

**THE DELHI CO-OPERATIVE SOCIETIES ACT,
2003**

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NOTIFICATION

No.F.14 (32)/LA-2003 - The following Act of the Legislative Assembly of the National Capital Territory of Delhi received the assent of the President of India on the 3rd March, 2004 and is hereby published for general information:-

**"THE DELHI CO-OPERATIVE SOCIETIES ACT,
2003" (DELHI ACT 3 OF 2004)**

(As passed by the Legislative Assembly of the National Capital Territory of Delhi on the 29th July, 2003)

[3rd March, 2004]

An Act to consolidate and amend the laws relating to co-operative societies, to facilitate the voluntary formation and democratic functioning of cooperatives as people's institutions based on self help and mutual aid to enable them to promote their economic and social betterment and to provide for better regulation, management, functional autonomy of such societies and for matters connected therewith or incidental thereto in the National Capital Territory of Delhi.

Be it enacted by Legislative Assembly of the National Capital Territory of Delhi in the Fifty-fourth Year of the Republic of India as follows :-

CHAPTER - I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Delhi Co-operative Societies Act, 2003.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, -

- (a) Omitted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005
- (b) "area of operation" means the area of Delhi from which the membership is drawn; ('and' Omitted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)
- (c) "bye-laws" means the registered bye-laws for the time being in force and includes registered or deemed amendments of such bye-laws;
- (d) "Collector" shall have the same meaning as is assigned to it in the General Clauses Act, 1897 (10 of 1897).
- (e) "committee" means the governing body of a co-operative society by whatever name called, to which the management of the affairs of the co-operative society is entrusted;
- (f) "co-operative bank" means a bank as defined under section 5 as amended by section 56 of the Banking Regulations Act, 1949 (10 of 1949);
- (g) "co-operative principles" means the co-operative principles specified in the Schedule to this Act;
- (h) "co-operative society" means a society registered or deemed to be registered under this Act;
- (i) "co-operative year" means the year ending on the 31st day of March;
- (j) "Delhi" means the National Capital Territory of Delhi;
- (k) "Deposit Insurance Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961);
- (l) "Divisional Commissioner" means an officer appointed by the Government as such possessing the powers of the Collector and the District Magistrate under the relevant laws for the time being in force.
- (m) "federal co-operative society" means a co-operative society whose membership is available only to co-operative societies and in the case of a federal co-operative society formed with the main objective to propagate and promote activities in the field of art, culture, education, information technology, training, industry, etc., shall also include experts in the respective fields in individual capacity not exceeding one-fifths of the total strength of such society or twenty, whichever is less;
- (n) "financing bank" means a co-operative bank the objects of which include the creation of funds to be lent to other co-operative societies;

- (o) "general body" in relation to a primary co-operative society means all the members of that co-operative society and in relation to a federal co-operative society, means all the delegates of the member co-operative societies and the individual members as per clause (m);
- (p) "Government" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated by such under article 239 AA of the Constitution;
- (q) "Lieutenant-Governor" means the Administrator of National Capital Territory of Delhi appointed by the President under article 239 of the Constitution;
- (r) "member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal or associate or joint member and the Government when it subscribes to the share capital of a co-operative society;
- (s) "NABARD" means the National Bank of Agriculture and Rural Development constituted under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);
- (t) "officer" means the president, vice-president, chairman, vice-chairman, managing director, secretary, manager, member of committee, treasurer, liquidator, administrator and includes any other person empowered under this Act, the rules or the bye-laws, to give directions in regard to the business of a co-operative society;
- (u) "prescribed" means prescribed by rules made under this Act;
- (v) "primary co-operative society" means a co-operative society in which individuals are members;
- (w) "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;
- (x) "Reserve Bank" means the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (y) "rule" means a rule made under this Act;
- (z) "section" means a section of this Act;
- (za) "Sub-divisional Magistrate" means an Executive Magistrate appointed under the Code of Criminal Procedure, 1973 (2 of 1974) and posted by the Government to be in-charge of the sub-division;
- (zb) "Tribunal" means the Delhi Co-operative Tribunal constituted under section 114.

CHAPTER - II

REGISTRATION OF CO-OPERATIVE SOCIETIES

Registrar.

3. (1) The Government may, by notification in the Official Gazette, appoint a person to be the Registrar of co-operative societies for Delhi and may appoint other persons to assist him.
- (2) The Government may, by general or special order, confer on any person appointed to assist the Registrar all or any of the powers of Registrar under this Act.
- (3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section(2) subject to the general guidance, superintendence and control of the Registrar.
- (4) The Government may, by notification in the Official Gazette and subject to such conditions as it may think fit to impose, confer all or any of the powers of the Registrar under this Act on any federal co-operative society, or an officer of such federal co-operative society, and every such federal co-operative society or officer on whom the powers of the Registrar are so conferred shall exercise such powers under the general guidance, superintendence and control of the Registrar.

