BIHAR SELF-SUPPORTING COOPERATIVE SOCIETIES ACT, 1996

The Bihar Self-Supporting Cooperative Societies Act, 1996 Chapter- I Introduction Sections Page No. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35

36. Short title, extent and commencement Definitions Chapter- 11 Cooperative Principles Organisations which may be registered Organisations which way be registered Application for registration Cooperative Society to be a body corporate Display of name Appointment of registrar Chapter- Ill Bye- laws Bye- Laws Amendment of bye-laws Change of liability, transfer of assets and liabilities, division and amalgamation Promotion of subsidiatry organisation Creation of new organization with others Chapter- IV Union & Federation Cooperative Union / Federations Chapter- V Management of Funds Mobilisation of funds Restriction on borrowings Restriction on holding of equity Disposal of surplus Management of Deficit Reserve and other funds Investment of funds outside the business Restriction on Contribution Chapter- VI Managemet Membership Restriction on services to non- members General Body Board Powers and functions of the board Term of office Elections Meetings Staff Chapter- VII Information Accounts and records to be maintained Audit Special Audit Filing of returns Enquiry 37.38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 47. 49. 50. 51

52. Power to summon and examine persons and documents Action on special Audit or enquiry Report Chapter- VIII Settlement of desputes Constitution of Cooperative Tribunals Settlement of disputes Power of the Tribunal to order recovery Chapter- IX Offences & Penalties Offences and Penalties Chapter- X Dissolution Dissolution of Member Dissolution of Tribunal Appointment of liquidator Duties of liquidator Powers of liquidator Final Account Chapter- XI Miscellalneous Fee for services Bar of jurisdiction Rules Removal of difficulty * State Govt.decisions THE BIHAR SELF-SUPPORTING COOPERATIVE SOCIETIES ACT, 1996 (No. 2 of 1997) An Act to provide for the voluntary formation of Cooperative Societies as Accountable, Competitive, self-reliant business enterprises, based on thrift, Self- help and mutual aid and owned, managed and controlled by members for their economic and social betterment and for the matters connected therewith or incidental thereto; Be it enacted by the legislature of the State of Bihar in the Forty-Seventh year of the Republic of India as follows -a-e-r få-qfUT 81, 25—26 1992 TifÄuNi 3TIQi 1 fÄ5 CHAPTER — / 1. Short title, extent and commencement.- (1) This Act may be called the Bihar Self-Supporting Cooperative Societies Act, 1996. (2) It extends to the whole of the State of Bihar. (3) It Shall come into force at once

2. Definitions.— in this Act, unless the context otherwise requires — (a) "State" means the State of Bihar; (b) "Board" means the Board of Directors of a Cooperative Society; (c) "By-laws" means the bye-laws of a registered Cooperative Society; (d) "Chief executive" means an individual who, subject to the superintendence, control and direction of the board, has been entrusted with the management of the affairs of a Cooperative Society; (e) "Cooperative society" means an organization registered of deened to be registered under this Act; (f) "Cooperative basis" means the Cooperative principles enumerated in section 3 of this Act; (g) "Primary Cooperative Society" means a Cooperative Society whose member is not a Cooperative Society; (h) "Central Cooperative" means a Cooperative Society which is different from Federation and Union and which has any other Cooperative Society, and , if the bye-laws so provide, individuals as its members; (i) "Federation" means a Federation constituted under sub-section (2) of section 14 of this Act; (j) "Union" means an Union constituted under sub-section (1) of section 14 of this Act; (k) "General body" means- (i) in relation to Primary Cooperative Society, all the members of that Cooperative Society; (ii) in relation to a Central Cooperative Society, delegates of all the member Cooperative Societies, and, if the bye-laws so provide, individuals as its members; (iii) in relation to a Federation the delegates of all member, Cooperative Societies; (iv) in relation to the Union, the delegates of all the member Cooperative Federations and Cooperative Societies; (l) "General meeting" means a meeting of the general body of a Cooperative Society registered under this Act; (m) "Office-bearer" means a person elected or appointed by-a-Cooperative-Soaety to an off e-ofsuch-Cooperative-Society; n) "Registrar" means the Registrar of Self-Supporting Cooperative Societies appointed under Section 8 of this Act and includes any other person on whom all of any of the powers of the Registrar under this Act are

conferred; 1 [o] "family" means husband, wife, their unmarried daughters and dependent and dependent sons; (p) "cooperative tribunal" means a tribunal constituted under section 39 this Act. CHAPTER —1/ COOPERA TIVE PRINCIPLES 3. Cooperative Principles.- Individuals or Cooperative Societies intending to form a Cooperative Society under this Act shall frame bye-laws conforming to the following Principles of Cooperation, namely- (a) membership of a Cooperative Society shall be voluntary available without restriction of any social, political, racial or religious discrimination, of all persons who can make use of its services and are willing to accept the responsibilities of membership; (b) Cooperative Societies are democratic organization; their affairs shall be administered by persons elected or appointed in a manner agreed to by the members and accountable to them, Members of Cooperative Societies shall enjoy equal rights of voting (one member one vote) and participation in decisions affecting the Cooperative Societies of which they are members; (c) the economic results, arising out of the operations of a Cooperative Society belong to the members of that Cooperative Society and shall distributed in such a manner as would avoid on member gaining at the expense of others, which shall be achieved- (i) by provision for development of the business of the Cooperative Society, (ii) by provision of common services, or (iii) by distribution among the members in proportion to their transactions with the Cooperative Society in addition to the distribution of dividend to the share-holders; (d) all Cooperative Societies shall make provision for the education of their members, office-bearers and employees and of the general public, in the principles and techniques of Cooperative, both economic and democratic; (e) all cooperative societies, in order to best serve the interest of their members and their communities, shall actively cooperate in every practical way with other cooperatives at local, national and international levels having as therein the achievement of unity of action by cooperators throughout the world

4. Organisations which may be registered.— Only such an organization may be registered as a Cooperative Society under this Act which provide in its byelaws for the Social and economic betterment of its members through self-help and mutual air in accordance with the cooperative principles; Provide that the membership of such Cooperative Societies which enjoy special privileges under government policy and programmes by virtue of their membership being confined to special groups shall be restricted to members belonging to such special groups

1. Subs. By (Arndt.) Act 9 of 2002 5. Application for registration. — (1) (i) Where not less than ten individuals each being a member of a different family intend to form a cooperative Society, they, after framing bye-laws for this purpose on the basis of section 3 and in accordance with section 9, may apply for registration under this Act. (ii) Where two or more Cooperative Societies registered under this Act intend to form a central Co-operative Society, they after framing bye-laws for this purpose on the basis of section 3 and in accordance with section 9, may apply for registration under this Act. (iii) Where two of more Cooperative Societies registered under this Act intend to form a Cooperative Federation, they after framing bye-laws for this purpose on the basis of section 3 and in accordance with section 9, may apply for registration under this Act. (iv) Where two of more Cooperative Federation and such Cooperative Societies as are not the members of any Cooperative Federation, intend to

form Cooperative union, they after framing bye-laws for this purpose on the basis of section 3 and in, accordance with section 9, may apply for registration under this Act. (v) Where a society registered under section 11 of the Bihar Cooperative societies Act, 1935 intend to convert itself into a Cooperative Society under this Act, it after framing bye-laws for this purpose on the basis of section 3 and accordance with section 9, may apply for registration under this Act. ["(VI) Where State Government so decides to convert any class of Cooperative 1 Societies registered under section 11 of Bihar Cooperative Societies Act, 1935 into a class of societies under this Act it shall within the period stipulated by the State Government, apply for registration under this Act after framing its byelaws for this purpose on the basis of section 3 and in accordance with section 9 of this act" (2) An application for registration shall be submitted to the Registrar. (3) Every such application shall be accompanied by — (a) two copied of the proposed bye-laws of the Cooperative society as adopted by the promotion members; (b) a list of names of members with their addresses, occupation and equity participation; (c) the list of members of the first board elected by the promotion members; (d) a true copy of the minutes of the meeting at which the bye-laws were adopted, duly signed by the chairperson; (e) In the case of a Society registered under section 11 of the Bihar Cooperative societies Act, 1935 and wishing to convert itself into a Cooperative Society under this Act evidence to show that the Society in not in possession of any share capital from government, and evidence also to show that the society in not in receipt of any government loans or guarantees at the time of applying for registration as a Cooperative Society under ,this Act or that it has been entered into a memorandum of understanding with the government for any such outstanding loans of guarantees; and (f) registration fee amounting to one per cent of the total authorized share capital by whatever mane called subject to minimum of one hundred rupees and a maximum of ten thousand rupees

1. Added by (Amdt.) Act 9 of 2002 (4) The Registrar shall, if he is satisfied that — (a) the application is in conformity with the requirement of this Act; and (b) the proposed bye-laws are not contrary to the provisions of this Act register the Cooperative Society and also its bye-laws and communicate a certificate of registration and the original of the registered bye-laws signed and sealed by him within a period of ninety days from the date of submission of application, to the Chief promoter mentioned in the application. (5) If the conditions laid down in sub-section (4) are not fulfilled, the Registrar shall communicate the order of refusal together with the reasons thereof, within ninety days from the date of submission of application, to the Chief Promoter. In case no refusal in communicated within the said period, the Cooperative Society shall be deemed to be registered and in that event to Registrar shall send a certificate of deemed registration and the original copy of deemed registered bye-laws signed and sealed by him within a period of one month. (6) Where an order of refusal in received by the applicants under sub-section within the prescribed period, they may appeal against this to the Cooperative Tribunal within sixty days of communication of such order or within sixty days of communication of such order or within sixty days of the period prescribed for the communication of the certificate of deemed registration. The decision of the Tribunal shall be final in this regard. (7) Where a Cooperative Society is registered, the certificate of registration signed and sealed by the Registrar shall be conclusive evidence: Provided that where a Cooperative Society was earlier registered under the Bihar Cooperative Societies Act, 1935, such registration shall be deemed to be cancelled once a certificate of registration under this section is issued

6. Cooperative Society to be a body corporate.- (1) The Cooperative Society shall be a body corporate by the name under which it is registered having perpetual succession and a common seal. The Cooperative Society shall be entitled to acquire, hold and dispose of property, to enter into contracts on its behalf, to institute and defend suits and other legal proceedings and to take all such steps necessary to achieve its objectives. (2) All transactions entered into good faith prior to registration, in furtherance of the purposes of the Cooperative Society shall be deemed to be transactions of the Cooperative Society after registration. (3) A Cooperative Society may be registered with Limited Liability and it shall have the word "Limited" as suffix to its name

7. Display of name.- (1) Every Cooperative Society shall display its name and the address of its registered office and the words "registered under Bihar Self-Supporting Cooperative Societies Act, 1996" (a) at every office or place at which it carries on business; (b) in all notices and other official publications; (c) on all its contracts, business letters, orders for goods, invoices, statements of accounts, receipts and letters of credit; and (d) on all bills of exchange, promissory notes, endorsements, cheques and others for money it signs or that are signed on its behalf. (2) The name of every Cooperative Society shall contain the words

