to section (6) of any committee-member, during the last preceding year, and] a balance sheet and profit and loss account for the year in the manner, prescribed by the Registrar by general or special order for any class or classes of societies.

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

(3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its committee, with respect to (a) the state of the society's affairs ; (b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet ; and (c) the amounts, if any, which it recommends, should be paid by way of dividend, bonus, or honoraria to honorary workers. The committee's report shall also deal with any charges, which have occurred during the year for which the account are made up, in the nature of the society's business. The committee's report shall be signed by its Chairman, or any other member authorised to sign on behalf of the committee.

(4) At every annual general meeting the balance sheet, the profit and loss account [the audit memorandum submitted by the auditor appointed under section 81] and the committee's report, shall be placed for adoption, and such other business will be transacted as may be laid down in the bye-laws and of which due notice has been given.

(5) If default is made, in calling a general meeting within the period or, as the case may be, extended period, prescribed under sub-section (1), or in complying with sub-sections (2), (3) or (4), the Registrar may by order declare any officer or member

<sup>1</sup> This portion was substituted for the words “ called by the society ” by Mah. 33 of 1963, s. 16(a).

<sup>2</sup> This portion was inserted by Mah. 27 of 1969, s. 13.

<sup>3</sup> These words were inserted by Mah. 33 of 1963, s. 16(b).

<sup>4</sup> These words and figures were substituted for the words “ the auditor's report ” by Mah. 33 of 1963, s. 16(c).

of the committee whose duty it was to call such a meeting or comply with sub-sections (2), (3) or (4) and who without reasonable excuse failed to comply with any of the aforesaid sub-sections disqualified for being elected and for being any officer or member of the committee for such period not exceeding three years, as he may specify in such an order and, if the officer is a servant of the society, impose a penalty on him to [pay] an amount not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

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

Special general meeting. 76. (1) A special general meeting may be called at any time by the Chairman or by a majority of the committee and shall be called within one month—

(i) on a requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the bye-laws for the purpose, whichever is lower, or

(ii) at the instance of the Registrar, or

(iii) in the case of a society, which is a member of a federal society, at the instance of the committee of such federal society.

(2) Where any officer or a member of the committee, whose duty it was to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the committee for such period not exceeding three years, as he may specify in such order; and if the officer is a servant of the society, he may impose on him a penalty not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

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

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

Acts of societies, etc. not to be invalidated by certain defects. 77. (1) No act of a society or a committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society, or in the constitution of the committee, or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office.

(2) No act done in good faith by any person appointed under this Act, the rules and the bye-laws shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently passed under this Act, rules and the bye-laws.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society; and his decision thereon shall be final.

1[77A. (1) Where the Registrar is satisfied that,—

(a) at the first constitution of the committee of any society there is a failure to elect all or any of the members of the committee ;

(b) the term of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies ;

(c) any committee is prevented from entering upon office ;

(d) a new committee has failed to enter upon office on the date on which the term of office of the existing committee expired ; or

(e) a new committee cannot for any reason be constituted before the expiry of the term of office of the existing committee,

the Registrar may, either *suo motu* or on the application of any officer of the society, by order appoint—

(i) any member or members of the society to be the member or members of the committee to fill the vacancies;

(ii) a committee, consisting of not more than three members of the society, or one or more administrators, who need not be members of the society, to manage the affairs of the society till a new committee enters upon office:

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period:

Provided further that, it shall not be necessary to publish such notice in any case where the Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

(2) The committee or administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have power to discharge all or any of the functions of the committee or of any officer of the society, and take all such action as may be required to be taken in the interests of the society.

(3) The committee or administrator shall make necessary arrangements to constitute a new committee or for enabling the new committee to enter upon office, as the case may be, within such period or extended period as the Registrar may specify.]

Appointment of member of committee, new committee or administrator, where there is failure to elect member, to constitute committee or where committee does not enter upon office.

<sup>1</sup> Section 77A was inserted by Mah. 36 of 1975, s. 5.

78. <sup>2</sup>[(1) If, in the opinion of the Registrar, the committee of any society or any member of such committee persistently makes default, or is negligent, in the performance of the duties imposed on it or him by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members or wilfully disobeys directions issued by the Registrar for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by Government, or is otherwise not discharging its or his functions properly, <sup>3</sup>[or where a situation has arisen in which the committee or any member thereof ceases or refuses to discharge its or his functions and the business of the society has or is likely to come to a standstill,] <sup>4</sup>[or where any member of such committee stands disqualified by or under this Act for being a member,] the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections (if any) within fifteen days from the date of issue of notice, and after consulting the federal society to which the society is affiliated, by order <sup>5</sup>\* \* \*

(a) remove the committee, and

(i) appoint a committee consisting of three or more members of the society in its place, or

(ii) appoint one or more administrators, who need not be members of the society, <sup>6</sup>[and who may be individuals or a corporation (including a company owned or controlled by the State or a subsidiary company thereof)],

to manage the affairs of the society for a period (not exceeding two years) specified in the order, which period may, at the discretion of the Registrar, be extended from time to time so however that the total period does not exceed four years in the aggregate;

<sup>7</sup>[(b) remove the member and appoint any person as member of such committee in his place, or direct the society to elect or appoint a member in his place, for the remainder of the term of office of the member so removed.]

<sup>8</sup>[(1A) When a notice is issued against any committee or member under sub-section (1), if resignation from any office is tendered by the committee or member, it shall not be valid or effective until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier.]

(2) The committee or administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society, and take all such action as may be required in the interests of the society.

<sup>9</sup>[The committee or administrator appointed as aforesaid shall, notwithstanding anything contained in the bye-laws, have power to call a special general meeting of the society to review or to reconsider the decision or the resolution taken or passed at the general meetings called by the previous committee or to endorse actions taken by it.]

<sup>1</sup> This marginal note was substituted by Mah. 33 of 1963, s. 17(d).

<sup>2</sup> Sub-section (1) was substituted, *ibid.*, s. 17(a).

<sup>3</sup> These words were inserted by Mah. 27 of 1969, s. 14(a)(i).

<sup>4</sup> These words were inserted by Mah. 3 of 1974, s. 17(a).

<sup>5</sup> The words "published in the *Official Gazette*" were deleted by Mah. 27 of 1969, s. 14(a)(ii).

<sup>6</sup> These words and brackets were deemed always to have been inserted by Mah. 29 of 1973, s. 2. For validation of appointment and acts of corporation appointed as administrator see s. 3 of Mah. 29 of 1973.

<sup>7</sup> Clause (b) was substituted by Mah. 3 of 1974, s. 17(b).

<sup>8</sup> Sub-section (1A) was inserted by Mah. 27 of 1969, s. 14(b).

<sup>9</sup> This portion was added by Mah. 33 of 1963, s. 17(b).



4(2A) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payments (except land revenue, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue) and he shall, so far as the funds to the credit of the Society allow, comply with the orders of the Registrar.]

(3) If at any time during any period, or extended period referred to in sub-section (1), it appears to the Registrar that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, the Registrar may, by an order <sup>2\*</sup> \* \* \* direct that the management shall terminate; and on such order being made, the management of the society shall be handed over to a new committee duly constituted.

(4) The committee or administrator shall, at the expiry or termination of it or his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society:

3[Provided that, if a new committee is not, or cannot be, constituted at the expiry or termination of the term of office of the committee or administrator, for any reason beyond the control of the committee or administrator, the term of office of the committee or the administrator, as the case may be, shall be deemed to be extended, until the new committee is duly constituted.]†

(5) All acts done or purported to be done by the committee or administrator during the period the affairs of the society are carried on by the committee or administrator appointed under sub-section (1), shall, be binding on the new committee.

Registrar's power to enforce performance of obligations. 79. (1) The Registrar may direct any society or class of societies, to keep proper books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and to produce such records as he may require from time to time; and the officer or officers of the society shall be bound to comply with his order within the period specified therein.

(2) Where any society is required to take any action under this Act, the rules or the by-laws, or to comply with an order made under the foregoing sub-section, and such action is not taken—

(a) within the time provided in this Act, the rules or the by-laws, or the order as the case may be, or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (2), the Registrar may call upon the officer or officers of the society whom he considers to be responsible

<sup>1</sup> Sub-section (2-A) was inserted by Mah. 33 of 1963, s. 17 (c).

<sup>2</sup> The words "published in the Official Gazette" were deleted by Mah. 27 of 1969, s. 14(c).

<sup>3</sup> This proviso was deemed always to have been added by Mah. 48 of 1972, s. 2.

† For validation of acts see Mah. 48 of 1972, s. 3.

for not complying with the provisions of this Act, the rules or the by-laws, or the order made under sub-section (1) and after giving such officer or officers an opportunity of being heard, may require him or them to pay to the society the expenses paid or payable by it to the State Government as a result of their failure to take action, and to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

<sup>1</sup>[79A. (1) If the State Government, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by Government, or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the State Government may issue directions to them from time to time, and all societies or the society concerned, as the case may be, shall be bound to comply with such directions. Government's power to give directions in the public interest, etc.

(2) The State Government may modify or cancel any directions issued under sub-section (1), and in modifying or cancelling such directions may impose such conditions as it may deem fit.]

<sup>2</sup>(3) Where the Registrar is satisfied that any person was responsible for complying with any directions or modified directions issued to a society under sub-section (1) and (2) and he has failed, without any good reason or justification, to comply with the directions, the Registrar may by order—

(a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order ;

(b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order, remove the members, appoint other persons as members and declare them disqualified as provided in clause (a) above :

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated.

Any order made by the Registrar under this section shall be final.]

<sup>3</sup>[79B. (1) Where any producer-member of a processing society fails to supply his agricultural produce to the society in accordance with the provisions of the by-laws of the society, the Registrar may, on a complaint made by the society or *suo motu*, issue a notice to the member to show cause, within a period specified in the notice, why for such failure he should not be removed from the membership of the society. Registrar's power to remove member for failure to supply his agricultural produce to processing society.

<sup>1</sup> Section 79A was inserted by Mah. 27 of 1969, s. 15.

<sup>2</sup> Sub-section (3) was added by Mah. 36 of 1975, s. 6.

<sup>3</sup> Section 79B was inserted, *ibid.*, s. 7.

(2) After holding such inquiry as he thinks fit and giving a reasonable opportunity of being heard to the member, if the Registrar is satisfied that the member has failed, without any good reason or justification, to supply his agricultural produce to the society in accordance with the provisions of the by-laws, the Registrar may by order remove the person concerned as a member of the society with effect from such date as may be specified in the order, and thereupon the person shall cease to be a member of the society on and from that date. Any order made by the Registrar under this section shall be final.]

Registrar's  
power to  
seize  
records  
etc.

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

(2) On receipt of an application under sub-section (1) [the Magistrate shall forthwith consider such application and, if satisfied that immediate action is required, shall authorise] any police officer, not below the rank of a sub-inspector, to enter and search any place where the records and property are kept or likely to be kept, and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

### CHAPTER VIII.

#### AUDIT, INQUIRY, INSPECTION AND SUPERVISION.

**Audit. 81.** (1) The Registrar shall audit, or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every society at least once in each year.

(2) The audit under the foregoing sub-section 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 the person authorised shall, for the purpose of audit, 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 or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

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

(5) The auditor appointed under sub-section (1) shall have the right to receive all notices and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.

(6) If it appears to the Registrar, on an application by a society or otherwise, that it is necessary or expedient to re-audit any accounts of the society, the Registrar may by order provide for such re-audit and the provisions of this Act applicable to audit of accounts of the society shall apply to such re-audit.

<sup>1</sup> These words were substituted for the words " the Magistrate may authorise " by Mah. 3 of 1974, s. 18.

82. If the result of the audit held under the last preceding section discloses any defects in the working of a society, the society shall within three months from the date of the audit report, explain to the Registrar the defects, or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action, as may be specified in the order to remedy the defects within the time specified therein. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.

83. <sup>1</sup>(1) The Registrar may of his own motion and shall on the application of one-third of the members of a society, himself or by a person duly authorised by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

(2) Before holding any such inquiry on an application, the Registrar may require the applicant to deposit with him a sum of Rs. 100 towards the cost of the inquiry. If the allegations made in the application are substantially proved at the inquiry, the deposit shall be refunded to the applicant, and the Registrar may under section 85, after following the procedure laid down in that section, direct from whom and to what extent the cost of the inquiry should be recovered. If it is proved that the allegations were false, vexatious or malicious, the Registrar may likewise direct that such cost shall be recovered from the applicant. Where the result of the inquiry shows that the allegations were not false, vexatious or malicious, but could not be proved, such cost may be borne by the State Government.]

(3) (a) All officers, members and past members of the society in respect of which an inquiry is held, and any other person who, in the opinion of the officer holding the inquiry is in possession of information, books and papers relating to the society, shall furnish such information as is in their possession, and produce all books and papers relating to the society which are in their custody or power, and otherwise give to the officer holding an inquiry all assistance in connection with the inquiry which they can reasonably give.

(b) If any such person refuses to produce to the Registrar or any person authorised by him under sub-section (1), any book or papers which it is his duty under clause (a) to produce or to answer any question which put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar after hearing any statement which may be offered in defence, punish the defaulter with a penalty not exceeding five hundred rupees. Any sum imposed as penalty

<sup>1</sup> Sub-sections (1) and (2) were substituted by Mah. 3 of 1974, s. 19.

under this section shall, on the application by the Registrar or the person authorised by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by himself.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

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

84. (1) On the application of a creditor of a society who,—

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

Inspection  
of books of  
indebted  
society.

(b) deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society,

the Registrar may, if he thinks it necessary, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society.

(2) The Registrar shall communicate the result of any such inspection to the applicant, and to the society whose books have been inspected.

(3) It shall be competent for the Registrar to withdraw any order of inspection from the officer to whom it is entrusted, and to inspect himself or entrust it to any other person as he deems fit.

<sup>1</sup>[(4) The powers of inspection conferred on the Registrar by this section may be exercised by him of his own motion in respect of any society, which is indebted to Government or for which share capital (wholly or partly) is provided by Government or where any financial interest of Government is otherwise involved.]

85. (1) Where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs, as he may think just between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society :

Costs of  
inquiry and  
inspection.

Provided that,—

(a) no order of apportionment of the costs shall be made under this section, unless the society or persons or the legal representative of the deceased person liable to pay the costs thereunder, has or have been heard, or has or have had a reasonable opportunity of being heard ;

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

(2) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under the foregoing sub-section.

86. Any sum awarded by way of costs under the last preceding section, may be recovered, on an application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides or carries on business, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Recovery of  
costs.

<sup>1</sup> Sub-section (4) was added by May 3 of 1974 s. 20.

**Registrar to bring defects disclosed in inquiry or inspection or notice of society.** 87. (1) If the result of any inquiry held under section 83 or an inspection made under section 84 discloses any defects in the constitution, working or financial condition or the books of society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.

(2) The society concerned may, within sixty days from the date of any order made by the Registrar under the foregoing sub-section, appeal against it to the State Government.

(3) The State Government may, in deciding the appeal, annul, reverse, modify or confirm, the order of the Registrar.

(4) If a society fails to rectify the defects disclosed in the course of or as a result of an audit under section 81 or fails to rectify the defects as directed by the Registrar, and where no appeal has been made to the State Government within the time specified in the order, or where on the appeal so made the State Government has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the costs from the officer or officers of the society who, in his opinion, has or have failed to rectify the defects.

**Power of Registrar to assess damages against delinquent promoters, etc.** 88. (1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 83 or the person authorised to inspect the books under section 84 or the Liquidator under section 105 or otherwise that any persons who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to <sup>1</sup>[the date of commencement of such audit or date of order for inquiry, inspection or] winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

(2) The Registrar or the person authorised under sub-section (1) in making any order under this section, may provide therein for the payment of the cost or any part thereof, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.

**Power to enforce attendance etc.** 89. The Registrar or the person authorised by him, when acting under section 83, 84 or 88 shall have the power to summon and enforce the attendance of any person <sup>2</sup>[and examining him on oath or affirmation or by affidavit] or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908. V of 1908

<sup>1</sup> These words were substituted for the words "the date of such audit, inquiry, inspection or order for" by Mah. 33 of 1963, s. 18.

<sup>2</sup> These words were substituted for the words "to give evidence" *ibid.*, s. 19.

90. (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 a society or a class of societies and may frame rules for making grants to such an authority.

Constitution or recognition of federal authority to supervise working of societies.

(2) The State Government may, by general or special order, require of a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupmnt of expenditure which the State Government or any person authorised in that behalf has incurred or is likely to incur, in respect of supervision of societies.

