[2]THE RAJASTHAN CO-OPERATIVE SOCIETIES ACT, 2001

(Act No. 16 of 2002)

[Received the assent of the President on the 3rd day of October, 2002]

An act to consolidate and amend the law relating to co-operative societies in the State of Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Fifty Second Year of the Republic of India, as follows :-

CHAPTER 1

PRELIMINARY

1. Short title, commencement and extent -

(1) This Act may be called the Rajasthan Co-operative Societies Act, 2001.

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

(Ka) dated 11.11.2002, Page 27(97) to 27(206) and Corrected by Corrigendum No. F.2(21) Vidhi/

(3) It shall come into force on such date as the State Government may, by notification[1] in the Official Gazette, appoint.

2. Definitions -

In this Act, unless the context otherwise requires -

[2][(a) "Apex Co-operative Bank" means an apex society which is the federal body of the Central Co-operative Banks in the State and is engaged in the business of banking:]

[2][(aa)] "apex society" means a society whose core object is to provide facilities for the operation of other societies affiliated to it and whose area of operation extends to the whole of the State of Rajasthan;

(b) "area of operation of a co-operative society" means the geographical area, as specified in the bye-laws, to which the membership and activities of the society are confined in general;

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

[3][(d) "central society" means a society whose area of operation is confined to a part of the State and which has in its main objects the

[1]Notification No. F. 12 (15)/Coop./2000 dated 13.11.2002, pub. in Rajasthan Gazette E.O. Part 4 (Ga) (II) dated 13.11.2002, w.e.f. 14.11.2002.

[2] Added & re-numbered by Act No. 7 of 2010 (w.e.f. 16.10.2009

[3] Substituted by Act No. 7 of 2016(w.e.f. 4.4.2016)

promotion of the core objects of, and the provision of facilities for the operations of, other societies affiliated to it, and at least five members of which are societies themselves;]

[1][(da) "Central Co-operative Bank" means a central society which has primary agricultural credit societies as its members and is engaged in the business of banking;]

(e) "Chief Executive Officer" means a person, by whatever name called, who subject to the superintendence, control and directions of the committee, is entrusted with the management of the society;

(f) "core objects" in relation to a co-operative society means the main objects of the society for which it is formed; and which form the basis of its classification as per the rules;

(g) "Collector" means the Collector of a district, appointed under section 20 of the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956);

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

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

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

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

[1] Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

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

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

(l) "Executive Officer" means an officer, by whatever name called, who is appointed under sub section (2) of Section 29 to assist the Chief Executive Officer in the management of the affairs of a society subject to the superintendence, control and directions of the committee;

(m) "family" means a family consisting of a husband and wife and their dependent children and the widowed mother of the husband dependent on them;

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

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

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

[1][(pa) "National Bank" means the National Bank for Agricultural and Rural Development established under section 3 of the National Bank for Agricultural and Rural Development Act, 1981 (Central Act No. 61 of 1981);]

[2][(pb) "office bearer" means a Chairperson or Vice-Chairperson of a co-operative society and includes any other person to be elected by the committee of a co-operative society;]

(q) "officer" means the Chairperson, Vice-Chairperson Administrator, Liquidator, or a member of a committee and the Chief Executive Officer, by whatever name called, and includes and other person empowered under the rules and the bye-laws to give directions in regard to the business of a co-operative society;

[11] [(qa) "primary agricultural credit society" means a co-operative society as defined under clause (cciv) of section 5 of Banking Regulation Act, 1949 (Central Act No. 10 of 1949) and is registered under the Act;]

[3][(r) "primary society" means a society which is neither an apex society nor a central society and which is constituted primarily by individuals as members;]

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

(t) "Registrar" means a person appointed to perform the functions of the Registrar of co-operative societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

[1] Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

[2] Inserted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

[3] Subsituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

[1][(ta) "Reserve Bank of India" means the Reserve Bank of India established under section 3 of the Reserve Bank of India Act, 1934 (Central Act No. 2 of 1934);]

(u) "Revenue Appellate Authority" means the officer appointed or designated as such authority under section 20-A of the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956);

(v) "rules" means the rules made under this Act;

(w) "special resolution" means a resolution of the general body of a society which has the approval of more than fifty percent of the members having right to vote and not less than two-third of the members present and voting at the meeting in which it is passed;

(x) "self help group" means a homogeneous group of persons voluntarily formed to save small amounts of their earnings and also to raise loans to be lent to its members on terms, as mutually agreed upon;

[1][(xa) "short term co-operative credit structure society" means a society engaged in short term co-operative credit business either at the apex level, central level or primary level and includes the Apex Co-operative Bank, a Central Co-operative Bank and a primary agricultural credit society;]

(y) "tribunal" means the tribunal constituted under section 105;

(z) "weaker sections" means such landless agricultural labourers, rural artisans, marginal farmers, small farmers and other economically and socially backward persons as the State Government may, by order published in the Official Gazette, specify, having regard to the size of their holding, income and the various zone into which the State is divided

[1]Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

for the purpose of determining the ceiling limits under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Act No. 11 of 1973);

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

CHAPTER II

INCORPORATION

3. Promotion of Co-operative movement -

It shall be the policy of the Government to encourage and promote the co-operative moment in the State and to take such steps in this direction, as may be necessary or desirable.

4. Registrar -

(1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint other persons to assist him.

(2) The Government may, by general or special order, and subject to such conditions as it may think fit to impose, confer on any person appointed to assist the Registrar, or may delegate to any officer of any society, all or any of the powers of the Registrar under this Act. The Government may also, by notification, direct that all or any of the powers exercisable by it under this Act or the rules may be exercised by the Registrar or such other officer, and subject to such conditions, if any, as may be specified in the notification. Every person, conferred on or delegated with the powers of the Registrar shall exercise such powers, subject to the general superintendence and control of the Registrar.

5. Application for registration of co-operative societies -

(1) Where,-

(a) atleast fifteen number of persons, each of them being a member of a different family, intend to form a co-operative society having objects to undertake certain co-operative activities, for promotion of the economic interests of its members in accordance with the co-operative principles as specified in Schedule A; or

(b) atleast five members of co-operative societies, intend to form another co-operative society, with the object of facilitating the objects of such societies.

they shall, appending the bye-laws they wish to adopt, apply to the Registrar in the manner as may be prescribed :

Provided that the minimum share capital shall not be less than the prescribed minimum share capital, if any, for the respective class of society as classified under the rules and that it shall be necessary for every member of the society to hold atleast one share.

(2) The bye-laws, so appended with, shall be specific on the matters specified in the Schedule 'B' and shall, in general, conform the broad parameters of the class or sub-class of societies, as prescribed in the rules, in which the society is intended to be registered according to its objects, area of operation, membership or any other criterion, as may be prescribed.

(3) A co-operative society may be registered with limited or unlimited liability and where society is registered with limited liability, the word 'limited' or its synonym in Hindi language shall form the last word in its name :

Provided that the liability of a co-operative society, which has a co-operative society as its member, shall be limited.

[1][(4) No primary agricultural credit society or its federation or association (except those which are permitted to act as a bank under the Banking Regulation Act, 1949 (Central Act No.10 of 1949) shall be registered with the word 'bank' or any other derivative of the word 'bank' in its registered name or shall use the same as a part of its name:

Provided that where any primary agricultural credit society or its federation or association (except those which are permitted to act as a bank under Banking Regulation Act, 1949 (Central Act No.10 of 1949)) has been registered before the commencement of the Rajasthan Co-operative Societies (Amendment) Ordinance, 2009 (Ordinance No. 7 of 2009) with the word 'bank' or any of its derivatives in its registered name, it shall within three months from the date of such commencement, change its name so as to remove the word 'bank' or its derivative, if any, from its name in accordance with the provisions of section 9:

Provided further that where any society referred to in the preceding proviso fails to comply with the provisions of the said proviso within the period specified therein, the Registrar shall order the winding up of such society.]

[1]Added by Act No. 7 of 2010 (w.e.f. 16.10.2009)

6. Registration -

(1) If the Registrar is satisfied -

(a) that the proposed society complies with the requirements of sound business in its proposed area of operation;

(b) that the application complies with the provisions of this Act and the rules;

(c) that the proposed bye-laws are not contrary to the provision of this Act and the rules; and

(d) that the aims of the proposed society are not inconsistent with the principles of social justice, co-operation and public morality and are not in derogation to the laws of the land,

he shall, within sixty days from the submission of the application, register the co-operative society together with its bye-laws under the class or sub-class, as prescribed, and issue a certificate thereof under his hand and seal, which shall be the conclusive evidence of the fact that the society is duly registered under this Act unless proved that such registration has been cancelled by the Registrar under the provisions of this Act.

(2) If the Registrar finds that any one of the conditions laid down in sub-section (1) is not satisfied, he shall, after giving such of the applicants, as may be prescribed, an opportunity of being heard, communicate the order of refusal together with the reasons thereof, within sixty days from the submission of the application.

(3) If no refusal is communicated within the period specified under sub-section (2), the applicants may, within thirty days from the expiry of such period, move, the Registrar, Co-operative Societies, Rajasthan, where the registering authority is subordinate to him, and the Government, where the Registrar, Cooperative Societies, Rajasthan is
himself the registering authority, for decision on their application and the Registrar, Co-operative Societies, Rajasthan or the Government, as the case may be, shall within thirty days of receipt of the application, decide it and issue necessary and decisive directions to the registering authority, failing which the society shall be deemed to be registered.

7. Co-operative Societies to be bodies corporate -

The registration of a co-operative society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

8. Bye-laws -

(1) Subject to the provisions of this Act and the rules, functions of every co-operative society shall be regulated by a set of bye-laws registered under this Act, the subject matter of which is enclosed as Schedule B; and no amendment therein shall be valid unless such amendment has been registered by the Registrar under the provisions of this Act.

(2) An amendment of the by-laws of a co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day, on which it is registered.

9. Change of name of co-operative society -

(1) Where a co-operative society after having decided to change its name, by a special resolution passed in its general body meeting, applies to the Registrar, the Registrar shall cause published a public notice to this effect and after considering the objections, if any received within one month of such publication enter the new name on the register
of co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

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

10. Amendment of bye-laws.-

(1) Every proposal for an amendment of the bye-laws of a society, after it has been passed by the society in its general body meeting by a special resolution, shall be forwarded to the Registrar in the manner as may be prescribed and if the Registrar is satisfied that the proposed amendment fulfils the requirements, as are essential for the registration of bye-laws under section 6, he shall register the amendment and issue a certificate thereof within sixty days from the date of submission. The certificate so issued, signed and sealed by the Registrar shall be the conclusive evidence of the fact that the amendment has been duly registered:

[2][Provided that no society shall pass any such amendment in its bye-laws, which is not in consonance with the bye-laws of the class or sub-class of societies under which the society was originally registered.]

(2) If the Registrar feels that the proposed amendment does not fulfil the requirements, as are essential for the registration of bye-laws, he shall, alongwith his comments thereon, send it back to the society, for reconsidering it, within sixty days of its submission.

[2] Added by Act No. 7 of 2016 (w.e.f. 4.4.2016)

(3) Where the society, after reconsideration as required under sub-section (2), submits the proposal again, the Registrar shall, within sixty days, register the proposed amendment, if he is satisfied with the fulfilment of the requirements essential for the registration of bye-laws or else communicate his order of refusal to the society.

(4) If no refusal is communicated within the period specified under subsection (3), the society may, within thirty days from the expiry of such period, move, the Registrar, Co-operative Societies, Rajasthan, where the registering authority is subordinate to him, and the Government, where the Registrar, Cooperative Societies, Rajasthan is himself the registering authority, for decision on the proposed amendment and the Registrar, Co-operative Societies, Rajasthan or the Government, as the case may be, shall, within thirty days of receipt of such amendment, take a decision thereon and issue necessary and decisive directions to the registering authority, failing which the proposed amendment shall be deemed to be registered.

11. Proposal by Registrar for amendment in the bye-laws -

(1) If at any time, it appears to the Registrar that an amendment of the bye-laws of a cooperative society or, any class of societies is necessary or desirable in the interest of such society, or class of societies or its members at large or in the public interest, he may send the proposals of such amendment to the Chairperson and the Chief Executive Officer of the society, requiring that the proposal be considered in the general body meeting of the society within a period of three months.

(2) Where the society communicates its consent to the proposed amendment, the Registrar may register the amendment and issue a certificate thereof, which shall form part of the bye-laws of the society.

(3) Where the society refuses to accept the proposal of the Registrar and the Registrar is satisfied that it is necessary in the public interest to make such an amendment, he may, within a period of thirty days from the date of communication of such refusal, send the proposal, with reason therefor, to the State Government for its consideration. The State Government may, after giving the society, an opportunity of being heard, direct the Registrar to register the amendment with such modifications, if any, as it may deem fit and such amendment shall be binding on the society and its members.

(4) Where the society, within the period specified under sub-section (1), fails to take a decision on the proposals of the Registrar, on the expiry of such period the proposed amendment shall be deemed to have been duly passed by the society and the Registrar shall register the amendments and issue a certificate to this effect.

12. Transfer of assets and liabilities, division and amalgamation of co-operative societies -

(1) Where a co-operative society, after having informed the Registrar atleast fifteen days beforehand, by a special resolution passed in its general body meeting, proposes -

(a) to transfer its assets and liabilities in whole or in part to any other cooperative society, if the other society also, by a special resolution passed in its general body meeting approves such decision; or

(b) to divide itself into two or more co-operative societies; or

(c) to amalgamate with another society to form a new co-operative society, if the other society also, by a special resolution passed in its general body meeting approves such decision,

such proposal shall be forwarded to the Registrar in the manner as may be prescribed and if the Registrar is satisfied that such proposal is in the interest of the co-operative movement and the public, he shall approve the proposal within sixty days of its submission or else send it back to the society for reconsideration alongwith his observations.

(2) Where the society, after reconsideration as required under sub-section (1), submits the proposal again, the Registrar shall, if in his opinion such modified proposal meets the requirements as expressed in his observations, approve it within sixty days of submission or else communicate his order of rejection to the society.