"Cooperative" and "Limited" 8. Appointment of Registrar.- (1) The State Government may appoint a person to be Registrar of Self-Supporting Cooperative Societies for the• State or any portion of it, and may appoint other officers to assist such Registrar. (2) The State Government may, by notification, confer on such other officers appointed under sub-section (1) to assist the Registrar, all or any powers of the Registrar under this Act. (3) The term of office of the Registrar shall normally be for a period of three years. CHAPTER-III BYE-LAWS 9. Bye-Laws.- (1) Except on such specific matters which the Act has provided the functioning of every Cooperative Society shall be regulated by its bye-laws subject to the provisions of this Act. (2) The bye-laws of the Cooperative Society may provide for the following matters (a) the name, address and area of operation of a Cooperative Society, (b) the objectives of the Cooperative Society explicitly (Stated as a common central need of the members), (c) the Cooperative principles as described in section 3, (d) the services to be provided to its members, (e) eligibility for obtaining membership, (f) procedure for obtaining membership, (g) conditions for continuing as member, (h) the time limit before which a potential member must seek and obtain membership in order to continue to use the services of the Cooperative Society. (i) procedure for withdrawal/ transfer of membership, (j) procedure for termination and cessation of membership, (k) rights of members, (l) fixation of minimum performance required annually of each members vis-å-vis use of services, financial commitments and participation in meetings in order to be eligible to exercise the rights of membership including the right of vote. , (m) the consequences of default in payment of any sum due by a member, (n) the nature and amount of capital, it any, of the Cooperative Society, (o) the maximum capital to which a single member can subscribe, (p) the nature and extent of the liability of the members for the debts contracted by the Cooperative Society, (q) the sources and types of funds to be raised by the Cooperative Society, (r) the purposes for which the funds may be applied, (s) the extent and conditions under which deposits, loans, debentures and other funds may be mobilised, (t) the conditions and purposes for which state aid and aid form other financial institutions may be sought and obtained, (u) the manner of disposal of surplus, (v) the constitutions of various funds, reserves and their purpose, (w) the manner of convening general and other special meeting and quorum thereof, (x) the frequency of general meetings, (y) the role of general body and the matters to be placed before the general body, (z) the manner of amending bye-laws, (aa) the procedure for conducting elections, (bb) the procedure for conducting election in case the Cooperative Society fails to do so, (cc) the size and constitution of the board, (dd) eligibility for becoming director, (ee) conditions for retaining directorship, (ff) the tenure of the directors, chairperson and other office-bearers, (gg) the procedure for removal of directors and for filling of vacancies, (hh) the manner of convening board meetings and quorum, (ii) the frequency of board meetings, (jj) powers and functions of the board, (kk) powers and functions of office-bearers including chair-person, (11) Powers and functions of the Chief-Executive, (mm) Penalties for acting against the interests of members and for non- fulfillment of duties by members, directors and staff, (nn) the appointment and role of auditor and procedure for conduct of audit where the Cooperative Society fails to make necessary arrangements and time limit for audit compliance, (00) the authorisation of an officer or officers to sign documents and to institute e en sul s an an society, (pp) the terms on which a Cooperative Society may deal with non-members, (qq) the terms on which a Cooperative Society may associate with other Cooperative Societies, (rr) the terms on which a Cooperative Society may deal with organizations other than Cooperative Societies, (ss) the rights, if any, which the Cooperative Society may confer on any Cooperative Society or other federations and the circumstances under which these rights may be exercised by the federations, (tt) the manner of disposal, of funds if the Cooperative Society is under liquidation, (uu) the accounting year for the Cooperative Society, (vv) transfer of shares and interest in the name of a nominee in case of death of a member, (ww)the manner of dissolution of the Cooperative society, (xx) restriction, if any, on service to non-members, (yy) organize self-help, groups of people living in its area to conduct education and training programme. (zz) Special measures for women, scheduled castes and scheduled tribes and other weaker sections including provision for their representation of the board 10. Amendment of bye-laws. — (1) A Cooperative Society may amend any of the provisions of its bye-laws by a resolution of its general body, or by the representative of general body, where this exists of a majority of two-third members having voting right: Provided that no such resolution shall be passed unless atleast twenty clear days of written notice of the meeting has been given along with a copy of the proposed amendment to each member of the general body or representative general body, as the case may be, and such notice and proposed amendment is also

displayed on the notice board of the Cooperative Society for a period of twenty days immediately preceding the date of the meeting. Provided further that the representative general body shall not alter any provision in the bye-laws relating to its own constitution and powers. (2) An application for the registration of the amendment shall be submitted to the Registrar within a period of thirty days from the date of resolution. (3) Every application submitted to the Registrar shall be signed by the chair-person and two members of the board and shall be accompanied by the following particulars (a) a copy of the resolution adopting the amendment, (b) the date of the general meeting at which the amendment was approved, (c) the date of the notice issued for the general meeting (d) the total number of members on the rolls of the Cooperative Society having the right of vote on the date of such general meeting. (e) the number of members having the right of vote present at such general meeting, and (f) the number of members who voted for the resolution. (4) The Registrar, if the proposed amendment is in consonance with the provisions of the Act, shall register the amendment within a period of ninety days from the date of receipt of the application. (5) The Registrar shall forward to the Cooperative Society within a period of fifteen days after registration, a copy of the registered amendment together with a certificate signed and sealed by him, and such certificate shall be conclusive proof that the amendment has been duly registered. (6) The Registrar, if the proposed amendment is not in consonance with the provisions of the Act, Shall communicate the order of refusal together with the reasons therefore to the Cooperative Society within a period of ninety days from the date of receipt of the application: Provide that no order refusing to register the amendment shall be passed except after giving the Cooperative Society an opportunity of making its representation. (7) Where no order of refusal is communicated sub-section (6) within the period specified in that sub-section, the amendment, shall be deemed to be registered, and in that event the Registrar shall send a certificate of deemed registration and the original copy of deemed registered amendment signed and sealed by him within a period of one month

11. Change of liability, transfer of assets and liabilities, division, amalgamation.— (1) A Cooperative Society may, by a resolution of its general body, Change the extent of its limited .liability. (2) A Cooperative Society may, by a resolution of its general body transfer it assets and liabilities, in whole or in part, to any other Cooperative Society which agrees to such transfer by a resolution of its general body. (3) A Cooperative Society may, by a resolution of its general body, divide itself into two or more Cooperative Societies. (4) Any two or more Cooperative Societies may, by a resolution of their respective general bodies, amalgamate themselves and a new Cooperative Society. (5) Every resolution of a Cooperative Society under this section shall be passed at its general meeting majority of total members with right of vote and such resolution shall contain all particulars of the liability, transfer, division, amalgamation as the case may be, (6) Where a resolution is passed under this section, the Cooperative Society shall give notice thereof together with a copy of the resolution to all its members and federation to which it is affiliated and creditors who may give their consent. Notwithstanding any bye- law or contract to the contrary any member, federation or creditor shall, during a period of one month from the date of service of the notice have the option of withdrawing their shares, deposits, loans or services as the case may be. (7) Any member, federation or creditor who or which does not exercise within the specified period the right under sub-section (6) shall be deemed to have assented to the resolution. (8) A resolution passed by Co-operative Society under this section shall not take effect until- (a) (i) all the members, federation and creditors have assented under sub-section (6) or are deemed to have assented to the resolution under sub-section (7), or O (ii) all claims of the members, federation and creditors who have exercised the option referred under sub-section (6) within the period specified therein have been met in full or otherwise satisfied, and (b) (i) in the case of change of liability, amendment of the bye-laws of the Cooperative Society Concerned is registered or deemed to have been registered, or (ii) in the case of division or amalgamation, the certificate of registration of the (9) (10) (11) 12. Cooperative Society or the Cooperative Societies as the case may be, is issued or deemed to have been issued. When resolution passed by a Cooperative Society under sub-section (2) takes effect the resolution shall be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance. The registration of a Cooperative Society shall stand cancelled and the Cooperative Society Shall be deemed to have been dissolved and shall cease to exist as a corporate body- (a) when the whole of the assets and liabilities of such cooperative Society are transferred to another Cooperative Society, or (b) when such Cooperative Society divides itself into two or more Cooperative Societies. Where two or more Cooperative Societies are amalgamate into a new Cooperative Society the

registration of the Cooperative Societies so amalgamated shall stand cancelled and they shall be deemed to have been dissolved and shall cease to exist as corporate bodies. Promotion of subsidiary Organisation.- (1) Any Cooperative Society may, by a resolution passed at general meeting by a majority of members present having voting right, promote one or more subsidiary organisations for the furtherance of its stated objectives, and such organistion or organisations may be registered under any, law for the time being in force, as agreed to by the general body. (2) The annual reports and accounts of any such subsidiary organization shall be placed before the general meeting of the promoting Cooperative Society every year. (3) Any subsidiary organization created under-section (1) shall exist only as long as general body of the Cooperative Society deems its existence necessary

13. Creation of new organization with others.- Where the Collaboration between a Cooperative Society and any other organisation or organisation requires the creation of a new organisation , the new organisation may be registered as a company or a public society, a appropriate for the fulfillment of the objective with which it was created. CHAPTER - IV 14. Cooperative Union/ Federations.- (1) A Cooperative Union shall be registered in the State under this Act and it shall be known as the State Cooperative Union of Bihar. The Cooperative/Union shall be constituted consisting of the Cooperative Federations and such Cooperative Societies as are not the members of any Cooperative Federation. (2) Cooperative Federations consisting of Primary and Central Cooperative Societies having same nature of objects may be established and shall be eligible for registration under this Act: Provided that there shall be only one federation in the State for a class of primary and Central Cooperative Societies having same mature of objects. (3) For servicing their constituents and in accordance with their bye-saws, Union/Federations may perform the following functions - (a) safeguard the observance of the Cooperative principles, (b) promote and organize Cooperative Societies and for this purpose frame model bye-laws and guide lines for framing various regulations and policies for consideration by Cooperative Societies, (c) Provide Cooperative training, education and information and propagate Cooperative principles, (d) undertake research and evaluation and assist in preparation of perspective development plans of member Cooperative Societies, (e) promote harmonious relations between member Cooperative Societies. (f) help member Cooperative Society in the settlement of dispute among themselves and between a Cooperative Society and its members, (g) represent the interests of member Cooperative Societies, (h) undertake business services on behalf of its members, (i) provide Cooperative and management development services to member Cooperative Societies including participation in board meetings where invited, (j) to prepare a panel of auditors and ensure timely conduct of annual audit in member Cooperative Societies, (k) ensure timely conduct of election in member Cooperative Societies, (l) assist member Cooperative Societies in regular conduct of general meeting, (m) evolve code of conduct for observance by member Cooperative Societies, (n) evolve viability norms for member Cooperative Societies, (o) provide legal aid and advice, (p) assist member Cooperative Societies in organising self-help groups of people living in area, (q) provide any other services, at the behest of member Cooperative Societies. (4) (a) A federation may request the board of a member Cooperative Society to convene a general body meeting of its members and shall request the board to do so where at least ten percent of the members of the member Cooperative Societies have requested the federation to do so. (b) The requisition shall contain the items to be included in the agenda and these shall be dealt with at the general body meeting. (c) The board of the member Cooperative Societies shall convene such a meeting thirty days of receipt of the requisition. (d) Where a member Cooperative Society fails to convene a general meeting within thirty days of receipt of a requisition to do so by a Federation, the board of the Federation may themselves call such meeting for dealing with such items as included in the requisition. (5) (a) General body of Federation shall consist of the delegates from the member Cooperative Societies. (b) The chair-person of a Cooperative Society shall ordinarily by the delegate of the next tier of Cooperative Society: Provided that if the chair-person is unable to represent owing to illness or other unavoidable reasons, he may nominate the Chief Executive or any other member of the board to be the delegate. (c) The delegate shall continue to represent his Cooperative Society in the next tier of Cooperative Society, Federation/ Union as long as he remains in office in the member Cooperative Society. (6) The Cooperative Union may- (i) create and maintain the Cooperative education fund, (ii) represent the interest and welfare of all types of Cooperative societies at the district and State level. (iii) Promote new forms of Cooperative enterprise, (iv)undertake experimental projects towards the application of Cooperative ideology. (v) Liaison on half of and amongst Cooperative Societies, and (vi)

serve as a date bank on Cooperation, CHAPTER-V 15. Mobilisation of funds. — A Cooperative Society may mobilize funds in the shape of share capital, deposits, loans and other contributions from its members to such extent and under such conditions as may be permissible under the bye-laws of the Cooperative Society: Provided that at the time of dissolution of a Cooperative Society the amounts due to the members shall be settled only after settlement of due to others