(3) A society to which sub-section (2) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and, if it fails to pay such fee within a reasonable time, the authority may recover it as if it were an arrear of land revenue.

## CHAPTER IX.

### <sup>1</sup>[DISPUTES AND CO-OPERATIVE COURTS].-

91. (1) Notwithstanding <sup>2</sup>[anything contained] in any other law for the time being in force, any dispute touching the constitution, elections of the office bearers, conduct of general meetings, management or business of a society shall be referred by one of the parties to the dispute, or by a federal society to which the society is affiliated or by a creditor of the society, to the Registrar, if both the parties thereto are one or other of the following :—

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society ;

(b) a member past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society <sup>3</sup>[or a person who claims to be a member of the society ;]

<sup>4</sup>[(c) a person other than a member of the society, with whom the society has any transactions in respect of which any restrictions or regulations have been imposed, made or prescribed under section 43, 44 or 45, and any person claiming through such person ;

(d) a surety of a member, past member or deceased member, or surety of a person other than a member with whom the society has any transactions in respect of which restrictions have been prescribed under section 45, whether such surety or person is or is not a member of the society ;]

(e) any other society, or the Liquidator of such a society.

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(3) Save as otherwise provided under sub-section (3) of section 93, no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

<sup>1</sup> The heading was substituted by Mah. 3 of 1974, s. 21.

<sup>2</sup> These words were substituted for the words " anything contained " by Mah. 33 of 1963, s. 20(a).

<sup>3</sup> These words were added by Mah. 27 of 1969, s. 16(a)(i).

<sup>4</sup> Clauses (c) and (d) were substituted for the original, *ibid.*, s. 16(a)(ii).

<sup>5</sup> Sub-section (2) was deleted *ibid.*, s. 16(b).

**Explanation 1.**—A dispute between the Liquidator of a society and <sup>1</sup>[the members (including past members, or nominees, heirs or legal representatives or deceased members)] of the same society shall not be referred to the Registrar under the provisions of sub-section (1).

**Explanation 2.**—For the purposes of this sub-section, a dispute shall include—

(i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member, or servant for employee whether such a debt or demand be admitted or not ;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not ;

(iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its committee, past or present, whether such loss be admitted or not ;

(iv) a refusal or failure by a member past member or a nominee, heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of condition as the assignment.

Constitution  
of  
Co-operative  
Courts.

**91A.** (1) The State Government may, by notification in the *Official Gazette*, constitute one or more Co-operative Courts for the adjudication of disputes referred to the Registrar under section 91 or section 105 or other provisions of this Act.

(2) A Co-operative Court shall consist of one member appointed by the State Government possessing such qualifications as may be prescribed.

(3) A Co-operative Court shall have jurisdiction over the whole State or any part thereof as may be specified in the notification under sub-section (1).

<sup>\*</sup>(4) All disputes and other proceedings pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, <sup>Mah. III of 1974.</sup> <sup>3</sup>[before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made thereunder have been delegated or] before any nominee or board of nominees appointed by the Registrar, shall be transferred by him, by general or special order, to any Co-operative Court specified by him in that behalf and shall be heard and disposed of by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing *de novo*.]

Limitation.

**92.** (1) Notwithstanding anything contained in the Indian Limitation Act, 1908 <sup>IX of 1908.</sup> but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under the last preceding section shall—

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

(b) when the dispute is between a society or its committee, and any past committee, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the

<sup>1</sup> These words and brackets were substituted for the words " the members " by Mah. 33 of 1963, s. 20(d).

<sup>2</sup> Section 91 A was inserted by Mah. 3 of 1974, s. 2.

<sup>3</sup> These words were deemed always to have been inserted by Mah. 64 of 1975, s. 2.

<sup>4</sup> For Validation of orders made by Registrar under this Section See Mah. 64 of 1975, s. 3.



dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place:

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated committee or an administrator has been appointed under section 78 be six years from the date of the order issued under section 102, or section 78 as the case may be;

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

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to the Registrar under the last preceding section shall be regulated by the provisions of the Indian Limitation Act, 1908, as if the dispute were a suit, and the Registrar a Civil Court.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Registrar may admit a dispute after the expiry of the limitation period, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

193. (1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 91, the Registrar shall, subject to the rules, decide the dispute himself, or refer it for disposal to a Co-operative Court. Settlement of disputes.

(2) Where any dispute is referred under sub-section (1) for decision to a Co-operative Court, the Registrar may, at any time, for reasons to be recorded in writing, withdraw such dispute from that Co-operative Court, and may, with the approval of the State Government, refer it again for decision to any other Co-operative Court as he deems fit.

(3) Notwithstanding anything contained in section 91, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted in a Civil Court within two months from the date of the order of the Registrar, the Registrar shall continue the proceedings and decide the dispute.]

94. (1) The Registrar, <sup>2</sup>[or the Co-operative Court], hearing a dispute under the last preceding section shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence oath, on affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. Procedure for settlement of disputes and power of Registrar <sup>2</sup>[or the Co-operative Court].

(2) Except with the permission of the Registrar <sup>2</sup>[or the Co-operative Court] as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Registrar <sup>2</sup>[or the Co-operative Court] is satisfied that a person whether he be a member of the society or not has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired

<sup>1</sup> Section 93 was substituted by Mah. 3 of 1974, s. 23.

<sup>2</sup> These words were substituted for the words "or his nominee or board of nominees", *ibid.* s. 24(a).

the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Registrar <sup>1</sup>[or the Co-operative Court] shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Registrar <sup>1</sup>[or the Co-operative Court] may, at any stage of the hearing of the dispute, if satisfied that the mistake was *bona fide*, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar, <sup>1</sup>[or the Co-operative Court] may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Registrar, <sup>1</sup>[or the Co-operative Court], as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, <sup>1</sup>[or the Co-operative Court] as the case may be, may be necessary in order to enable the Registrar <sup>1</sup>[or the Co-operative Court] effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs; but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, <sup>1</sup>[or the Co-operative Court].

<sup>2</sup>[(4) Save as otherwise directed by the State Government in any case or class of cases, every dispute shall be decided in such summary manner as may be prescribed and as expeditiously as possible.]

Attachment before award [and interlocutory orders]. 95. (1) Where a dispute has been referred to the Registrar <sup>1</sup>[or the Co-operative Court], under section 93 or under section 105 or where the Registrar or the person authorised under section 88 hears a person against whom charges are framed under that section, the Registrar <sup>1</sup>[or the Co-operative Court] or, as the case may be, the person so authorised under section 88 if satisfied on enquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 88 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made.—

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

(b) is about to remove the whole or any part of his property from the jurisdiction of <sup>3</sup>[the Registrar, the Co-operative Court or the authorised person, as the case may be],

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

(2) Where the Registrar, <sup>1</sup>[or the Co-operative Court] or the person authorised under section 88 directs attachment of property under the foregoing sub-section, he shall issue a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period; and if the person fails to provide the security so demanded, the Registrar <sup>1</sup>[or the Co-operative Court], or, as the case may be, the person authorised under section 88 may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section may direct the disposal of the property so attached towards the claim if awarded.

<sup>1</sup> These words were substituted for the words "or his nominee or board of nominees" by Mah. 3 of 1974, s. 24(a) and 25(a).

<sup>2</sup> Sub-section (4) was added, *ibid.*, s. 24 (b).

<sup>3</sup> These words were substituted for the words "the Registrar" *ibid.*, s. 25 (b).

<sup>4</sup> These words were inserted by Mah. 33 of 1963, s. 2 (b).

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

1(4) The Registrar <sup>2</sup>[or the Co-operative Court] or the person authorised under section 88, as the case may be, may in order to prevent the ends of justice being defeated make such interlocutory orders pending the decision in a dispute referred to in sub-section (1) as may appear to be just and convenient.]

96. When a dispute is referred to arbitration, the Registrar <sup>2</sup>[or the Co-operative Court] may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and fees and expenses payable to the Registrar <sup>2</sup>[or the Co-operative Court, as the case may be.] Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal or review or revision, be binding on the parties to the dispute. Decision of Registrar or <sup>2</sup>[the Co-operative Court].

97. Any party aggrieved by any decision of the Registrar <sup>2</sup>[the Co-operative Court] under the last preceding section, or an order passed under section 95 may, within two months from the date of the decision or order, appeal to <sup>3</sup>[or the Co-operative Appellate Court.] Appeal against decision of Registrar or <sup>2</sup>[the Co-operative Court].

98. Every order passed by the Registrar or a person authorised by him under section 88 or by the Registrar <sup>2</sup>[or the Co-operative Court] under section 95 or 96, every order passed in appeal under the last preceding section, every order passed by a Liquidator under section 105, every order passed by the State Government in appeal against orders passed under section 105 and every order passed in revision under section 154 shall, if not carried out,— Money how recovered.

(a) on a certificate signed by the Registrar or a Liquidator, be deemed to be a decree of a Civil Court, and shall be executed in the same manner as a decree of such Court, or

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

Provided that, any application for the recovery in such manner of any such sum shall be made to the Collector, and shall be accompanied by a certificate signed by the Registrar. \* \* \* \* \*  
Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

99. Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 98 shall be null and void as against the society on whose application the said certificate was issued. Private transfer of property made after issue of certificate void against society.

<sup>1</sup> Sub-section (4) was added by Mah. 33 of 1963, s. 21(a).

<sup>2</sup> These words were substituted for the words "or his nominee or board of nominees" by Mah. 3 of 1974, ss. 25, 26, 27 and 28.

<sup>3</sup> These words were substituted for the words "or his nominee, or as the case may be, board of nominees" *ibid.*, s. 26(b).

<sup>4</sup> These words were substituted for the words "the Tribunal", *ibid.*, s. 27(b).

<sup>5</sup> The words "or by any Assistant Registrar to whom the said power has been delegated by the Registrar" were deleted by Mah. 33 of 1963, s. 22.

**Transfer of property which cannot be sold** 100. (1) When in any execution of an order sought to be executed under section 98, <sup>1</sup>[or in the recovery of any amount under section 101 or section 137], any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 98, <sup>2</sup>[or under section 101 or 137], the Court or the Collector or the Registrar, as the case may be, may, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.

(2) Where property is transferred to the society under the foregoing sub-section or where property is sold under section 98 <sup>3</sup>[101 or 137], the Court, the Collector, or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Collector or the Registrar, as the case may be, and the said society. Subject to the general or special orders of the State Government, the Collector or the Registrar may delegate to an officer, not below the rank of an Assistant or the Deputy Collector or the Assistant Registrar, powers exercisable by the Collector or the Registrar under this section.

**[Recovery of arrears due to certain societies as arrears of land revenue].** 101. <sup>2</sup>[(1) Notwithstanding anything contained in sections 91, 93, and 98, on an application made by a resource society undertaking the financing of crop and seasonal finance as defined under the Bombay Agricultural Debtors Relief Act, 1947, <sup>3</sup>[or **Bom. XXV III of 1947.** advancing loans for other agricultural purposes repayable during a period of not less than eighteen months and not more than five years] for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crop or seasonal finance <sup>3</sup>[or for other agricultural purposes as aforesaid] or by a crop-protection society for the recovery of the arrears of the initial cost or of any contribution for obtaining services required for crop protection which may be due from its members or other owners of lands included in the proposal (who may have refused to become members) or by a lift irrigation society for the recovery of arrears of any subscription due from its members for obtaining services required for providing water supply to them, <sup>4</sup>[or by a Taluka or Block level village artisans multipurpose society advancing loans and arranging for cash credit facilities for artisans for the recovery of arrears of its dues,] and on the society concerned furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears].

(2) Where the Registrar is satisfied that <sup>5</sup>[the concerned society has failed to take action under the foregoing sub-section in respect of any amount due as arrears,] the Registrar may, of his own motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

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

<sup>1</sup> These words and figures were inserted by Mah. 3 of 1974, s. 29(a) (i).

<sup>2</sup> Sub-section (1) was substituted for the original by Mah. 27 of 1969, s. 17(a).

<sup>3</sup> This portion was deemed to have been inserted on 1st July 1971 by Mah. 44 of 1973, s. 3.

<sup>4</sup> This portion was inserted, by Mah. 36 of 1975 s. 3.

<sup>5</sup> This portion was substituted for the original by Mah. 27 of 1969, s. 17(b).

<sup>6</sup> This marginal note was substituted, *ibid.*, s. 17(d).

Bom. V of 1879. (4) It shall be lawful for the Collector and the Registrar to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code 1897, or any law or provision corresponding thereto for the time being in force, until the arrears due to [the concerned society] together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar.

## CHAPTER X.

## LIQUIDATION.

102. (1) If the Registrar,—

Winding up

(a) after an inquiry has been held under section 83 or an inspection has been made under section 84 or on the report of the auditor auditing the accounts of the society, or

(b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special general meeting called for the purpose, or

(c) of his own motion, in the case of a society which—

(i) has not commenced working, or

(ii) has ceased working, or

(iii) possesses shares or members' deposits not exceeding five hundred rupees, or

(iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws,

is of the opinion that a society ought to be wound up, he may issue an interim order directing it to be wound up.

(2) A copy of such order made under <sup>2\*</sup> \* \* sub-section (1) shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order.

103. (1) When an interim order is passed under the last preceding section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be Liquidator of the society, and fix his remuneration. <sup>Appointment of Liquidator.</sup>

(2) On issue of the interim order, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society and, shall have no access to any of them.

(3) When a final order is passed confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force, the general body of the society shall not exercise any powers.

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 105. The Registrar may remove such person and appoint another in his place, without assigning any reason.

<sup>1</sup> These words were substituted for the words "the resource society", by Mah. 27 of 1969, s. 17(c).

<sup>2</sup> The words, brackets, letters and figures "clause (a) or sub-clause (iv) of clause (c) of" were deleted by Mah. 33 of 1963, s. 23.

(5) The whole of the assets of the society shall on the appointment of Liquidator under this section vest in such Liquidator, and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by a Liquidator on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effect, and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(6) In the event of the interim order being vacated, the person appointed as Liquidator shall hand over the property, effects and actionable claims and books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been cancelled under the preceding section, be continued by the officers of the society.

Appeal against order of winding up. **104.** (1) The committee, or any member, of the society ordered to be wound up, may, within two months from the date of the issue of the order made under section 102, appeal to the State Government :

Provided that no appeal shall lie against an order issued under sub-clause (i), (ii) or (iii) of clause (c) of sub-section (1) of section 102.

(2) No appeal from a member under this section shall be entertained unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

Powers of Liquidator. **105.** [(1)] The Liquidator appointed under section 103 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,—

(a) to institute and defend any suit and other legal proceedings, civil or criminal, on behalf of the society, in the name of his office ;

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

(c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels ;

(d) to raise, on the security of the assets of the society, any money required ;

(e) to investigate all claims against the society and, subject to the provisions of the Act, to decide questions, of priority arising out of such claims, and to pay any class or classes of creditors in full or rateable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates ;

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

(g) 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 to the society, and

<sup>1</sup> Section 105 was re-numbered as sub-section (1) of that section by Mah. 3 of 1974, s. 30(1).

all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof:

(h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs or legal representatives of deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers ;

(i) to issue requisitions under section 98 ;

(j) to get disputes referred to the Registrar for decision by himself [for the Co-operative Court] ;

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

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

(m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure, 1908 ;

V of  
1908.

(n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up ;

(o) to take such action as may be necessary under section 19, with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

[(2) Notwithstanding anything contained in sub-section (l), the Liquidator shall not have the right to vote on behalf of the society in liquidation, at the election of the members of the committee or of officers of any other society.]

106. After expiry of the period for appeal against the order made under sub-section (l) of section 102 or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society, as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the Liquidator shall proceed to realise the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose. The Registrar, may of his own motion, however, entertain or dispose of any dispute by or against the society.

Effect of  
order of  
winding up.

107. Save as expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act ; and when a winding up order has been made no suit or other legal proceedings shall lie or be proceeded with against the society or the liquidator, except by leave of the Registrar, and subject to such terms as he may impose :

Bar of suit  
in winding  
up and  
dissolution  
matters.

<sup>1</sup> These words were substituted for the words " or his nominee or board of nominees " by Matf. 3 of 1974, s 30 (1).

<sup>2</sup> Sub-section (2) was added, *ibid.* s. 30(2).

Provided that, where the winding up order is cancelled, the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as Liquidator.

**Audit of Liquidator's accounts.** 108. (1) The Liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than twice each year, present to the Registrar an account in the prescribed form of his receipts and payments as Liquidator. The Registrar shall cause the accounts to be audited in such manner as he thinks fit; and for the purpose of audit, the Liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.