(3) If no action is taken on the proposal of the society within the period specified under sub-section (2), the society may, within thirty days from the expiry of such period, move, the Registrar, Co-operative Societies, Rajasthan, where the registering authority is subordinate to him, and the Government, where the Registrar, Co-operative Societies, Rajasthan is himself the registering authority, for decision on their application and the Registrar, Co-operative Societies, Rajasthan or the Government, as the case may be, shall, within thirty days of receipt of the application, decide it and issue necessary and decisive directions to the registering authority, failing which the proposal shall be deemed to have been approved.

(4) Where the proposal of the society has been approved by the Registrar or is deemed to have been approved, the society shall give notice containing all the particulars thereof in writing to all its members and creditors and, notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of one month,
from the date of service of such notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a Co-operative Society under this section shall not take effect until, either -

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

(b) all claims of members and creditors, who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the

time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

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

13. Proposal by Registrar for amalgamation, division and re-organisation in public interest etc. -

(1) Where the Registrar is satisfied that it is essential in the public interest or in the interest of the co-operative movement or for the purpose of securing the proper management of any co-operative society that two or more co-operative societies should be amalgamated or any co-operative society should be reorganised or should be divided to form two or more societies then, notwithstanding anything contained in section 12, but subject to the provisions of this section, he shall propose the amalgamation, division or reorganisation, of these societies into a single society, or into societies with such constitution, property rights, interests and authorities and such liabilities, debts and obligations, as may be specified by him. The Registrar shall send the proposals to the Chairperson and the Chief Executive Officer of the society, requiring the proposals to be considered and decided in the general body meeting of the society within a period of three months.

(2) If the society communicates its consent to the proposal made under subsection (1), the Registrar shall pass the orders of the amalgamation, division or reorganisation as the case may be.

(3) If, within the period specified under sub-section (1), the society fails to take any decision on the proposal of the Registrar, the proposed amalgamation, reorganisation or division shall, on the completion of such period, be deemed to have been consented to by the society and accordingly the Registrar shall pass the necessary orders.

(4) Notwithstanding anything contained in this section, the powers of dividing or reconstituting a co-operative society, after affording it an opportunity of being heard and with the prior approval of the Government, for the purpose of constituting a news co-operative society in the State shall vest in the Registrar.

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

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

(b) the Registrar has considered and made such modifications in the draft as may seem to him desirable in the light of any suggestions and objections, which may be received by him within such period as the Registrar may fix in that behalf either from the society or from any member or class of members thereof or from any creditor or class of creditors.

(6) The order referred to in sub-section (2) or (3) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, division or reorganisation.

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

(8) On the issue of an order under sub-section (2) or (3), the provisions contained in sub-sections (7) and (8) of section 12 shall apply to the society so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.

14. Cancellation of registration certificates of co-operative societies in certain cases -

(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 12 or 13, the registration of the first mentioned cooperative society shall be cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 12 or 13, the registration of each of the amalgamated societies shall stand cancelled on the registration of the new society and each society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a co-operative society divides itself-into two or more co-operative societies in accordance with the provisions of section 12 or is to be divided by the Registrar in accordance with the provisions of section 13, the registration of the society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(4) Where the affairs .of a co-operative society, in respect of which a Liquidator has, been appointed under section 63, have been wound up, the Registrar shall make an order cancelling the registration of the society and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

(5) Where it comes to the knowledge of the Government that a Cooperative Society, which has been deemed to be registered under the provisions of sub-section 3 of section 6 does not fulfil the requirements of registration as described in sub-section (1) of section 6, it may, after giving the society an opportunity of being heard, direct the Registrar to cancel the registration of the society in the manner prescribed and after such cancellation, the society shall cease to exist as a corporate body.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

15. Membership -

(1) The following may be admitted as members of a co-operative society, namely :-

(a) Any citizen of India, who -

(i) has attained age of 18 years;

(ii) is of sound mind;

(iii) is not disqualified from contracting by any law for the time being in force and applicable to him;

(iv) is desirous to utilize the services of the society; and

(v) is ready to accept the responsibilities and liability associated with such memberships;

(b) any other co-operative society;

(c) the State Government; or

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

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

Provided further that in a society exclusively formed for the benefit of students of a school or a college, the condition regarding the age shall not apply :

Provided also that the bye-laws of a society, which is exclusively formed for the benefit of women, may restrict the membership of male individuals.

(2) An application for admission as a member of a co-operative society shall lie to the committee of that co-operative society. Such committee shall decide the application and communicate its derision to the applicant within a period of thirty days from the receipt of the application, and where the application is refused, it shall also be necessary for the committee to communicate to the applicant, the reasons for such refusal, within the said period.

(3) If the committee -

(i) refuses the application for admission as a member, an appeal shall lie against such refusal to the Registrar, who may after giving the society a reasonable opportunity of being heard, decide the application in accordance with the provisions of this Act and the rules and bye-laws and his decision shall be final and binding on the society;

(ii) fails to communicate its decision or the reasons of refusal under sub-section (2), within the time specified therein, the applicant may, within a period of sixty days from the expiration of such time, move the Registrar for the decision on his application, which shall be disposed of in the same manner, as if it is an appeal under clause (i).

(4)[1] [x x x]

16. Cessation of membership -

(1) A person shall cease to be a member of a society on his resignation from the membership thereof being accepted or on his death, removal or expulsion from membership or on his incurring any of the disqualifications specified in this Act, the rules or the bye-laws of the society. On such cessation of the membership the society may acquire the share or interest of such member in the share capital of the society by paying for it at the value determined in the manner as may be prescribed.

(2) A member whose business is in conflict or competition with the business of the society, or who has not attended the general body meeting without any reasonable excuse for three consecutive years or who has been persistently defaulting payment of his dues or has been failing to comply with the provisions of the bye-laws [1][x x x]. regarding minimum essential utilization of the services of the society or regarding other dealings with the society or who, in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interests or proper working of the society, may after giving him

an opportunity or representing his case before the general body called for the purpose, be removed or expelled from membership by a special resolution passed in such general body meeting in the prescribed manner.

[1]Deleted by Act No. 7 of 2016 (w.e.f. 4.4.2016).
[1]Deleted by Act no. 17 of 2013 (w.e.f. 24.4.2013)

17. Nominal and associate member -

(1) Notwithstanding anything contained in section 15, a co-operative society may admit -

(i) a prescribed class of persons or a prescribed local authority or a self help group, as a nominal member; or

(ii) the spouse of a member in a prescribed class of society, as an associate member.

(2) A nominal or an associate member shall neither be entitled to any share in any form whatsoever in the assets or profits of the society nor have any right to vote in the affairs of the society; but shall have such other rights of a member and be subject to such liabilities of a member as may be specified in this Act, rules or the bye-laws of the society and all the provisions of this Act, rules and the bye-laws relating to membership, shall apply to him.

18. Member not to exercise rights till due payment made -

No member of a co-operative society shall exercise the rights of a member [1][unless he has made payments in respect of all dues to the society including the payment in respect of membership or availed such minimum level of services or] has acquired such interest in the society, as may be specified in the bye-laws.

19. Votes of members -

Every member, other than a nominal and an associate member, of a co-operative society, shall be entitled to cast one vote.

[1]Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013)

20. Manner of exercising votes -

(1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

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

(a) a co-operative society is a member of another co-operative society, its Chairperson or, in his absence Vice-Chairperson [1][or an Administrator appointed [3][under this Act]] shall, subject to any rules made under this Act, represent to cast vote on its behalf in the affairs of that another society;

(b) the Government or a local authority or a body is a member of a co-operative society, it may nominate a representative to cast vote on its behalf, in the affairs of such society.

3**[21. Restriction on holding of shares** -

An individual member in a co-operative society shall hold such number of shares as may be prescribed in the bye-laws of the society, or to a maximum of the one-fifth of the total share capital of the society, whichever is less:

Provided that an individual member of an Urban Co-operative Bank shall hold such number of shares as may be prescribed in the bye-laws of the society, or to a maximum of the one twentieth of the total share capital of the society, whichever is less.

1 Inserted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

3 Substituted by Act No 7 of 2016 (w.e.f. 4.4.2016).

22. Transfer of interest on death of member -

(1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member to the person or persons nominated in accordance with the rules, or if no person has been so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member and where there is any dispute of succession between two or more persons, the committee may require the claimants to produce the succession certificate:

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

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

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

(3) Where such nominee, heir or legal representative, as the case may be is not admitted as a member of the society under sub-section (1), the society shall pay him all other moneys due to the deceased member from the society.

(4) All transfer and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

23. Liability of past member and estate of deceased member -

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

(a) in the case of a past member, on the date on which he ceased to be a member; and

(b) in the case of a deceased member, on the date of his death,

shall continue for a period of two years.

(2) Where a co-operative society is ordered to be wound up under section 61, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of order or winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or the date of his death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

24. Final authority in a co-operative society -

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

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

(2) Notwithstanding anything contained in sub-section (1), where the size, spread or type of membership of a society requires a representative body of delegates to take decisions effectively, a smaller body called the Delegate General Body, elected from the members of the society in the prescribed manner, may be constituted in accordance with the bye-laws of the society. Such smaller body may exercise all the powers of the general body.

25. Annual general meeting -

(1) Every co-operative society shall [1][within a period of six months of close of the financial year,] call in the manner prescribed thereon, an annual general meeting for the purpose of -

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

(b) consideration of the accounts and annual report prepared in the prescribed manner;

(c) consideration of the audit report prepared in the manner prescribed, and the compliance thereof;

(d) disposal of the net profits; and

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

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

[1]Inserted by Act No. 17 of 3013 (w.e.f. 24.4.2013).

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

(2) If default is made in calling a general meeting within the period prescribed therefor or in complying with the requirements of sub-section (1), the Registrar may, after giving an opportunity of being heard, declare the members of the committee disqualified for continuing as members of such committee and for being elected as members of the committee of any other society, for a period of five years; and if the default is committed by an officer or an employee of the society, the Registrar may, after giving him an opportunity of being heard, impose on him a penalty of Rs. 1000/-.

26. Special general meetings -

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

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred in sub-section (1), -

(a) the Registrar or any other person authorised by him in this behalf shall have the power to call such meeting within One month and that meeting shall be deemed to be a meeting called by the committee;

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

[27. Appointment of committee -

(1) The general body of a co-operative society shall entrust the management of the affairs of the society to a committee constituted in accordance with the bye-laws:

Provided that in the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for the period of three months from the date of the registration, but the committee appointed under this proviso shall cease to function upon the constitution of a new committee which shall be constituted in accordance with the bye-laws within the said period of three months.

(2) The committee shall have such number of members as prescribed in the bye-laws:

Provided that the maximum number of the members of the committee shall not exceed [1][sixteen]:

Provided further that twelve members of the committee shall be elected by the general body of the society:

[2][Provided also that no person shall be allowed to contest elections for more than one seat in the committee of a society:]

[1] Substituted by Act No. 7 of 2016 for - 'twenty one'(w.e.f. 4.4.2016).
[2] Inserted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

Provided also that one seat for the Scheduled Castes, one seat for the Scheduled Tribes and two seats for women shall be reserved in the committee of a co-operative society consisting of individuals as members and having members from such class or category of persons.

(3) The committee of a co-operative society shall co-opt such number of persons having experience in field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the co-operative society as members of the committee as may be specified in the bye-laws:

Provided that the number of such co-opted members shall not exceed two in addition to [1][sixteen] members of the committee specified in the first proviso of sub-section (2):

Provided further that the functional directors of a co-operative society shall also be the members of the committee and such members shall be excluded for the purpose of counting the total number of members of the committee specified in the first proviso.

(4) The term of office of the elected members of the committee and its office bearers shall be five years from the date of election and

the term of office bearers shall co-terminus with the term of the committee:

2[Provided that no person shall continue as a member of the committee, if he loses the basic eligibility as may be prescribed in rules for getting elected to such committee:]

3[Provided further that the committee may fill a casual vacancy on the committee by co-option in the manner prescribed, out of the same

1 Substituted by Act No. 7 of 2016 for - 'twenty one'(w.e.f. 4.4.2016).
2 Inserted by Act No. 7 of 2016 (w.e.f. 4.4.2016).
3 Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

class of members in respect of which the casual vacancy has arisen, if the term of office of the committee is less than half of its original term:

Provided also that if a causal vacancy among the elected members of the committee has arisen and the term of office of the committee is more than half of its original term, such vacancy shall be filled up by election, and the member so elected, shall hold the office for the remainder of the term:]

1[Provided also that where the committee of a society is removed under section 30 and the remainder of the original term of the committee so removed is more than half of its original term, then the elections to the committee may be held for the remainder of the term of the committee so removed, but where the committee is removed after completion of half of its original term, elections to the committee of the society for a full term shall be held at a time decided by the State Co-operative Election Authority for the purpose of synchronizing elections of different tiers of the cooperative societies.]

(5) Each member of the committee, including the members nominated under section 29 or co-opted under sub-section (3), shall be entitled to cast one vote:

2[Provided that where a member nominated under section 29 on the committee of a society is also holding charge of another member who is also a nominated member of the committee under section 29, shall be entitled to vote in his capacity as such other member also:]

3[Provided further that] members nominated under section 29 or co-opted under sub-section (3), shall not have any right to vote in any

1 Added by Act no. 31 of 2015 (w.e.f. 30.6.2015)
2 Inserted by Act No. 7 of 2016 (w.e.f. 4.4.2016).
3 Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016)

election of the co-operative society in their capacity as such members or to be eligible to be elected as office bearers of the committee:

3[Provided also that where the Chief Executive Officer or a member nominated by the Government has any dissent with the

resolution passed by the committee, such Chief Executive Officer or the member shall inform the Registrar about such dissent preferably on the same day but in any case within fifteen days from the date of such resolution.]

5**[27A. Appointment and Removal of the Chief Executive Officer.**-

(1) The Chief Executive Officer of the Apex Co-operative Bank or a Central Co-operative Bank shall be appointed by the committee of the concerned bank and fulfil such criteria as may be stipulated by the Reserve Bank of India.