16. Restriction on borrowings.- (1) A Cooperative Society may mobilise debentures, deposits, raise loans and receive grants from external sources to such extent and under such conditions as may be specified in the bye-laws. Deposits and loans raised form external sources, however, shall at no time exceed ten times the sum of member funds and organisational reserves less accumulated deficit, if any. (2) A Cooperative Society may accept funds/guarantees from the government of other financing institution for the fulfilment of its objectives on such terms and conditions as are mutually contracted, upon and such conditions may include the right of the government or other financier to nominate one expert on the board

17. Restriction on holding of equity.— (1) No member in a primary Cooperative Society shall, at anytime, hold more than one-tenth of the paid up eqaity capital. (2) No Cooperative Society shall accept funds from the government by way of equity

18. Disposal of surplus.- (1) In any year, a Cooperative Society shall, out of the surplus arising from transactions with members in that year, make deferred payment to members as patronage rebate, an amount not exceeding twenty-five percent of surplus and make payment of dividend on share capital not exceeding fifteen percent of surplus divided into the members according to their shares. (2) The balance surplus accruing from members and the entire surplus accruing from transactions with others, shall be utilized in the following manner:- (a) not less than twenty-five percent shall be transferred to a statutory reserve fund, (b) not less than twenty percent shall be transferred to a reserve for meeting unforeseen losses, (c) where the Cooperative Society is a member of the Cooperative Union, upto three percent may b transferred to a Cooperative Education Fund with the Cooperative Union, (d) bonus shall be paid to employees in accordance with the decision of the general body, (e) not less than five percent may be transferred towards a common good fund whose purpose is approved by the general body, (f) not more than five percent may e paid as contribution for any purpose connected with the development of the Cooperative movement

19. Management of Deficit.- (1) Where a Cooperative Society is left with a deficit in any given year, the board shall place before the general body in the first following annual gen4eral meeting, a detailed report on the causes of deficit and the manner in which the deficit is proposed to be met. (2) The general body of the Cooperative Society shall decide to have the deficit covered by setting it off against the amounts available in the deficit cover fund, and/ or by debiting the deficit to the account of the members in proportion to the services they had availed or were expected avail of the Cooperative Society during the year. . — (1) A Cooperative Society may create statutory 20. Reserve and other funds reserves and other funds for the promotion of the objects of the Cooperative Society. (2) Reserves and other funds shall be used for the purpose for which they were created when necessary but otherwise may be used in the business of the Cooperative Society. 66 21. Investment of fund outside the business.- Such of its funds as are not needed for us by a Cooperative Society may be invested or deposited outside its business- (a) in any union/ federation of which it is a member, (b) in a local Cooperative bank, (c) in the equities of any other Cooperative Societies, (d) in any of the securities specified in section 20 of the Indian Trust Act, 1982, (e) in the total Postal Savings Bank. (f) in any of the non-speculative manner as provided in the bye-laws, No Cooperative Society shall make a 22. Restriction on contribution. contribution either in money or in kind, either directly or indirectly to an organisation that has as an object the furtherance of the interests of a political party of any religious faith. CHAPTER- VI 23. Membership.- (1) Any person, who needs the services of the Cooperative Society, accept the responsibilities of membership and fulfils such other Conditiohs as may be specified in the bye-laws of the Cooperative Society. May be admitted as a member: Provide that the Cooperative Society is in position to extend its services to the applicant and that the applicant is not already a member of a Cooperative Society registered under this Act, or the Bihar Cooperative Societies Act, 1935 providing the same or similar services. (2) Membership shall be available without any discrimination on grounds of sex. (3) Admission of members and removal from membership shall be made in accordance with the procedure specified in the bye-laws only by an elected board or by

the general body where such an elected board does not exist for the time being. (4) No Cooperative Society Shall, without Sufficient cause, refuse admission to any person duly qualified for membership under the bye-laws. Where admission is so refused, the decisi0n with the reasons therefore shall be communicated to such applicant within fifteen days of the date of the decision or within thirty days from the date of application for membership, whichever is earlier; Provide that if no such decision is communicated within thirty days of applying for membership then the person shall be deemed to have been admitted as a member of the Cooperative Society on the thirty-first day. (5) Where a person has of communication of such decision to the general body against the decision of the board. (6) Any applicant aggrieved by the decision of the general body may file a rev9ision within sixty days of communication of such decision before the Cooperative Tribunal. (7) A person admitted as a member may exercise the rights of membership, including the right to vote, only on fulfilment of such conditions as may be laid down from time to time in the bye-laws: Provide that a person shall have been a member for at least one year before being eligible to exercise the right of vote: Provided further that the above proviso shall not apply to the promoter members in the first year of registration of a Cooperative Society

24. Restriction on services to non-members.— A Cooperative Society's services shall ordinarily by available only to members unless otherwise provided in the bye-laws

25. Genera/ Body.- (1) Subject to the provisions of this Act and the bye-laws the ultimate authority of a Cooperative Society shall vest in its general body. (2) Where a Cooperative Society so desires, its bye-laws may provide for a representative general body drawn from the members to be constituted in such a manner and with such functions as specified in the byelaws. Provided that the representative general body shall not have the right to amend the bye-law of the Cooperative Society except those in relation to which the bye-laws have delegated the power of amendment to the representative general body. (3) Subject to the provisions of the Act, and of the bye-laws the following matters shall be dealt with by the general body- (a) election of directors of the board, (b) removal of directors of the board and filling up of vacancies, (c) consideration of the annual report presented by the board for being filed with the Registrar, (d) appointment and removal of statutory auditors and internal auditors, (e) consideration of the auditor's report and audited statement of accounts for being filed with the Registrar, (f) consideration of audit/special audit compliance report, (g) report on action taken on inquiry report under section 36, if any, (h) disposal of net surplus, (i) review of operational deficit, if any, (j) approval of the long term perspective plan and the annual operational plan, (k) approval of the annual budget, (l) creation of specific reserves and other funds. (m) review of actual utilization of reserve and other funds, (n) report on membership of the cooperative Society in other Cooperative Societies. (o) review of annual report and accounts of any subsidiary organisation, (p) appeal of a person whose application for membership has been rejected or whose membership has been terminated by the board. (q) appointment, reconstitution and disbanding of the Representative General Body, (r) remuneration payable to any Director or internal auditor in connection with his duties in that capacity or his attendance at related meeting, (s) membership of the Cooperative Society in union/federation. (t) Collaboration with other organisation, (u) amendment of bye-law, (v) formulation of code of conduct for the Directors and office, bearers, (w) note of admission and termination of members, (x) dissolution of the Cooperative Society. (y) such other functions specified in the bye-saws

26. Board.- (1) The general body of a Cooperative Society shall constitute a board in accordance with the bye-laws. (2) The size of the board shall be in accordance with the bye-laws. Chief Executive shall be an ex-officio member of the board. (3) In addition to such criteria as may be specified in the bye-laws, a person shall be ineligible for being chosen as a director, if he- (a) has at any time lost the right to vote as a member as specified in the bye-laws, (b) loses the right to continue as member as specified in the bye-laws or (c) incurs any other disqualification specified in the bye-laws. (4) In addition to such criteria as may be specified in the bye-laws a person shall cease to be a director if the incurs any of the disqualifications specified in sub-section (3), or (a) absents himself from three consecutive board meetings without leave of absence. (b) absents himself from three consecutive general body meeting without leave of absence, or (c) is penalized under this Act. (5) In addition to such criteria as be specified in the bye-laws, the directors of the board shall incur disqualification for a period of [five year for being chosen as directors and shall be ineligible to continue as directors of any Cooperative Society if during their term as directors of a Cooperative Society- (a) they did not conduct elections within the time specified in the bye-laws and

before the expiry of their term. (b) they did not conduct annual general body meeting within four months of closure of the Cooperative's accounting year or a requisitioned meeting of the general body, or (c) the did not place the audited accounts for the preceding financial year along with the reports of the auditors before the general body at its annual general meeting. (6) In order to be eligible for being chosen as a director of the board of a Cooperative Society which has been inexistence for more than two years, a member- (a) shall have been a voting member of the Cooperative society for at least two years immediately preceding the year of election. (b) shall have attended two general body meeting of the Cooperative Society immediately preceding the elections, and 1 [xxx] (7) Every director and employee of a Cooperative Society while exercising his powers and discharging his duties shall- (a) act honestly and in good faith and in the best interests of the Cooperative Society, and (b) exercise such due care, diligence and skill as a reasonably person would exercise in similar circumstances. (8) A director or employee who is guilty of misappropriation, breach of trust or any other omission or commission resulting in loss to the Cooperative Society, shall be personally liable to make good that loss, without prejudice to such criminal action to which he is liable under the law

27. Powers and functions of the board.- (1) The board shall in accordance with the bye-laws, be the authority to- (a) admit and terminate membership. (b) elect the chair-person and other office-bearers, (c) remove form office the chair-person and other office bearers. (d) appoint and remove the chief executive. (e) fix staff strength, (f) frame policies concerning (i) organisation and provision of services to members, (ii) qualifications, recruitment, service conditions and other matters related to its employees. (iii) mode of custody and investment of funds, (iv) manner of keeping accounts, (v) mobilization, utilization and investment of various funds, (vi) monitoring and management of information system including statutory returns to be filed, (vii) such other subjects and matters necessary for the effective performance of the Cooperative Society. (g) place the annual report, annual financial statements, annual plan and budget for the approval of the general body, (h) consider audit and compliance reports and place these before the general body. (i) review membership in other Cooperative Societies. (j) undertake such other functions as delegated by the general body

1. Sub.for the word "three' by (amdt.) Act 9 of 2002 2. "Clause (c)" of sub-section 6 repealed by ibid. (2) The chair-person shall be elected by the board from among the elected members and shall, in accordance with the bye-law- (a) preside at meetings of the board and the general body meeting. (b) have a second vote in the event of equality of votes on any matter being decided upon by the board except in matter of election. (c) exercise such other powers as delegated by the board specified in the policies framed or resolutions adopted by the board

28. Term of office.- The term of office of the director of the board, or where the bye-laws provide for retirement of directors by rotation, the term of office of the individual director, shall be for such period as specified in the bye-laws but shall not exceed [five years form the date of assumption of office: Provided that the term of office can be terminated by the general body at is meeting by a majority of members with right of vote; Provided further that the first board shall not exceed twelve months from the date of registration of the Cooperative Society

29. Elections.- (1) The conduct of elections to the board of a Cooperative Society shall be responsibility of the incumbent board. (2) Election shall be conducted in the manner specified in the bye-laws before the term of office of the outgoing directors comes to an end. (3) The election of the directors shall take place at the general body meeting. (3) The directors shall hold office for the period specified in the bye-laws and for which they were elected and the newly elected directors shall assume office on completion of the period of the outgoing directors or the cessation of the period as the case may be. (5) The director shall if the-laws so permit, be eligible for re-election: 2 [xxx] (6) Where the number of nominees exceeds the number of directors to be elected, the election of directors shall be by secret ballot. (7) Where a board does not take necessary steps to conduct elections before the expiry of the terms of the directors, or where there are no directors remaining on the board, a minimum of five percent of total members of the Cooperative Society may jointly convene a general meeting of the members, for appointing an ad-hoc board for the specific purpose of conduction elections

1. Subs, for the figure 'three" by (Andt.) Act 9 of 2002 2. "Proviso" repealed by ibid. (8) The term of ad-hoc board so appointed shall not exceed three months. (9) If an ad-hoc board is not constituted in

accordance with sub-section (7), it shall be duty of the federation to inform the Registrar. (10) The Registrar on the report of the federation under sub-section (9) may suo moto convene a general meeting for appointing another ad-hoard for the specified purpose of conduction elections. (11) The term of the ad-hoc board appointed under sub-section (10) shall not exceed one month and this ad-hoc board shall cease to function as soon as a regular board is elected in accordance with the bye-laws. (12) The cost of conduction elections shall be borne by the Cooperative Society. (13) Where there is vacancy on the board and where there is not a quorum of directors due to such vacancy the remaining directors shall call a general meeting for the purpose of electing members to fill any vacancies for the remaining period, if the remaining period is over six months. — (1) The bye-laws of a Cooperative Society shall specify the 30. Meetings. frequency of and manner in which board meetings and general body meeting shall be hold, so however the board shall meet at least once in every three months and the genera body shall meet atleast once a year. (2) The board shall also convene a general meeting within thirty days of receipt of a requisition for convening a meeting signed by atleast one-tenth of members of the Cooperative Society and any such requisition shall contain the proposed agenda and the reasons why the meeting is felt necessary. (3) Where the board fails to convene the annual or requisitioned general meeting within due time, it shall be competent for the Registrar to convene the requisitioned or annual general meetings as the case may be. (4) Every Cooperative Society shall record in the minute's book minutes of all proceedings of every general meeting and of every meeting of its board of directors. (5) Such minutes shall be communicated to all persons invited for the meeting within thirty days of the conclusion of the meeting. (6) The minutes so recorded shall be signed by the person who chaired the said meeting