(2) The Liquidator shall cause a summary of audited accounts to be prepared, and shall send a copy of such summary to every contributory.

(3) The Liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts and books kept by him in the manner prescribed.

(4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result, of audit in respect of transactions subsequent to his taking over the affairs of the society, and may be proceeded against as if were an act against which action could be taken under section 88 :

Provided that, no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or want of omission, in carrying out the duties and functions.

**Termination of liquidation proceedings.** 109. (1) The winding up proceedings of a society shall be closed [as soon as practicable within six years] from the date of the order of the winding up, unless the period is extended by the registrar :

Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall, immediately after the expiry of [ten years] from the date of the order for winding up of the society deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

*Explanation.*—In the case of a society which is under liquidation at the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the date of such commencement.

(2) Notwithstanding anything contained in the foregoing sub-section, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property of and the claims of the society have been disposed of, and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount (if any) standing to the credit of the society in liquidation, after paying off its liabilities including the share or interest of members, and suggest how the surplus should be utilised.

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

1 These words were substituted for the words " within three years " by Mah. 16 of 1969, s. 2(a).  
2 These words were substituted for the words " seven years ", *ibid.*, s. 2(b).



110. The surplus assets, as shown in the final report of the Liquidator of a society which has been wound up, may either be divided by the Registrar, with the previous sanction of the State Government, amongst its members in such manners as may be prescribed or be devoted to any object or objects provided in the by-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose or may be utilised for both the purposes. Where the surplus is not so divided amongst the members and the society has no such by-laws, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society, to which the surplus belonged was serving :

Provided that, where no such society exists or is registered within three years of the cancellation of the society whose surplus is vested in the Registrar, Registrar may distribute the surplus, in the manner he thinks best, amongst any or all of the following :—

(a) an object of public utility and of local interest as may be recommended by the members in general meeting held under the preceding section ;

(b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society exists, the State federal society which may be notified in this behalf by the State Government ; and

(c) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

#### [CHAPTER X-A.

##### INSURED CO-OPERATIVE BANK

110A. Notwithstanding anything contained in this Act, in the case of an insured co-operative bank—

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

(ii) an order for the winding up of the bank shall be made <sup>2</sup>[by the Registrar] if so required by the Reserve Bank of India in the circumstances referred to in section 13-D of the Deposit Insurance Corporation Act, 1961 ;

(iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made <sup>2</sup>[by the Registrar] for the supersession (removal) of the committee and the appointment of an Administrator therefor for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the Administrator so appointed shall, after the expiry of his term of office, continue in office until, the day immediately preceding the date of the first meeting of the new committee ;

(iv) an order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or re-organisation) or an order for the supersession (removal) of the committee and the appointment of an Administrator therefor made with the previous sanction in writing or on the requisition of the Reserve Bank of India shall not be liable to be called in question in any manner ; and

<sup>1</sup> Chapter X-A was inserted by Mah. 54 of 1969, s. 2.

<sup>2</sup> These words were inserted by Mah. 36 of 1975, s. 9.

Order for winding up, reconstruction, supersession of committee etc. of insured Co-operative bank, not to be made without sanction or requisition of Reserve Bank of India.

47 of 1961.

(v) the liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to pay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner referred to in section 21 of that Act. <sup>47 of 1961.</sup>

<sup>1</sup>[*Explanation.*—In this section,—

(a) the expression “an insured co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961; <sup>47 of 1961.</sup>

(b) the expression “the transferee bank” has the same meaning as assigned to it in that Act.]

## CHAPTER XI.

### LAND DEVELOPMENT BANKS

Application of Chapter to Land Development Banks.

111. This Chapter shall apply to—

(a) <sup>2</sup>[any co-operative bank or banks advancing loans, other than short-term loans, to or through the Primary Land Development Banks or directly, for the purposes herein enumerated (hereinafter referred to as “Land Development Bank or Banks”), that is to say—]

(i) land improvement and productive purposes;

<sup>3</sup>[(i-a) works undertaken by lift irrigation societies, and electricity supply societies, for productive purposes;]

(ii) erection, rebuilding or repairing of houses for agricultural purposes;

(iii) the purchase or acquisition of title to agricultural lands <sup>4</sup>[by agriculturists, or] by tenant purchasers or tenants under the Bombay Tenancy and Agricultural Lands Act, 1948, or any corresponding law for the time being in force in any part of the State; <sup>Bom. LX-VII of 1948.</sup>

<sup>5</sup>[(iii-a) the purchase of agricultural land by <sup>7</sup>[persons] whose agricultural lands have been acquired for <sup>8</sup>[any public purpose; or]]

(iv) the liquidation of debts under the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State; and <sup>Bom. XX-VIII of 1947.</sup>

(b) any other co-operative bank permitted by the Registrar under section 142 to function as a Land Development Bank.

*Explanation 1.*—For the purposes of this section, short-term loan means a loan for a duration of less than 18 months.

*Explanation 2.*—Land improvement and productive purposes means any work, construction or activity which adds to the productivity of the land and, in particular, includes the following, that is to say :—

(a) construction and repair of wells (including tube wells), tanks and other works for the storage, supply or distribution of water for the purpose of agriculture, or for the use of men and cattle employed in agriculture;

(b) renewal or reconstruction of any of the foregoing works, or alterations therein, or additions thereto;

(c) preparation of land for irrigation;

<sup>1</sup> This Explanation was substituted for the original by Mah. 36 of 1975, s. 9(c).

<sup>2</sup> This portion was substituted for the portion beginning with “Co-operative banks” and ending with “that is to say—” by Mah. 43 of 1972, s. 2.

<sup>3</sup> Sub-clause (i-a) was inserted by Mah. 27 of 1969, s. 18.

<sup>4</sup> These words were inserted by Mah. 33 of 1963, s. 2.

<sup>5</sup> The word “or” was deleted by Mah. 27 of 1971, s. 2(a).

<sup>6</sup> Sub-clause (iii-a) was inserted, *ibid.*, s. 2(b).

<sup>7</sup> This word was substituted for the word “agriculturists” by Mah. 3 of 1974, s. 31(a).

<sup>8</sup> These words were substituted for the words “any project undertaken by the State Government and Zilla Parishads; or”, *ibid.*, s. 31(b).

(d) drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is cultivable ;

(e) bunding and similar improvements ;

(f) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes ;

(g) horticulture ;

(h) purchase of oil engines, pumping sets and electrical motors for any of the purposes mentioned herein ;

(i) purchase of tractors or other agricultural machinery ;

(j) increase of the productive capacity of land by addition to it of special variety of soil ;

(k) construction of permanent farm-houses, cattle-sheds, and sheds for processing of agricultural produce at any stage ;

(l) purchase of machinery for crushing sugarcane, manufacturing gur or khandsari or sugar ;

(m) purchase of land for consolidation of holdings under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ;

<sup>1</sup>[(mm) purchase of shares of processing societies ;]

(n) such other purposes as the State Government may, from time to time, by notification in the *Official Gazette*, declare to be improvement or productive purpose for the purpose of this Chapter.

112. <sup>2</sup>[(1) There shall be a State Land Development Bank for the State of Maharashtra. If considered necessary by the State Government, in the public interest or in the interest of the co-operative movement, there may be one or more Primary Land Development Banks ; but nothing in this sub-section shall be taken to require the establishment or continuance of any Primary Land Development Banks.]

(2) A reference to Land Mortgage Bank in any law, or instrument, for the time being in force in the State, shall, with effect from the commencement of this Act, be constructed as a reference to a Land Development Bank within the meaning of this Chapter.

<sup>1</sup> Clause (mm) was inserted by Mah. 36 of 1975, s. 10.

<sup>2</sup> Sub-section (1) was substituted by Mah. 13 of 1972, s. 3.

(3) With effect from the commencement of this Act, and until such time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of this Act are changed into Land Development Banks, all acts done by them or mortgages and other documents executed by them, or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.

113. (1) The Registrar, or any other person appointed by the State Government in this behalf, shall be Trustee for the purpose of securing the fulfilment of the obligations of the State Development Bank to the holders of debentures issued by it. Appointment, powers and functions of Trustee.

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

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

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

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem at any time in advance of the date fixed for debenture not less than three months' notice in writing.

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

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

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 121 by the Primary Land Development Banks to the State Land Development Bank and subsisting at such time; and

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

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

115. The principal of, and interest on the debentures issued under the preceding section, or any specified portion thereof, may carry the guarantee of the State Government, subject to such maximum amount as may be fixed by the State Government, and to such conditions as the State Government may think fit to impose. Guarantee by State Government.

Vesting of property in Trustee and Debenture holders' charge on assets.

116. Upon the issue of debentures under the provisions of section 114, the mortgage properties and other assets referred to in sub-section (3) of that section held by the State Land Development Bank, shall vest in the Trustee, and the holders of debentures shall have a floating charge on all such mortgages and assets, and on the amount paid under such mortgages, and remaining in the hands of the State Land Development Bank or of the Trustee.

Powers of Land Development Banks to advance loans and to hold lands.

117. Subject to the provisions of this Act and the rules made thereunder, it shall be competent for the Land Development Banks to advance loans for the purposes referred to in section 111, and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

Mode of dealing with applications for loans.

118. (1) When an application for a loan is made for any of the purposes mentioned in section 111, a public notice shall be given of the application in such manner as may be prescribed calling upon all persons interested to present their objections to the loan, if any, in person, at a time and place fixed therein. The State Government may, from time to time, prescribe the persons by whom such public notice shall be given and the manner in which the objections shall be heard and disposed of.

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

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

(3) A notice under sub-section (1), published in the manner prescribed, shall, for the purpose of this Act be deemed to be proper notice to all persons having or claiming interest in the land to be improved, or offered as security for the loan.

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

(5) If any person interested in the land has failed to present his objection (if any) under sub-section (1) in time, the application for loan shall be considered in his absence, and if the loan applied for is sanctioned, such person shall, notwithstanding anything contained in this Act or any other law for the time being in force, have no claim whatsoever against the land to be improved or offered as security till such time as the amount of loan together with interest thereon or any other dues arising out of the loan are paid in full by the loanee.]

Order granting loan conclusive of certain matters.

119. A written order by the Land Development Bank, or persons or committees authorised under the by-laws of the Bank to make loans for all or any of the purposes specified in section 111, granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say,—

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 111;

<sup>1</sup> Sub-section (5) was added by Mah. 27 of 1969, s. 19.

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

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

XIX  
of  
1883.  
XII  
of  
1894.

120. (1) A mortgage executed in favour of a Land Development Bank, shall have priority over any claim of the Government arising from a loan granted after the execution of the mortgage under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or under any other law for the time being in force.

Bom.  
LX-  
VII  
of  
1948.

(2) Notwithstanding anything contained in the Bombay Tenancy and Agricultural Lands Act, 1948, or any other corresponding law for the time being in force, where a mortgage in favour of a Land Development Bank is in respect of land in which a tenant purchaser or tenant has an interest, the mortgage may be against the security of such interest, and the rights of the mortgage shall not be affected by the failure of the tenant purchaser or tenant to comply with the requirements of such law, and the sale of the land and his interest therein under such law shall be subject to the prior charge of the Land Development Bank.

XVI  
of  
1908.

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

XVI  
of  
1908.

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

III of  
1909.  
V of  
1920.

123. Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909 or the Provincial Insolvency Act, 1920 or any corresponding law for the time being in force, a mortgage, executed in favour of a Land Development Bank, shall not be called in question in any insolvency proceedings on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the Bank a preference over other creditors of the mortgagor.

IV of  
1882.

124. (1) Where a mortgage is executed in favour of a Land Development Bank for payment of prior debts of the mortgagor, such bank shall, notwithstanding anything contained in the Transfer of Property Act, 1882, by notice in writing require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office, within such period as may be specified in the notice.

\*These words were inserted by Mah. 33 of 1963, s. 25.

\*The word "immovable" was deleted, *ibid.*

\*These words were substituted for the words "is mortgaged for the purpose of securing repayment of the loan", *ibid.*

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

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

Mortgages executed by managers of joint Hindu families.

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

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

Section 8 of Act XXXII of 1956 to apply to mortgages to Land Development Banks subject to certain modifications.

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

Restriction on lease.

127. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, no mortgagor of property mortgaged to a Land Development Bank, shall except with the prior consent in writing, of the bank, and subject to such terms and conditions as the bank may impose, lease or create any tenancy rights on any such property : 1882.

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

(2) Where land, mortgaged with possession to a Land Development Bank, is in actual possession of a tenant, the mortgagor or the Land Development Bank shall give notice to the tenant to pay rent to the Land Development Bank during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned to the Land Development Bank.

Land Development Bank to receive money and give discharge.

128. Notwithstanding anything contained in section 121, all monies due under the mortgage shall unless otherwise directed by the State Land Development Bank or the Trustee, and communicated to the mortgagor, be payable by the mortgagor to the Land Development Bank, and such payments shall be as valid as if the mortgage had not been so transferred and the Land Development Bank shall in the absence of specific direction to the contrary, issued by the State Land

V of  
1908.

47. (1) Notwithstanding anything in any other law for the time being in force, but subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue and to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908,—

Prior claim  
of society.

(a) any debt or outstanding demand, owing to a society by any member or past member or deceased member, shall be a first charge,—

(i) upon the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by such member or past member or deceased member,

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or workshop, godown or place of business supplied to or purchased by such member or past member or deceased member, in whole or in part, from any loan whether in money or goods made to him by the society, and

(iii) upon any movable property which may have been hypothecated, pledged or otherwise mortgaged by a member with the society, and remaining in his custody;

(b) any outstanding demands or dues payable to a society by any member or past member or deceased member, in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society.

*Explanation.*—The prior claim of Government in respect of dues other than land revenue, shall be restricted for the purpose of sub-section (1) to the assets created by a member out of the funds in respect of which the Government has a claim.

(2) No property or interest in property, which is subject to a charge under the foregoing sub-section, shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may impose.

(3) Any transfer made in contravention of sub-section (2) shall be void.

(4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has as one of its objects the disposal of the produce of its members, may provide in its by-laws, or may otherwise contract with its members,—

(a) that every such member shall dispose of his produce through the society, and

(b) that any member, who is found guilty of a breach of the by-law or of any such contract, shall reimburse the society for any loss, determined in such manner as may be specified in the by-laws.

48. Notwithstanding anything contained in this Act or in any other law for the time being in force,—

Charge on  
immovable  
property of  
members  
borrowing  
from certain  
societies.

(a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as tenant, make a declaration in the form prescribed. Such declaration shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the members in pursuance of the application, and for all future advances (if any) required by him which the society may make to him as such member subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances ;



(b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a) ; and no such person shall, unless and until he has made such declaration, be entitled to exercise any right, as a member of the society;

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

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

Provided that, it shall be lawful to a member to execute a mortgage bond <sup>1</sup>[in respect of such land or any part thereof in favour of a Land Development Bank or of the State Government] under the Bombay Canal Rules made under the Bombay Irrigation Act, 1879 or under any corresponding law for the time being in force for the supply of water from a canal to such land; or to any part, thereof: Bom. VII of 1879.

Provided further that, if a part of the amount borrowed by a member is paid <sup>2</sup>[to the society with the approval of the Central Bank to which it may be indebted] may, on an application from the member, release from the charge created under the declaration made under clause (a) or (b), such part of the movable or immovable property specified in the said declaration, as it may deem proper, with due regard to the security of the balance of the amount remaining outstanding from the member;

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

(f) <sup>3</sup>[subject to all claims of the Government in respect of land revenue or any money recoverable as land revenue, and all claims of the Land Development Bank in respect of its dues, in either case whether prior in time or subsequent,] and to the charge (if any) created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 or any corresponding law for the time being in force in any part of the State, there shall be a first charge in favour of the society on the land or interest specified in the declaration made under clause (a) or (b), for and to the extent of the dues owing <sup>4</sup>[by the member] on account of the loan ; Bom. XXV III of 1947.

(g) and in particular, notwithstanding, anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879 or any corresponding law for the time being in force, the Record of Rights maintained thereunder shall also include the particulars of every charge on land or interest created under a declaration under clause (a) or (b). Bom. V of 1879.

**Explanation.**—For the purposes of this section the expression “society” means—

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

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

<sup>1</sup> These words were substituted for the words “in favour of a mortgage bank or the State Government in respect of such land or any part thereof,” by Mah. 33 of 1963, s. 10 (a) (i).

<sup>2</sup> These words were substituted for the words “the Central Financing Agency”, *ibid.*, s. 10(a)(ii).

<sup>3</sup> These words were substituted for the portion beginning with “subject to” and ending with “in respect of its dues,” by Mah. 12 of 1966, s. (2) (a).