(2) A person who does not fulfil the criteria for the post of the Chief Executive Officer of the Apex Co-operative Bank or a Central Co-operative Bank as stipulated by the Reserve Bank of India shall be treated as ineligible for such post and if such person is holding the post, he shall be removed on receipt of advice to this effect from the Reserve Bank of India or the National Bank.]

3 Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016)
5 Inserted by Act No. 7 of 2010 (w.e.f. 16.102009).

1**[28. Disqualification of membership etc. of committees.**-

(1) No person shall, at the same time, be a Chairperson of more than one apex society, or more than one central society.

(2) If a person, on the date of his election as a Chairperson of an apex or a central society as aforesaid, is already a Chairperson of another apex or central society, his later election shall be deemed to be void on the expiry of a period of fourteen days from the above election, unless he resigns from the chairpersonship of one of the above two apex or two central societies, as the case may be, within such period.

(3) No person shall be eligible for being elected, co-opted or nominated as a member of a committee or for continuing as member on the committee if he is in default to the society or to any other society, in respect of any loan or loans taken by him for such period as is specified in the bye-laws of the society concerned or in any case for a period exceeding three months:

Provided that this disqualification shall not apply on a member society.

(4) Notwithstanding anything contained in sub-section (3), no person shall be eligible for being elected, co-opted or nominated, or for continuing as a member of the committee of a Central Co-operative Bank or the Apex Co-operative Bank, if he -

(i) represents a society other than a primary agricultural credit society and such society is in default to such bank, in respect of any loan or loans taken by it for a period exceeding ninety days;

1 Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

(ii) is a person who is defaulter of a primary agricultural credit society or is a representative of a defaulting primary agricultural credit society for a period exceeding one year unless the default is cleared; and

(iii) is a person, who represents a society whose committee is superseded or has ceased to be a member of the committee of his own society.

(5) No money lender as defined in the Rajasthan Money Lenders Act, 1963 (Act No. 1 of 1964) shall be eligible for being elected or co-opted as an officer of a service co-operative society, as classified under the rules, and where an officer of such society as aforesaid starts money lending business, he shall, thereupon, cease to be an officer of such society.

(6) No member of a committee, who has been removed under section 30, shall be eligible for election, co-option or nomination as a member of any committee for a period of five years from the date of such removal:

1[Provided that a member of the committee replaced by an Administrator under section 30-C due to expiry of the term of the committee or under clause (b) of sub-section (1) of section 30 on the ground of a stalemate in functions of the committee due to lack of quorum shall not be deemed disqualified under this sub-section.]

(7) No person against whom an order under section 57 has been passed, such order not having been set aside, shall be eligible for election, co-option or nomination as a member of a committee until the expiry of a period of five years from the date he repays or restores the money or

1Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

other property or part thereof with interest or pay contribution and cost or compensation in satisfaction of such order.

2[(7-A) -----deleted----

(8) No person -

(i) against whom a competent court has taken cognizance for an offence punishable under section 120B, 405, 406, 407, 408, 409, 415, 416, 419, 420, 421, 422, 423, 424, 447, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476 or 477A of the Indian Penal Code, 1860 (Central Act No. 45 of 1860) and is under trial shall be eligible to be elected, co-opted or nominated or to continue as a member of the committee of a society; or

(ii) who has been convicted of any offence by a competent court and sentenced to imprisonment for three months or more, such

sentence not having been subsequently reversed or remitted or the offender pardoned, shall be eligible to be elected, co-opted or nominated or to continue as member of the committee of a society for a period of five years from the date of such conviction.

[2]Deleted by Act No. 14 of 2022 (w.e.f. 18.10.2022).

"[1][(9) No person shall remain both a Chairperson of a committee and a member of the Union Council of Ministers or the State Council of Ministers or the Pramukh of a Zila Parishad or the Pradhan of a Panchayat Samiti and, if already a member of the Union Council of Ministers or the State Council of Ministers or Pramukh of a Zila Parishad or Pradhan of a Panchayat Samiti, he shall, at the expiration of a period of fourteen days from the date he becomes a Chairperson of such committee, cease to be such Chairperson of such committee unless, before such expiration, he resigns his seat in the Union Council of Ministers or the State Council of Ministers or the office he holds in the Zila Parishad or the Panchyat Samiti, as the case may be:

Provided that a person who is already a Chairperson of a committee is elected as a member of the Union Council of Ministers or the State Council of Ministers or Pramukh of a Zila Parishad or Pradhan of a Panchayat Samiti, then at the expiration of fourteen days from the date of being elected as a member of Union Council of Ministers or the State Council of Ministers or Pramukh of a Zila Parishad or Pradhan of a Panchayat Samiti, as the case may be, he shall cease to be such Chairperson of the committee unless he has previously resigned his seat in the Union Council of Ministers or the State Council of Ministers or the office he holds in the Zila Parishad or the Panchyat Samiti, as the case may be:

Provided further that he may become member of the committee or a Director."

[1]Substituted by Act No. 3 of 2019 (w.e.f. 22.02.2019)

(10) No person shall be eligible for election, co-option or nomination as a member of the committee if he has more than two children:

Provided that a person having more than two children shall not be disqualified under this sub-section for so long as the number of children he had on 10-07-1995 does not increase.

Explanation - For the purpose of this sub-section, where the couple has only one child from the earlier delivery or deliveries on 10-07-1995 and thereafter, any number of children born out of a single subsequent delivery shall be deemed to be one entity.

[1][(11) No member of a committee, which has failed to -

(i) provide the required information or assistance to the State Co-operative Election Authority under Chapter-V; or

(ii) make available or arrange to make available necessary record to the enquiry officer appointed by the Registrar under section 55 for conduct of an enquiry of the affairs of the society; or

(iii) appoint auditor(s) and get its audit conducted within the time stipulated therefor in this Act or the rules,

[1]Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

shall be eligible for election, co-option or nomination as a member of the committee, or for continuing as such member for a period of six years from the date of such failure.

(12) No person shall be eligible for being elected as a member of the committee of a society unless he possesses such minimum educational qualification as may be prescribed in the rules, if any.

(13) Any question as to whether a member of the committee has become subject to any of the disqualifications mentioned under this section or the rules or the bye-laws registered under this Act shall be decided by the Registrar:

Provided that the question of such disqualification of a candidate contesting elections to the committee of a society shall be decided by the Election Officer during scrutiny of his nomination papers.]

29. Nomination by the Government -

(1) Where the Government has -

(a) subscribed to the share capital of a co-operative society; or

(b) assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in Chapter VII; or

(c) guaranteed the repayment of the principal and payment of interest of debentures issued by a co-operative society; or

(d) guaranteed the repayment of principal amount and payment of interest on loans and advances to a co-operative society.

the Government or any authority specified by the Government in this behalf shall have the right to nominate not more than three members on the committee of a co-operative society :

Provided that such nominees shall only be Government servants :

[1][Provided further that the State Government shall have right to nominate only one member on the committee of the Apex Co-operative Bank and Central Co-operative Banks if the Government has subscribed to the share capital and shall not nominate any member on

the committee of a primary agricultural credit society irrespective of the Government's subscription to the share capital.]

[2][(2) Notwithstanding anything contained in this Act or the bye-laws of a society, where the Government has subscribed to the share capital of a co-operative society other than a short term co-operative credit structure society to the extent of five lakhs rupees or more, the Government or any other authority specified in this behalf may nominate another member in addition to those nominated under sub-section (1) and appoint him as Chief Executive Officer of such society who shall be the ex-officio Member-Secretary of the committee. The Government or such authority as specified may also appoint any other Executive Officer to assist the Chief Executive Officer in such society.]

(3) Every person nominated or appointed by the Government shall hold office during the pleasure of the Government or the authority specified by the Government in this behalf

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

(5) The terms and conditions of service of the Chief Executive Officer and the Executive Officer appointed under this section shall be

[1] Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).
[2] Substituted by Act No. 7 of 2010 (w.e.f. 16.10.2009).

such as may be determined by the Government and the remuneration payable to them shall be paid out of the funds of the co-operative society.

[2]**[29-A.Officers and employees of co-operative societies.** -

(1) Notwithstanding anything contained elsewhere in this Act, the Registrar may issue general directions regarding the service conditions of the employees of a society or a class of societies in the interest of smooth functioning of societies and the general welfare of their employees.

(2) The Registrar may also form a common cadre for the employees of a class of societies in whole or in part of the State and frame such guidelines regarding recruitment, remuneration, transfer, deputation, disciplinary action and other matters relating to the service conditions of the employees covered under such cadre.]

[1]**[29-B. Constitution of Recruitment Board for the co-operative societies.** -

(1) There shall be a Co-operative Recruitment Board, hereinafter called the Board in this section, for selection and

recommendation for recruitment of the employees of cooperative societies of the State, as may be prescribed in the rules.

(2) The Board shall consist of a Chairperson and two other members and shall be constituted by the Government, in the manner prescribed.

(3) The Board shall, looking at the requisition and requirement of the co-operative societies concerned, shall have the power to decide the selection criteria, procedure, criteria for shortlisting of candidates,

[2] Inserted by Act No. 7 of 2016 (w.e.f. 4.4.2016).
[1] Inserted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

which may include a decision as to whether and how to conduct a written examination and/or interviews.

(4) Where the Board decides to conduct a written examination, it may conduct the same on its own or through an independent agency having suitable expertise and repute.]

[2][**30. Removal of Committee or Member thereof.** -

[3][(1) Where -

(a) the committee of a co-operative society -

(i) persistently makes default; or

(ii) is negligent in the performance of its duties imposed on it by this Act or the rules or the bye-laws; or

(iii) commits any act prejudicial to the interest of the society or its members; or

(b) there is stalemate in the constitution or functions of the committee.

the Zonal Registrar, in case of a primary society, the Registrar, Co-operative Societies, Rajasthan, in case of a central society and the State Government, in case of an apex society may, after giving the committee a reasonable opportunity of being heard, by order in writing, remove the committee and appoint a Government servant as an Administrator to manage the affairs of the society till the elections are held to the committee of the society:

Provided that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 (Central Act No. 10 of 1949) shall also apply.]

[2]Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).
[3] Substituted by Act No. 31 of 2015 (w.e.f. 30.6.2015).

(2) If any member of the committee persistently makes default or is negligent in the performance of his duties imposed by this Act or the rules or the bye-laws made thereunder or commits any act prejudicial to the interest of the society or its members, the Zoanl Registrar, in case

of primary society, the Registrar, Co-operative Societies, Rajasthan, in case of a central society and the State Government in case of an apex society may, after giving a reasonable opportunity of being heard, remove such member by order in writing.

[3][(3) The Administrator so appointed shall have powers to perform all or any of the functions of the elected committee and take all such actions as may be required in the interest of the society, subject to the control of the Registrar and to such instructions as he may give from time to time.]

[3]Substituted by Act No. 31 of 2015 (w.e.f. 30.6.2015).

[2][30-A.Obligations of the Registrar to ensure compliance of Reserve Banks of India's regulatory prescriptions -

(1) The Registrar shall ensure that Reserve Bank of India's regulatory prescriptions including recommendation for supersession of the committee or winding up of the Apex Co-operative Bank and Central Co-operative Banks are implemented within one month of being advised by the Reserve Bank of India.

(2) The Registrar shall ensure that the Liquidator or the Administrator, as the case may be, is appointed within one month of being advised by the Reserve Bank of India for winding up or supersession of the committee.

(3) The Registrar shall, within one month, ensure removal of Chief Executive Officer of the Apex Co-operative Bank or a Central Co-operative Bank who does not fulfil eligibility criteria specified by the Reserve Bank of India and a request has been received from the Reserve Bank of India or the National Bank to that effect.

(4) The Registrar shall, within one month, on being advised by the Reserve Bank of India or the National Bank, ensure removal of any person elected or co-opted as a member of the committee under sub-section (2-A) of Section 27 without having the requisite qualification mentioned therein.]

[2] Inserted by Act no. 7 of 2010 (w.e.f. 16.102009).

[2][30-B.Autonomy in all financial and internal administrative matters. -

A short term co-operative credit structure society shall, subject to the general conditions and norms laid down by the Registrar in this regard, have autonomy in its financial and internal administrative matters including the following areas, namely:-

(a) personnel policy, staffing, recruitment, posting and compensation to staff;

(b) issues relating to affiliation and disaffiliation with any

federal structure of its choice including entry and exit at any level;

(c) area of operation according to its business requirements; and

(d) internal control systems.]

2 Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

1[30-C.Appointment of Administrator on completion of term of the committee. -

(1) Where the term of existing committee has expired and the State Cooperative Election Authority has failed to conduct elections for a new committee, for whatever reason, in accordance with the provisions of this Act or the rules made thereunder, the Registrar may, by an order in writing, appoint a Government servant as an Administrator to manage the affairs of the society till the elections are held to the committee of the society.

(2) The Administrator so appointed shall have powers to perform all or any of the functions of the elected committee and take all such actions as may be required in the interest of the society, subject to the control of the Registrar and to such instructions as he may give from time to time.]

1 Inserted by Act No. 31 of 2015 (w.e.f. 30.6.2015).

31. Securing possession of records etc. -

(1) Where the committee of a co-operative society is reconstituted 2[under the provisions of this Act] or the committee of a co-operative society is removed by the State Government or the Registrar under section 30 or, the Chief Executive Officer of the society is changed under the rules, every outgoing member of the committee, if he is in charge of any of the records or property of the society, or the outgoing Chief Executive Officer of the society shall hand over charge of all the records and property of the society to the Chief Executive Officer, who shall be the overall trustee of all the records and property of the society:

3[Provided that in societies where there is no Chief Executive Officer, the Secretary of the society and if there is no Secretary also, then the Chairperson of the society shall be deemed to be the trustee of all the records and property of the society:]

2[Provided further that] where the society is ordered to be wound up under section 61, the charge of the record and property of the society shall be handed over to the Liquidator, appointed under section 63.