31. Staff.- (1) All staff of the Cooperative Society shall be the employees of the Cooperative Society and shall be fully accountable to the Cooperative Society and be appointed, removed and function in accordance with such service conditions as may be framed by the board: Provided that a Cooperative Society may take personnel on deputation from other agencies on such terms as are mutually agreed upon. (2) An officer of the government shall not either during the course of his service with the government or for a period of three years thereafter, serve in any capacity with any Cooperative Society. CHAPTER - INFORMATION 32. Accounts and records to be maintained.- (1) Every Cooperative Society shall keep at its registered office the following accounts and records - (a) a copy of this Act with amendments made from time to time, (b) the minutes book, (c) registration certificate and a copy of the registered bye-laws and for the amendments registered from time to time with date of amendment. (d) a copy of the authenticated bye-laws of the federation/union of which it is a member and for each of its member Cooperative Societies. (e) account of all sums of money received and expended by the Cooperative Society and their respective purposes. (f) account of all purchases and sales of goods by the Cooperative Society, (g) account of the assets and liabilities of the Cooperative Society. (h) a register showing total membership and the memberwise use of various services, (i) a list of members with voting rights for the current year updated within thirty days of closure of the financial year, (j) copies of the board policies, (k) annual report, audit report, special audit report and their compliances. (l) copies of other laws and regulations to which the Cooperative Society is subject, (m) such other documents as are relevant to the functioning of the society: Provided that where a Cooperative Society has branch offices, accounts and records related to the branch, shall be available at the registered office for any period within twenty five days of the end of the financial year. (2) Copies of this Act, bye-laws, minutes book, voter's and such accounts as related to a member shall be made available to any member during business hours at a fee to be decided by the Cooperative Society. (3) The books of accounts of every Cooperative Society together with supporting records and vouchers shall be preserved for such period as may be provided in the bye-laws subject to any other laws for the time being in force. (1) A Cooperative Society shall get it's a accounts audited by an 33. Audit. auditor selected from the panel prepared by federation. Such Auditor shall either be a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 or form the office of the Registrar. The panel shall also be maintained by the office of the Registrar. Where there is no union/federation such auditor shall be selected from the panel maintained by the Registrar. (2) The auditor's report in addition to the report on the accounts of the Cooperative Society shall also contain report on the attendance at meeting by directors, loans and advances sanctioned to or the business done with the Cooperative Society by the directors, expenditure of board meetings, remuneration pain to directors, expenses reimbursed to directors, expenditure on education and training for members, staff,

directors and others. (3) It shall be the duty of the board to ensure that annual financial statements are prepared and present for audit within forty-five days of closure of the financial year. (4) The remuneration of an auditor may be fixed by the board and placed before the general body at its next meeting, for information. (5) The general body of federation may at a special meeting remove an auditor from office by a resolution passed by a majority of the members present and voting (6) The auditor shall be given notice of every general meeting and will be entitled to attend the meeting. (7) Upon the demand of the auditor of a Cooperative Society the present or former office-bearers, board members or employees of the Cooperative Society shall furnish- (a) such information and explanation, as may be considered necessary, and (b) each of the record, documents, books accounts and vouchers of the Cooperative Society as are, in the opinion of the auditor, necessary to enable him to make the examination and report. (8) Where a Cooperative Society fails to get its annual account audited when due, it shall be the responsibility of the Cooperative Union/ Federation to get the accounts of the Cooperative Society audited within a period of ninety days from the date when the audit was due. (9) The cost of conducting such audit shall be borne by the Cooperative Society (10) If the Cooperative Union/Federation is unable to get the audit of the Cooperative Society conducted for any reason, the Registrar shall get the accounts of the Cooperative Society audited. — (1) A Cooperative Society dealing with funds from the 34. Special Audit. Government or other external individual or institution may be subject to a special audit initiated y the Registrar. (2) The cost of the special audit under sub-section (1) shall be met by the creditor. Provided that where the special audit reveals serious mismanagement in the Cooperative Society, such costs may be recovered from the Cooperative Society or the persons responsible for the mismanagement. (3) Every special audit shall be completed and the report submitted to the Registrar within one hundred and twenty days of its commencement. (4) The special audit report shall contain a statement of - (a) every payment which appears to the auditor to be contrary to law, (b) (c) (d) (5) (b) (c) 35. the amount of any deficiency, waste or loss which appears to have been caused by the gross negligence or misconduct of any person in the performance of duties, the amount of any sum received which ought to have been accounted for but is not brought into account by any person, and any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due. The Registrar shall, within a period of thirty days from the date of the receipt of the special audit report copies of the same to — the applicant creditor, the Cooperative Society concerned, and the Cooperative Tribunal where necessary. Filing of Returns. - Every Cooperative Society within five months of the close of the year shall file the following information with the Registrar:- (a) annual report of activities. (b) audited statements of accounts. (c) plan for surplus disposal as approved by the general body. (d) list of names of directors and their terms of office, (e) list of amendments to the bye-laws of the Cooperative Society, (f) declaration regarding date of holding of general body meeting and conduct of elections where due, (g) compliance report relating to audit/ special audit/enquiry

36. Enquiry.— (1) Every Cooperative Society shall furnish any relevant information required by the Registrar in order to enable him to satisfy whether the Cooperative Society has conducted its affairs in accordance with the Cooperative Principles and the provisions of this Act. (2) The Registrar may, of his own motion, and shall on the application, of union/ federation to which the Cooperative Society concerned it affiliated, or of a creditor to whom the Cooperative Society is indebted or of not less than one-third of the directors, or of not less than ten percent of the members, hold an enquiry or cause an enquiry to made into the specific matter or matters relating to any gross violation of any of the provisions of this Act by the Cooperative Society. (3) The Registrar shall order an enquiry only after the receipt of the fee, from the applicant or applicants, deemed sufficient to meet the costs of the enquiry to be conducted. (4) The enquiry shall be completed within a period of four months from the date of ordering the enquiry. (5) The Registrar shall within a period of one month from the date of completion of enquiry, communicate the report of the enquiry- (a) to the Cooperative Society concerned, (b) to the applicant person designated by the applicant to receive such a report. (c) to any member of a Cooperative Society, to any Federation of which the Cooperative Society is a member, to any creditor on payment of fee specified by the Registrar, (d) to the Cooperative Tribunal

37. Power to summon and examine persons and documents.— (1) The person authorised to conduct special audit under section 34 or enquiry under section 36 shall give the concerned Cooperative Society, not less than fifteen days notice in writing of the date on which he proposes to commence the special audit

or enquiry: Provided that for special reasons to be recorded in writing, he may give a shorter notice than fifteen days of commence a special audit or enquiry on the authority of the Registrar without such notice. (2) For the purpose of any special audit or enquiry under this Act, the person conducting such audit or enquiry may - (a) require in writing the chair-person or other authority concerned to produce at the head office of the Cooperative Society such receipts, vouchers, statements, returns, correspondence, notice or any other documents as he may consider for purpose of special audit or enquiry: (b) require in writing, (i) any employee of the Cooperative Society or other authority accountable for or having custody or control or such receipts, vouchers, statements, returns correspondence, notes or other documents, to appear in person or (ii) any person having directly or indirectly any share or interest in any contract with the Cooperative Society to appear in person or by an authorized agent, before him at the head office of the Cooperative Society and answer any question or sign a declaration with respect hereto: (c) In the event of an explanation being required from the chair-person or any other authority concerned invite him in writhing specifying the points on which his explanation is required to meet him at the head office of the Cooperative Society; or (d) exercise such other powers as can be reasonably said to be necessary or the purposes of this section. (3) The person conducting special audit or compliance of the provisions period of not less than seven days for the purpose of compliance of the provisions of sub-section (2), and such compliance shall be mandatory on the persons required to provide information under sub-section (2)

38. Action on Special Audit or Enquiry Report.— On communication of a special audit report under section 34 or an enquiry report under section 36 to the persons concerned the Registrar may, where the special audit or enquiry report reveal mismanagement on the part of any or all of the office-bearers or directors, without prejudice to any civil or criminal proceeding to which they may be liable- (a) direct the board to convene a general body meeting within such reasonable time as he may specify to enable him to bring to the notice or the general bode, either directly or through his nominee, the findings of special audit or enquiry report, for necessary action; or (b) make a prayer to the Cooperative Tribunal for necessary action

CHAPTER Vill SETTLEMENT OF DISPUTES 39. Constitution of Cooperative Tribunals. — Subject to such rules as may be prescribed the State Government shall, by a notification published in the Official Gazette, constitute as may Cooperative Tribunals as may be necessary, for such area of areas as many be specified the notification, consisting of one or more members to exercise all the (a) direct the board to convene a general body meeting within such reasonable (b) (c) (d) time as he may specify to enable him to bring to the notice or the general bode, either directly or through his nominee, the findings of special audit or enquiry report, for necessary action; or make a prayer to the Cooperative Tribunal for necessary action. between the Co-operative Society or its board and past board, director, office- bearer, or the nominee, heirs or legal representatives of any deceased director, deceased office-bearer of the Cooperative Society, or between the Cooperative Society and other Cooperative Society, or between the promoters of a Cooperative Society and the Registrar, or a Cooperative Society and the Registrar, or (f) between a Cooperative Society and liquidator of another Cooperative Society or between the liquidators of more Cooperative Societies, Such disputes may be referred to Cooperative Tribunal for decision: Provided that no dispute shall be referred under this section to the Cooperative Tribunal unless the disputing parties exhausted all remedies that may be available in the bye-laws for the settlement of disputes. (2) Any dispute relating to elections held to a Cooperative Society may be referred to the Cooperative Tribunal for decision. (3) Any appeal against a decision of the Tribunal shall lie before the High Court within sixty days of the date of order

41. Power of the Tribunal to order recovery.— (1) A member, director of chair- person of the Cooperative Society may and the Registrar shall file a copy of the report of the auditor or the special auditor or the enquiry officer, before the Tribunal with an application for necessary action against the person on account of whose conduct the Cooperative Society has incurred loss. The Tribunal may on the basis of such report disallow every item of expenditure incurred contrary to law and order recovery of the same form the person held responsible in the said report for any deficiency, loss or unprofitable outlay occasioned by his negligence or misconduct or of any such amount which ought to have been accounted but is not brought into account by that person and shall, in every such case, specify the amount liable to be paid by such person to the Cooperative Society. Explanation. — It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss, to contend that

notwithstanding his negligence or misconduct the deficiency or loss would not have occurred, but for the negligence or misconduct of some other person. (2) The Tribunal shall state in writing the reasons for its decision in respect of every disallowance, surcharge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the code of Civil Procedure, 1908: Provided that the Tribunal shall not pass any order of recovery under this section unless the person against whom any such order is passed has had an opportunity of making a representation either by himself or through the counsel. (3) Any person aggrieved by an order passed under this section may, within sixty days after the date of service on him of the order by the Tribunal, file an appeal against such order in the High court. (4) The order passed by the Tribunal or the High Court shall be executed in the same manner as a decree of a Civil Court under the Code of Civil Procedure, 1908