<sup>4</sup> These words were substituted for the words “by him” *ibid.*, s. 2 (b).

Development Bank or Trustee and communicated to the bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the monies due under mortgage.

129. Where any property mortgaged to a Land Development Bank is wholly or partially destroyed, or for any reason the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the bank to provide further security enough to render the whole security sufficient, or to repay such portion of the loan as may be determined by the bank, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once; and the bank shall be entitled to take action against the mortgagor under section 132 or section 133 for the recovery thereof.

Powers of Land Development Bank where mortgaged property is destroyed or security becomes insufficient.

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

130. (1) Property purchased under section 133 (3) by, and property transferred under section 100 to, the Land Development Banks may be disposed of by such banks by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists eligible to hold land under the Bombay Tenancy and Agricultural Lands Act, 1948 or any corresponding law for the time being in force, or may be leased out by them on such terms and conditions as may be laid down by the State Government from time to time.

Right of [Development Bank] to buy mortgaged property.

Bom. LX-VII of 1948.

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

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

Recovery of loans by development banks.

132. (1) If any instalment payable under a mortgage executed in favour of a Land Development Bank, or any part of such instalment, has remained unpaid for more than one month from the date on which it fell due, the committee of such bank may, in addition to any other remedy available to the bank, apply to the Registrar or the Collector for the recovery of such instalments or part thereof by distraint and sale of the produce of the mortgaged land, including the standing crops thereon.

Power to distraint.

(2) On receipt of such application, the Registrar or the Collector, as the case may be, may, notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner prescribed for the purpose of distraining and selling such produce:

IV of 1882.

Provided that, no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

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

<sup>1</sup> These words were substituted for the words "mortgage bank" by Mah. 33 of 1963, s. 26.

Sale of mortgaged property.

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

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

(a) the Land Development Bank has been previously authorised to exercise the power conferred under this sub-section after hearing the objections, if any, of the mortgagor or mortgagors,

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

(i) the mortgagor or each of the mortgagors,

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

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

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

(c) default has been made in payment of such mortgage money or part thereof, for three months after service of the notice.

(2) If the Land Development Bank fails to take action against a defaulter under section 129 or 132 or under this section, the State and Development Bank may direct the Land Development Bank to take appropriate action, and where no action is taken either by the State Land Development Bank, or the Land Development Bank, the Trustee may take such action. If such action is taken by the Trustee, the provisions of this Chapter and of any rules prescribed shall apply in respect thereto as if all references to the Land Development Bank in the said provision were references to the Trustee.

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

Confirmation of sale.

134. (1) On effecting the sale by a Land Development Bank under section 133, the bank shall, in the prescribed manner, subject to the State Land Development Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Land Development Bank may, with the approval of the Registrar, confirm the sale or cancel it.

(2) Where the sale is effected by the State Land Development Bank or the Trustee under section 133, the State Land Development Bank or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale.

135. The proceeds of every sale effected under section 133 and confirmed under the preceding section, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequences whereof the mortgage property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery.

Disposal of  
sale pro-  
ceeds.

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

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

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

136. (1) Where a sale of mortgaged property has become absolute under section 134 and the sale-proceeds have been received in full by the Land Development Bank, the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale-price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian Registration Act, 1908, within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.

Certificate  
to purchase,  
delivery of  
property  
and title of  
purchaser.

XVI  
of  
1908.

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

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

(3) Where any property is sold in the exercise or purported exercise of a power of sale under section 133, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorising the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised ;

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

Recovery of  
loans on  
certificate by  
Registrar.

137. (1) Notwithstanding anything contained in sections 91 and 98 on an application made by a Land Development Bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

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

(3) It shall be lawful to the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879 or any law or provision corresponding thereto for the time being in force until the arrears due to the Land Development Bank together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security of such arrears is furnished to the satisfaction of the Registrar. Bom.  
V of  
1879.

(4) It shall be competent for Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the Land Development Bank together with interest and any incidental charges incurred in recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 95 shall apply *mutatis mutandis* to conditional attachment of any property made or to be made under this section.

\*Made of re-  
covery by  
Collector

138. 1\*

(2) Any amount due to [a Land Development Bank (including cost of recovery thereof) shall on an application by it in this behalf] be recoverable by the Collector, or any officer specially authorised by the Collector in this behalf, in all or any of the following modes, namely :—

- (a) from the borrower—as if they were arrears of land revenue due by him ;
- (b) out of the land for the benefit of which the loan has been granted—as if they were arrears of land revenue due in respect of that land ;
- (c) from a surety (if any)—as if they were arrears of land revenue due by him ;
- (d) out of the property comprised in the collateral security (if any)—according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due.

Officers of  
banks not to  
bid at sales.

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

\* Sub-section (1) was deleted by Mah. 33 of 1963, s. 27(a).

\* These words were substituted for the words " a Land Development Bank shall ", *ibid.*, s. 27 (b).

\* This marginal note was substituted, *ibid.*, s. 27 (d).

Bom. 140. Nothing contained in section 40 of the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour of the Land Development Banks.

Section 40 of Bom. XXVIII of 1947 not to apply to alienation in favour of Land Development Banks.

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

Provision for Guarantee Funds to meet certain losses.

(2) The State Land Development Banks and the Land Development Banks shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such funds shall be governed by such rules, as may be made by the State Government in this behalf.

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

Registrar's power to permit any co-operative bank to function as a Land Development Bank.

IV of 1882. 143. The provisions of sections 102 and 103 of the Transfer of Property Act, 1882, and of any rules made under section 104 thereof shall apply, so far as may be, in respect of all notices to be served under this Chapter.

Service of notice.

Bom. XXVIII of 1942. 143A. (1) Where any works included in a land improvement scheme which has come into force under the Bombay Land Improvement Schemes Act, 1942, are carried out at the cost or part cost of the State Government, and such cost is to be recovered from the owners of lands (other than Government) included in the scheme as shown in the statement prepared under section 3<sup>2</sup> [or in the interim or final statement] prepared under section 13A of that Act, then notwithstanding anything contained in this Act, all the rights and liabilities of the State Government for the recovery of the cost or part cost from the owners of land shall stand transferred to a Land Development Bank, in relation to such owners of land and subject to such terms and conditions (including any condition regarding giving of any guarantee by the State Government) as may be agreed upon between the State Government and such Land Development Bank; and for arriving at such agreement, every owner of land shall produce before the Bank all such documents, and other evidence relating to his land included in such scheme as the Bank may require.

Transfer of rights and liabilities of Government in respect of schemes sanctioned under Bom. XXVIII of 1942.

(2) On such transfer of rights and liabilities of the State Government, the Land Development Bank shall pay to the State Government an amount equal to the extent of the liability accepted by it under such agreement, and the State Government shall inform the owners of lands concerned of such transfer, and thereupon, the provisions of this Act and rules thereunder in so far as they provide

<sup>1</sup> Section 143A was inserted by Mah. 35 of 1969, s. 2.

<sup>2</sup> These words were substituted for the words "or in the final statement" by Mah. 10 of 1971, s. 2.

Bom.  
XXV-  
III of  
1942.

for advancing of loans (including provisions for mortgaging of property) and recovery thereof shall apply in relation to the amount of cost to be recovered from each owner of land as they apply in relation to advancing of loans and recovery thereof (including interest) as if such owner was a member of the Land Development Bank. The transfer of the rights and liabilities and payment made in accordance therewith shall discharge the owners of lands of their liability to make payment to the State Government under the Bombay Land Improvement Schemes Act, 1942, but to the extent only of their respective liability accepted by the Bank].

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

(a) for the inspection of the account books and proceedings of Land Development Banks ;

(b) for the submission of returns and reports by such banks in respect of their transactions ;

(c) for the periodical settlement of accounts between such banks and the State Land Development Bank being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the State Land Development Bank ;

(d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans ;

(e) for the investment of moneys realised from the mortgagors ;

(f) the conditions of service of employees of such banks ;

(g) the programme and policy to be followed by such banks for making loans ;

(h) the types and extent of security to be obtained by such banks for advancing loans ;

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

1[144-1A. (1) Notwithstanding anything in this Act or in any rules or bye-laws made thereunder, it shall be lawful for the State Government to provide from time to time, by an order made under and in accordance with the provisions of section 18, for the reorganisation of the State Land Development Banks, either by amalgamating with it all or any of the Primary Land Development Banks or otherwise, or for the division of the State Land Development Bank into a State Land Development Bank and one or more Primary Land Development Banks as may be considered necessary; or for the amalgamation or division of all or any of the Primary Land Development Banks among themselves. Accordingly, for the purposes of this-section, in section 18 and in any rules made thereunder, for the word "Registrar", wherever it occurs, the words "State Government" shall be deemed to be substituted.

(2) Where there is no Primary Land Development Bank in the State or in any part thereof, or Primary Land Development Banks are merged with the State Land Development Bank, the State Land Development Bank may establish and maintain as many branches as may be deemed necessary; and shall function also as a Primary Land Development Bank throughout the State or in the area concerned, as the case may be. Any reference to a Primary Land Development Bank in this Act, or any other law for the time being in force or in any instrument,

<sup>1</sup> Section 144-1A was inserted by Mah. 13 of 1972, s. 4.

Power to  
Committee  
of State  
Land Deve-  
lopment  
Bank to  
supervis-  
Land Deve-  
lopment  
Bank and  
make regu-  
lation.

Reorganisa-  
tion,  
amalgama-  
tion or  
division of  
Land Deve-  
lopment  
Banks, in  
public  
interest  
etc.

shall then, as the context may require, be construed as a reference to the State Land Development Bank or its branches concerned, or be read subject to such modifications as may be necessary due to absence of any Primary Land Development Bank or due to merger of the Primary Land Development Bank or Banks in the State Land Development Bank.]

**Power of State Government to appoint committee of State Land Development Bank in certain circumstances.** <sup>2</sup>[144-1B. Notwithstanding anything contained in this Act or in any rules or bye-laws or order made thereunder or in any judgment, decree, or order of any Court, Tribunal or other competent authority, if the State Government, having regard to the financial or other stakes of the State Government involved and its vital concern with the orderly and efficient functioning of the State Land Development Bank is, at any time, satisfied that with a view to safeguarding its own interest and to securing proper implementation of agricultural and other programmes of development undertaken by such Bank, it is necessary that the committee of such Bank should be appointed by the State Government, it shall be lawful for the State Government, instead of holding any elections or continuing the existing committee, to appoint, by order published in the *Official Gazette*, a new committee of such Bank consisting of such number of members and for such period, not exceeding three years, as may be specified in such order. The committee so appointed shall exercise all the powers and perform all the duties and functions of the committee of such Bank as laid down in this Act or the rules and bye-laws made thereunder or any other law for the time being in force.]

## <sup>2</sup>[CHAPTER XI-A

### <sup>3</sup>[ELECTIONS OF COMMITTEES AND OFFICERS OF CERTAIN SOCIETIES.]

**Application of this Chapter and definitions.** 144-A. (1) <sup>4</sup>[Except section 144-Y, this Chapter shall apply] only to elections to committees of societies belonging to the categories specified in section 73-G.

(2) In this Chapter, unless the context otherwise requires,—

(a) "Collector" means the Collector having jurisdiction over the local areas in which the registered office of the society concerned is situated ; <sup>5</sup>[and includes the Additional Collector, and also any officer not below the rank of Deputy Collector, appointed by the State Government to exercise the powers and to perform the duties of the Collector under this Chapter] ;

(b) "election" means an election of a member or members of the committee of a specified society ;

(c) "specified society" means a society belonging to any of the categories specified in section 73-G.

**When elections to be held.** 144-B. Every election shall be held as far as possible sometime prior to the date on which the term of office of the retiring member or members is due to expire. If a vacancy occurs due to any other reason, it shall be filled as early as possible.

**Conduct of elections.** 144-C. (1) Save as otherwise provided, every election shall be held on such date or dates as the Collector may fix, and shall be conducted under his control by such Returning Officer and other officers, as may be appointed by the Collector in this behalf.

<sup>1</sup> Section 144-1B was inserted by Mah. 22 of 1980, s. 2.

<sup>2</sup> Chapter XI-A was inserted by Mah. 27 of 1969, s. 20 read with Mah. 27 of 1971, s. 6.

<sup>3</sup> This heading was substituted by Mah. 3 of 1974, s. 32.

<sup>4</sup> This portion was substituted for the words "This Chapter shall apply" *ibid.*, s. 33(a).

<sup>5</sup> This portion was added, *ibid.*, s. 33(b).



(2) In all cases, where a society has to send a nominee as a member of the committee of any specified society, the election of such nominee shall be conducted under the control of the Collector of the District in which the registered office of the society sending the nominee is situated.

(3) In all cases, where the by-laws of a specified society authorise the Government nominee or the nominee of a Financing Agency to be a member of the committee of the society, no election need be held for such purpose.

(4) The voting at every election shall be by secret ballot.

**144-D.** (1) The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be borne by the specified society concerned. Cost of conducting elections.

(2) For this purpose, the Collector may call upon a specified society to deposit with him such amount as he considers necessary for the conduct of the election. Within eight days from the receipt of such direction from the Collector, the society shall deposit the specified amount with the Collector.

(3) The Collector shall maintain an account of the expenses incurred in connection with the election and within six months from the declaration of results of the election, render the same to the society concerned, and shall refund to the society the balance, if any, remaining unspent. If the expenditure exceeds the amount of deposit, the Collector shall call upon the society to pay the excess amount as specified by him within eight days from the receipt of the direction from him, and the society shall comply with such direction.

(4) On failure of a specified society to pay as aforesaid the deposit amount or to pay the excess amount, the Collector may recover the sums due, together with interest thereon at the rate of 12 per cent, per annum, from the society as arrears of land revenue.

**144-E.** (1) A person shall be disqualified for being elected as, and for being a member, of the committee of any specified society,— Disqualifications for membership.

<sup>1</sup>(a) if he is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is elected, appointed or co-opted to any reserved seat on the committee of a society under section 73BB;]

(b) if he has been convicted of an offence punishable under section 153-A or section 171E or section 171F or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code, or under section 144Q or clause (a) of sub-section (2) of section 144R of this Act, unless a period of six years has elapsed since the date of his conviction;

(c) if he has been convicted by a Court in India for any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release;

(d) if he is found guilty of a corrupt practice by the Commissioner of the Division, unless a period of six years has elapsed since the date on which the decision of the Commissioner takes effect :

(e) if he is so disqualified by or under any other provision of this Act.

<sup>1</sup> Clause (a) was deemed always to have substituted by Mah. 3 of 1974, s. 34(1). for saving see s. 34(2).

(2) For the purposes of clause (a) of sub-section (1), a person shall not be deemed to hold an office of profit under a society, if he does not receive any remuneration other than compensatory allowance, or honorarium payable under sub-section (2) of section 65 not exceeding rupees six thousand per year.

*Explanation.*—In this sub-section, “compensatory allowance” means the travelling allowance, the daily allowance or such other allowance which is paid to the holder of the office for the purpose of meeting the personal expenditure in performing the functions as holder of that office.

(3) Notwithstanding anything contained in clause (b) or (c) of sub-section (1), a disqualification under either clause shall not, in the case of a person who on the date of the conviction is a member of any specified society, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence until that appeal or application is disposed of by the Court.

**144-F.** (1) Every candidate at an election shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him.

*Account of election expenses, maximum thereof and lodging of account.*

(2) The account shall contain such particulars as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be specified by the State Government, by general or special order, published in the *Official Gazette*.

(4) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the Collector an account of his election expenses which shall be a true copy of the account kept by him under sub-section (1).

**144-G.** If the Collector is satisfied that a person,—

*Disqualification for failure to lodge account of election expenses.*

(a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and

(b) has no good reason or justification for the failure,

the Collector shall, by order published in the *Official Gazette*, declare him to be disqualified for being elected as, and for being, a member of the committee of any specified society, and any such person shall be disqualified for a period of three years from the date of the order.

**144-H.** The State Government may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

*Removal or reduction of period of disqualification.*

**144-I.** The following shall be deemed to be corrupt practices for the purposes of this Chapter :—

*Corrupt practices.*

(1) “Bribery”, that is to say—

(A) any gift offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any

gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood or for having withdrawn or not having withdrawn his candidature ; or

(ii) an elector for having voted or refrained from voting ;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate ; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

*Explanation.*—For the purposes of this clause, the term “ gratification ” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 144-F.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right :

Provided that—

(a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community, or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause ;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station :

Provided that, the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any polling station shall not be deemed to be a corrupt practice under this clause .