(2) If any such outgoing officer or member, refuses to hand over the charge of the record and property to the Chief Executive Officer 2[or the Secretary or the Chairperson or the Liquidator of the

society] as the case may be or, where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with, or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Chief Executive Officer [2][or the Secretary or the Chairperson or the Liquidator of the society, as the case may be] or the

[2] Substituted by Act. No. 7 of 2016 (w.e.f. 4.4.2016).
[3] Inserted by Act. No. 7 of 2016 (w.e.f. 4.4.2016).

Registrar or a person authorized by the Registrar may apply to the Judicial magistrate of the First Class, within whose jurisdiction the society is functioning, for searching, seizing and taking possession of `the records and property of the society.

(3) On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorise any police officer, not below the rank of a Sub-Inspector, to enter the likely places, where the records and the property are kept or are believed to be kept, and to search and to seize such records and property; and the records and property so seized shall be handed over to the Chief Executive Officer or the [7][Secretary or the Chairperson or the Liquidator of the society] or the Registrar, or the person authorised by the Registrar, as, the case may be.

[7] Substituted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

[2][CHAPTER V
ELECTION

[3][32. Election of Co-operative Society. -

The election to the committee of a co-operative society shall be conducted as per the provisions of this Act and the rules and bye-laws made thereunder.]

[2] Substituted by Act No. 9 of 2004 (w.e.f. 19.2.2004).
[3] Substituted by Act No. 31 of 2015(w.e.f. 30.6.2015).

[1][33. State Co-operative Election Authority and its function. -

(1) The State Government shall, by notification in the Official Gazette, appoint an officer of the State Government, as the State Co-operative Election Authority, hereinafter in this Chapter referred to as the Authority, in such manner, as may be prescribed, and may appoint such other officers and staff to assist such Authority, as it may deem fit.

(2) The terms and conditions of the service of the Authority and other officers and staff appointed under sub-section (1) shall be such as may be prescribed.

[2][(3) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, elections to such co-operative societies, as may be prescribed in the rules, shall vest in the Authority:

Provided that in other societies, elections shall be held in the general body meeting of the society as per the procedure laid down therefor in the rules.]

(4) The State Government may prescribe procedure and guidelines for conduct of elections to the co-operative societies.

(5) For the purpose of this Chapter, the Zonal Registrars, Co-operative Societies posted at zone level and Unit officer posted at the unit level shall act as ex-officio Zonal Returning Officer and Unit Returning Officer respectively and shall be answerable to the Authority for discharging the duties entrusted to them by the Authority.

(6) Subject to the provisions of sub-section (4) of section 27, the Authority shall conduct elections for filling a casual vacancy occurring in

1 Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).
2 Substituted by Act no. 7 of 2016 (w.e.f. 4.4.20160.

the committee of a society for the remainder of the term of the committee, within six months of the occurrence of such vacancy.

4[34. Prelude to the elections. -

3[(1) The Authority shall seek such information from the Co-operative societies as it may find necessary to conduct elections in a fair and transparent manner.

(2) The Chief Executive Officer of a co-operative society shall provide all the information sought by the Authority in time and in the manner prescribed.

(3) The Chief Executive Officer shall also send written information to the Authority regarding a casual vacancy in the committee for which the Authority is to conduct elections, immediately after occurrence of such vacancy.]

3[(4)] It shall be the duty of the committee of a society to ensure that all the information, books and records, which the Authority may require for the purpose of election, are updated and made available in time to the Authority or a person authorised by it for the purpose.

3 Substituted and existing sub-section (2) shall be renumbered as (4) by Act No. 7 of 2016 (w.e.f. 4.4.2016).

4 Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

1[(5)] The committee of the society shall also ensure that the society provides all the assistance to the Authority, as may be required by it for conduct of the election.

1[(6)] The process of election of co-operative society, once started shall not be stopped or postponed for any reason, save for a natural calamity or break down of law and order.]

35. Election Officer -

The Authority may appoint an Election Officer to conduct election of the committee of a society:

Provided that no member or employee of the concerned society shall be appointed as an Election Officer.

[3]**[36. Election Expenditure.** -

All expenses for holding elections of the committee of a co-operative society shall be borne by the concerned society or the society to which such society is affiliated.]

37. Power to issue instructions -

(1) The Authority may issue such instructions, as it may consider reasonable for conducting free, fair and impartial elections, to any society or its committee or members.

(2) The instructions issued by the Authority under this section shall be binding.]

[1] Existing sub-sections (3) and (4) shall be renumbered as (5) and (6) respectively by Act. No. 7 of 2016 (w.e.f. 4.4.2016).

[3] Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

CHAPTER VI

PRIVILEGES OF CO-OPERATIVE SOCIETIES

38. First charge of co-operative society on certain assets -

(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue,-

(a) any debt or outstanding demand owing to a co-operative society by any member, past member, deceased member, or a person who executed guarantee thereof for repayment of such debt or demand shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements, or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, or the property or interest in the assets created out of loan/debt, or property mortgaged as security, belonging to such member, past member or the guarantor/surety thereof or

forming part of the assets of the deceased member, as the case may be;

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

(2) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Rajasthan Agricultural Loans Act, 1956 (Act No. 1 of 1957) after the grant of the loan by the society.

(3) No person shall transfer or alienate any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge and any transfer of property made in contravention of this sub-section shall, notwithstanding anything contained in any other law for the time being in force, be void.

39. Charge on immovable property of members borrowing loans from certain societies -

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

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

(b) a declaration made under clause (a) may be varied at any time by a member or guarantor thereof with the consent of the society in favour of which such charge is created and shall, subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue or of a

landholder in respect of rent or any money recoverable as rent, have the same effect as if the property covered by the declaration were mortgaged to the society for the repayment of the loan and advances therein specified and, notwithstanding anything contained in the Registration Act, 1908 (Central act 16 of 1908) or in any other law for the time being in force, the registration of such declaration shall not be compulsory;

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

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

(e) an entry relating to a charge created by a declaration under clause (a) on the agricultural holding of the person making the declaration shall, upon an application made, at any time after such declaration, by such person or by the society, in whose favour the charge is created, to the Tehsildar either direct or through the village Patwari or Land Records Inspector, be made in the annual register maintained under Chapter VII of the Rajasthan Land revenue Act, 1956 (Act No. 15 of 1956) in the manner provided for in that Chapter and the rules made thereunder and for that purpose, such application shall be deemed to be a report under section 133 of that Act.

40. Vesting of lands in joint farming society and registration of agreement. -

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

(2) Notwithstanding anything contained in this Act or any other law for the time being in force, no agreement executed under sub-section (1) shall be valid unless such agreement is registered by the Sub-Registrar, having jurisdiction over the area in which the lands are situated.

(3) The lands pooled by an agreement under sub-section (1), shall, after the expiry of the period of the agreements, revest in the members, as were before the agreement:

[2][Provided that where the land is allotted or leased or rented by the Government, or a municipal or some other local body or any other organisation of the Government, such land shall be surrendered back to the concerned, where the society has ceased using the land for the purpose for which it was originally allotted or leased or rented.]

41. Deduction from salary to meet society's claims in certain cases -

(1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement, in such form as may be prescribed, in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

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

(3) Where a requisition in writing from any society registered or deemed to be registered under any law in force in any State, in respect of a member of the society who for the time being is employed in this State, is received by the employer, the requisition shall be acted upon as if it had been made by a society in the State.

[2] Added by Act No. 7 of 2016 (w.e.f. 4.4.2016).

(4) After receipt of a requisition made under the foregoing sub-section, the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof and the amount shall be recoverable on behalf of the society from him

as arrears of land revenue and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears.

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

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

42. Charge and set off in respect of shares or interest of members in the capital of a co-operative society -

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

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

(2) Subject to the provisions of sub-section (1), the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt, or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

43. Exemption from certain taxes, fees and duties -

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

(a) the stamp duty chargeable under any law for the time being in force in respect of any instrument executed by or on behalf of a co-operative society, or by an officer or member thereof and relating to the business of such society, or any class of such instruments or in respect of any award or order made under this Act, in cases where, but for such remission, the co-operative society, officer, or member, as the case may be, would be liable to pay such stamp duty:

Provided that nothing in this clause shall apply in respect of bills of exchange, cheques, promissory notes, bills of lending, letters of

credit, policies of insurance, transfer of shares, debentures, proxies and receipts;

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

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

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

(ii) by any local authority.

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

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

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except it so far as it entitles the holder to the securing afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

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

CHAPTER VII

STATE AID TO CO-OPERATIVE SOCIETIES

44. Financial partnership or aid of the Government -

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

(a) subscribe directly to the share capital of a co-operative society;

(b) subject to the appropriate bye-laws, provide moneys to an apex society for purchase of shares in other co-operative societies, subjects to the condition that no such shares in any co-operative society shall be purchased except with the previous approval of the Government in each case;

(c) give loan or make advances to co-operative societies;

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

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

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

(g) give financial assistance in any other form, including subsidies, to any co-operative society:

Provided that liability in respect of any shares purchased with Government money either directly by the Government or through any other co-operative society shall, in the event of its being wound up, be limited to the amount paid in respect of such shares:

[1][Provided further that the Government shall not hold more than twenty-five percent of the total share capital of a short term co-operative credit structure society and such society or the Government shall have option to further reduce the Government's share capital.]

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

[1] Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

45. Principal and Subsidiary State Partnership Funds -

(1) An apex society, which is provided with moneys by the Government under clause (b) of sub-section (1) of section 44 shall, with such moneys, establish a fund to be called the 'Principal State Partnership Fund' and shall utilise it for the purpose of -

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

(b) providing moneys to a central co-operative society to enable that society to purchase shares in primary co-operative societies;

(c) making payment to the Government in accordance with the provisions of this chapter;

and for no other purpose.

(2) A central society, which is provided with moneys by an apex society from the Principal State Partnership Fund under clause (b) of sub section (1) shall with such moneys, establish a fund to be called the 'Subsidiary State Partnership Fund' and utilise it for the purpose of -

(a) purchasing shares in primary societies;

(b) making payments to the apex society in accordance with the provisions of this chapter;

and for no other purpose :

Provided that any amount to the credit of either principal or subsidiary state partnership funds shall not form part of the assets of an apex or a central society respectively and in the event of such societies being wound up, all moneys to the credit of or payable to the Principal State Partnership Fund shall be credited to the Government, whereas
moneys to the credit of or payable to the Subsidiary State Partnership Fund shall be credited to the Principal State Partnership Fund.

46. Indemnity of apex and central societies -

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

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

CHAPTER VIII

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

47. Funds not to be divided -

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

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

[2][47-A. Prudential norms. -

A primary agricultural credit society shall follow such prudential norms including Capital to Risk Weighted Assets Ratio as may be specified by the Registrar from time to time in consultation with the National Bank.]

48. Disposal of net profits -

(1) A co-operative society shall, out of its net profits in any year,-

(a) transfer, to the reserve funds, twenty five percent of its profits within such period as may by prescribed;

(b) credit one portion of the profits, as may be prescribed, to the Co-operative Education and Training Fund constituted under the rules;

(c) credit such portion of the profits, as may be specified in the bye-laws, in the fund created under bye-laws to meet out the losses, if any; and

(d) pay dividend to members on their paid up share capital at such rate, as may be prescribed.

2 Inserted by Act no. 7 of 2010 (w.e.f. 16.10.2009).

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

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

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

(c) donations of amount not exceeding ten percent of the net profits for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890); or for a cause dedicated to the co-operative movement;

(d) payment of bonus to employee of the society, to the extent and in the manner specified in the bye-laws:

1[Provided that a short term co-operative credit structure society shall not be bound to continue to any funds other than funds as may be established or maintained for the improvement of its net worth:

Provided further that a primary agricultural credit society may decide disposal of its net profits and declare dividend as per the guidelines issued by the Registrar in consultation with the National Bank.]

1 Added by Act no. 7 of 2010 (w.e.f. 16.10.2009).

49. Investment of funds -

A co-operative society shall invest its funds in one or more of the following, namely:-

(a) Central Co-operative Bank;

(b) Apex Co-operative Bank;

(c) in the shares or securities or debentures issued by any other co-operative society with limited liability;

(d) in any other mode permitted by the rules or by general or special order of the Government:

Provided that notwithstanding anything contained in this section, the guidelines, if any, issued by the Reserve Bank of India in this regard for the Urban Co-operative Banks shall have effect:

2[Provided further that a short term co-operative credit structure society may invest or deposit its funds in any bank or financial institution regulated by the Reserve Bank of India.]

50. Restrictions on borrowings -

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

2[(2) Notwithstanding anything contained in this Act or any other law for the time being in force, a short term co-operative credit structure society may -

(i) borrow from any bank or financial institution regulated by the Reserve Bank of India and refinance from the National Bank or any other refinancing agency directly or through any financial institution regulated by the Reserve Bank of India and not necessarily from only the federal tier to which it is affiliated; and

(ii) decide interest rates on deposits and loans in conformity with the guidelines issued in this regard by the Reserve Bank of India.]

2 Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

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51. Lending Policy -

(1) A Co-operative Society shall not make a loan to any person other than a member.

(2) Atleast one third of total amount of loan to be sanctioned by a primary village service society or a farmer's service society in any year and not less than twenty five percent of the total amount of loan to be sanctioned by a Land Development Bank in a year, shall be sanctioned to those members who belong to weaker sections, provided that where in the opinion of the State Government such reservation is not workable, the State Government may fix different percentages of reservation of such loan for weaker sections in different areas.

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

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

(5) The lending policy of a financing bank shall be approved by the Government:

Provided that where guidelines are issued by the Reserve Bank of India in this regard for the Urban Co-operative Bank, such guidelines shall have effect.

[1][(6) Notwithstanding anything contained in this section, a short term co-operative credit structure society may determines its loan policies
and decide individual loan to its members keeping in view the interests of the society and its members.]