Co-operative societies which may be registered.

4. (1) Subject to the provisions hereinafter contained, a co-operative society which has its object the promotion of economic, social and cultural interests of its members, in accordance with co-operative principles, or a co-operative society established with the object of facilitating the operations of such a co-operative society, may be registered under this Act with limited liability:

Provided that a co-operative society shall be registered only if it fulfils the viability norms with limited liability as prescribed for a co-operative society or class of co-operative societies to ensure that it is economically sound and its registration may not adversely affect the development of co-operative movement.

(2) The word "limited" or its equivalent in any Indian language shall be the last word in the name of every co-operative society registered under this Act with limited liability.

Restrictions on registration.

5. No co-operative society shall be registered under this Act unless it consists of at least fifteen members who are qualified to be members under this Act and who reside in the area of operation of the co-operative society :

Provided that in the case of a primary co-operative society each of such members shall be a member of different family.

Explanation .- For the purpose of this section the expression, "member of a family" means father, mother, wife, husband and dependent children.

Restrictions on holding of shares.

6. No member other than the Government or a co-operative society shall hold more than such portion of the share capital of a co-operative society subject to a maximum of one-tenths, as may be prescribed.

Application for registration.

7. (1) For the purposes of registration, an application shall be made to the Registrar.

(2) The application shall be signed -

- (a) in case of a co-operative society of which no member is a co-operative society, by at least fifteen persons qualified in accordance with the requirements of section 4; and
- (b) in case of a federal co-operative society of which a member is a co-operative society, by a duly authorised person on behalf of such co-operative society and where all the members of the federal co-operative society are not co-operative societies, upto one-fifths of total strength or twenty, whichever is less, of other members, by the minimum number of fifteen and where all members are co-operative societies by duly authorised persons on behalf of fifteen different co-operative societies.

Power of the Registrar to decide certain questions.

8. Where any question arises at the stage of registration whether for the purpose of this Act a person resides in the area of operation of a co-operative society or not, or whether a co-operative society is of same type as another co-operative society or of different type, the question shall be decided by the Registrar whose decision shall be final.

Registration.

9.(1) If the Registrar is satisfied -

- (a) that the application complies with the provisions of this Act and the rules;
- (b) that the objects of the proposed co-operative society are in accordance with section 4;
- (c) that the proposed bye-laws are not contrary to the provisions of this Act and the rules;
- (d) that in case of co-operative bank prior written permission of the Reserve Bank for registration has been received by the Registrar;

(e) that the proposed co-operative society has reasonable chances of success; the Registrar may register the co-operative society and its bye-laws.;

(f) that in case of a co-operative housing society, the confirmation of availability of land to the co-operative housing society from the land allotting agency has been received by the Registrar. (Inserted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

(2) When the Registrar refuses to register a co-operative society, he shall communicate the order of refusal together with the reasons, therefor, to the applicant.

(3) The application for registration shall be disposed of by the Registrar within a period of ninety days from the date of receipt thereof by him :

Provided that if the Registrar is unable to dispose of the application within the aforesaid period, he shall make a report to the Government stating therein the reasons for his inability to do so, and the Government may allow him further time not exceeding ninety days to dispose of such application :

Provided further that if the application for registration is not disposed of within the aforesaid period of ninety days and the Registrar fails to communicate the order of refusal within that period, the application shall be deemed to have been accepted for registration and the Registrar shall issue the registration certificate in accordance with the provisions of this Act and the rules made thereunder.

Registration certificate.

10. Where a co-operative society is registered or deemed to be registered under this Act, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is duly registered under this Act.

Bye-laws of co-operative societies.

11. (1) Every co-operative society may make its bye-laws consistent with the provisions of this Act and the rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely :-

(a) The name, address and area of operation of the society;

(b) the objects of the society;

(c) the services to be provided to its members;

(d) the eligibility for obtaining membership;

(e) the procedure for obtaining membership;

- (f) the conditions for continuing as member;
- (g) the procedure for withdrawal of membership;
- (h) the transfer of membership;
- (i) the procedure for expulsion from membership;
- (j) the rights and duties of the members;
- (k) the nature and amount of capital of the society;
- (l) the manner in which the maximum capital to which a single member can subscribe;
- (m) the sources from which the funds may be raised by a co-operative society;
- (n) the purpose for which the funds may be applied;
- (o) the manner of allocation or disbursement of net profits of co-operative society;
- (p) the constitution of various reserves;
- (q) the manner of convening general meetings and quorum thereof other than those provided under this Act;
- (r) the procedure for notice and manner of voting in general and other meetings;
- (s) the procedure for amending the bye-laws;
- (t) the number of members of the committee not exceeding twenty one;
- (u) the term of office of elected members of a committee shall be three years;
- (v) the procedure for removal of members of the committee and for filling of vacancies;
- (w) the manner of convening committee meetings, its quorum, number of such meetings in a year and venue of such meetings;
- (x) the frequency of committee meetings;
- (y) the powers and functions of the paid executive;
- (z) the manner of imposing the penalty;
- (za) the appointment, rights and duties of auditors and procedure for conduct of audit;