Provided further that, the use of any public transport vehicle or vessel or railway carriage by any elector at his own cost for the purpose of going to or coming from any polling station shall not be deemed to be a corrupt practice.

*Explanation.*—In this clause and in the next succeeding clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(4) The use of vehicles belonging to a specified society for the purpose of any election. •

(5) The incurring or authorizing of expenditure in contravention of section 144-F.

(6) Making special advances of loans or otherwise favouring any elector or group of electors between the date of declaration of programme for an election and the date of declaration of the result thereof.

Maintenance  
of  
secrecy of  
voting.

144-J. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

Officers,  
etc., at  
elections not  
to act for  
candidates  
or to  
influence  
voting.

144-K. (1) No person who is a Returning Officer or an Assistant Returning Officer or a Presiding or Polling Officer at an election, or an officer or clerk, appointed by the Returning Officer or the Presiding Officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a Police Force, shall endeavour—

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment which may extend to six months or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

144-L. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely :—

Prohibition of canvassing in or near polling station.

- (a) canvassing for votes ; or
- (b) soliciting the vote of any elector ; or
- (c) persuading any elector not to vote for any particular candidate ; or
- (d) persuading any elector not to vote at the election ; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognizable.

144-M. (1) No person shall, on the date or dates on which a poll is taken at any polling station,—

Penalty for disorderly conduct in or near polling stations.

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker, or.

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall, on conviction, be punished with imprisonment which may extend to three months, or with fine, or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

144-N. (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by the Presiding Officer or by any police officer on duty or by any person authorised in this behalf by such Presiding Officer.

Penalty for misconduct at the polling station.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

Penalty for illegal hiring or procuring of conveyances at elections.

**144-O.** If any person is guilty of any such corrupt practice as is specified in clause (3) or (4) of section 144-I at or in connection with an election, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Breaches of official duty in connection with election

**144-P.** (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid

(4) The persons to whom this section applies are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removed of ballot papers from polling station to be an offence.

**144-Q.** (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that, when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

Other offences and penalties therefor.

**144-R.** (1) A person shall be guilty of an electoral offence, if at any election he—

(a) fraudulently defaces or fraudulently destroys any nomination paper ; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer ; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot ; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper ; or

(e) fraudulently puts into any ballot box anything other than the ballot paper, which he is authorised by law to put in ; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election ; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall—

(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both ;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under sub-section (2) shall be cognizable.

144-S. The provisions of section 148 shall apply to the offences under this Chapter, subject to the modifications that it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine on any person convicted of any offence under this Chapter in excess of his powers under section 32 of the Code of Criminal Procedure, 1898 and that no prosecution for an offence punishable under this Chapter shall be lodged, except with the previous sanction of the Collector.

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1898.

Application  
of section  
148 to  
offences  
under this  
Chapter  
subject to  
certain  
modifica-  
tions.

144-T. (1) Notwithstanding anything contained in section 91 or any other provisions of this Act, any dispute relating to an election shall be referred to the Commissioner of the Division in which such election is held<sup>1</sup> or to an Officer not below the rank of Additional Commissioner of a Division authorised by the State Government in this behalf (hereinafter in this section either of them as the context may require is referred to as "the specified officer").

Disputes  
relating to  
elections  
to be  
submitted  
to the  
commissioner  
<sup>1</sup>[or other  
specified  
officer.]

(2) Such reference may be made by an aggrieved party by presenting an election petition to<sup>2</sup>[the specified officer], within a period of two months from the date of declaration of the result of the election :

Provided that, <sup>2</sup>[the specified officer] may admit any petition after the expiry of that period, if the petitioner satisfies <sup>2</sup>[the specified officer] that he had sufficient cause for not preferring the petition within the said period.

(3) In exercising the functions conferred on him by or under this Chapter, <sup>2</sup>[the specified officer] shall have the same powers as are vested in a Court in respect of—

(a) proof of facts by affidavit ;

(b) summoning and enforcing the attendance of any person and examining him on oath ;

(c) compelling discovery or the production of documents ; and

(d) issuing commissions for the examination of witnesses.

<sup>1</sup> This portion was inserted by Mah. 36 of 1975, s. 11(a).

<sup>2</sup> These words were substituted for the words "the Commissioner", *ibid.*, s. 11(b).

<sup>3</sup> These words were added, *ibid.*, s. 11(c).

In the case of any such affidavit, an officer appointed by <sup>1</sup>[the specified officer] in this behalf may administer the oath to the deponent.

(4) Subject to any rules made by the State Government in this behalf, any such petition shall be heard and disposed of by <sup>2</sup>[the specified officer] as expeditiously as possible. An order made by <sup>3</sup>[the specified officer] on such petition shall be final and conclusive and shall not be called in question in any Court.

**144-U.** A petitioner presenting an election petition under the last preceding section shall pay a deposit not exceeding Rs. 500 as the Commissioner may direct towards the costs for hearing the petition. Unless the petitioner deposits the same as aforesaid, the petition shall be summarily dismissed. Subject to such conditions as may be prescribed at the time of deciding the petition, the Commissioner shall assess the costs of the hearing of the petition and shall require the petitioner or the respondents or both as the case may be, to defray the whole or in such proportion as he thinks fit, the costs of the petition, including the deposit so made. The Commissioner shall credit to Government such sum as he assesses as the cost to Government of hearing the petition (but not exceeding Rs. 500 in any case).

Contents of  
petition.

**144-V.** (1) An election petition shall—

(a) contain a concise statement of the material facts on which the petitioner relies;

(b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings:

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1908.

Provided that, where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

**144-W.** A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

**144-X.** Without prejudice to any other power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to provide for and to regulate all or any of the other matters relating to the various stages of the elections <sup>2</sup>[(including preparation of list of voters)].

**144-Y.** (1) This section shall apply only to election of officers by members of committees of societies belonging to the categories specified in section 73-G.

(2) After the election of the members of the committee, or whenever such election is due, the election of the officer or officers of any such society shall be held as provided in its by-laws, but any meeting of the committee for this purpose shall be presided over by the Collector or an officer nominated by him in this behalf.]

<sup>1</sup> These words were substituted for the words "the Commissioner" by Mah. 36 of 1975, s. 11(b).

<sup>2</sup> These words were deemed always to have been added by Mah. 3 of 1974, s. 35.

<sup>3</sup> Section 144-Y was inserted, *ibid.* s. 36.



## CHAPTER XII.

## OFFENCES AND PENALTIES

145. (1) No person, other than a society registered, or deemed to be registered under this Act, and a person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into force, shall without the sanction of the State Government, function, trade or carry on business under any name or title of which the word "Co-operative", or its equivalent in any Indian language, forms part.

Prohibition  
of use of the  
word "Co-  
operative."

(2) Every person contravening the provisions of the foregoing sub-section shall, on conviction, be punished with fine which may extend to five hundred rupees.

146. It shall be an offence under this Act, if—

Offences.

(a) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 47 or any person knowingly acquires, or abets in the acquisition of, such property ; or

(b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer who, without sufficient cause, fails to comply with sub-section (2) of section 49 ; or

(c) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 70 ; or

(d) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or an Urban Co-operative Bank, or a Postal Savings Bank ; or

(e) any person, collecting the share money for a society in formation, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise ; or

(f) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-sections (2), (3) or (4) of section 75 ; or

(g) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the State Government or the Registrar under sections 78, 81, 83, 84, 94 or 103 ; or

(h) any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer to a person appointed under section 78 or 103 ; or

(i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof, fails without any reasonable excuse, to give any notice, send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders made under section 79 ; or

(j) a committee of a society or an officer or member thereof wilfully neglects or refuses to do any act, or to furnish any information required for the purposes, of this Act by the Registrar, or other person duly authorised by him in writing in this behalf ; or

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

(l) any officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 81 ; or

(m) any officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 196] ; or

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

(o) any officer of a society wilfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested, a loan in the name of any other person ; or

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

(q) any officer or member of a society or any persons does any act declared by the rules to be an offence.

*Explanation.*—For the purpose of this section, an officer or a member referred to in the section shall include past officer and past member, as the case may be.

147. Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under section 146 shall, on conviction, be punished,—

Punishment  
for offences  
under  
section 146.

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

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

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

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

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

(f) if it is an offence under clause (f) of that section, with fine which may extend to two hundred and fifty rupees ;

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

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

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

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

<sup>1</sup> These figures were substituted for the figures "93" by Mah. 33 of 1963, s. 28.

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

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

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

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

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

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

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

**Cognizance of offences.** 148. (1) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure 1898, it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine on any person convicted of an offence under clause (b) of section 146 as provided under section 147 in excess of his powers under section 32 of that Code. V of 1898.

(3) No prosecution under this Act shall be lodged, except with the previous sanction of the State Government in the case of an offence under clause (b) of section 146 and of the Registrar in the case of any other offence under this Act. Such sanction shall not be given, except after hearing the party concerned, by an officer authorised in this behalf by the State Government by a general or special order.

Contempt of  
Co-operative  
Courts and  
of Co-operative  
Appellate  
Court.

148-A. (1) If any person—

(a) when ordered by a Co-operative Court or the Co-operative Appellate Court to produce or deliver up any document or to furnish information being legally bound so to do, intentionally omits to do so ; or

(b) when required by any such Court to bind himself by an oath or affirmation to state the truth, refuses to do so ;

(c) being legally bound to state the truth on any subject, to any such Court, refuses to answer any question demanded of him touching such subject by the Court ; or

(d) intentionally offers any insult or causes any interruption to any such Court at any stage of its judicial proceeding.

he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person refuses to sign any statement made by him, when required to do so by a Co-operative Court or the Co-operative Appellate Court, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

<sup>1</sup> Section 148-A was inserted by Mah. 3 of 1974, s. 37.

V of  
1898.

(3) If any offence under sub-section (1) or (2) is committed in the view or presence of a Court concerned, the said Court may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1898, forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of the accused person before such Magistrate or, if sufficient security is not given, shall forward such person in custody to such Magistrate. The Magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the Code of Criminal Procedure, 1898.

V of  
1898.

(4) If any person commits any act or publishes any writing which is calculated to improperly influence a Co-operative Court or the Co-operative Appellate Court to bring any such Court or a member thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.

(5) In the case of contempt of itself, the Co-operative Appellate Court shall record the facts constituting such contempt, and make a report in that behalf to the High Court.

(6) In the case of contempt of a Co-operative Court, the Co-operative Court shall record the facts constituting such contempt, and make a report in that behalf to the Co-operative Appellate Court, and thereupon, that Court may, if it considers it expedient to do so, forward the report to the High Court.

(7) When any intimation or report in respect of any contempt is received by the High Court under sub-section (5) or (6), the High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.]

### CHAPTER XIII.

#### APPEALS, REVIEW AND REVISION.

149. <sup>1</sup>[(1) A Court to be called the Maharashtra State Co-operative Appellate Court is hereby constituted to exercise the powers and to discharge the functions conferred on it by or under this Act.]

Maharashtra  
State Co-  
operative  
[Appellate  
Court].

(2) The <sup>2</sup>[Co-operative Appellate Court] shall consist of the President, <sup>3</sup>[and such number of other members as the State Government may from time to time consider necessary, who possess] such qualifications as may be prescribed. <sup>4</sup>[The President and other members shall hold office for such period or such different periods as may be prescribed.]

(3) Any vacancy in the membership of the <sup>5</sup>[Co-operative Appellate Court] shall be filled by the State Government.

<sup>6</sup>[(4) All or any of the powers and functions of the Co-operative Appellate Court may be exercised and discharged by any of its members sitting singly or in Benches, as may be determined by the President. ]

(5) Such Benches shall consist of two or more members.

<sup>1</sup> Sub-section (1) was substituted by Mah. 3 of 1974, s. 38 (a).

<sup>2</sup> These words were substituted, for the word "Tribunal", *ibid.*, s. 38(c).

<sup>3</sup> These words were substituted for the words "and not more than three other members possessing" by Mah. 27 of 1971, s. 3.

<sup>4</sup> These words were inserted by Mah. 3 of 1974, s. 38 (b).

<sup>5</sup> Sub-section (4) was substituted for the original by Mah. 36 of 1975, s. 12(a).

<sup>6</sup> These words were substituted for the word "Tribunal", by Mah. 3 of 1974, s. 38(e).

(6) Where a matter is heard <sup>1</sup>[by an odd number of members constituting a Bench] the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members the opinion of the President shall prevail; and in other cases the matter shall be referred for hearing to the President and shall be decided in accordance with his decision.

(7) Subject to the previous sanction of the State Government, the <sup>2</sup>[Co-operative Appellate Court] shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(8) The regulations made under sub-section (7), shall be published in the *Official Gazette*.

(9) The <sup>2</sup>[Co-operative Appellate Court] may call for and examine the record of any proceeding which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the <sup>2</sup>[Co-operative Appellate Court] that any such decision or order should be modified, annulled or reversed, the <sup>2</sup>[Co-operative Appellate Court] may pass such order thereon as it may deem just.

(10) Where <sup>3</sup>[an appeal or application is made to the <sup>2</sup>[Co-operative Appellate Court] under this Act], it may, in order to prevent the ends of justice being defeated make such inter-locutory orders pending the decision of the appeal <sup>4</sup>[for application, as the case may be] may appear to it to be just and convenient, or such orders as, may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(11) An order passed in appeal, or in revision under sub-section (9), or in review under section 150 by the <sup>2</sup>[Co-operative Appellate Court], shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

<sup>5</sup>[(12) (a) The President and other members of the Maharashtra State Co-operative Tribunal functioning immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, shall be deemed respectively to be the President and other members of the Maharashtra State Co-operative Appellate Court constituted for the purpose of this Act; and all appeals and other proceedings pending before the said Tribunal shall be heard and disposed of by the said Court from the stage they reached before such commencement.

(b) Anything done or any action taken (including any orders passed or regulations made) by the said Tribunal, shall be deemed to have been done or taken by the said Court and shall continue in operation until duly modified or annulled.

(c) Any reference to the said Tribunal in any law or instrument, for the time being in force, shall, with effect from the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, be construed as a reference to the said Court.]

*Explanation.*—The <sup>2</sup>[Co-operative Appellate Court] hearing an appeal under this V of Act shall exercise all the powers conferred upon an appellate court by section 97 and 1968. Order XLI in the First Schedule of the Code of Civil Procedure, 1908.

<sup>1</sup> These words were substituted for the words "by three members" by Mah. 36 of 1975, s. 12(b).

<sup>2</sup> These words were substituted, for the word "Tribunal" by Mah. 3 of 1974 s. 38 (c).

<sup>3</sup> These words were substituted, for the words "an appeal is made to the Tribunal under section 97" by Mah. 33 of 1963, s. 29 (a).

<sup>4</sup> These words were inserted, *ibid.*, s. 29 (b).

<sup>5</sup> Sub-section (12) was added by Mah. 3 of 1974, s. 38 (d).

150. (1) The [Co-operative Appellate Court] may, either on the application of the Registrar, or on the application of any party interested, review its own order in any case, and pass in reference thereto such order as it thinks just :

Review of orders of [Co-operative Appellate Court].

Provided that, no such application made by the party interested shall be entertained, unless the [Co-operative Appellate Court] is satisfied that there has been the discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason :

Provided further that, no such order shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under the foregoing sub-section by any party, shall be made within ninety days from the date of the communication of the order of the [Co-operative Appellate Court].

151. (1) In exercising the functions conferred on it by or under this Act, the [Co-operative Appellate Court] shall have the same powers as are vested in a Court in respect of,—

[Co-operative Appellate Court] to have power of Civil Court.

- (a) proof of facts by affidavit,
- (b) summoning and enforcing the attendance of any person and examining him or oath,
- (c) compelling discovery or the production of documents, and
- (d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the [Co-operative Appellate Court] in this behalf may administer the oath to the deponent.

152. (1) An appeal against an order or decision under sections 4, 9, <sup>2\*</sup>, 12, 13, Appeals. 14, 17, 18, 19, 21, 29, 35, 78, <sup>3\*</sup> and 105 shall lie,—

(a) if made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government,

(b) if made or sanctioned by any person other than the Registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the Registrar.

(2) An appeal against an order or decision under sections 79, 85 and 88, and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the [Co-operative Appellate Court] has been provided under this Act, shall lie to the [Co-operative Appellate Court].

(3) An appeal under sub-section (1) or (2) shall be filed within two months of the date of the communication of the order or decision.

<sup>4</sup>[(4) Save as expressly provided, no appeal shall lie against any order, decision or award passed in accordance with the provisions of this Act ; and every such order, decision or award shall, whether expressly provided or not, be final, but shall always be subject to the provisions for revision in this Act ; and where an appeal has been provided for, any order passed on appeal shall likewise be final, but be subject to such revision provisions].