52. Restrictions on other transactions with non-members -

Save as provided in sections 50 and 51, the transaction of a co-operative society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

53. Provident Fund -

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

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

(a) shall not be used in the business of the society;

(b) shall not form part of the assets of the society; and

(c) shall not be liable to attachment or be subject to any other process of any court or other authority.

[1] Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

CHAPTER IX

AUDIT, INQUIRY AND SURCHARGE

[1][54. Accounts and Audit. -

(1) Every society shall prepare and maintain its accounts of each financial year in the prescribed form and manner.

[2][(2) Every society shall cause its accounts to be audited by an auditor or auditing firm appointed by the committee of the society from amongst the panel approved under sub-section (4):

Provided that where the committee of the society fails to appoint an auditor or auditing firm within the time stipulated therefor, the

Registrar may appoint an auditor or auditing firm for the audit of the society from the panel approved under sub-section (4):

Provided further that no auditor or auditing firm shall be appointed for the audit of the accounts of the society for more than two years in continuation:

Provided also that the Registrar may, by an order, appoint an auditor(s) or auditing firm(s) to cause accounts of a society or a class of societies to be audited for a particular period, which shall be binding on the society or the class of societies, as the case may be.]

(3) The accounts of every society shall be audited within six months of the close of the financial year to which such accounts relate.

(4) For the purposes of [sub-section (2)], the Registrar shall prepare, approve and notify a panel, in the prescribed manner, of eligible auditors and auditing firms.

1 Substituted by Act no. 17 of 2013 (w.e.f. 24.4.2013).
2 Substituted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

(5) Following shall be the minimum qualification and experience for auditors and auditing firms that shall be eligible for auditing accounts of the societies, namely:-

(a) in case of an auditor, -

(i) he must be a Chartered Accountant as defined in the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949) and should have at least three years post-qualification experience of auditing accounts; or

1[(ii) he must be a person in service of the Co-operative Department of the Government of Rajasthan, not below the rank of an Inspector, and]

(b) in case of an auditing firm, it must be a firm of Chartered Accountants as defined in the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949) and should have at least three years experience of auditing accounts.

(6) Cost of the audit shall be decided and paid by the co-operative society concerned:

1[Provided that the fee of the auditors referred to in sub-clause (ii) of clause (a) of sub-section (5) and the auditor(s) appointed by the Registrar under the sub-section (2) shall be prescribed by the State Government.]

(7) The society shall render, to the auditor or, as the case may be, auditing firm, access to all the books, accounts, documents, papers, securities, cash and other properties belonging to the society.

1Substituted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

(8) Every person, who is, or has at any time been, an officer or an employee or an agent of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the auditor or, as the case may be, auditing firm may require.

(9) The auditor or, as the case may be, auditing firm shall have the right to receive all notices, and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat.

[1][(10) The auditor or, as the case may be, auditing firm shall prepare audit report in the Proforma prescribed by the Registrar and submit the audit report to the society and also to the Registrar.]

(11) The auditor or, as the case may be, auditing firm auditing the accounts of a short term co-operative credit structure society shall endorse a copy of the audit report to the Reserve Bank of India, the National Bank and the Registrar.

[1] [(12)If it comes to the knowledge of the Registrar that, prima facie, any financial irregularity has occurred in a society, the Registrar may get a special audit of the society conducted for the period during which such irregularity is believed to have taken place:

Provided that the Registrar shall ensure conduct of special audit of the Rajasthan State Co-operative Bank or a Central Co-operative Bank, if requested by the Reserve Bank of India, in the manner and form stipulated by the Reserve Bank of India within the time stipulated.]

[1]Substituted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

(13) The society shall send a copy of the audit report along with compliance thereof [2][in the prescribed manner] after consideration and approval of the same by the General Body of the society to the Registrar and to its affiliating society, if any.

(14) The Registrar shall submit to the State Government the audit report of the accounts of the Apex Co-operative Society and the State Government shall cause such report to be laid before the State Legislature.

(15) If the State Legislature resolves to make any direction or recommendation on the audit report laid before it, the society shall, as soon as possible, comply with the directions or, as the case may be, recommendations.]

55. Inquiry by Registrar. -

(1) The Registrar may, on the application of -

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

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

(c) not less than one-tenth of the total number of members of the society,

or, of his own motion, either by himself or by a person authorised by him by order in writing, hold and inquiry into the constitution, working and financial condition of a co-operative society.

[2] Inserted byAct No.7 of 2016 (w.e.f.4.4.2016).

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

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession, or responsible for the custody, of any such books, accounts, documents, securities, cash or other properties, to produce the same at the headquarters of the society or any branch thereof;

(b) he may summon any person, who, he has reason to believe, has knowledge of any of the affairs of the society, to appear before him at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself;

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

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

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

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

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

[2]**[55-A.Inspection by Registrar.** -

(1) The Registrar may subject to such conditions, as may be prescribed, of his own motion, by himself or by a person authorized by him by an order in writing, hold inspection of the books of a co-operative society.

(2) The Registrar, or the person authorized by him under sub-section (1) shall, for the purposes of the inspection under this section, have the following powers, namely:-

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the

[2] Inserted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at a place and time, as directed by the Registrar or the person authorised by the Registrar; and

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society, to appear before him at any place, and may examine such person on oath.

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

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

56. Inspection of books by financing bank. -

A financing bank shall have the right to inspect the books of any co-operative society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar on the recommendation of the [2][Chief Executive Officer] of such bank as competent to undertake such inspection. The officer or member so inspecting shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of, the society and may also call

[2] Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

for such information, statement and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

57. Surcharge -

(1) If on the basis of an audit, inquiry, inspection or a Liquidator's report made under the provisions of this Act, it comes to the knowledge of the Registrar that any person, who has taken any part in the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to the provisions of this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person:

Provided that no inquiry into the conduct shall be done under this section by a person who has earlier submitted report of audit, inquiry, inspection or liquidation in the same matter:

Provided further that no such inquiry shall be held after the expiry of six years from the date of an act or omission or after the expiry of two years from the date of knowledge of the Registrar of such act or omission:

Provided also that any business loss occurred due to an act done or decision taken in the interest of the society with a common business prudence shall not be a subject matter of such inquiry.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of representing his case, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

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

Explanation:- [1][x x x]

CHAPTER X

SETTLEMENT OF DISPUTES

58. Disputes which may be referred to arbitration -

(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society arises -

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

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

[1] Deleted by Act No. 11 of 2003 (w.e.f. 8.4.2003)

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

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

(e) between the society and the surety of a member, past member or a deceased member, or a person other than a member who has been granted a loan by the society or with whom the society has or had transaction under section 52, whether such a surety is or is not a member of a society,

such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute:

Provided that such disputes between the society and its employees, for which a remedy is available under the provisions of the service laws applicable on the employees, shall not be entertained under this section.

(2) For the purpose of sub-section (1), the following disputes shall also be deemed to be the disputes touching the constitution, management or the business of a co-operative society, namely:-

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a

deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor, where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of any officer of the society:

Provided that no dispute under this clause shall be entertained during the period commencing from the announcement of election programme and ending on the declaration of the results.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

59. Limitation -

(1) Notwithstanding anything contained in the Limitation Act, 1963 (Central Act 36 of 1963), but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under Section 58 shall,-

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

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

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 61, or in respect of which

an administrator has been appointed under section 30, be six years from the date of the order issued under section 61 or section 30, as the case may be;

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

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section, which are required to be referred to the Registrar under section 58 shall be regulated by the provisions of the Limitation Act, 1963 (Central Act 36 of 1963), as if the dispute were a suit, and the Registrar a civil court.

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

60. Reference of disputes to arbitration -

(1) The Registrar may, on receipt of the reference of a dispute under section 58,-

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf, or

(c) refer it for disposal to an arbitrator having the eligibility, prescribed therefor.

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

(i) dies, resigns or is transferred; or

(ii) has become incapable of acting or against whom a complaint has been received regarding his misconduct or corruption; or

(iii) neglects or refuses to act.

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

CHAPTER XI

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

61. Winding up of Co-operative Societies. -

(1) Where, on the basis of an audit conducted under section 54 or an enquiry held under section 55 or on receipt of an application made with a special resolution passed at a special general meeting called for the purpose, [3][or otherwise] it comes to the knowledge of the Registrar that-

(a) the number of members or the amount of the paid up share capital in the society has reduced below the minimum level which is essential for registration of such class of society; or

(b) the society has not commenced to work even after two years of its registration, or has fulfilled the core objects for which it was constituted or has ceased to work in accordance with its core objectives [4][or has repeatedly been violating the provisions of the Act or the rules or its bye-laws],

he may, after giving the society an opportunity of making its representation, issue an order directing the winding up of such society.

(2) The Registrar may cancel an order for the winding up of a co-operative society, stating the reasons therefor, at any time, in any case where, in his opinion, the society should continue to exist.

[1][(3) Notwithstanding anything contained in sub-section (1), an order for winding up of the apex Co-operative Bank or a Central Co-operative Bank shall be issued within one month of the recommendation of the Reserve Bank of India to that effect in public interest.]

62. Insured Co-operative Bank -

Notwithstanding anything contained in this Act, in the case of an Insured Co-operative Bank -

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation

[3] Inserted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

[1] Added by Act No. 7 of 2010 (w.e.f. 16.10.2009).

[4] Inserted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

or reconstruction (including division or reorganisation) of the Bank may be made only with the previous sanction in writing of the Reserve Bank of India.

(ii) an order for the winding up of the Bank shall be made by the Registrar [1][within a month] if so required by the Reserve Bank of India in the circumstances referred to in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);

(iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the Bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the Bank, an order shall be made [1][by the Registrar within one month of such requisition] for the removal of the committee or other managing body (by whatever name called) of the Bank and the appointment of an administrator therefor for such period or periods, not exceeding [2][one year] in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;

1 Inserted by Act No. 7 of 2010 (w.e.f. 16.10.2009).

2 Substituted for five years' by Act Act No. 17 of 2013 (w.e.f. 24.4.2013).

(iv) no appeal, revision or review shall lie or be permissible against an order such as is referred to in clauses (i), (ii) or (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner;

(v) the Liquidator or the Insured Co-operative Bank or transferee Bank, as the case may be, shall be under an obligation to repay the deposit to the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961) in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation -

(i) For the purpose of this section "a Co-operative Bank" means a Bank as has been defined in the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961).

(ii) "Insured Co-operative Bank" means a Co-operative Bank, which is an Insured Bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961).

(iii) "Transferee Bank", in relation to an Insured Co-operative Bank, means a Co-operative Bank -

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

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

(c) into which such Insured Co-operative Bank is divided or reorganised under the provisions of section 12 of 13 of this Act.

63. Liquidator -

(1) Where the Registrar has made an order under section 61 for the winding up of a co-operative society he may appoint a Government servant, not below the rank of Inspector, co-operative to be a Liquidator for the purpose and fix his remuneration.

(2) A Liquidator shall, on appointment, take into his custody or under his control, all the property, effects and actionable claims to which the society is, or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claims.

(3) Where an appeal is preferred under section 104, an order of winding up of a co-operative society made under section 61 shall not operate thereafter until the order is confirmed in appeal:

Provided that the Liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of co-operative society is set-aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

64. Powers of Liquidator. -

(1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society in respect of which an order for winding up has been made shall vest in the liquidator appointed under section 63 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Registrar, -

(a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;

(b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers of former officers, to the assets of the society;

(c) to investigate all claims against the co-operative society and subject to the provisions of this Act, to decide questions of priority arising between claimants in accordance with the rules;

(d) to pay claims against the co-operative society including interest upto the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

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

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

(j) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist, between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and to take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof;

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

[1][(l) to write off, subject to the approval of the Registrar, such claims of the society, whereafter all possible efforts, the claims are found irredeemable;

(m) to declare a claim against the society as 'not payable' in whole or in part, where the society does not have enough redeemable resources to pay such claims;

(n) to surrender and transfer an immovable property to the Government, where, in the opinion of the Registrar, it is in wider public interest to do so in the manner as may be prescribed;

(o) to entrust, with the special permission of the Government to that effect, an immovable property such as a community centre, which is being used by the local residents of the area for their general welfare and community activities, to a society of such residents exclusively formed to maintain such common facility without having any other objectives in its bye-laws, in the common interest of such residents:

Provided that in case, it is found that the property entrusted to the society of the residents for community activities, is being used for an activity other than the community activities for which it was entrusted to the society, the property shall revert back to the Government :]

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

[1] Added by Act No 7 of 2016 (w.e.f. 4.4.2016).
[2] Substituted by Act No. 7 of 2016(w.e.f. 4.4.2016).

(3) When the affairs of a co-operative society have been wound up, the Liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

65. Termination of winding up proceedings -

(1) The winding up proceedings of a society shall be completed within three years from the date of the order of the winding up, unless the period is extended by the Registrar:

Provided that the Registrar shall not grant any extension for a period exceeding one year at a time and two years in the aggregate.

(2) If the winding up proceedings are not completed within such time, as may be extended by the Registrar under sub-section (1), the Registrar shall refer the matter to the Government with the reasons therefor and shall thereafter act as per the directions issued by the Government in each individual case.

66. Disposal of surplus assets -

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

(a) an object to public utility;

(b) a charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890);

(c) for development of Co-operative movement in the State and for official development of infrastructure to render better services to the co-operative societies;

or may be placed in deposit with the financing bank until such time as a new society with similar objectives is registered when, with the consent of the Registrar, such surplus may be credited to the reserve fund of such new society.

Explanation:- For the purpose of this section "Registrar" shall not include officers whom powers of the Registrar have been conferred under sub-section (2) of section 4.

CHAPTER XII

LAND DEVELOPMENT BANKS

67. Application of Chapter to Land Development Banks -

The Chapter shall apply to -

(a) co-operative banks advancing [1][long term loans], for the purposes herein enumerated, (hereinafter referred to as "Land Development Banks") that is to say :-

(i) land improvement and productive purposes;

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

[1] Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

(iii) the purchase or acquisition of agricultural lands by tenants or agriculturists by way of allotment or otherwise under the Rajasthan Tenancy Act, 1955 (Act No. 3 of 1955), the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956) or the Rajasthan Colonisation Act, 1954 (Act No. 24 of 1954) and rules made thereunder;

(iv) the liquidation of debts under the Rajasthan Relief of Agricultural Indebtedness Act, 1957(Act No. 28 of 1957) or any corresponding law for the time being in force in any part of the State;

(v) for the development of animal husbandry; .