CHAPTER IX OFFENCES AND PENALTIES 42. Offences and penalties. u— (1) It shall be an offence under this Act, if a Cooperative Society - (a) fails to give a notice, send a return or document or fails to do or allows to be (b) (c) (d) (f) done any act which a Cooperative Society is by this Act or under its bye-laws required to give, send, do or allow to be done; willfully neglects or refuses to do an act or to furnish information required for the purposes of this Act or does an act forbidden by this Act, or the bye- laws; makes a return, or willfully furnishes information in any respect false or insufficient; indulges in fraudulent activities concerning the constitution, management and business of the Cooperative Society; misuses the funds and property of the cooperative Society; or indulges in the conduct of elections to the Board in "corrupt practices" as defined under section 123 of the Representation of People Act, 1951 , (2) It shall be an offence under this Act, if any person or Cooperative Society contravenes the provisions of this Act of the bye-laws of the Cooperative Society. (3) An offence by a Cooperative Society shall be deemed to have been also committed by each office- bearer of the Cooperative Society bound by the bye-laws thereof to fulfill the duties where of the breach is an offence, or if there is no such office- office-bearer then by each of the directors, unless the office-bearer or director, as the case may be proves to have attempted to prevent the commission of the offence. (4) An offence under this section shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one year or with fine which may extend to Rs. 2000 (Rupees Two thousand), or with both: Provided that where a person is guilty of misappropriation, fraud, breach of trust, cheating or may other act involving moral turpitude, resulting in a loss to the Cooperative Society, he shall also he punishable under the relevant provisions of the Indian Penal code, 1860

CHAPTER X DISSOLUTION — (1) A Cooperative Society may, by a special 43. Dissolution by members. resolution, authorise its own dissolution Provided that a notice of the general meeting shall also be sent with an invitation to attend, to the Registrar, to any federation of which the Cooperative Society is affiliated, to creditors and to any organisation with which a partnership contract has been entered into. (2) Invitees under the proviso of sub-section (1) shall have the right to make representation to the general body if they so wish to, giving reason why dissolution is not called for. (3) Within fifteen days of such authorization for dissolution, the Cooperative Society shall send to the Registrar a copy of the authorization to dissolve the Cooperative Society. (4) The authorization approved in pursuance of sub-lection (1) shall be required to set out the following namely (a) the assets and liabilities of the Cooperative Society; (b) the claims of creditors, and collaborators and protected share holders; (c) the number of members; (d) the nature and extent of the members interest in the Cooperative Society; and (e) the name of the liquidator, if appointed by the general body, or a request to the Registrar to appoint the liquidator or a request to the Registrar to issue a certificate of dissolution where there are no assets or liabilities. (5) Where the Registrar receives the special resolution passed in pursuance of sub-section (1) he shall cause at the expense of the Cooperative Society a notice of the special resolution to be published in the district where the registered office of the Cooperative Society is located. (6) The Registrar may require form the Cooperative Society, the liquidator appointed by the Cooperative Society or may other person who is required to furnish information, a periodical return showing. (a) the progress of dissolution; (b) the distribution of any undistributed surplus or reserve; and (c) any other relevant information the he may require. — (1) The Registrar or an interested person may, 44. Dissolution by Tribunal. after giving the Cooperative Society ninety days notice of the proposed application, apply to the Tribunal for an order dissolving the Cooperative Society, where he has reasonable cause to believe that the Cooperative Society has no right to be or to continue to be recognized as a Cooperative Society, because it- (a) obtained its

registration by fraud or mistake; (b) is serving illegal purposes; (c) has willfully, after notice by the Registrar; violated any of the provisions of this Act or its by- laws; (d) is no longer operating in accordance with Cooperative principles and the provision of this Act; (e) has not commenced business within two years of the date of registration; or (f) has not carried on business for the past two consecutive years. (2) Where an interested person applies in pursuance of this section, he shall gibe the Registrar notice of his application and the Registrar shall be entitled to appear and be heard in person or by counsel. (3) Where the Tribunal receives an application in pursuance of this section it may, after giving a reasonable opportunity to the Cooperative Society to state its case, order that the Cooperative Society be dissolved or liquidated and dissolved under the supervision of the Registrar. (4) Where the Registrar receives an order made in pursuance of sub-section (3) he shall, (a) where the order is to dissolve the Cooperative Society, issue a certificate of dissolution, or (b) where the order is to liquidate and dissolve the Cooperative Society under the supervision of the Registrar, publish a notice in newspaper published or distributed in the district in which the registered office of the Cooperative Society is situated

45. Appointment of liquidator.— Where a Cooperative Society is to be liquidated and dissolved and no liquidator is appointed y the general body or the Tribunal, the Registrar may- (a) appoint any person as a liquidator to wind up the affairs of the Cooperative Society, or (b) where he is satisfied that the Cooperative Society has no assets and liabilities, issue a certificate of dissolution

46. Duties of liquidator.— On his appointment, a liquidator shall- (i) in the case of a liquidator not appointed by the Registrar, to the Registrar, and (ii) to each claimant and creditor known to the liquidator. (b) immediately publish notice of his appointment once a week for two consecutive weeks in a newspaper published or distributed in the place where the Cooperative Society has its registered office and take reasonable steps to give notice of the liquidation in every jurisdiction where the Cooperative Society carries on business; (c) Place in notice mentioned in clause (a) and (b) a provision requiring ay person, (i) indebted to the Cooperative Society, to render an account and pay to the liquidator at the time and place specified any owing, (ii) possessing property of the Cooperative Society to deliver it to the liquidator at the time and place specified, and (iii) having a claim against the Cooperative Society, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than two months after the first publication of the notice. (d) take into custody and control the property of the Cooperative Society; (e) open and maintain a trust account for the moneys of the Cooperative society; (f) keep accounts of the moneys of the Cooperative Society received and paid out by him; (g) maintain a separate list of members, creditors and other persons hiving claims against the Cooperative Society; (h) where at any time he determines that the Cooperative Society is unable to pay or adequately provide for the discharge of its obligations apply to the Registrar for directions; and (i) deliver to the Registrar, periodically as the Registrar may require, financial statements of the Cooperative Society is any form that the liquidator considers proper or that the Registrar may require

47. Powers of liquidator.— (1) The liquidator may- (a) retain lawyers, accountants, engineers, appraises and other professional advisors; (b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the Cooperative Society; (c) carry on the business of the Cooperative Society as required for an orderly liquidation; (d) sell by public auction any property of the Cooperative Society; (e) do all acts and execute any documents in the name and on behalf of the Cooperative Society; (f) borrow money on the security of the property of the Cooperative Society; (g) settle or compromise any claims by or the Cooperative Society; and (h) take all other steps that he considers necessary for the liquidation of the Cooperative Society and distribution of its properties and funds. (2) Where a liquidator has reason to believe that any persön has in his possession or under his control, has concealed, withheld or misappropriated any property of the Cooperative Society he may apply to the court for proceeding into the matter in accordance with law. (3) Where the proceeding under sub-section (2) discloses that a person has concealed, withheld or misappropriated of the Cooperative Society, the Court may order that person to restore the property of pay compensation to the liquidator on behalf of the Cooperative Society. (4) No liquidator or his relatives shall purchase, directly or indirectly any part of the stock-in-trade, debts or assets of the Cooperative Society. — (1) A liquidator shall pay the costs of liquidation out of the 48. Fina/ Account. property of the Cooperative Society and shall pay or make adequate provision for all claims against the Cooperative Society. (2) After paying or making adequate provision for all claims against the Cooperative Society, the liquidator shall apply to the Registrar for

approval of his final accounts and for permission to distribute in money or in kind the remaining property of the Cooperative Society in accordance with the bye-laws. (3) where the Registrar approves the final accounts rendered by a liquidator in pursuance of sub-section (2), he shall- (a) issue directions with respect to the custody or disposal of the documents and records of the Cooperative Society; and (b) discharge the liquidator. (4) Where the Registrar discharges a liquidator pursuant to sub- section (3) he shall issues a certificate or dissolution. (5) The Cooperative Society ceases to exist on the date shown in the certificate of dissolution, which shall not be later than twenty-four months after appointment of the liquidator

CHAPTER Xl MISCELLANEOUS 49. Fee for services. — The Registrar may charge a reasonable fee any of the services provided by him or by an officer authorised by him under the provisions of this Act.

50. Bar of jurisdiction of court.— (1) Save as otherwise expressly provided in this Act, on Civil or Revenue Court shall have any jurisdiction in respect of any dispute required by section 40 to be referred to the Cooperative Tribunal, or recovery proceeding under section 41 or dissolution under section 43 and 44. (2) While a Cooperative Society is in liquidation under section 45, no suit or other legal proceedings shall be proceeded with or instituted against the liquidator as much (sic) or against the Cooperative Society or any member thereof on any matter touching the affairs of the Cooperative Society, except by leave of the Registrar and subject to such terms as he may impose

51. Rules.— (1) The state Government may by notification make rules, to carry out all or any of the provisions of this Act. (2) The power to make rule conferred by this section is subject to the condition to the rules being made after previous publication. (3) All rules made under this section shall be published in the Official Gazette and on such publication shall have effect as if enacted under this Act

52. Removal of difficulty.— (1) If any practical difficulty arises in giving effect to the provisions of this Act, the State Government, as occasion may require, by notification published in the Official Gazette, do anything not inconsistent with the provisions of this Act for purpose of removing the difficulty. (2) Should any doubt arise as to the construction and interpretation of any provision of this Act, the same may be referred to the Registrar of the state Government for decision. (RNET)— 20/97/1891 3100501997,- 1996 (REIN 2, 1997) 49 a-TV! 52 (1) 051 gg, — 49 $1 (QFF) 4. 100 /—« 10,000/—) 1/2 50/— 5000/— 5. 0425 800—3FQ 6. 1. 2. 3. 4 €4) (ii) (u) (ii) uRT—12 (i) 05T evr-Å--eq--;-T —O 5. 6. 7. 8 UNT—30 (3) üRT—36 (5) (u) 200/— 500 // — 1,000/— 1/— 1 100/— 10/ (RÄ) —1 06/97—4544 13 qq, 1997— * — 1996 NTEUT—2, 1997) 31TfQ I — 4139 f?FiFF 31005097 —5 (3) (q) qfhl NiæT—1891 31005097 —4139 31005097 2 (6) (iii) a-tr 1935 q-a a, 30 4139 31005097 1 2 00 0 0 0 0 0 00 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 00 o o . x--CN co O o o 11

1. Short title and commencement.- (1) This Act may be called the Bihar Cooperative Societies (Amendment) Act, 1989. (2) It shall come into force at once. 2. to 11. Inserted in the body of the Act. — (1) The Bihar Cooperative Societies 12. Repeal and Savings. (Amendment) Second Ordinance, 1989 (Bihar Ordinance no. 24 of 1989) is hereby repealed. (2) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act were in force on the day which such thing or action was done or taken