<sup>1</sup> These words were substituted for the word "Tribunal" by Mah. 3 of 1974, ss. 39, 40 and 41.

<sup>2</sup> The figures "11" were deleted, *ibid*, s. 41(a).

<sup>3</sup> The figures "102" were deleted by Mah. 33 of 1963, s. 30.

<sup>4</sup> Sub-section (4) was substituted for the original by Mah. 37 of 1965, s. 2 and the said sub-section shall be deemed always to have been enacted in this form.

Extension of period of limitation by appellate authority in certain cases. **153.** In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

Revisionary powers of State Government and Registrar **154.** (1) The State Government or the Registrar, *suo motu* or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings. If in any case, it appears to the State Government or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.

(2) Under this section, the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

(3) No application for revision shall be entertained, if made after two months of the date of communication of the decision or order. The revisional authority may entertain any such application made after such period, if the applicant satisfies it that he had sufficient cause for not making the application within such period.

(4) The State Government may, by order, direct that the powers conferred on it by this section shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised also by an officer of the rank of Secretary to Government.]

## CHAPTER XIV.

### MISCELLANEOUS.

Recovery of sums due to Government. **155.** (1) Unless otherwise provided by this Act, all sums due from a society or from an officer or member or past member or a deceased member of a society as such to the Government, may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(2) Sums due from a society to the Government and recoverable under the foregoing sub-section may be recovered, firstly from the property of the society, secondly in the case of a society of which the liability of the members is limited, from the members or past members or the estate of deceased members subject to the limit of their liability, and, thirdly, in the case of societies with unlimited liability from the members or past members or estate of deceased members.

(3) The liability of past members or estate of deceased members shall in all cases be subject to the provisions of section 33.

Registrar's powers to recover certain sums by attachment and sale of property. **156.** (1) The Registrar or any officer subordinate to him and empowered by him in this behalf may, subject to such rules as may be made by the State Government, but without prejudice, to any other mode of recovery provided by or under this Act, recover—

(a) any amount due under a decree or order of a Civil Court obtained by a society ;

<sup>1</sup> Section 154 was substituted by Mah. 3 of 1974, s. 42.

(b) any amount due under a decision, award or order of the Registrar, [Co-operative Court] or Liquidator or <sup>2</sup>[Co-operative Appellate Court];

(c) any sum awarded by way of costs under this Act;

(d) any sum ordered to be paid under this Act as a contribution to the assets of the Society;

<sup>3</sup>(e) any amount due under a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or under sub-section (1) of section 137 ;]

together with interest, if any, due on such amount or sum and the costs of process by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section, or when passing any orders on any application made to him for such recovery, to be a Civil Court for the purposes of article 182 in the First Schedule to the Indian Limitation Act, 1908.

IX of 1908.

157. The State Government may, by general or special order, \* \* \* \* \* Power to exempt societies from provisions of Act.  
 \* \* \* \* \* exempt any society or class of societies from any of the provisions of this Act, <sup>5</sup>[or of the rules made thereunder,] or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order :

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

158. The State Government may, by notification in the *Official Gazette*, and subject to such conditions (if any) as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal authority or to an officer thereof <sup>6</sup>[or to any officer of the *Zilla Parishad* constituted under the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961 and such officer of the *Zilla Parishad* shall work under the general guidance, superintendence and control of the Registrar] specified in the notification. Delegation of power of Registrar to federal authorities.

Mah. V of 1962.

159. (1) No society shall open a branch or a place of business outside the State or Maharashtra, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the State of Maharashtra, without the permission of the Registrar. Branches, etc. of societies outside the State.

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

<sup>1</sup> These words were substituted for the word "arbitrator", by Mah. 3 of 1974 s. 43.

<sup>2</sup> These words were substituted for the word "Tribunal", *ibid.*

<sup>3</sup> Clause (e) was inserted by Mah. 33 of 1963, s. 31.

<sup>4</sup> The words "to be published in the *Official Gazette*," were deleted by Mah. 27 of 1969, s. 22(a).

<sup>5</sup> These words were inserted, *ibid.*, s. 22(b).

<sup>6</sup> This portion was inserted by Mah. 5 of 1962, s. 286, Tenth Sch.



Handing over records and property to new Chairman on election

**160.** (1) On the election of a new Committee and its Chairman, the retiring Chairman, in whose place the new Chairman is elected, shall hand over charge of the office of the Committee and all papers and property, if any, of the society in possession of the committee or any officer thereof, to the new Chairman of the Committee.

(2) If the retiring Chairman fails or refuses to hand over charge, or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property.

(3) If the retiring Chairman to whom a direction has been issued as aforesaid, does not comply with such direction, he shall on conviction be punished with simple imprisonment which may extend to one month, or with fine which may extend to five hundred rupees or with both; and the Registrar may, on the retiring Chairman's failure to comply with such direction, take order for seizing the records and property and handing it over to the new Chairman, in the manner provided in section 80.

Members of State Legislature and certain local authorities not to remunerated while holding certain offices in societies.

**160A.** Notwithstanding anything contained in this Act, or the rules or by-laws made thereunder, a member of the State Legislature or of a committee under the Hyderabad District Municipalities Act, 1956, or a member of a *Zilla Parishad* or *Panchayat Samiti* under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, while holding the office of Chairman of members of the committee of a society to which appointment is made by the State Government, or the office of liquidator or the office of nominee of the Registrar whether appointed individually or to a board of nominees, shall not be entitled to receive any remuneration other than travelling allowance, the daily allowance or such other allowance which is paid to the holder of any such office for the purpose of meeting the personal expenditure incurred in attending the meeting of the committee or body, or in performing any other functions as the holder of such office. <sup>Hyd. XVIII of 1956. Mah. V of 1962.</sup>

Members of committees not entitled to travelling allowance, daily allowance, etc. at a rate higher than the maximum prescribed.

**160B.** Subject to the provisions of section 160A, no member of the committee of any society shall be entitled to receive from the society the travelling allowance, the daily allowance or such other allowances or fees which are paid to the members for attending meetings of its committee, or for performing any other functions as such members, at a rate higher than the maximum rate prescribed in this behalf and different maximum rates may be prescribed for different societies or class of societies or for different purposes.]

Registrar and other officers to be public servants.

**161.** The Registrar, a person exercising the powers of the Registrar, a person authorised to audit the accounts of a society under section 81, or to hold an inquiry under section 83, or to make an inspection under section 84, and a person appointed as an administrator under section 78, <sup>3</sup>[or as a member constituting a Co-operative Court under section 91A] or as a Liquidator under section 103, <sup>4</sup>[or an officer as defined in clause (20) of section 2,] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. <sup>XLV of 1860.</sup>

<sup>1</sup> Section 160A was inserted by Mah. 23 of 1963, s. 6.

<sup>2</sup> Section 160B was inserted by Mah. 27 of 1969, s. 23.

<sup>3</sup> These words were substituted for the words "or as a nominee or board of nominees under section 93" by Mah. 3 of 1974, s. 44.

<sup>4</sup> These words, brackets and figures were inserted by Mah. 27 of 1969, s. 24.

162. No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority, in respect of anything in good faith done, or purported to be done by him by or under this Act. Indemnity for acts done in good faith.

163. (1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of— Bar of jurisdiction of Courts.

(a) the registration of a society or its by-laws, or the amendment of its by-laws, or the dissolution of the committee of a society, or the management of the society on dissolution thereof; or

(b) any dispute required to be referred to the Registrar, [or the Co-operative Court,] for decision;

(c) any matter concerned with the winding up and dissolution of a society.

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

(3) All orders, decisions or awards passed in accordance with this Act or the rules shall, subject to the provisions for appeal or revision in this Act be final; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits or upon any other ground whatsoever.

\* \* \* \* \*

164. No suit shall be instituted against a society, or any of its officers, in respect of any act touching 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. Notice necessary in suits.

165. (1) The State Government may, for the whole or any part of the State and for any society or class of societies, make rules for the conduct and regulation of the business of such society or class of societies, and for carrying out the purpose of this Act. Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(i) subject to the provisions of section 3, prescribe the designation of officers who shall exercise powers vested in the Registrar;]

(ii) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 8 and the procedure in the matter of such application;

(iii) prescribe the matters in respect of which a society may make, or the Registrar may direct a society to make, by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(iv) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion, or reconstruction of society;

(v) prescribe the form of and procedure for an application under section 19 and the procedure for reconstruction of a society under that section;

<sup>1</sup> These words were substituted for the words " or his nominee or board of nominees " by Mah. 3 of 1974, s. 45.

<sup>2</sup> The words " except for want of jurisdiction " were deleted, by Mah. 27 of 1969, s. 25.

<sup>3</sup> Clause (f) was substituted by Mah. 33 of 1963, s. 32(a).

(vi) prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(vii) prescribe in the case of a federal society or class of federal societies the proportion of individual members to society members in such society or class of societies and the proportion of individual members to society members in the committee of such society or class of societies;

(viii) subject to the provisions of section 28, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(ix) prescribe the procedure for the admission of joint members, members of a joint Hindu undivided family, and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;

(x) provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of, deceased members;

(xi) prescribe the conditions and procedure for the transfer of share or interest;

(xii) provide for the nomination of a person to whom the share or the interest of a deceased member may be paid or transferred;

(xiii) provide for ascertaining the value of a share or interest of a past member or deceased member;

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

(xv) provide for the inspection of documents in the Registrar's office and the levy of fee for granting certified copies of the same;

(xvi) provide for the procedure for registering the address of a society and the change of its address;

(xvii) provide for the formation and maintenance of a register of members, and where the liability of members is limited by shares, of a register of shares and a list of members;

(xviii) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;

(xix) provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;

(xx) prescribe the period for and terms upon which Government aid may be given to societies and terms under which the State Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies;

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

(xxii) prescribe the limits for loans to be granted by a society or class of societies against different class of securities or without security and the procedure for granting loans;

(xxiii) prescribe the manner of recalling a loan;

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

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

(xxvi) prescribe the conditions on which any charge in favour of a society shall be satisfied and the extent to which and the order in which the property to the charge shall be used in its satisfaction;

(xxvii) provide for giving reasonable notice of the charge under section 48;

(xxviii) prescribe the procedure by which a society shall calculate and write off bad debts;

(xxix) prescribe the sums which, in addition to those referred to in section 65(1), shall be deducted from profits before arriving at the profit for the purpose of section 65(2);

(xxx) provide for the formation and maintenance of reserve fund, and the subjects to which such fund may be applied and for the investment and use of any fund including reserve fund under the control of a society;

(xxxi) prescribe the conditions under which profits may be distributed as dividend and bonus among the members and non-members of a society;

(xxxii) prescribe the rate at which a society shall contribute towards the education fund of the State federal society under section 68;

[<sup>1</sup>(xxxii-a) prescribe the rate or rates at which, and the manner in which, the societies (including other corporate bodies) shall contribute towards the Co-operative State Cadre Employment Fund under section 69A;]

<sup>1</sup> Clause (xxxii-a) was inserted by Mah. 30 of 1978, s. 4.

(xxxiii) define the co-operative purpose for which a society shall, under section 69, utilise its fund;

(xxxiv) prescribe the mode of investment of funds of a society under section 70 and the proportion of investment in any security or class of securities;

(xxxv) provide for the payment of contribution to any provident fund which may be established by a society for the benefit of officers and servants employed by it and for the administration of such provident fund;

(xxxvi) prescribe the procedure and conditions for the exercise by a federal society of the powers conferred by this Act;

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

(xxxviii) prescribe the conditions in which a member of a society may be disqualified from voting;

(xxxix) <sup>1</sup>[provide for the removal and appointment of the committee or its members] and other officers and for the appointment of administrator under section 78 and prescribe procedure at meeting of the committee and for the powers to be exercised and the duties to be performed by the committee, administrator and other officers;

(xl) prescribe qualifications for members of the committee and employees of a society or class of societies <sup>2</sup>[duties to be performed by, and several and joint liabilities therefor, of, such members] and the conditions of service subject to which persons may be employed by societies;

<sup>3</sup>(xl-a) prescribe the amount and nature of the security to be furnished by any officers or employees of any society or class of societies, who are required to handle cash, securities or property belonging to the society, the maximum amount of cash which may be handled or kept at a time by any officer or employee, and the amount, in excess of which, all payments shall be made by or on behalf of the society by means of a cheque;

(xli) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

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

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

(xliv) provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 81, 83 and 84 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities cash and other properties are likely to be tampered with or destroyed or removed;

(xlv) prescribe the accounts and books to be kept by a society or class of societies;

<sup>1</sup> These words were substituted for the words "provide for the appointment, suspension and removal of the members of the committee" by Mah. 33 of 1963, s. 32(b).

<sup>2</sup> These words were inserted, *ibid.*, s. 32(c).

<sup>3</sup> Clause (xl-a) was inserted by Mah. 27 of 1969, s. 26.

(xvi) prescribe the procedure for conducting an audit, the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of a society, the form of audit memorandum and report and the charges, if any, to be paid by a society for audit ;

(xvii) prescribe the procedure for appointment of auditors under section 81 ;

(xviii) prescribe the form for the rectification of defects discovered in the course of audit, inspection or inquiry ;

(xlix) prescribe the procedure and principles for the conduct of inquiry under section 83 and inspection under section 84 ;

(i) prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 88 and for recovery of cost and damages ;

(ii) prescribe the manner in which appointment shall be made and control exercised by, and the number of persons comprising, and functions to be performed by, the authority constituted under section 90 the manner of election and nomination of such persons, the fees to be paid to such authority and the manner of such payment and the procedure for and the method of calculating any cost, charges or expenses required to be levied under this Act or the rules ;

<sup>1</sup>(iii) prescribe the qualifications of the members constituting the Co-operative Courts, provide for the terms and conditions of their appointment, prescribe the procedure to be followed in proceedings before the Registrar and the Cooperative Courts <sup>2</sup>; provide for fixing, levying and collecting appropriate fees and expenses for determining the disputes (including expenses incurred by the parties to the proceedings), having regard to the services rendered or to be rendered or, any expenditure incurred or likely to be incurred for the machinery set up therefor, provide for delegation of the power of fixing the scale of any such fees and expenses to the Registrar, (and all such fees and expenses being applicable to any disputes and other proceedings which may be pending immediately before the

<sup>1</sup> Clause (iii) was substituted by Mah. 3 of 1974, s. 46(a).

<sup>2</sup> This portion was deemed to have been substituted for the portion beginning with the words "and provide for" and ending with the words "such proceedings" by Mah. 58 of 1977, s. 4 with effect from 21st February 1974.

S. 3 of Mah. 58 of 1977 reads as follows :—

"3. Notwithstanding anything contained in the principal Act or the rules or orders made thereunder or the orders made under these rules, or any other law for the time being in force, or charging and in any judgment, decision, decree, award or order of any Court or Tribunal, rule 86 of the Maharashtra Co-operative Societies Rules, 1961, made or purported to have been made by the State Government under clause (iii) of sub-section (2) of section 165 of the principal Act with effect from the 1st March 1975 and the orders made or purported to have been made, from time to time, expenses for by the Registrar under the said rule, shall be deemed to have been duly and validly made under determining the authority of the said section as amended by this Act and shall continue to be in force in the disputes, same form, until duly repealed or amended by the competent authority. And, accordingly, according to any action taken by the Registrar in laying down the fees and expenses to be paid to him or the scales Co-operative Court for determining the disputes and other proceedings and for making them laid down in applicable also to the disputes and other proceedings pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, and transferred 86 and orders to the Co-operative Courts, and any fees already levied and collected or which may be levied made and collected hereafter in the form of court-fees, in cash or in any other manner, shall be deemed thereunder. to be valid. The fixing, levying and collection of these fees and expenses in any disputes or other proceedings shall not be called in question before any Court or Tribunal merely on the ground that there is no authority for fixing or levying such fees or expenses or that such fees or expenses were not or are not chargeable in any pending proceedings or that such fee cannot be levied or collected in the form of court-fee stamps or on such other ground."

commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973 or which may be referred to or instituted thereafter), provided for the mode of payment of these fees and expenses whether in the form of court-fee stamps, in cash or in any other manner ; and provide for enforcing the decisions, awards or orders in such proceedings ;

- (liii) prescribe the form in which a dispute shall be referred to the Registrar ;
- (liv) provide for the issue and service of processes and for providing of service thereof ;
- (lv) provide for the investigation of claims and objections that may be preferred against any attachment effected <sup>1</sup>[under section 95] ;
- (lvi) prescribe the procedure for and the method of recovery of any sums due under this Act or the rules ;
- (lvii) prescribe the procedure to be followed for the custody of property attached under section 95 ;
- (lviii) prescribe the procedure to be followed in the execution of awards ;
- (lix) prescribe the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by, a society under section 100 ;
- (lx) prescribe the procedure for attachment and sale of property for the realisation of any security given by a person in the course of execution proceedings ;
- (lxi) prescribe the procedure and conditions for the exercise of the powers conferred under section 105 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets ;
- (lxii) prescribe the matters in which an appeal shall lie from the order of a Liquidator appointed under section 103 ;
- (lxiii) prescribe the procedure and conditions for the issue, redemption, reissue, transfer, replacement or conversion of debentures issued by a society to which Chapter XI is applicable ;
- (lxiv) prescribe the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XI is applicable ;
- (lxv) prescribe the qualifications and methods of appointment of an officer to effect sale under section 133 and the powers and functions which such an officer may exercise ;
- (lxvi) prescribe for the appointment of a receiver of the produce and income of the mortgaged property for sale under section 133, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive ;
- (lxvii) prescribe the circumstances in which action may be taken by a land development bank against a mortgagor under section 133(2) ;
- (lxviii) prescribe in case of sale of immovable property under Chapter XI—
- (a) the procedure for proclamation and conduct of the sale and the conditions on which an attempt of sale may be abandoned ;
- (b) the method of calculating the expenses incidental to the sale or attempted sale ;
- (c) the procedure for the receipt of deposit and disposal of the proceeds of sale ;

<sup>1</sup> These words and figures were substituted for the words " by the Registrar " by Mah. 33 of 1963, s.32(d).