1[(b) Land Development Banks advancing short term and medium term loans under the special schemes approved by the National Bank or for purposes specially approved by the State Government for this purpose on such terms and conditions, as the State Government may decide;]

1[(c)] any other co-operative bank permitted by the Registrar to function as a Land Development Bank.

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

(i) "short term loan" means a loan for the duration of less than eighteen months;

(ii) "medium term loan" means a loan granted for a period ranging from eighteen months to five years; 2[X X X]

1 Inserted and existing clause (b) shall be re-numbered as clause (c) by Act No. 17 of 2013 (w.e.f. 24.4.2013

2 Deleted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

3[(ii-A)"long term loan" means a loan which is neither a short term nor a medium term loan; and]

(iii) "land improvement and productive purposes" means any work, construction or activity which adds to the productivity of the land and, in particular, includes the following, that is to say:-

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

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

(c) preparation of land for irrigation;

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

(e) bunding and similar improvements;

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

(g) horticulture;

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

(i) purchase of tractors or other agricultural machinery;

[3] Inserted by Act no. 17 of 2013 (w.e.f. 24.4.2013).

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

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

(l) purchase of machinery for crushing sugarcane, manufacturing Gur or Khandsari or Sugar;

(m) purchase of land for consolidation of holdings under the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 (Act No. 24 of 1954); and

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

68. State and Other Land Development Banks -

(1) There shall be a State Land Development Bank for the State of Rajasthan and as many Land Development Banks as may be deemed necessary.

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

69. Appointment, powers and functions of trustee -

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

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

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

70. Issue of debentures -

(1) With the previous sanction of the State Government and the Trustee and subject to such terms and conditions as the State Government may impose, the State Land Development Bank in the discharge of its function as a Land Development Bank may issue debentures of such denominations, for such period not exceeding thirty years, and at such rates of interest, as it may deem expedient, on the security of mortgages, or mortgages to be acquired or partly on mortgages held and partly to be acquired and properties and other assets of the Land Development Banks.

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

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

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

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 77 by the Land Development Banks to the State Land Development Banks and subsisting at such time; and

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

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

71. Guarantee by State Government -

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

72. Vesting of property in Trustee and debenture holder's charge on assets -

Upon the issue of debentures under the provisions of section 70, the mortgaged properties and other assets referred to in sub-section (3) of that section held by the State Land Development Bank, shall vest in the Trustee, and the holders of debentures shall have a floating charge on all such mortgages and assets, and on the amount paid under such mortgages, and remaining in the hands of the State Land Development Bank or of the Trustee.

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

Subject to the provisions of this Act and the rules made thereunder, it shall be competent for a Land Development Bank to advance loans for the purposes referred to in section 67 and to hold lands the possession of which is transferred to it under the provisions of this Chapter.

[1][74. Mode of dealing with applications for loan -

When an application for a loan is made for any of the purposes mentioned in section 67, the Land Development Bank shall consider such application after the due inquiry and in such manner as may be prescribed.]

75. Order granting loan conclusive of certain matters -

A written order by the Land Development Bank, or any person or committees authorised under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 67, granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein for the purpose of carrying out the work specified therein, shall, for the purposes of this Act, be conclusive of the following matters, that is to say :-

(a) that the work described or the purpose for which the loan is granted is an improvement or productive purpose, as the case may be, within the meaning of section 67;

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

1 Substituted by Act no. 17 of 2013 (w.e.f. 24.4.2013).

74. Mode of dealing with applications for loans- (1) When an application for a loan is made for any of the purposes mentioned in section 67, a public notice shall be given of the application in such manner as may be prescribed, calling upon all persons interested to present their objections to the loan, if any, in person at a time and place fixed therein. The Government may, from time to time, prescribe the persons by whom such public notice shall be given and the manner in which the objections shall be heard and disposed of.

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

Provided that when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a civil court, he shall postpone the proceedings on the application until the question has been so decided.
(3) A notice under sub-section (1) shall, for the purpose of this Act, be deemed to be proper notice to all persons having or claiming interest in the land to be improve, or offered as security for the loan.
(4) Subject to such rules as may be prescribed, the Land Development Banks shall consider such application after due enquiry for the purpose of making loans under this Chapter.

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

76. Priority of mortgage -

(1) A mortgage executed in favour of a Land Development Bank shall have priority over any claim of the Government arising from a loan granted after the execution of the mortgage under the Rajasthan Agricultural Loans Act, 1957 (Act No. 1 of 1957).

(2) Notwithstanding anything contained in the Rajasthan Tenancy Act, 1955 (Act No. 3 of 1955), or any other corresponding law for the time being in force, where a mortgage in favour of a Land Development Bank is in respect of land in which a tenant has an interest, the mortgage may be against the security of such interest, and the rights of the mortgagee shall not be affected by the failure of the tenant to comply with the requirements of such law, and the sale of the land and his interest therein under such law shall be subject to the prior charge of the Land Development Bank.

77. Mortgages executed in favour of Land Development Banks to stand vested in State Land Development Bank -

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

78. Registration of mortgages and leases in favour of Land Development Banks -

Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), it shall not be necessary to register mortgages or leases executed in favour of the Land Development Banks, provided that the Land Development Bank concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged or let out for the purpose of securing repayment of the loan to the Registering officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or let out is situate, and such Registering Officer shall file a copy or copies, as the case may be, in his

Book No. 1 prescribed under section 51 of the Registration Act, 1908 (Central Act 16 of 1908).

79. Mortgages not to be questioned on insolvency of mortgagers -

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

80. Right of Land Development Banks to pay prior debts of mortgager -

(1) Where a mortgage is executed in favour of a Land Development Bank for payments of prior debts of the mortgager, such bank shall, notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882), by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office, within such period as may be specified in the notice.

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

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

81. Mortgage executed by managers of Hindu joint families -

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

(2) In other cases, where a mortgage executed in favour of a Land Development Bank or State Land Development Bank either before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a Hindu Joint family for a purpose not binding on the members (whether such members have

attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

82. Section 8 of the Central Act 32 of 1956 to apply to mortgages -

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

83. Restrictions on leases -

Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882), or any other law for the time being in force, no mortgager of property mortgaged to a Land Development Bank, shall, except with the prior information in writing to the Bank, lease or create any tenancy rights on any such property:

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

84. Land Development Bank to receive money and give discharge -

Notwithstanding anything contained in section 77, all moneys due under the mortgage, shall, unless otherwise directed by the State Land Development Bank or the Trustee, and communicated to the mortgager, be payable by the mortgager to the Land Development Bank, and such payments shall be as valid as if the mortgage had not been so transferred and the Land Development Bank shall, in the absence of specific direction to the contrary issued by the State Land Development Bank or Trustee, and communicated to the Land Development Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

85. Power of Land Development Banks where mortgaged property is destroyed or security becomes insufficient -

Where any property mortgaged to a Land Development Bank is wholly or partly destroyed, or for any reason the security is rendered insufficient and the mortgager, having been given a reasonable opportunity by the Bank to provide further security enough to render the whole security sufficient, or to repay such portion of the loan as may be determined by the Bank, has failed to provide such security or to repay such portion of the loan, the remainder of the loan shall be deemed to fall due at once, and the Bank shall be entitled to take action against the mortgager under section 88 or section 89 for the recovery thereof.

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

86. Right of Land Development Bank to sell mortgaged property -

(1) Property purchased under sub-section (3) of section 89 by, and the property transferred under section 103 to, the Land Development Banks may be disposed of by such banks by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists eligible to hold land under the Rajasthan Tenancy Act, 1955 (Act No. 3 of 1955) or any corresponding law for the time being in force, or may be leased out by them on such terms and conditions as may be laid down by the Government from time to time.

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

87. Recovery of Loans by Land Development Banks -

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

88. Power to distrain -

(1) If any instalment payable under a mortgage executed in favour of a Land Development Bank, or any part of such instalment, has remained unpaid for more than three months from the date on which it fell due, the committee of such Bank may, in addition to any other remedy available to the Bank, apply to the Registrar or the Collector for the recovery of such instalments or part thereof, by distraint and sale of the produce of the mortgaged land, including the standing crops thereon.

(2) On receipt of such application, the Registrar or the Collector, as the case may be, may, notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882), take action in the prescribed manner for the purpose of distraining and selling such produce:

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

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

89. Sale of mortgaged property -

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882), the Land Development Bank or any person authorised by it in this behalf shall, in case of default of payment of the mortgage money, or any part thereof, have power, in addition to any other remedy available to the Bank, to bring the mortgaged property to sale by public auction in the village in which the mortgaged property is situated or at the nearest place of public resort without the intervention of the court:

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

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

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

(i) the mortgager or each of the mortgagers;

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

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

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

(c) default has been made in payment of such mortgage money or part thereof for three months after the service of notice.

(2) If the Land Development Bank fails to take action against a defaulter under section 85 or section 88 or under this section, the State Land Development Bank may direct the Land Development Bank to take appropriate action, and where no action is taken either by the State Land Development Bank or the Land Development Bank, the Trustee may take such action. If such action is taken by the Trustee, the provisions of this Chapter and of any rules shall apply in respect thereto, as if all references to the Land Development Bank in the said provision were references to the trustees.

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

90. Confirmation of sale -

(1) On effecting the sale by a Land Development Bank under section 89, the said Bank shall, in the prescribed manner submit to the State Land Development Bank and the Registrar, a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Land Development Bank may, with the approval of the Registrar, confirm the sale or cancel it.

(2) Where the sale is effected by the State Land Development Bank or the Trustee under section 89, the State Land Development Bank or the Trustee, as the case may be, shall in the prescribed manner, submit to the Registrar, a report setting forth the manner in which the sale has
been effected and the result of the sale and the Registrar may confirm or cancel the sale:

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

91. Disposal of sale proceeds -

(1) The proceeds of every sale effected under section 89 and confirmed under section 90, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequence whereof the mortgaged property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery.

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

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

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

(b) from any member or past member to whom the mortgager is indebted, may also be adjusted under the written authority

given by such member and past member, and after holding such inquiry as may be deemed necessary.

92. Certificate to purchase, delivery of property, and title of purchases -

(1) Where a sale of mortgaged property has become absolute under section 90 and the sale proceeds have been received in full by the Land Development Bank, the bank shall grant a certificate to the purchaser in the prescribed

form certifying the property sold, the sale price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale becomes absolute, and upon the production of such certificate, the Sub-Registrar appointed under the Registration Act, 1908 (Central Act 16 of 1908), within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to the immovable property.

(2) (a) Where the mortgaged property sold is in the occupancy of the mortgager, or of some persons on his behalf, or some person claiming under a title created by the mortgager, subsequent to the mortgage, in favour of the State Land Development Bank or Land Development Bank and a certificate in respect thereof has been granted under sub-section (1), the Collector shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any persons appointed by such purchaser to receive delivery on his behalf, in possession of the property.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under sub-section (1), the Collector shall, on the application of the purchaser and after notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgager have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of a power of sale under section 89, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorising the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised:

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

93. Recovery of loans on certificate by Registrar -

(1) Notwithstanding anything contained in section 58 and 100, on an application made by a Land Development Bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of account in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

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

(3) It shall be competent for Registrar or a person authorised by him to direct conditional attachment of the property of the mortgager until the arrears due to the Land Development Bank together with interest and any incidental charges incurred in recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 101 shall apply *mutatis mutandis* to conditional attachment of any property made or to be made under this section.

94. Collector to make recoveries during certain period -

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

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

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

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

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

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

95. Officers of Bank not to bid at sales -

At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee or an of the family

members of the officer or the employee of the Land Development Bank or the State Land Development Bank, except on behalf of the bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest is such property.

96. Provision for Guarantee Funds to meet certain losses -

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

(2) The State Land Development Bank and the Land Development Banks shall contribute to such funds at such rate as may be prescribed and the constitution, maintenance and utilisation of such Funds shall be governed by such rules as may be made by the State Government in this behalf.

97. Service of notice -

The provisions of section 102 and 103 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), and of any rules made under section 104 thereof, shall apply, so far as may be, in respect of all notices to be served under this Chapter.

98. Power of committee of State Land Development Bank to supervise Land Development Bank and make regulations -

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

(a) for the inspection of the account books and proceedings of Land Development Banks;

(b) for the submission of returns and reports by such banks in respect of their transactions;

(c) for the periodical settlement of accounts between such banks and the State Land Development Bank, being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the State Land Development Bank;

(d) for the form in which application to such banks for loans shall be made and for the valuation of properties offered as security for such loans;

(e) for the investment of moneys realized from the mortgagers;

(f) for the conditions of service of employees of such banks;

(g) for the programme and policy to be followed by such banks for making loans;

(h) for the types and extent of security to be obtained by such banks for advancing loans; and

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

CHAPTER XIII

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

99. Enforcement of charge -

Notwithstanding anything contained in Chapter X, or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person empowered by the Registrar in this behalf, may, on his own motion or on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past member or deceased member or by guarantor thereof, by sale of the property or any interest therein, which is mortgaged to the society or is subject to a charge under section 38 or section 39.

Provided that no order shall be made under this section unless the member, past member or the nominee, heir or legal representative of the deceased member or guarantor thereof, or any person who has any interest in or charge upon the mortgaged property or any creditor of the mortgager who has, in a suit for administration of the estate, obtained a decree for sale of mortgaged property, as the case may be, has been served with a notice of the application and, -

(i) where such person disputes the debt or demand, such dispute is finally adjudicated under section 60; or

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

100. Execution of orders, etc. -

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882) or any other law for the time

being in force, every order made by the Registrar under sub-section (2) of section 57 or under section 99, every decision or award made under section 60, every order made by the Liquidator under section 64 and every order made by the Tribunal under section 105 and 106 and every order made under section 104 shall, if not carried out, -

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

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

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

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

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

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment, of any property of the person or a co-operative society against whom the order, decision or award has been obtained or passed.