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348 Gz(3) gra I [Bihar Act 7,2013] BIHAR SELF-SUPPORTING CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 13 AN ACT To amend the Bihar Self-Supporting Co-operative Societies Act, 1996 PREAMBLE.— Whereas voluntarily conslilulcd Co-operative Societies can lead Io the socio-econonlic betternnent of their Inennbers as based on their econolllic participation, dennoeratic control and autononnous functioning so as to act Illore •meaningfully in the interests of their naennbers: AND, WHEREAS, il is an obligation of lhe Stale Governmcnl Io promote voluntary formation, autonolnou.s functioning, democratic control and professional management of the Co-operative Societies in the State and promote them and take such measures as are necessary for this purpose; AND, WHEREAS, in pursuance of The Constitution (Ninety Seventh Amendnnent) l, many amendments arc imperative in Ihe Bihar Self-Supporling Co-operative Societies Act, 1996; to keep in consonance with above Alnendment. BE IT enacted by the Legislature of the State of Bihar in the sixty fourth year of the Republic of India as follows: - — (l) This Act may be called the Bihar Self- l. Short title, extent and commencement. Supporting Co-operative Societies (Amendment) Act. 2()13. (2) It shall extend 10 the whole of lhe State of Bihar. (3) It shall come into force at once. 2 Q/' lhe Bihar Act 2 of 1997.— In Section-2 of the Bihar Self-2. Alnendlnenl in Section,, Supporting Co-operative Societies Act, 1996 (Bihar Act 2, 1997) (here in after referred to as the said Act) shall be annended as follows - (i) Sub-section (b) shall be substituted by the following, namely - "(b) 'Board' means Board of Directors or Governing Body or Managino Committee by whatever name it is designated Io whom the management of the affairs of a Co-operative Society is entrusted." (ii) After sub-section (p) the following new sub-sections (q), (r), (s) and (t) shall be inserted namely - "(q) 'Apex Society' rueans, a Co-operative Society whose area of operation covers the whole of the state of Bihar or any Co-operative Federation / Union 22 2013 7 having in its area of operation the whole of the State of Bihar and which has been declared as Apex Society by the Registrar of Co-operative Societies. "(r) 'Functional Directors' means Functional Executive Directors of the Society specified as per rules or Bye-laws of that Co-operative Society, "(s) "Backward Classes"— means and includes the list of Backward Classes of citizens specified in Annexure-2 of the Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes , Scheduled Tribes and other Backward Classes) Act, 1991 (Bihar Act No. 3, 1992), as amended from time to time;" "(t) "Extremely Backward Classes"— nneans and includes the list of Backward Classes of citizens specified in Annexure-I of the Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes , Scheduled Tribes and other Backward Classes) Act, 1991 (Bihar Act No. 3, 1992), as amended from time to time:" 3. Amendment in Seclion„23 Q/' the Bihar Acl 2 of 1997.— In Section-23 of the said Act shall be amended as follows, namely - (a) Sub-section (7) shall be substituted by the following - "(7) A person admitted as a Inember may exercise the rights of membership. including lhe right Io vote, only after ensuring minimum attendance, as required in the meeting convened for the participation in managenrnt of the Society and availing of minilllum requisite services of the Society as nnay be prescribed in the Bye-laws of the Society; Provided that a person shall have been a member [Sor at least one year before being eligible to exercise the right to vote: Provided further that the above provision shall not apply to the promoter members in the first year of registration or a Co-operative Society. (b) After sub-section (7) the following new sub-sections (8), (9) and (1()) shall be adcled. namely:— "(8) Every Co-operative Society shall provide access Io every noember Io lhe books, infornvation and accounts of the Co-operative Society kept in regular transaction of its business with such member. (9) Every member of a Co-operative Society shall have the right to gel all infornnation/docunnents regarding books. information and accounts 01 the Co-operative Society kept in regular transaction of its business. The Chief Executive officer/manager of Ihe Co-operative Society shall ensure access 10 the nnennber to all required in fiornoation/docunnents. (1()) The nnembers of any Co-operative Society shall have the right to get nnennber education and co-operative related training as per Ihe rules or Bye-laws made under any provisions of this Act

4. Alnenchnenl in Section 25 Q/ the Bihar Act 2 Q/ 1997.— In Section - 25 of the said ACI shall be amended as follows, namely — (a) Sub-section (l) shall be substituted by the following, namely - l) Subject to the provisions of this Act and the Bye-laws the ultilnate authority of a Co-operative Society shall vest in its General Body. Board of everv Co- operative Society shall convene Annual General Meeting within six months from the closer of each financial year. which shall deal with all or any naatter dealt with under sub-section (3) except those in relation to the election of members and Office-bearer or the Board. (b) Sub-section (3) clause (a) and (b) shall be deleted

5. Alnencbnelll in Seclion - 26 of the Bihar Act 2 0/' / 997. Sub-section (2) of Section - 26 of the said Acl shall be subsliluled by the following, namely - bearers accordance with the Bye-law's. Chief Executive shall be an ex-offlcio member of thc Board. The Board shall co-opt such persons having experience in the 8 (3RTVTPT), 22 2013 field of banking, management, finance or specialization in any other field relating to the object and the activities under taken by the Co-operative Societies, as members of the board; Provided that the number of such co-opted members shall not exceed two and this shall be in addition to the total members of the board: Provided further that such co-opted mennber,s shall not have the right to vote in any election of the Co-operative Society in their capacity as such member or to be eligible to be elected as Office-bearers or the Board: Provided further also hat the Functional Directors of a Co-operative Society shall also be the members o the board and such members shall be excluded for the purpose of counting thc lolal number of Directors: "Provided that there shall be reservation of two seats for the Scheduled Castes or the Scheduled Tribes, two seats for the Backward Classes and two seats for the Extremely Backward Classes on the Board of every Co-operative Society: Provided further that for the purpose of reservation of seats as in the above proviso, the State Government may, by general or special order, exclude the Board of' societies or class of societies not consisting of individuals as members or nol having melnbers from above categories of reservation: Provided further that the total number of seats so reserved shall not exceed l'i ('ty percent of thc total number or seats: Provided further also that as nearly as but not exceeding fifty percent of thc total number of seats so reserved shall be reserved for women belonging to lhe Scheduled Castes or the Scheduled Tribes, lhe Backward Classes and thc Extremely Backward Classes, as the case may bc: the Provided further also that as nearly as but not exceeding fifty percent ot total number of seals not reserved above for the Scheduled Castes or the Scheduled Tribes, the Backward Classes and lhe Extremely Backward Classes shall be reserved for women: Provided further also that thc total nunnbcr of seats so reserved for women shall not be less than two. The seats so reserved shall be filled up fronn amongst the Inennbers of Scheduled Castes or Scheduled Tribcs, Backward and Extremely Backward Classes and women either by election or/and by co-option. This provision shall apply Io all societies fronn the Primary Society and up to the Apex Societies: Provided further also that such reservation in Primary Society and up to lhe Apex Society shall be governed by the rules made under this Act ror this purpose." Section - 28 of the said Act 6. Sl.lb-seclion Q/' Seclion - 28 Q/' lhe Bihar Act 2 Q/ 1997. — shall be substituted by the following, nannely - '28. Term of office. - The term of office of elected members 01' thc Board and its Office- bearers shall be five years from the date of election and the terin of ofTice ot- the Office-bearers shall be co-terminus with the term of the Board; Provided Ihal lhe Board may fill a casual vacancy in the Board by nomination out of the saine class of members in respect of which the casual vacancy has arisen, if the term of the board is less than half of its original term; Provided further also thal if more than half of the lerm of original term of elected Board remains and any post of elected members and Office-bearers becomes vacant, lhe vacancy will filled by By-election by The Bihar State Election Authority for the remaining period; Provided further that the term of the first Board shall not exceed twelve months from the date of registration of the Co-operative Society." In Section - 29 of the said Act 7. Amendment in Section - 29 Q/ lhe Bihar Act 2 of 1997. shall be amended as follows, namely — (a) Sub-section (l) shall be substituted by the following, namely - 22 2013 (60 9 "(l) Thc Bihar State Election Authority constituted shall be responsible for the conduct of elections of the board or a Co-operative Society under The Bihar State Election Authority Act, 2008. (b) Sub-section (2) shall be substituted by the following, namely - "(2) The election shall be conducted before the expiry of term of the outgoing director by the Bihar State Election Authority in the manner specified under the provisions of the Bihar State Election Authority Act, 2008 and Rules made there under and as per the provisions of the Bihar Self-Supporting Co- operative Societies Act, 1996 and Rules made there under." (c) Sub-section (3) shall be deleted

8. Antendmenl in Section - 33 QI lhe Bihar Act 2 Q/" 1997.— In thc said Act Section-33 shall be amended as follows, namely — (a) Sub-section (l) shall be substituted by the following. namely - "(l) A Co-operative Society shall get its accounts audited by Auditor from a Panel approved by State Governnnent or the authority authorized by the State Govermnent, at least once in every financial year. Such Auditor shall either bc Chartered Accountants within thc meaning of lhe Chartered Accountants Act, 1949 or from the office of the Registrar. The minimulll educational qualification of the Auditors from a panel approved by State Government or an authority authorized by the State Government shall be

Graduate (with Mathematics) or commerce Graduate from any approved university. Such Auditor or Chartered Accountants firm shall be required to have at least three years of audit experience. Only such Auditor or Chartered Accountants firm shall be eligible for the audit 01' the accounts of Co-operative Society." (b) Sub-section (4) shall be substituted by the following, namely - "(4) The audit or the accounts of every Co-operative Society shall be done by the Auditor or Chartered Accountant firtn in the nnanner specified under sub- section (l), appointed by the General Body of Co-operative Society. The remuneration or the Auditor shall be fixed by the General Body; Provided that if the audit is done by the Auditor from the office of the Registrar. Co-operative Societies shall pay the audit fee fixed by the Registrar." (c) Aller sub-section (10) lhe following new sub-section (l l) shall be added, namely "(l l) Apex Co-operative Society with the approval of General Body shall conapulsorily submit the Audit Report, after the audit of the Statement 01 Accounts, Io the Registrar within thirty days so that thc report may be placed in the I..egislature through State Govcrmment in accordance with the procedure laid clown by the State Governnnent ror this purpose." 9. Silbslilulion Q/' Section - 35 the Bihar Act, 2 of 1997. — Section - 35 of the said Act shall be substituted by the following, namely - "35. Filing Annual Statements of Accounts. - Every Co-operative Society shall file Annual Statement of Accounts before the Registrar within six months of thc end of financial year which shall include following subjects: (a) (b) (c) (d) (e) Annual Report of the activity; Audited Statement of the Accounts; Plan to deal with the surplus as approved by General Body; List of the anlenchnents done, if any. in the Bye-laws of the Co-operative Society; Declaration relating Io the conduct of' election, if due, and dale [or the arrangennent of General Body nneeting•. Any other information notified by Registrar, if required to carry out any of' lhe provisions of the Act." 10 22 2013 In the IO. Inserlion efa new Section - 41A qfler Seclion - 41 QTIhe Bihar Acl 2 0/'1997. said Act after Section -41 the following new Section - 41 A shall be inserted, namely - - (I) If in the opinion of the "41 A. Supersession of the Board by the Tribunal. Tribunal, upon the receipt of application from the nnember of the Co-operative Society, the Board of any Co-operative Society, where loan or financial aid has been provided by the State Government or loan has been provided on Governnnenl guarantee, is persistently making defaults or is negligent in the performance of the duties imposed on il by this Act, the Rules or lhe Bye-laws, or conducted against lhe interest of its nnennber,s or there is stalennate in the fornnauon or functioning of the Board, he may, after giving opportunity to the managing conmnittee to state its any, by order with reasons in writing supersede lhe Board 01' lhe objection, iC Co-operative Society for a period not exceeding six months. The nnelüber.s of the Boards of societies so superseded shall not be eligible for reelection for five years from lhe dale of supersession. Tribunal shall record every order passed under this section in writing and inform the concerned Co-operative Society through registered post: Provided that in case of Co-operative Society carrying on lhe busine.ss 01 banking. provisions of Banking Regulation Act, 1949 shall also apply: Provided further that in case of Co-operative Society carrying the business or banking, thc maximum period or supersession shall be of onc year; Provided further also that the supersession of the Board of the Co-operative Society having banking operation shall be done in consultation with the Reserve Bank 01' India. the (2) When any Co-operative Society is under supersession under sub-section (l). Tribunal shall appoint an Administrator to conduct the affairs of lhe Society. The Administrator appointed under this sub-section, shall take necessary action for lhe election of the Board of Co-operative Society within the speci tied period and shall hand over the managennent to elected Board. (3) Thc Adnninistrator appointed under sub-section (2) shall get remuneration, as may be fixed by the Tribunal, as he deems fit to cal-ry on the business of the Co-operative Society. The renouneration so fixed shall be payable fronl the accounts of Co-operative Society. (4) Administrator appointed under sub-section (2) shall work under the service condition laid down by the Tribunal and shall perform all the duties and carry on responsibilities assigned to the Board under this Act, rules and the Bye-laws 01 Society: Provided that the Tribunal shall have the power to change the Adnninistrator during the period of supersession.' Sub-section (l) of Section - Sl.lbslilulion o/ • Section - 42 of lhe Bihar Acl 2 0/' 1997. 11. 42 of the said Act shall be substituted by the following, namely:- (l) It shall be an offence under this Act if- (a) a Co-operative Society or an officer or member lhereof willfully makes a l'alsc return or furnishes false information, or any person willfully not furnishes any information required from him by a person authorised in this behalf under the provisions 01' this Act; requisition or lawful written order issued under the provisions of the this Act: (c) any employer who, without sufTicient cause, fails to pay Io a Co-operative Society amount deducted by him from its employee within a period 01