(d) the procedure for a resale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money ;

(e) the form and method of disposal of money by a land development bank under section 135 ;

(f) the form of sale certificate under section 136 ;

(g) the procedure for the delivery by the Court of the property purchased to the purchaser under section 136 ;

(h) the form of the notice referred to in section 143 ; and

(i) the fee payable for the service of such notices and the manner of serving such notices on, and of the transmitting landlords' fee to, the landlord named in such notices ;

(lix) prescribe the time within which and the procedure according to which property purchased by a land development bank at a sale of immovable property under Chapter XI shall be disposed of by the bank ;

(lxx) prescribe the procedure to be followed in presenting and disposing of appeals ;

<sup>1</sup>[(lxxi) prescribe the qualifications and the period of office of members of the Co-operative Appellate Court ;]

(lxxii) prescribe in the case of appeals lying to the State Government the authority to which power of hearing appeals may be delegated ;

(lxxiii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules ;

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<sup>1</sup> Clause (lxxi) was substituted by Mah. 3 of 1974, s. 46(d).



(*law*) provide that the contravention of any of the rules shall be an offence under the Act ;

(*law*) provide for all other matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

Bom.  
VII  
of  
1925.

166. (1) The Bombay Co-operative Societies Act, 1925, in its application to the State of Maharashtra is hereby repealed :

Repeal,  
saving and  
construction.

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

(2) Accordingly, all societies registered or deemed to be registered under the Act repealed the registration of which is in force at the commencement of this Act, shall on such commencement be deemed to be registered under this Act ; and all proceedings pending immediately before such commencement before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person under the provisions of the repealed Act shall stand transferred, where necessary, to the Registrar, arbitrator, liquidator or tribunal or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person to such officer, authority or person as the State Government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

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

I of  
1956.

167. For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956, shall not apply to societies registered, or deemed to be registered, under this Act.

Companies  
Act not to  
apply.



# महाराष्ट्र शासन राजपत्र

असाधारण  
प्राधिकृत प्रकाशन

बुधवार, मे १०, २००६/वैशाख २०, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Act, 2006 (Mah. XX 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,

Secretary to Government,

Law and Judiciary Department.

### MAHARASHTRA ACT No. XX OF 2006.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 10th May 2006.).

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

Mah. XXIV of 1961. WHEREAS it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; it is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2006. Short title.

भाग आठ—७६

(३५४)

[ किंमत : रुपये ९.०० ]

Amendment  
of section  
101 of Mah.  
XXIV of  
1961.

2. In section 101 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the principal Act"),—

Mah.  
XXIV  
of  
1961.

(a) in sub-section (1), for the portion beginning with the words "the Registrar may, after making such inquiries as he deems fit" and ending with the words "due as arrears" the words "the Registrar may, after making the inquiry in such manner as may be prescribed, grant a certificate for the recovery of the amount stated therein to be due as arrears. The application for grant of such certificate shall be made in such form and by following such procedure, accompanied by such fees and documents as may be prescribed" shall be substituted;

(b) in sub-section (2), for the words "as he deems fit" the words "as may be prescribed" shall be substituted.

Amendment  
of section  
165 of Mah.  
XXIV of  
1961.

3. In section 165 of the principal Act, in sub-section (2), after clause (lix), the following clause shall be inserted, namely:—

"(lix-a) to prescribe the manner in which inquiry is to be made by the Registrar for grant of certificate for recovery under section 101; the form and procedure for the application for grant of such certificate and the fees and documents to be accompanied thereto;"



# महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, डिसेंबर १०, २००७/अग्रहायण १९, शके १९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Act, 2007 (Mah. Act No. XXX of 2007), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,  
Secretary to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. XXX OF 2007.

*(First published, after having received the assent of the Governor, in the "Maharashtra Government Gazette", on the 10th December 2007).*

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

WHEREAS, both Houses of the State Legislature were not in session ;

AND WHEREAS, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Co-operative Societies (Amendment) Ordinance, 2007, on the 18th August 2007 ;

Mah.  
XXIV  
of  
1961.  
Mah.  
Ord. VI  
of 2007.

(५४५)

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:—

- Short title and commencement. **1. (1)** This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2007.
- (2) It shall be deemed to have come into force on the 18th August 2007.
- Amendment of section 73-A of Mah. XXIV of 1961. **2.** In section 73-A of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “the principal Act”),—
- (a) sub-section (5) shall be deleted;
- (b) in the marginal note, the words “or for being designated officer of the same society for more than ten years” shall be deleted.
- Repeal of Mah. Ord. VI of 2007 and saving. **3. (1)** The Maharashtra Co-operative Societies (Amendment) Ordinance, 2007, is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.



# महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, डिसेंबर १०, २००७/अग्रहायण १९, शके १९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Third Amendment) Act, 2007 (Mah. Act No. XXXI of 2007), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,  
Secretary to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. XXXI OF 2007.

(First published, after having received the assent of the Governor, in the "Maharashtra Government Gazette", on the 10th December 2007).

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

Mah. XXIV of 1961. WHEREAS, it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing ; It is hereby enacted in the Fifty-eighth year of the Republic of India as follows :—

1. This Act may be called the Maharashtra Co-operative Societies Short title. (Third Amendment) Act, 2007.

Amendment  
of section  
73F of Mah.  
XXIV of  
1961.

2. Section 73F of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the principal Act"), shall be re-numbered as sub-section (1) thereof; and,—

Mah.  
XXIV  
of  
1961.

(a) in sub-section (1) as so re-numbered,—

(i) for the words "who or whose near relation is a dealer in such goods or is a director of a company or a partner in a firm carrying on business in such goods", the words "who is a dealer in such goods or is a director of a company or a partner in a firm carrying on business in such goods, in the area of operation of the society" shall be substituted;

(ii) the Explanation shall be deleted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be added, namely :—

"(2) Any member who desires to carry on the business of the kind carried on by the society outside the area of operation of the society may apply to the society for permission to carry on such business. The society may grant such permission subject to such conditions as may be prescribed."; and

(c) in the marginal note, the words "or whose near relation" shall be deleted.

Amendment  
of section  
73FF of  
Mah. XXIV  
of 1961.

3. In section 73-FF of the principal Act, in sub-section (1), for clause (v), the following clause shall be substituted, namely :—

"(v) carries on business of the kind carried on by the society either in the area of operation of the society or in contravention of the provisions of sub-section (2) of section 73F; or".

Amendment  
of section  
165 of Mah.  
XXIV of  
1961.

4. In section 165 of the principal Act, in sub-section (2), after clause (xxxv-d), the following clause shall be inserted, namely :—

"(xxxv-d-1) prescribe the conditions, on which the society may grant permission to a member to carry on the business of the kind carried on by it, outside its area of operation, under section 73F (2);".



# महाराष्ट्र शासन राजपत्र

असाधारण  
प्राधिकृत प्रकाशन

शुक्रवार, मे २, २००८/वैशाख १२, शके १९३०

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Act, 2008 (Mah. XI of 2008), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,  
Secretary to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. XI OF 2008.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 2nd May 2008).

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2007, on the 29th October 2007;

AND WHEREAS upon the re-assembly of the State Legislature on the 19th November 2007, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in

Mah.  
XXIV of  
1961.  
Mah.  
Ord. VII  
of 2007.

(४५७)



the Maharashtra Legislative Assembly on the 22nd November 2007, but it could not be passed as the same came to be referred to the Joint Committee of both Houses of the State Legislature ;

AND WHEREAS the said Ordinance would have ceased to operate after 30th day of December 2007, on which date the period of six weeks from the date of re-assembly of the State Legislature was to expire ;

AND WHEREAS both houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the provisions of the said Ordinance promulgated the Maharashtra Co-operative Societies (Second Amendment) (Continuance) Ordinance, 2007 on the 28th December 2007 ;

Mah.  
Ord.  
VIII of  
2007.

AND WHEREAS it is expedient to replace the Maharashtra Co-operative Societies (Second Amendment) (Continuance) Ordinance, 2007, by an Act of the State Legislature ; it is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :—

Mah.  
Ord.  
VIII of  
2007.

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 29th October 2007.

Amendment  
of section 2  
of Mah.  
XXIV of  
1961.

2. In section 2 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the principal Act"),—

Mah.  
XXIV  
of  
1961.

(a) after clause (10-aii), the following clause shall be inserted, namely :—

"(10-aii-1) "co-operative credit structure entity" means the primary agricultural credit co-operative society, the District Central Co-operative Bank or the State Co-operative Bank ;"

(b) after clause (10-A), the following clause shall be inserted, namely :—

"(10-B) "depositor" or "financial service user" means a person who deposits certain amount in primary agricultural co-operative credit society for such period as may be prescribed ;"

(c) in clause (19), in sub-clause (a), the following words shall be added at the end, namely :—

"and any depositor or financial service user of primary agricultural co-operative credit society" ;

(d) after clause (19), the following clause shall be inserted, namely :—

"(19A) "National Bank" means the National Bank for Agriculture and Rural Development (NABARD), constituted under the provisions of the National Bank for Agriculture and Rural Development Act, 1981 ;"

61 of  
1981.

3. In section 6 of the principal Act, in sub-section (1), after the first proviso, the following proviso shall be added, namely :—

Amendment  
of section 6  
of Mah.  
XXIV of  
1961.

“ Provided further that, the condition regarding residence of the members in the area of operation of the society shall not apply for registration of the society, being the co-operative credit structure entity.”

4. In section 13 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—

Amendment  
of section  
13 of Mah.  
XXIV of  
1961.

“ Provided that, the application for registration of the amendment of by-laws of the co-operative credit structure entity shall be disposed of, by the Registrar within a period of one month from the date of its receipt.”

5. In section 21A of the principal Act, in sub-section (1), after the word “ served ” the following words shall be inserted, namely :—

Amendment  
of section  
21A of  
Mah. XXIV  
of 1961.

“ or any primary agricultural co-operative credit society using the word ‘Bank’, ‘Banking’, ‘Banker’ or any other derivative of the word ‘Bank’ in its name.”

6. In section 22 of the principal Act, in sub-section (1), after clause (f), the following clause shall be inserted, namely :—

Amendment  
of section  
22 of Mah.  
XXIV of  
1961.

“ (g) the depositor or the financial service user :”

7. In section 27 of the principal Act, after sub-section (11), the following sub-section shall be added, namely :—

Amendment  
of section  
27 of Mah.  
XXIV of  
1961.

“ (12) In the case of a primary agricultural credit co-operative society, the depositor or financial service user shall have right to vote :

Provided that, out of joint depositors, joint financial service users whose name stands first in the relevant documents shall have the right to vote and in his absence whose name stands second and in the absence of both, the next shall have the right to vote :

Provided also that, unless two years by an individual depositors or financial service users are completed from the date of deposit or financial service use, no such person shall have right to vote ; and, the depositor or the financial service user, other than an individual, shall have right to vote in the affairs of a primary agricultural credit co-operative society, provided they complete three years from the date of deposit or financial service use.”

Amendment  
of section  
43 of Mah.  
XXIV of  
1961.

8. In section 43 of the principal Act,—

(a) to sub-section (1), the following proviso shall be added, namely :—

“ Provided that, the co-operative credit structure entity shall adopt its own policies regarding interest rates on deposits and loans in conformity with the Reserve Bank of India guidelines. ” ;

(b) in sub-section (2), after the first proviso, the following proviso shall be added, namely:—

“ Provided further that, nothing in this sub-section shall apply to the co-operative credit structure entity. However, such entity may adopt its own policy in conformity with the Reserve Bank of India guidelines.”;

(c) after sub-section (2), the following sub-section shall be added, namely :—

“ (3) Notwithstanding anything contained in sub-sections (1) and (2), and subject to the guidelines issued by the Reserve Bank of India and the National Bank, from time to time, a co-operative credit structure entity may,—

(a) borrow from any financial institution regulated by the Reserve Bank of India, keeping in view the interest of the society and its members ;

(b) decide interest rates on deposits and loans ; and

(c) decide loan policies and issues relating to individual loans.”

Amendment  
of section  
44 of Mah.  
XXIV of  
1961.

9. In section 44 of the principal Act, after the first proviso, the following proviso shall be added, namely :—

“ Provided further that, nothing in this section shall apply to the loan making policy made by the co-operative credit structure entity. However, such entity shall adopt its own policy in conformity with the Reserve Bank of India guidelines. ”

Amendment  
of section  
50 of Mah.  
XXIV of  
1961.

10. To section 50 of the principal Act, the following proviso shall be added, namely :—

“ Provided that, in the case of the co-operative credit structure entity, the State Government shall not hold more than 25% of the total share capital and the entity shall have option to further reduce the share capital contributed by the Government. ”

11. To section 67 of the principal Act, the following proviso shall be added, namely :—

“ Provided that, the primary agricultural credit co-operative society shall pay dividend to its members as per the guidelines issued by the Registrar, in accordance with criteria specified by the National Bank. ”

Amendment  
of section  
67 of Mah.  
XXIV of  
1961.

12. In section 68 of the principal Act, in sub-section (1), for the words “ Every society ” the words “ Every society not being co-operative credit structure entity ” shall be substituted.

Amendment  
of section  
68 of Mah.  
XXIV of  
1961.

13. For section 69A of the principal Act, the following section shall be substituted, namely :—

Substitution  
of section  
69A in  
Mah. XXIV  
of 1961.

“ 69A. (1) There shall be constituted a Co-operative State Cadre of Secretaries of primary agricultural credit societies, multi-purpose co-operative societies and service co-operatives and such other classes of societies as may be prescribed in this behalf (hereinafter in this section referred to as “ the Co-operative State Cadre ”) consisting of persons recruited for this purpose by the Central Societies notified in this behalf by the State Government. The number of persons to be recruited and their conditions of service shall be determined by the Central Societies in accordance with such general or special guidelines, if any, as may be issued by the State Government, from time to time.

Constitution  
of  
Co-operative  
State Cadre  
of Secretaries  
of certain  
societies and  
establishment  
of Employ-  
ment Fund  
for such  
Cadre.

(2) A Central Society may, from time to time, depute any person appointed by it to that cadre to work under any society referred to in sub-section (1), as it may consider necessary. Where any such person is posted to work under any society, his services shall be taken over by the society on such post, for such period and on such other terms and conditions, as the Central Society may determine, but the person so posted shall draw his salary and allowances from the Fund established under sub-section (3).

(2A) The immediate initial supervisory control on the person appointed to the cadre and deputed or posted to work as secretary under each of the societies referred to in sub-section (1) shall be with the Taluka Supervision Society consisting of the societies, in each respective Taluka to which such persons are deputed, as members thereof and registered for the purpose. The Taluka Supervision Society shall, exercise such powers and discharge such functions or perform such duties as may be conferred or imposed on it by the bye-laws of such society.

(3) An Apex society notified in this behalf by the State Government shall establish a Fund to be called “ the Co-operative State Cadre Employment Fund ”, which, when established, shall

be deemed to have been established with effect from the 1st day of July 1973. It shall be utilized for meeting the expenses on the salaries, allowances and other emoluments to be paid to the persons appointed to the Co-operative State Cadre and the other expenditure relating to the Cadre.