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

101. Attachment of property before award or order -

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

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the Arbitrator or Liquidator, as the case may be,

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

102. Recovery of sums due to Government -

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

(2) Sums due from a society to the Government and recoverable under sub-section (1) may be recovered, firstly from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members, or the estates of deceased members, subject to the limit of their liability; and thirdly, in the case of other societies, from the members, past members or the estates of deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section. 23.

103. Transfer of property which cannot be sold -

(1) Notwithstanding anything contained in any law for the time being in force, when in any execution of an order sought to be executed under section 99, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequent to the issue of the certificate under section 99 by the Registrar or any person or persons appointed to assist him under section 4, on whom the power to sign such certificate shall have been conferred, the court or the Collector, as the case may be, may with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner.

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

Provided that any private transfer or delivery of, or encumbrance or charge on, the property made or created after the

issue of the certificate by the Registrar or any person or persons appointed and empowered under section 4 to sign such certificates, as the case may be, under section 99 shall be null and void as against the said society.

CHAPTER XIV

APPEALS, REVISION AND REVIEW

104. Appeal to the Registrar and the State Government -

(1) An appeal may lie, under this section, to the State Government against an order or decision passed by the Registrar and to the Registrar against an order or decision passed by an officer subordinate to the Registrar or by any other person, to whom powers of the Registrar have been conferred or delegated under sub-section (2) of section 4.

Explanation :– For the purpose of this sub-section, Registrar shall not include any other person except the Registrar appointed by the State Government under sub-section (1) of section 4 and an Additional Registrar exercising the appellate powers of the Registrar under this section.

(2) Any person aggrieved by -

(a) an order of the Registrar made under sub-section (2) of section 6 refusing registration of a co-operative society,

(b) an order of the Registrar made under sub-section (3) of section 10 refusing registration of an amendment of the bye- laws of a co-operative society,

(c) an order of refusal passed by the Registrar under sub-section (2) of section 12,

(d) [1][x x x]

(e) an order of surcharge made by the Registrar under section 57,

(f) an order made by the Registrar under section 61, directing the winding up of a co-operative society,

(g) an order made by the Liquidator of a society, in exercise of the powers conferred on him by section 64 with respect to matters specified in the rules,

(h) an order made by the Registrar under section 100, may, within ninety days from the date of order or decision, appeal to the authority specified under sub-section (1).

(3) The State Government or the Registrar, as the case may be, may, after calling for the record and giving the appellant an opportunity of being heard, confirm, vary or reverse the order appealed against, or remand the case for disposal with such directions as it thinks fit.

(4) Pending an appeal under this section, the State Government or the Registrar, as the case may be, may make such interlocutory orders as he may think fit in the interest of justice.

1 Deleted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

105. Constitution of and appeals to the Tribunal. -

(1) The Government shall constitute a Tribunal, called "Rajasthan State Cooperative Tribunal" to exercise the powers and carry out the functions conferred on the Tribunal by or under this Act.

(2) The Tribunal shall consist of a Chairman and two other members to be appointed by the State Government.

(3) The Chairman of the Tribunal shall be an officer of the Rajasthan Higher Judicial Service of the rank of District and Sessions Judge of selection grade.

(4) One member of the Tribunal shall be an Additional Registrar of the Rajasthan State Co-operative Service.

(5) Another member of the Tribunal shall be either a distinguished advocate who has atleast 15 years experience in the co-operative law or a co-operator who has atleast 20 years experience in the field of co-operation and is a law graduate and has hold an office in any of the State or National Level Co-operative societies for not less than two times.

(6) The Chairman and members of the Tribunal shall ordinarily, subject to the attainment of the age of superannuation, be appointed for a period of five years. The advocate member shall not continue to be the member of the Tribunal after attaining the age of sixty years.

(7) The other conditions of service and procedure for selection of the Chairman and Members of the Tribunal shall be such as may be prescribed by the State Government from time to time.

(8) Any vacancy other than a casual vacancy in the membership of the Tribunal shall be filled by the Government.

(9) Subject to the previous sanction of the Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business. The regulations shall come into force on the date of their publication in the Official gazette.

(10) Any person aggrieved by -

(a) an order removing a member of the committee of a co-operative society under section 30 or an order debarring a member from election or appointment to a Committee under 1[sub-section (12) of section 28], or

(b) any decision of the Registrar made under clause (a) or sub-section (1) of section 60, or

(c) any decision of the person invested by the Government with powers in that behalf under clause (b) of sub-section (1) of section 60, or

(d) any award of an Arbitrator under clause (c) of sub-section (1) of section 60, or

(e) any order made under [2][Section 101] with a view to prevent any delay or obstruction in the execution of any decision or award that may be made under section 60,

(f) any decision passed by the State Government or the Registrar, as the case may be, in an appeal made under section 104,

[1] Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

[2] Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

[3][(g) any decision passed by the Registrar under Section 125,] may within ninety days from the date of the decision, award or order, as the case may be, appeal to the Tribunal.

Explanation :– The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and order XLI in the First Schedule to the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(11) Pending an appeal under sub-section (10), the Tribunal may make such interlocutory orders, as it may think fit in the interest of justice.

106. Review of orders by Tribunal -

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

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

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

[3] Added by Act No. 7 of 2016 (w.e.f. 4.4.2016).

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

107. Power of revision of the Government and the Registrar. -

(1) The Registrar, in case where action has been taken by any officer subordinate to the Registrar and the State Government, in case where action has been taken by the Registrar, may, on their own motion or on an application of any aggrieved person, call for and examine the record of any inquiry or the proceedings of all such matters in which an action has been taken under this Act, except those in which an appeal lies to the Tribunal, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer. If in any case, it appears to the State Government or the Registrar, that any decision or order or proceeding so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may after giving persons affected a reasonable opportunity of being heard, pass such order thereon as it or he thinks just:

Provided that every application to the Registrar or the State Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant:

[1][Provided further that the Registrar or the Government shall not exercise the powers under this sub-section in case in which an appeal lies to him or it, as the case may be, under this Act.]

[1] Substituted by Act No. 7 of 2016(w.e.f. 4.4.2016).

Explanation :– For the purpose of this sub-section every person appointed to assist the Registrar and exercising all or any of the powers of the Registrar under sub-section (2) of section 4, shall be deemed subordinate to the Registrar.

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

CHAPTER XV

OFFENCES AND PENALTIES

108. Prohibition against misuse of the word 'Co-operative' -

(1) No person other than a co-operative society shall trade or carry on business under any name or title of which the word 'co-operative' or its equivalent in any Indian language is a Part.

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

109. Offences and punishment -

(1) It shall be an offence under this Act, if -

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

(b) any member or his guarantor or surety or the nominee, heir or legal representative of deceased member alienates the

[3] Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

whole or any part of any property specified in the declaration in contravention of clause (c) of section 39; or

(c) any employer and every Director, Manager, Secretary or other officer or agent acting on behalf of such employer who without sufficient cause, fails to [3][make deductions and pay the amount so deducted] under section 41; or

(d) a committee of a co-operative society or an officer or member thereof fails to invest funds of such society in the manner required by section 49; or

(e) any person collecting share money or any other money for a co-operative society in formation, does not, within a reasonable period, deposit the same in the Government Savings Bank or with any bank or person carrying on the business of banking approved for this purpose by the Registrar or in any other mode permitted by the rules; or

(f) any person, collecting the share money or any other money for a society in formation makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise; or

(g) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-section (1) of section 25; or

(h) any officer or member of a co-operative society or any other person in possession of, or reasonably believed to be in possession of, or legally bound to keep in possession, any information, books and records, fails to furnish such

[3]Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

information or produce books and records, or to give assistance to person appointed or authorised by the

Government or the Registrar under sections [1][30, 31, 55, 60 63 or 122-A or to the auditor or auditing firm appointed under section 54]; or

(i) any officer of a co-operative society fails to handover the custody of books, records, cash, security and other properties belonging to the society of which he is an officer to a person appointed under section 30 or 63, or to an officer elected or appointed in his place: or

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

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

(l) any officer, member, agent or servant of a co-operative society fails to comply with the requirement of sub-section (2) of section 54; or

(m) any officer or member of a society wilfully fails to comply with any decision, award or order passed under section 60; or

(n) a member of a co-operative society fraudulently disposes of property over which the society has a prior claim, or a

[1] Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society; or

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

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

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

[1][(r) any person wilfully or without any reasonable excuse disobeys any summons, requisitions or lawful written order issued under the provisions of this Act; or]

[2][(s) any person, who before, during or after the elections of members of the committee or its office bearers, adopts any corrupt practice.]

Explanation :- For the purpose of this section, an officer or a member referred to in the section shall include a past officer or a past member, as the case may be.

1 Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).
2 Added by Act No. 17 of 2013 (w.e.f. 24.4.2013).

(2) Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under sub-section (1) shall, on conviction, be punished, -

(a) if it is an offence under clause (a) of sub-section (1), with imprisonment of a term which may extend to six months, or with fine which may extend to [3][twenty five thousand rupees], or with both

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

(c) if it is an offence under clause (c) of sub-section (1), with a fine which may extend to [1][twenty five thousand rupees];

(d) if it is an offence under clause (d) of sub-section (1), with fine which may extend to [1][two thousand five hundred rupees];

(e) if it is an offence under clause (e) of sub-section (1), with fine which may extend to [1][two thousand five hundred rupees];

(f) if it is an offence under clause (f) of sub-section (1), with imprisonment for a term which may extend to one year, or

3 Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).
1Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

with fine which may extend to [1][ten thousand rupees], or with both;

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

(h) if it is an offence under clause (h) of sub-section (1), with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to [1][twenty five thousand rupees];

(i) if it is an offence under clause (i) of sub-section (1), with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to [1][twenty five thousand rupees];

(j) if it is an offence under clause (j) of sub-section (1), with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to [1][ten thousand rupees]:

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

[1]Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

(l) if it is an offence under clause (l) of sub-section (1),with fine which may extend to [1][five thousand rupees];

(m) if it is an offence under clause (m) of sub-section (1), with imprisonment for a term which may extend to six months, or with fine which may extend to [3][twenty five thousand rupees], or with both;

(n) if it is an offence under clause (n) of sub-section (1), with imprisonment for a term which may extend to six months,
or with fine which may extend to [3][five thousand rupees], or with both;

(o) if it is an offence under clause (o) of sub-section (1), with imprisonment for a term which may extend to two years, or with fine which may extend to [3][twenty five thousand rupees], or with both;

(p) if it is an offence under clause (p) of sub-section (1), with imprisonment for a term which may extend to three years,
or with fine which may extend to [3][ten thousand rupees], or with both;

(q) if it is an offence under clause (q) of sub-section (1), with fine which may extend to [3][ten thousand rupees];

[1]Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).
[3] Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

[1][(r) if it is an offence under clause (r) of sub-section (1), with imprisonment for a term which may extend to one year, or

with fine which may extend to [twenty five thousand rupees], or with both;]

[2][(s) if its is an offence under clause (s) of sub-section (1), with imprisonment for a term which may extend to three years, or with fine which may extend to [3][ten thousand rupees], or with both.]

110. Cognizance of offences -

(1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), it shall be lawful for a Magistrate of the First Class to pass a sentence of fine on any person convicted of an offence under clause (b) of sub-section (1) of section 109 as provided under sub-section (2) thereof in excess of his powers under section 29 of that Code.

(3) No prosecution under this Act shall be initiated, except with the previous sanction of the Government in the case of an offence under clause (c) of sub-section (1) of section 109 and of the Registrar, Co-operative Societies, Rajasthan in the case of any other offence under this Act. Such sanction shall not be given, except after hearing the party concerned, by an officer authorised in this behalf by the Government by a general or special order, or by the Registrar, Co-operative Societies, Rajasthan as the case may be.

1 Substituted by Act No. 17 of 2013 (w.e.f. 24.4.2013).
2 Added by Act No. 17 of 2013 (w.e.f. 24.4.2013).
3 Substituted by Act no. 7 of 2016 (w.e.f. 4.4.2016).

CHAPTER XVI

MISCELLANEOUS

111. Co-operative education and training -

(1) It shall be the duty of each co-operative society to arrange co-operative education and training relating to basic needs of the institution, for its officers, personnel and members, and for this purpose it shall provide for sufficiently in its annual budget.

(2) The Registrar shall prepare working plan for co-operative education and training for various co-operative institutions of the State in coordination with federal bodies, if any, and the Rajasthan State Co-operative Union. The Registrar shall implement such plan through co-operative union of the State or any such education and training institution, which has expertise/resources for implementing such plan.

112. Insolvency of members -

Notwithstanding anything contained in any law relating to insolvency for the time being in force, the dues of society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to Government.

113. Rights of members to see books, etc. -

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

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

114. Proof of entries in co-operative society's books -

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

(2) No officer of a co-operative society and no officer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceeding to which the society or the Liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court, the Tribunal or the Arbitrator made for special cause.

115. Powers of Civil Court -

(1) In performing the functions conferred on it by or under this Act, the Tribunal, the Registrar, the Arbitrator, or any other person deciding a dispute and the Liquidator of a co-operative society shall have
all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely: -

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) proof of facts by affidavits; and

(d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer appointed by the Tribunal, the Registrar, the Arbitrator, or any other person deciding a dispute or the Liquidator, as the case may be, in this behalf may administer the oath to the deponent.

(3) The Registrar or any person empowered by him shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of Article 136 of the First Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

116. Registrar and other officers to be public servants -

The Registrar, a person exercising the powers of the Registrar, a person authorised to audit the accounts of a society under section 54, or to hold an inquiry under section 55, and a person appointed as an Administrator under section 30, or as an Arbitrator under section 60, or as a Liquidator under section 63, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

117. Bar of jurisdiction of Courts -

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

(a) the registration of a co-operative society or of an amendment of a bye-law;

(b) the removal of a committee; and

(c) any matter concerning the winding up and the dissolution of a co-operative society or concerning the business of a society under liquidation.