fourteen days from the date on which such deduction is made: (d) any officer or custodian who willfully fails to handover custody of books, accounts, documents, records, cash, security and other properly belonging Io a Co-operative Society of which he is an officer or custodian. to an authorised person; and 22 2013 11 (e) any person indulges in the corrupt practices before, during or after the election of' the Office-bearer or member of the Board of the Co-operative Society." By order of the Governor of Bihar. VINOD KUMAR SINHA, Secretary to the Governtnent. 3-Tf.tra-F5, qz-a-r (3RIVRUT) 400-571+400-åoåoftl Website: http://egazette.bih.nic.in The Bihar Self-Supporting Cooperative Societies Tribunal (Constitution & Procedure) Rules, 2002 GSR 3438./ dated 04.12.2002. In exercise of power conferred by section 51 of the Bihar Self- Supporting Cooperative Societies Act, 1996 (Bihar Act-2 of 1997), the Governor of Bihar is pleased to make the following Rules. The Same having been previously published as required by sub-section (2) of the said section. CHAPTER - I Preliminary 1. Short Title. — These rules may be called The Bihar Self-Supporting Cooperative Societies Tribunal (Constitution & Procedure) Rules, 2002

2. Definitions.— In these rules unless the context otherwise requires. (i) 'Act' means the Bihar Self-Supporting Cooperative Societies Act, 1996 (Bihar Act, 2 of 1997); (ii) 'Tribunal' means the Cooperative Tribunal constituted under Section 39 of the Bihar Self- Supporting Cooperative Societies Act, 1996; (iii) 'Section' means a section of the Bihar self-supporting cooperative Societies Act, 1996; (iv) ' appeal' means an appeal preferred to the Tribunal under the Bihar Self supporting Cooperative Societies Act, 1996. (v) 'application' means an application filed to the Tribunal under the Bihar Self-Supporting Cooperative Societies Act, 1996; (vi) 'Chairman' means the Chairman of the Tribunal. (vii) 'form' mean a form appended to these rules; (viii) 'gazette' means the official Gazette of Bihar; (ix) 'party' means the appellant of applicant, as the case may be and in cludes his pleader or any other person on behalf of the appellant or applicant; (x) 'opposite party' means respondents to an appeal or an application and shall include an authority whose orders are proposed to be taken in an appeal; (xi) 'respondents' means opposite party; (xii) 'pleader' means the pleader as defined in clause (15) of section (2) of the Code of Civil Procedure, 1908 {Central Act V of 1908]; (xiii) 'Secretary' means the person who is for the time being discharging the functions of the Secretary to the Tribunal; (xiv) 'State Government' means the Government of Bihar. (xv) Words and expressions used but not defined shall have the meaning assigned to them in the Act and the rules made there under. CHAPTER - 11 Constitution 3. Constitution of Tribunal . — (1) There shall be a Tribunal Called the Bihar Cooperative Tribunal. (2) The Tribunal Shall consist of one or more members who shall be appointed by the Government from amongst the following categories of persons; (i) Government servant, retired or serving, not below the rank of Special Secretary to Government of Bihar. (ii) Officer of Bihar Cooperative Service, retired of serving, not below the rank of Joint Registrar, Cooperative Societies. (iii) Retired senior District and Sessions Judge. Provided that not more than one person can be appointed from any particular category. Further provided that one of the members shall be appointed chairman of the Tribunal by the Government. (3) The Tribunal shall have its own Staff who shall be under the control of the Secretary of the Tribunal. The Secretary of the Tribunal shall be an officer of the Bihar Cooperative Service not below the rank of Deputy Registrar, Cooperative Societies, and shall be deputed by the State Government. (4) The constitution of Tribunal and the appointment of Chairman and members shall be pu8blished in the official Gazette

4. Creation of Bench (1) The functions of the Tribunal shall be exercised by a bench to be constituted by one, two or three members. The nature of cases to be disposed of by these benches shall be under discretion of the Chairman; Provided that a bench consisting of only one member or two members may in its discretion refer a case to a larger bench of two or three members including Chairman, as the Case may be. (2) (a) Where an appeal or application is heard by all the three members of the Tribunal and the members are divided in opinion on any point or points, such point or points shall be decided in accordance with the opinion of the majority. Provided that if the post of any one of the members is vacant point or points shall be decided in accordance with the opinion of the Chairman. (b) Where an appeal or application is heard by a bench constituted of two members whether it consists of the Chairman or not and members and divided in opinion on any point or points, such point shall be referred to a bench consisting of all the three members including Chairman. (c) For the matter in which Registrar or State Government is either Applicant or Respondent it shall necessarily be placed in the bench headed by the Chairman. CHAPTER - Ill Terms Headquarters, Office Hours 5. Terms of Office (1) The members of the Tribunal shall normally be appointed for a period of two years from the date of their appointment.

Provided that the period of appointment may be reduced or extended by the State Government. (2) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as may be possible. During the vacancy in the post of the Chairman or pending the appointment of a permanent Chairman, the Government may appoint one of the remaining member as Chairman

6. Term & Conditions : (1) The members of the Tribunal including Chairman Shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1960 (XL V) of 1960) and the proceeding taken before the Tribunal Shall be subject to sections 195 and 340 of the Code of Criminal Procedure.(2) No member shall accept any other paid employment outside the duties of his office during the term of his membership of the Tribunal

7. Headquarters of the Tribunal : (1) The headquarters of the Tribunal Shall be at Patna having its jurisdiction all Over the State

8. Office Hours : The Tribunal Shall hold its sitting during the same hours as that of other offices of the State Government

9. Language: The language of the Tribunal shall be in Hindi Provided that the parties to a proceeding before the Tribunal may file documents drawn up in English if they so desire.CHAPTER - IV Appeals and applications 10. Presentation of Appeals and Application (1) An appeal or an application, as the case may be, shall be presented to the Secretary of the Tribunal either by the party or by sending it through a registered post. (2) Where an appeal or an application is presented by a Pleader or an authorized agent it shall be accompanied by a duly stamped letter of authority appointing him as such. (3) Every such appeal or application shall be made in accordance with the Act and these Rules and shall be accompanied by a challan for the amounts as prescribed hereunder — In relation to monetary 1% of the claim subject to a minimum of (ii) (iii) (v) (vi) Rs. 10/- (Rupees Ten) and maximum of disputes Rs. 1000/- (Rupees one Thousand) only Rs. 20/- (Rupees Two Hundred) only In relation to non-monetary other than disputes, election disputes In relation to election Rs. 500/- (Rupees Five Hundred) only disputes In relation to appeal under Rs. 200/- (Rupees Two Hundred) only Section-5 In relation to application Rs. 200/- (Rupees Two Hundred) only under section-41 In relation to application Rs. 200/- (Rupees Two Hundred) only under section 44 appeal shall contain the necessary parties to the appeal and the authority whose orders are proposed to be taken in an appeal and shall contain the name and address of opposite party to whom the notice haye to be sent. (5) An application shall contain the necessary parties to the case and the substance and grounds of the case or the dispute and shall contain the name and address of the opposite party to whom the notice may have to be sent. 11.Procedure for filing appeal: An appeal shall be in the form of a memo setting forth concisely the grounds of objections to the decision of order which is the subject matter.of the appeal, and shall be accompanied by the original or a certified copy of the decision or order passed by the authority competent to pass the said order. Every appeal shall also be accompanied by as many copies of the memo as there are respondents in addition to three originals

12. Procedure for filing application : An application shall be in the form of a plaint setting forth precisely the substance, and ground for the case, and shall be accompanied, by the original or certified copy of such documents and/ or papers as are necessary to substantiate the case. Every application will also be accompanied by as many copies of the plaint as there are opposite parties in addition to the originals. O CHAPTER - V Registration of appeals and applications 13. Registration of Appeals and Application (a) On receipt of an appeal or an application, the Secretary shall endorse on it the date of its receipt and shall show cause in

Form I in respect of appeals and in form-ll in respect of other application, appended to these rules. The secretary shall thereafter examine. (i) whether the person presenting it has an authority to do so; and (ii) whether it conforms to the provisions of the Act and these rules. (b) If the Secretary of the Tribunal finds that the appeal or application does not conform to the requirement of the Act and/ or these rules, he shall cause it to be returned by making an endorsement on the some and calling upon the appellant or the applicant in Form-ll to rectify the defect or defects within a period of not less than 15 days and cause it to be entered in the remarks column of the Form-I and paste it on the notice board of the Tribunal. The Secretary may, for sufficient cause extend the said period, if the defect or defects are not rectified within the period allowed. (c) If the defect or defects are not rectified within the period allowed, the Secretary shall make a report to the effect to the Chairman who may reject the appeal or the application, and affix the same on the notice board of the Tribunal. (d) if the Secretary is satisfied that the appeal or the application is presented properly, he shall cause the particulars of the same to be entered in the registers in Form-I & 11 respectively, as the case may be, Such entries shall be numbered yearwise according to the order in which they are registered. The serial number in the Register shall be given as the case number of the appeal or the application as the case may be, Separate petition has to be filed for any 'Interim' order required. Provided that if more than one appeal are filed against the some order, or more than one application are filed in. the same matter, they shall be clubbed together and disposed off by a common order

14. Application for Interim suspension order : Where a party seeks the interim suspension of the impugned order, he shall file a separate application for the same. Every such application shall be supported by an affidavit in respect of application for stay or suspension of the impugned order passed by the departmental authorities, especially relating to misappropriation of amounts and sanction of benami loans. No interim order in the nature of stay or suspension for a specified period shall be issued unless the application produces a cash deposit of not less than 60 % of the amount involved in the impugned order or furnishes of equal value as directed by the Tribunal

15. Stay of Orders : In an appeal, if the Tribunal is satisfied on an affidavit that in is just and reasonable that the operation of the impugned order be stayed or suspended.(a) It may, by order, suspend the operation of the impugned order temporarily after giving notice to the affected person; or (b) It may give notice to the respondent or respondents and after giving an opportunity 16. Distribution of work : The Chairman of the Tribunal shall distribute work among the members of the Tribunal subject to the following: (a) a single member shall hear all appeals, applications for admission and interim order and the Chairman shall entrust this work by rotation to all the members; (b) after admission and interim orders, if any, the matter shall be heard by Chairman or two member bench including Chairman of the tribunal. Provided that the Chairman may constitute a three- member bench whenever it is necessary basing on the nature of the case. Explanation : (i) The single member mentioned in clause (a) above may either be the Chairman himself of any other member. (ii) The tribunal shall fix date for hearing and notice of the dates fixed for hearing shall be issued to the parties concerned by registered post with acknowledgement in the

form IV annexed to these rules. A copy of the respondent memorandum of appeal or the plaint shall also be furnished to the respondent or respondents. (c) A Copy of the affidavit and the application for suspension of impugned order shall also be furnished to the respondent or respondents along with the notice of hearing. CHAPTER - VI Hearing, adjournments and judgments 17. Procedure for hearing, adjournments: On the date fixed for hearing or any other date to which the applicant, as the case may be shall ordinarily be heard first in support of his case, the respondent or his case, the respondent or his advocate shall if necessary, be heard next and such cases the appellant or the applicant be entitled to reply