(4) (a) Every society or class or classes of societies, which in the opinion of the State Government, derive any benefit, directly or indirectly, from the services of any Secretary belonging to the Co-operative State Cadre of Secretaries, and

(b) Every other body corporate carrying on any trade, business or industry or class or classes of such corporate bodies, which in the opinion of the State Government, derives such benefit as aforesaid, and which are notified by the State Government in this behalf, from time to time, by general or special order, shall, with effect from the first day of July 1977, contribute annually to the said Fund, at such rate and in such manner as may be prescribed, and different rates may be prescribed for different societies or other corporate bodies or class or classes of societies or class or classes of other corporate bodies. In determining the rate or rates of contribution, the State Government shall take into consideration the expenditure referred to in sub-section (3), the services likely to be rendered and the financial condition of the societies or other bodies concerned.

*Explanation.*—Notwithstanding anything contained in any law for the time being in force, for the purposes of levy and collection of the contribution to the said Fund by any other corporate body to which this section applies, such corporate body shall be deemed to be a society governed by this Act.

(5) Where there is a failure to comply with the requirements of the last preceding sub-section, the Registrar may serve a demand notice on the society concerned to pay the contribution within two months from the date of demand. Such demand shall be a charge on the income of the society. If the contribution is not paid within the period aforesaid, the Registrar may direct any Bank or person having custody of the Funds of the society to pay the amount of the contribution immediately, and such Bank or person shall comply with the orders of the Registrar. Every payment made pursuant to such direction shall be a sufficient discharge to such Bank or person from all liability to the society in respect of any sum so paid by it or him out of the moneys of the society in his custody.

(6) The State Government may make rules regulating all matters connected with or ancillary to the custody and maintenance of, the payment of moneys into, and the expenditure and withdrawal of moneys from, the said Fund.

(7) Notwithstanding anything contained in sub-sections (1) to (6), on and from the 1st day of January 2009, nothing in sub-sections (1) to (6) shall apply to a co-operative credit structure entity."

14. After section 69A of the principal Act, the following section shall be inserted, namely:—

Insertion of section 69B in Mah. XXIV of 1961.

"69B. The State Government shall constitute District Level Committees and the State Level Committee, from time to time, as it shall deem fit, for solving the problems of Group Secretaries in the State."

Constitution of District level and State Level Committees.

15. For section 70 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 70 of Mah. XXIV of 1961.

"70. Every society other than the co-operative credit structure entity shall invest or deposit its funds in one or more of the following:—

Investment of funds.

(a) in a Central Bank, or the State Co-operative Bank ;

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 ;

(c) in the shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs :

Provided that, no society shall invest more than such proportion of its paid up share capital as may be prescribed :

Provided further that, the co-operative credit structure entity shall invest its funds subject to guidelines as may be issued, from time to time, by the Reserve Bank of India."

16. After section 72 of the principal Act, the following section shall be inserted, namely:—

Insertion of section 72A in Mah. XXIV of 1961.

"72A. Notwithstanding anything contained in this Act or any other law for the time being in force, the co-operative credit structure entity shall have the liberty for the affiliation or disaffiliation with the federal structure of its choice :

Freedom of affiliation or disaffiliation with a federal structure of choice.

Provided that, in the general meeting of the co-operative credit structure entity, a resolution for this purpose is passed by a majority of not less than 3/4th of the total members of such entity."

Insertion of section 73-EA in Mah. XXIV of 1961.

17. After section 73-E of the principal Act, the following section shall be inserted, namely:—

Disqualification for being director of District Central Co-operative Bank or State Co-operative Bank.

“73-EA. Without prejudice to the other provisions of this Act or the rules made thereunder, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, co-opted or, for being a director of a District Central Co-operative Bank or of the State Co-operative Bank, if he,—

(i) is a person who represents a society other than a primary agricultural credit co-operative society on the board of a District Central Co-operative Bank or State Co-operative Bank, if the society to whom he represents has committed a default towards the payments of such Bank for a period exceeding ninety days ;

(ii) is a person who is defaulter of a primary agricultural credit co-operative society or is an office bearer of a defaulting primary agricultural co-operative credit society ;

(iii) is a person, who represents a society whose Managing Committee is superseded. ”

Amendment of section 73-G of Mah. XXIV of 1961.

18. In section 73-G of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely :—

“(4) (a) There shall be two professionals on the board of directors of District Central Co-operative Bank and State Co-operative Bank having qualifications prescribed by the Reserve Bank of India or the National Bank.

(b) The Registrar shall direct the bank concerned to co-opt such professionals on the board of directors within the time limit specified in the direction by the Registrar. If the bank fails to comply with the aforesaid directions, the Registrar himself shall appoint such professional directors and such appointment shall be binding on the said bank. The professional director shall have all the rights inclusive of voting right. ”

Amendment of section 73-H of Mah. XXIV of 1961.

19. In section 73-H of the principal Act, after sub-section (2), the following proviso shall be added, namely :—

“ Provided that, in the case of co-operative credit structure entity, the Registrar or Administrator shall hold election within a period of two months from the date of taking over the management of the society. ”

20. In section 74 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

Amendment  
of section  
74 of Mah.  
XXIV of  
1961.

“Provided that, the qualification for appointment of the Chief Executive Officer of the District Central Co-operative Bank and the State Co-operative Bank shall be such as may be prescribed by the Reserve Bank of India, from time to time.”

21. In section 77A of the principal Act, in sub-section (3), for the proviso, the following provisos shall be substituted, namely:—

Amendment  
of section  
77A of  
Mah. XXIV  
of 1961.

Provided that, a committee or Administrator so appointed shall make necessary arrangements for constituting a new committee of the co-operative credit structure entity within two months from the date of assuming the management of the society:

Provided further that, if a committee is not, or cannot be, constituted at the expiry or determination of the term of office of the committee or the Administrator, the term of office of the committee or the Administrator, as the case may be, shall be deemed to be extended until the new committee is duly constituted:

Provided also that, in no circumstances the term of office of the committee of, or the Administrator appointed on, the co-operative credit structure entity shall exceed six months from the date of expiry of the term of its committee.

22. In section 78 of the principal Act,—

Amendment  
of section  
78 of Mah.  
XXIV of  
1961.

(a) in sub-section (1), the following provisos shall be added at the end, namely:—

“Provided further that, the supersession or removal of the committee of the District Central Co-operative Bank or the State Co-operative Bank under this sub-section shall not be done without prior consultation with the Reserve Bank of India:

Provided also that, the committee of a primary agricultural co-operative credit society shall not be superseded by the Registrar, except under the following circumstances, namely:—

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



Provided also that, the members of the Board of a primary agricultural credit co-operative society which has been superseded shall not be eligible to be re-elected, re-appointed, re-nominated or re-co-opted, as a member of the committee for a period of three years from the date of supersession of the Board.” ;

(b) in sub-section (4),—

(i) before the existing proviso, the following proviso shall be inserted, namely :—

“ Provided that, the committee or Administrator shall make arrangements for constitution of a new committee of co-operative credit structure entity, within a period of two months from the date of order of supersession of board of co-operative credit structure entity ;” ;

(ii) in the existing proviso, for the words, “ Provided that ” the words “ Provided further that ” shall be substituted ;

(iii) after the existing proviso, the following proviso shall be added, namely :—

“ Provided also that, in no circumstances the term of office of the committee of, or the Administrator appointed on, the co-operative credit structure entity shall exceed six months from the date of supersession of the committee. ”.

Amendment  
of section  
81 of Mah.  
XXIV of  
1961.

23. In section 81 of the principal Act,—

(i) in sub-section (1),—

(a) after sub-clause (a), the following proviso shall be inserted, namely :—

“ Provided that, the audit of the District Central Co-operative Bank and the State Co-operative Bank shall be conducted by a Chartered Accountant approved by the National Bank ;” ;

(b) in sub-clause (b), after the existing proviso, the following proviso shall be inserted, namely :—

“ Provided further that, the primary agricultural credit co-operative society shall arrange to get their accounts audited at least once in each co-operative year by an auditor from the panel of auditors maintained by the Registrar ; or by a Chartered Accountant holding a certificate in co-operative audit issued by the Institute of Chartered Accountants of India. The District Central Co-operative Bank and the State Co-operative Bank shall arrange to get their accounts audited at least once in each co-operative year through a Chartered Accountant from the panel of auditors approved by the National Bank. ” ;

(ii) after sub-section (6), the following sub-section shall be added, namely:—

“(7) Special audit of the Co-operative Bank if requested by the Reserve Bank of India shall be conducted and report thereof shall be submitted to the Reserve Bank of India under intimation to the Registrar alongwith the Special Audit Report.”

24. Section 110A of the principal Act shall be re-numbered as sub-section (1) thereof; and after the sub-section (1), so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 110A of Mah. XXIV of 1961.

“(2) Notwithstanding anything contained in this Act, in the case of the District Central Co-operative Bank and the State Co-operative Bank, the supersession of the Board and appointment of liquidator shall be made by the Registrar, within one month of being so advised by the Reserve Bank of India.”

25. In section 157 of the principal Act, after the word “societies”, at both the places where it occur, the words “other than co-operative credit structure entity” shall be inserted.

Amendment of section 157 of Mah. XXIV of 1961.

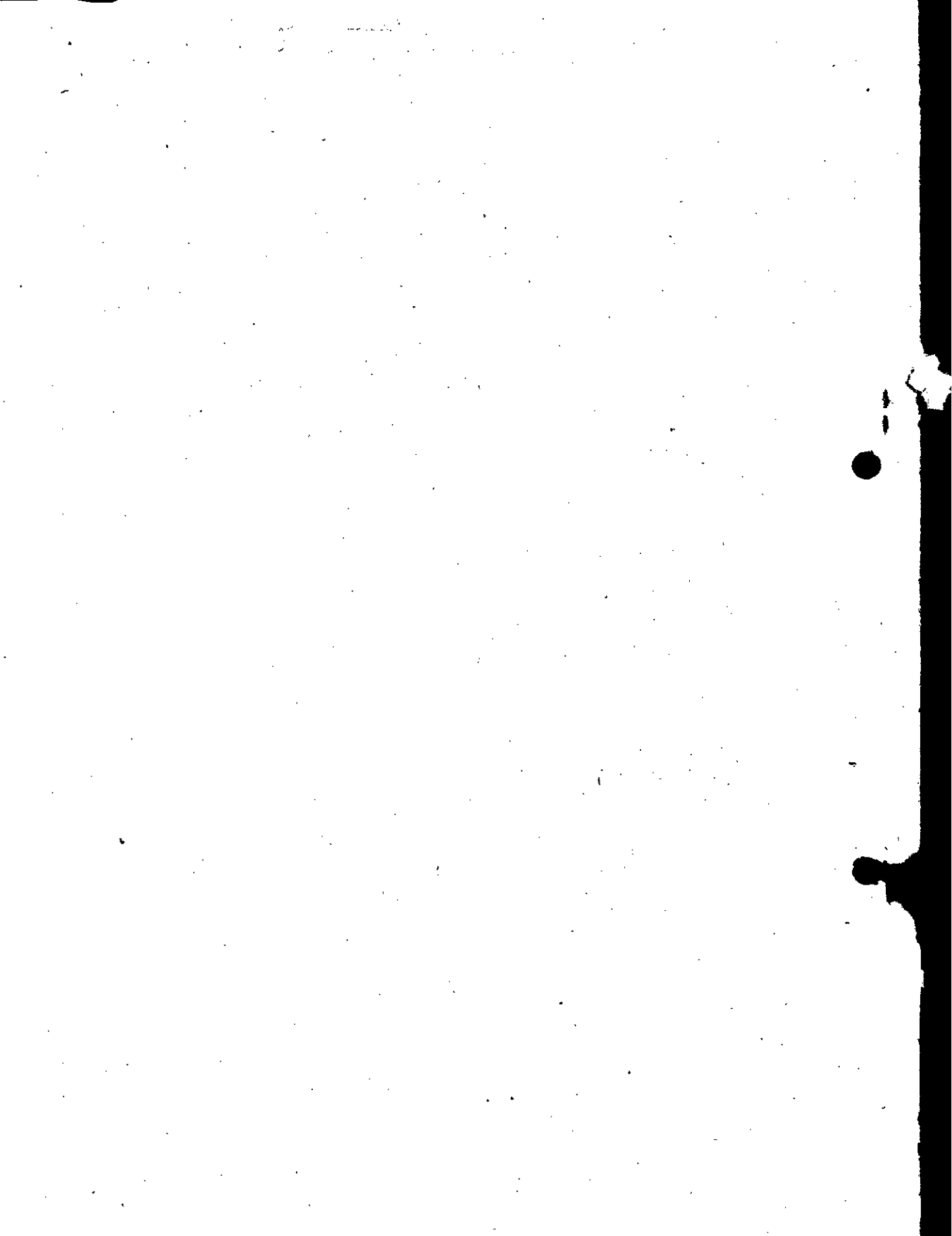
26. In section 165 of the principal Act, in sub-section (2), clause (xxxii-a) shall be deleted.

Amendment of section 165 of Mah. XXIV of 1961.

Mah. Ord. VIII of 2007. 27. (1) The Maharashtra Co-operative Societies (Second Amendment) (Continuance) Ordinance, 2007, is hereby repealed.

Repeal of Mah. Ord. VIII of 2007 and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.





# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष २, अंक ५४(२) ]

शुक्रवार, जानेवारी १४, २०११/पौष २४, शके १९३२

[ पृष्ठे २, किंमत : रुपये १९.००

असाधारण क्रमांक ४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Act, 2010 (Mah. Act No. II of 2011), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,  
Secretary to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. II OF 2011.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 14th January 2011).

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

Mah. XXIV of 1961. WHEREAS it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-first Year of the Republic of India as follows :—

1. This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2010. Short title.

Mah. XXIV of 1961. 2. In section 73 of the Maharashtra Co-operative Societies Act, 1960, in sub-section (1A), for the portion beginning with the words "Every such member shall execute" and ending with the words "by the State Government by general or special order.", the following shall be substituted, namely :— Amendment of section 73 of Mah. XXIV of 1961.

(१)

“ Every such member,—

(i) in case of housing societies, within forty-five days of his assuming the office ; and

(ii) in case of other societies, within fifteen days of his assuming the office ;

shall execute a bond to that effect, in the form as specified by the State Government by general or special order.”.



## महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ६, अंक ४६ (३)]

मंगळवार, डिसेंबर २३, २०१४/पौष २, शके १९३६

[पृष्ठे २, किंमत : रुपये २७.००

असाधारण क्रमांक ११४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Act, 2014 (Mah. Act No. XL of 2014), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

M. A. SAYEED,  
Principal Secretary and R.L.A. to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. XL OF 2014.

*(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 23<sup>rd</sup> December 2014).*

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

WHEREAS it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows :—

Mah. 1. This Act may be called the Maharashtra Co-operative Societies (Amendment) Short title.  
XXIV of Act, 2014.  
1961.

भाग आठ-११४-१  
एचबी-२२४१-२

(१)

Amendment of section 73CB of Mah. XXIV of 1961. 2. In section 73CB of the Maharashtra Co-operative Societies Act, 1960, in Mah. sub-section (15), for the words, figures and letters "before the 31st December 2014" XXIV of the words, figures and letters "before the 30th June 2015" shall be substituted. 1961.



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष १, अंक ४८

शुक्रवार, जुलै ३१, २०१५/श्रावण ९, शके १९३७

[ पृष्ठे २, किंमत : रुपये २७.००

असाधारण क्रमांक १०

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Act, 2015 (Mah. Act No. XXIV of 2015), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

M. A. SAYEED,  
Principal Secretary and  
R.L.A. to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. XXIV OF 2015.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 31st July 2015).

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

Mah. XXIV of 1961. WHEREAS it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :—

1. This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2015. Short title.



Insertion of  
section  
73CC  
in Mah.  
XXIV of  
1961.

2. After section 73CB of the Maharashtra Co-operative Societies Act, 1960, the following section shall be inserted, namely :—

Mah.  
XXIV  
of  
1961.

Power of  
State  
Government  
to postpone  
election.

“73CC. Where due to scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme, of the State Legislative Assembly or Council or House of the People or a local authority, coinciding with the election programme of any society or class of societies, in the opinion of the State Government, it is not in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act or the rules, or bye-laws made thereunder, or any other law for the time being in force, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time, which period may further be extended so, however, that, the total period shall not exceed one year in the aggregate.”.