(2) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever.

118. Bar to Legal practitioner -

Notwithstanding anything contained in any law for the time being in force, no legal practitioner shall appear on behalf of any party in any proceeding, other than an appeal, a revision, a review or prosecution of an offence under section 109, under this Act.

119. Service of notice under the Act -

Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business of such person prepaying and posting by registered post a letter containing the notice or order, or by publication of such notice or order in a Hindi newspaper having wide circulation in the area of his last known address and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter
would be delivered in the ordinary course or, as the case may be, on the date of publication of the newspaper.

120. Acts of co-operative societies not to be invalidated by certain defects -

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

121. Indemnity -

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done in good faith under this Act.

122. Certain Acts not to apply -

(1) The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to co-operative societies.

(2) Nothing contained in the Rajasthan Relief of Agricultural Indebtedness Act, 1957 or any corresponding law for the time being in force in any part of the State shall apply to loans advanced by co-operative societies under this Act.

[2][122-A. Filling of returns -

Every society shall, within six months of the close of every financial year, file the following returns to the Registrar, namely :-

(a) annual report of its activities;

[2] Inserted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

(b) its audited statements of accounts;

(c) plan for surplus disposal, as approved by the general body of the society;

(d) list of amendments to the bye-laws of the co-operative society, if any;

(e) declaration regarding date of holding of its general body

meeting and conduct of elections, when due; and

(f) such other information, as the Registrar may require, from time to time.]

123. Power to make rules -

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

Provided that any rule may be made under this section without previous publication if the State Government considers that it should be brought into force at once.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the manner in which the application for registration of a society may be made;

(ii) class of societies; minimum share capital for societies, for the purpose of registration; criteria on the basis of which a society may be registered;

(iii) the applicants to whom the order refusing the registration of co-operative society may be sent by the Registrar;

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

(v) the qualifications or dis-qualifications relating to membership of a co-operative society;

(vi) the manner in which the proposal for an amendment of the bye-laws or for transfer of assets and liabilities, division and amalgamation of a co-operative society shall be forwarded to the Registrar;

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

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

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

[1][(ix-a) formation of common cadre for a class of society, including rules for its applicability and governance;]

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

(xi) the class of persons and local authorities, which may be admitted as a nominal member in a society; the class of societies, in which the spouse of a member may be admitted as an associate member;

1 Inserted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

(xii) the procedure for the admission of members of a Hindu Joint Family, and minors and persons of unsound mind inheriting the share or interest of deceased members and provision for their rights and liabilities;

(xiii) the mode in which the value of a deceased member's share shall be ascertained;

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

(xv) the inspection of documents in the Registrar's office and the levy of fee for granting certified copies of the same;

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

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

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

(xix) the limits for loans to be granted by a society or class of societies against different classes of securities or without security and the procedure for granting loans;

(xx) manner or recalling a loan;

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

(xxii) the manner in which the Delegate General Body of a society may be elected;

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

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

(xxv) the election of members of committee by the general body of a co-operative society;

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

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

(xxviii) the appointment, suspension, removal, term of office and filling of casual vacancies of the members of the committee and other officers and for the appointment of Administrator under section 30 and the procedure at meeting of the committee and the powers to be exercised and the duties to be performed by the committee, Administrator and other officers;

(xxix) the manner in which election of a co-operative society shall be conducted;

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

(xxxi) the procedure to be adopted by taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 54, 55 and 56 in cases where misappropriation of funds, breach of trust, or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tempered with or destroyed or removed;

(xxxii) the qualifications of a Manager, Secretary, Accountant or any other officer or an employee of the society and the conditions of their service including discipline and control;

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

(xxxiv) the conditions on which any charge in favour of a society shall be satisfied and the extent to which and the order in which the property to the charge shall be used in its satisfaction; and the form of declaration to be made under section 39;

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

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

(xxxvii) the form in which an agreement under section 41 may be executed;

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

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

(xl) the period within which a co-operative society out of its net profit in a year, transfer the amount to the reserve fund;

(xli) the constitution of a Co-operative Education and Training Fund and the payment to be made to that fund by a co-operative society out of its own profits and the mode of its investment and the procedure thereof;

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

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

(xliv) the objects of the Reserve Fund of a co-operative society and the mode of its investment;

(xlv) the mode of disposal of Reserve Fund of a co-operative society on its winding up;

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

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

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

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

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

(li) the procedure for conducting audit, the matters on which the auditor shall submit a report, the

form in which the statement of account shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of a society, the form of audit memorandum and report;

(lii) the procedure for appointment of auditors under section 54;

(liii) the procedure and principles for the conduct of inquiry under section 55;

(liv) the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 57 and for recovery of cost and damages;

(lv) the procedure to be followed in proceedings before the Registrar, Arbitrator or other person deciding disputes;

(lvi) the form in which a dispute shall be referred to the Registrar:

(lvii) the issue and service of processes and the mode of proving of service thereof;

(lviii) the procedure to be followed in execution of awards;

(lix) the conditions subject to which assets of a co-operative society shall vest in a Liquidator and the procedure to be adopted in winding up of a co-operative society;

(lx) the matters in which an appeal shall lie from the order of a Liquidator appointed under section 63;

(lxi) the time within which, and the manner in which Land Development Bank may send a copy of the instrument of mortgage to the Registering Officer in order to avail the benefit under section 78;

(lxii) the procedure for recovery of amounts due or payable to a co-operative society;

(lxiii) the manner, in which the Registrar or Collector may take action on an application made under sub-section (1) of section 88;

(lxiv) the mode of making attachment before judgement;

(lxv) the investigation of claims and objections that may be preferred against any attachment effected by the Registrar;

(lxvi) the procedure to be followed for the custody of property attached under section 101;

(lxvii) the procedure for the distraint and sale of property mortgaged to a Land Development Bank;

(lxviii) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which Chapter XII is applicable;

(lxix) and by the maximum amount of principal, the rate of interest other conditions for the guarantee of debentures issued a society to which Chapter XII is applicable;

(lxx) the qualifications and methods of appointment of an officer to effect sale under section 89 and the powers and functions which such an officer may exercise;

(lxxi) income the appointment of a receiver of the proceeds and of mortgaged property or sale under section 89, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and the remuneration which he may receive;

(lxxii) the procedure according to which action may be taken by a Land Development Bank against the mortgager under section 89;

(lxxiii) in case of sale of immovable property under Chapter XII -

(a) the procedure for proclamation and conduct of sale and the conditions on which an attempt of sale may be abandoned;

(b) the method of calculating the expenses incidental to the sale or attempted sale;

(c) the procedure for the receipt of deposit and disposal of the proceeds of sale;

(d) the procedure for resale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money;

(e) the form and method of disposal of money by a Land Development Bank under section 91;

(f) the form of a sale certificate under section 92;

(g) the procedure for delivery by the court of the property purchased, to the purchaser under section 92;

(h) the form of the notice referred to in section 97; and

(i) the fee payable for the service of such notice and the manner of serving such notice;

(lxxiv) the time within which and the procedure according to which property purchased by Land Development Bank at a sale of immovable property under Chapter XII shall be disposed of by the bank;

(lxxv) constitution, maintenance and utilisation of Guarantee Funds; the Rate at which the State Land Development Bank and Land Development Banks shall contribute to the Guarantee Funds;

(lxxvi) the manner in which the property or any portion thereof, ordered to be transferred to a society under section 103, shall be transferred to a society;

(lxxvii) the condition of service and procedure for selection of chairman and members of the Tribunal;

(lxxviii) the procedure to be followed in presenting and disposing of appeals;

(lxxix) the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules;

(lxxx) offences for contravening any of the rules;

(lxxxi) the account books and registers to be kept by a co-operative society and power of Registrar to direct the accounts and books to be written up;

(lxxxii) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business;

(lxxxiii) the statements and returns to be furnished by a co-operative society to the Registrar;

(lxxxiv) the restrictions on persons appearing as legal practitioners;

(lxxxv) the inspection of documents and the fees to be paid to a co-operative society for granting certified copies thereof;

(lxxxvi) the remuneration payable to an Administrator appointed in place of a committee removed by the Registrar;

(lxxxvii) the matters expressly required or allowed by this Act to be prescribed or for which rules may be made.

(3) All rules and regulations made under this Act after its commencement, shall be laid, as soon as may be after they are made, before the House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which they are so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rules or regulations, as the case may be, or resolves that the rules or regulations, as the case may be, should not be made, the rules or regulations, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under these rules or regulations, as the case may be.

124. Branches etc. of society outside the State -

(1) A society may open a branch or a place of business outside the State of Rajasthan, or a co-operative society registered under any law in any other State may open a branch or place of business in the State of Rajasthan, with the prior permission of the Registrar.

Explanation :– For the purpose of this section 'Registrar' shall not include officers on whom powers of the Registrar have been conferred under sub-section (2) of section 4.

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

[2]**[125. Power of Registrar to rescind certain resolutions** -

If in the opinion of the Registrar, any resolution passed at the meeting of any co-operative society or committee thereof is opposed to the objects of the society or is prejudicial to the interests of the society or its members at large, or is against the provisions of the Act, the rules or the bye-laws of the society or is otherwise in excess of the powers of the society, the Registrar, may, after giving the society an opportunity of being heard, rescind the resolution.]

126. Power to remove difficulties -

(1) If any difficulty arises in giving effect to the provisions of this Act or of any existing law, the Government may, as occasion may require, by order, do anything, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

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

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

[2] Substituted by Act No. 7 of 2016 (w.e.f. 4.4.2016).

127. Repeal and Savings -

(1) The Rajasthan Co-operative Societies Act, 1965 (Act No. 13 of 1965) is hereby repealed.

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

(3) Accordingly, all societies registered or deemed to be registered under the repealed Act, the registration of which is in force at the commencement of this Act, shall on such commencement be deemed to be registered under this Act; and all proceedings pending immediately before such commencement before any Registrar, Arbitrator, Liquidator, or other officer, authority or person under the provisions of the repealed Act shall stand transferred, where necessary, to the Registrar, Arbitrator, Liquidator or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer,

authority or person, to such officer, authority or person as the State Government may designate and shall be
continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

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

SCHEDULE-A

(See Section 5)

CO-OPERATIVE PRINCIPLES

The co-operative principles are guidelines by which co-operatives put their values into practice.

1st Principal : Voluntary and Open Membership

Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.

2nd Principal : Democratic Member Control

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and Women serving as elected representatives are accountable to membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are also organised in a democratic manner.

3rd Principle : Member Economic Participation

Members contribute to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed to as a condition of membership. Members allocate surpluses for any of the following purposes :-

Developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible, benefiting members in proportion to their transactions with the co-operative, and supporting other activities approved by the membership.

4th Principle : Autonomy and Independence

Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including Governments or, raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

5th Principle : Education, Training and Information

Co-operatives provide education and training for their members, elected representatives, managers and employees so they can contribute

effectively to the development of their co-operatives. They inform the general public particularly young people and opinion leaders about the nature and benefits of co-operation.

6th Principle : Co-operation among Co-operatives

Co-operatives work for the sustainable development of their communities through policies approves by their members.

SCHEDULE-B

(See Section 8)

SUBJECT MATTER OF BYE-LAWS

(1) The bye-laws of a co-operative society shall provide for the following matters, namely :-

(a) the name and address of the society;

(b) the area of its operation;

(c) the objects of the society;

(d) the manner in which funds may be raised and the maximum share-capital which a single member may hold;

[1][(da) the norms regarding minimum essential utilisation of the services of the society or regarding minimum essential attendance of the meetings of the society or regarding other dealings with the society, which shall be fulfilled by a member.]

(e) the nature and extent of the liability of the members;

(f) the extent to which the society may borrow funds and the rates of interest payable on such funds;

1 Inserted by Act No. 17 of 2013 (w.e.f. 24.4.2013).

form members; (h) the purposes for which its funds may be applied;

(i) the terms, qualifications and conditions of admission of members and their rights and liabilities;

(j) in the case of credit societies, - (i) the maximum loan admissible to a member;

(ii) the maximum rates of interest of loans to members;

(iii) the conditions on which loans may be granted to members;

(iv) the procedure for granting extension of time for the repayment of loans and advances;

(v) the consequences of default in payment of any sum due; and

(vi) the circumstances under which a loan may be recalled;

(k) the mode of conducting business, purchase, sale, stock-taking and other allied matters in case on non-credit societies;

(l) the mode of holding meetings and issue of notices;

(m) the mode of appointment of the committee by election or otherwise and removal of the committee and mode of appointment and removal of other officers, the duties and powers of the committee and such officers and their term;

(n) the disposal of net profits; (o) the preparation and submission of the annual statements specified by Registrar and the publication of the same;

(p) the constitution of an "Agricultural Credit Stabilisation Fund" in case of every co-operative society which facilitates the operations of affiliated agricultural co-operative credit societies and which has received financial assistance from the Government.

(q) constitution and maintenance of funds;

(r) the privileges, rights, duties and liabilities of members including nominal and associate members;

(s) the manner of making, altering and abrogating bye-laws;

(t) the Chairperson's powers, duties and functions and his removal on his losing support of the majority;

(u) the mode of convening annual and special general meetings, issue of notices, and the business which may be transacted thereat;

(v) to send a representative to another society;

(w) any other matters incidental to the management of its business.

(2) A society may make bye-laws for the following matters, namely :-

(a) the method of recruitment, the conditions of service and the authority competent to fix, revise or regulate the scales of pay and allowances of paid officers and employees of the society and the procedure to be followed in the disposal of disciplinary cases against them;

(b) the circumstances under which withdrawal from membership may be permitted;

(c) the procedure to be followed in case of withdrawal, ineligibility and death of members;

(d) the conditions, if any, under which the transfer of share or interest of a member may be permitted;

(e) the method of appropriating payments made by members from whom moneys are due;

(f) powers of an officer or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society.