18. Evidence : (1) Where a party desires that a witness be examined by the Tribunal or cause production of documents for additional evidence, he may apply to the Presiding Officer through an affidavit for summon in, the persons whose attendance in required either to give evidence or to produce documents and the secretary shall issue in

Form-V to the party or his counsel for service on the person concerned, after the Presiding Officers pass an order on the affidavit filed.(2) Where the person to be summoned is a public servant, the party shall along with the application or summons before summons is granted, deposit before the Secretary as sum of money as appears to the Tribunal to be sufficient to defray travelling and other expenses of the person summoned for coming to the Tribunal and going back and for one day's attendance. (3) Where the person to be summoned is not a public servant, it shall be the duty of the party who takes out the summons to produce the witness of cause the production of the documents and where he fails to produce them, it shall be deemed that he has given up the claim for additional evidence

19. Additional Evidence: The parties shall not be entitled to produce additional evidence whether oral or documentary before the Tribunal but, (a) If the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted.(b) If the opposite party in the case has refused to admit evidence which ought to have been admitted, or (c) If the party seeking the additional evidence satisfies the Tribunal that such evidence, notwithstanding, the exercise of due diligence was not within his knowledge or could not be produced by him before time when the order under appeal was passed, or (d) if the Tribunal requires any document to be produced or any witnesses to be examined so as to enable it to pass just order, and (e) for any other sufficient reason Tribunal may allow such evidence or documents to be produced or witnesses examined: Provided that where such evidence is received the other party shall be entitled to produce rebutting evidence, if any. : (1) The Tribunal may, on such terms as it thinks fit and at 20. Adjournment any stage adjourn the hearing of the appeals or applications on its own accord by mentioning in the open court or on an oral request or by an affidavit filed by the petitioner or the respondent. o (2) An application for adjournment shall be presented with an affidavit by the party or a person who is well acquainted with the facts of the case. (3) Each application for an adjournment shall be stamped with the court fee of Rupees one hundred only and copies of the applications shall also be given to the other party

21. Procedure in case of death of an appellant or an applicant : : (1) If an appellant or an applicant or the respondent therein dies while the case is pending and it cannot be proceeded with unless his legal representative is brought on record, the "Tribunal shall adjourn further proceedings to enable the legal representative of the deceased to be made a party. If such legal representative fails to do so within a period of sixty days from the date of death of the appellant or applicant, or if the appellant/applicant fails to file making the legal representative as per the appeal or application, shall abate as regards such deceased appellant of applicant or the respondent as the case may be. (2) Notwithstanding anything contained is sub-rule (i) there shall be no abatement of an appeal or application by reason of the death of any party between the conclusion of the hearing and passing of the order and the order may, is such a case, be passed notwithstanding the death, and shall have the same force and effect as it would have were it passed before the death took place

22. Effect on the death of appellant or applicant after passing the (1) Whenever an order of abatement has been passed in a case abatement order : where the appellant or applicant has died, his legal heir or representative, in a case where the respondent had died the appellant or applicant, may within sixty days from the date of such order apply to the Tribunal for setting aside the abatement and the Tribunal may on sufficient cause being shown to its satisfaction set aside the abatement and proceed with the appeal or application by reason of death of any party between the conclusion of the hearing and passing of the order and the order may in such a case, be passed notwithstanding the death and shall have the same force and effect as would had were it passed before the death took place.(2) Where an application under sub-rule (i) has been filed after more than sixty days fiom the date of the order the tribunal may condone the delay on a separate application filed for the purpose when the delay is property explained. (1) Every order or the tribunal shall be in writing and shall be 23. Order pronounced in the court immediately after hearing or on the date fixed for the purpose, with shall not be ordinarily more than fifteen days from the date of the final hearing. (2) The order shall be pronounced in open court after giving notice to the parties concerned. In case the order is not pronounced on the date fixed, it, may be pronounced within fifteen days from the date originally fixed for the hearing after intimating to the Chairman the reasons for the delay. (3) Where the bench consists of more than two members the order of the tribunal shall be given by the majority of the member. (4) Where an appeal or application is heard by a bench consisting of the Chairman or not and the members are divided in opinion on any point or points such point or points shall be referred to the full bench consisting of the three members for disposal (5) The order rendered shall not be invalidated in case of any unfilled vacancy in the tribunal. (6) If any case which comes up before a single member or a bench which is not comprised of the Chairman involves a question of Law, such a single member or the bench may in his of their discretion refer such case for decision by bench consisting of the Chairman. (7) A tribunal shall serve a copy of the order to the appellant or applicant and the respondent or respondents after disposal. (1) The parties shall not be entitled for return of 24. Return of document : the documents filed by them before the tribunal within six weeks from the date of order of the tribunal. (2) The party may apply after six weeks from the date of the receipt of order with an undertaking of the effect that the documents shall be produced whenever the Tribunal calls for the same and in such case, the documents may be returned to the parties. CHAPTER - VII Miscellaneous (1) Any party of any 25. Fees for copies of documents and orders proceedings before Tribunal may apply to the Secretary for the inspection of any document, or for a certified copy of any document and for the orders of the Tribunal. (2) All application for Copies shall be entered in the Register in

Form VI and all applications for inspection of the documents shall be entered in the Register in Form VII and shall set out the names and addresses of the applicant in full', the date or description of the document or order of which a copy is required. Any application, which is not in the proper form, shall be returned for representation in proper form. (3) Every such application for a certified copy shall be accompanied by a deposit of a amount to cover the cost of preparing copies according to the following scale namely. (i) Copying Fees . (a) For the first 200 (two hundred) word of less Rs. 5.00 English Rs. 5.00 Hindi (b) For every additional 100 (one hundred) words or fraction there of Rs. 5.00 English Rs. 5.00 Hindi (ii) A uniform extra fee of Rupess five per page, where copies are urgently required (iii) A uniform fee of Rupess five per page as comparing fee (4) Certified copies of documents or order shall be prepared on a fullscap0e paper with one inch margin either side and typed in double space. (5) Certified copies of documents or order shall be delivered by the Secretary to the party concerned. (6) If the Secretary has any doubt about the propriety of granting the copy of any document he shall place the application before the Chairman and act in accordance with his orders. (7) The amount calculated to the above scale of fee in sub-rule (3) shall be retained by the Secretary as copying and comparing fees and the surplus amount, if any deposited by the party shall be refunded to him at the time of supplying the copy. Provided that, the party shall, if the amount deposited by him is not sufficient to cover the fees pay the deficit before taking delivery of copy. (8) Persons who are not parties to an appeal or application, may be supplied with a certified copy of any document or order under the orders of the Chairman and on payment of fees prescribed by this rule. (9) Notwithstanding anything contained in this rule, certified copies of orders documents shall be supplied to the Registrar of self-Supporting Cooperative Societies free of cost. 26, Service of Notice - (1) The Notice required to be issued by the Tribunal shall be sent to the parties by the Registered post, the acknowledgement of which containing the signature of the addressee or any member of his family or his authorized agent when delivered or on endorsement by the postal Authorities to the effect that the notice was refused by the addresses shall, unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served. (2) Where the Tribunal is satisfied that the addressee is evading service or that it is not possible to serve the notice in the ordinary way, the Tribunal may take action to summon him for taking personal delivery

27. Forms of Notices - Forms Ill, IV and V appended to these rules, with such variations as the circumstances of any case may require, shall be used for the purpose of notices to be issued by the Tribunal

Form VIII and.numbered seriatum, and a mention to that effect has to be made in the Register of original appeals or applications. (2) All applications for inspection of documents on registration shall be entered in the register in Form VII and numbered seriatum

29. Refund of fees:- (1) Subject to the provisions of sub-rule (2), the Chairman or the Secretary acting under instructions of the Chairman may, on on application made by the party, order the refund of .- (a) The full fee paid where the fee was paid by mistake or in the manner not prescribed in sub-rule (3) of rule-10. (b) The excess amount, where the amount paid is in the excess of the prescribed fee; and (c) The full fee paid, where the payment of fee is not followed by an appeal or an application to which, the fee was paid. (2) No refund of fee shall be made if the application for such refund is not made within six months from the date of remittance of fee. (3) The application for the refund of fee shall be made in the form of memorandum setting forth the grounds on which refund is sought and such application shall be stamped with a court fee stamp of Rs. 10 only

30. Rules relating to Civil Rules of practice to be followed :- Whenever these rules are silent on the question of any procedure, the Tribunal shall follow the procedure stipulated under the Code of civil procedure, 1908 (Central Act V of 1908) and Bihar Practice and Procedure Manual, 1959

31. Functions of secretary The secretary shall perform such functions as are assigned to him under these rules of by the Chairman under these rules

32. Seal of Tribunal - The Tribunal shall have an Official seal of its own, which shall kept in the custody of the Secretary

33. Notices, Judgments etc.to be signed and sealed :- Every notice and a certified of any document shall be signed by the Secretary with the date, month and year of signing and shall be sealed with the official seal of the Tribunal

34. Supply of certified copies of judgments to the Registrar of Self- Supporting Cooperative Societies
A Certified copy of every Judgment of the Tribunal shall, as soon as practicable, be forwarded to the Registrar of Self- Supporting Cooperative Societies or such other officer or officers appointed to assist him as may be Concerned with the appeal or application.3 -o o -Q o o o 0 0 (3 a.) o -Q a Z

FORM- Ill [See Rule 13 (b)] Notice of defects in the Appeal/ Application Before the Bihar Cooperative Tribunal at Patna. Appeal/ Case No... .of 20 Appellant/ Applicant Vs. Respondent. To. The above named appellant/ applicant, You have filed an appeal against the orders of the. ../an application in the matter of .dated It does not comply with the provisions of the Bihar Self-supporting Cooperative Societies Act, 1996 and the Bihar Self-Supporting C000perative Societies Tribunal (Constitution and Procedure) Rule, 2002 in the Following Respects. You are hereby required to remedy the defects within . ..of the receipt of this notice by you if you fail, the matter will be placed for orders before the Tribunal) By Order Date. Seal FORM - IV (See Rule 16) Notice for hearing Before the Bihar Cooperative Tribunal at Patna. Appeal/ Case No of 20 Appellant/ Applicant vs. Respondent. To. The above named appellant/ applicant, You have filed an Appeal against the orders of the / an application in the matter of Secretary dated The appeal/ case is posted for hearing on Hence, you are herby required to be present in this tribunal without foil otherwise the appeal/ application is treated as ex-parte. (Given under the hand and seal of the Bihar Cooperative Tribunal) By Order Date. Seal Secretary O FORM -V (See Rule 18) Notice for tendering evidence Before the Bihar Cooperative Tribunal at Patna. of 20 Appeal/ Case No Appellant/ Applicant vs. Respondent. To. Mr .against the The above named person has preferred an appeal No /filed an application in the matter of orders of You have been included as to tender evidence in the aforementioned case. You are therefore, requested to make available yourself in the Tribunal with following documents on 1 2. (Given under the hand and seal of the Bihar Cooperative Tribunal) By Order Date. Secretary Seal FORM- VI [See Rule 25 (2)] Register of Application for copies of documents / orders. Name and Appeal/ Number of Documents Date of address of Case application applied for application the applicant 2. No

3. Date on which the documents was made ready for giving copy of 4.copy of 5. made for copy 6. Date deliver cop) Copil 8.

FORM- VII [See Rule 25 (2)] Register of Application for Inspection of documents. Sl N o. Name and addre ss of the applic ant 2. App Numbe Docum eal/ r of ents Case applica applied Date of applica tion made for inspect ion 6. FORM- IV Date on which the docum ents was made ready for inspect ion 7. Date of Signat Rema inspec ure of rks No. 3. tion 4. for Inspect ion 5. tion 8. applica nt who inspect ed the docum ents 9. 10. [See Rule 25 (2)] Register of Application for copies of documents / orders. Sl. Name and No. parties their Pleaders or agents; if any 2. Date of order, if any in respect of which application is made 3. Date of Substance Date of the The orc filing the of the order of application application the passed Tribunz 4

5. Tribunal 6.