- (zb) the authorisation of officers to sign documents, operate of bank accounts and to institute and defend suits and other legal proceedings on behalf of the society;
- (zc) the terms on which a co-operative society may deal with persons other than members;
- (zd) the terms on which a co-operative society may associate with other co-operative societies;
- (ze) the terms on which a co-operative society may deal with organisations other than co-operative societies;
- (zf) the procedure and manner for transfer of shares and interest in the name of a nominee in case of death of a member;
- (zg) the educational and training programmes to be conducted by the co-operative society;
- (zh) the principal place and other places of business of the co-operative society;
- (zi) the minimum level of services, to be used by its members;
- (zj) any other matter which may be prescribed.

Amendment of bye-laws of a co-operative society and compulsory amendment of bye-laws by the Registrar.

12. (1) No amendment of any bye-laws of a co-operative society shall be valid unless such amendment has been registered or deemed to have been registered under this Act.

(2) Every proposal for such amendment approved by the general body and complete in all respect as prescribed shall be forwarded to the Registrar within thirty days of approval of the general body and if the Registrar is satisfied that the proposed amendment -

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

(b) does not conflict with the co-operative principles; and

(c) will promote the economic, social and cultural interests of the members of the co-operative society; he may register the amendment :

Provided that in case of amendment of bye-laws of a co-operative bank, prior approval in writing of the Reserve Bank shall be necessary.

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

(4) Where the Registrar refuses to register an amendment of bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor, to the co-operative society in the prescribed manner.

(5) In case the Registrar does not communicate any decision under sub-section (2) or sub-section (4) as above within the period of ninety days, the amended bye-laws shall be deemed to have been registered.

(6) Where it appears to the Registrar that amendment in the bye-laws of a co-operative society is necessary and desirable in the interest of the co-operative society or class of co-operative societies, the Registrar shall direct the co-operative society or the class of co-operative societies, as the case may be, to make amendment in the bye-laws within a period of sixty days, by convening a general body meeting of the co-operative society.

(7) After the expiry of the period specified in sub-section (6) and if the co-operative society fails to make the amendment, the Registrar after giving the co-operative society an opportunity of being heard, may register the amendment and issue to the co-operative society, a copy of such amendment certified by him with a certificate signed by him, with effect from the date of registration the amendment shall be binding on the co-operative society and its members, subject to appeal, if any.

When amendments of bye-laws come into force.

13. An amendment of the bye-laws of a co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered or deemed to be registered.

Change of name.

14.(1) A co-operative society may by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the co-operative society or of any of its members or past members and any legal proceedings pending may be continued by or against the co-operative society under its new name :

Provided that prior approval in writing of the Reserve Bank shall be necessary for change of the name of a co-operative bank.

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

Change of liability.

15.(1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its bye-laws change the form or extent of its liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during a period of thirty days from the date of service of the notice

upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

- (3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the change.
- (4) An amendment of a bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until either -
 - (a) the assent thereto of all members and creditors has been obtained; or
 - (b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

Amalgamation, transfer of assets and liabilities and division of co-operative societies.

16.(1) A co-operative society may, by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of the co-operative society -

- (a) transfer its assets and liabilities in whole or in part to any other co-operative society;
- (b) divide itself into two or more co-operative societies;

(c) approve a scheme of compromise or arrangement or reconstruction.
(Inserted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

- (2) Any two or more co-operative societies may, by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of each such co-operative society, amalgamate themselves and form a new co-operative society.
- (3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation **or scheme of compromise or arrangement or reconstruction,**(Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) as the case may be :

Provided that in the case of a co-operative bank, the Registrar shall not accord approval to any such resolution without the previous sanction in writing of the Reserve Bank.

- (4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during the period of thirty days of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.
- (5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

- (6) A resolution passed by a co-operative society under this section shall not take effect until, either -
- (a) the assent thereto of all the members and creditors has been obtained;
 - (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.

Power to direct amalgamation, division and re-organisation in public interest, etc.

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

Provided that no such order of amalgamation, division or reorganisation in respect of a co-operative bank shall be made without the previous sanction in writing of the Reserve Bank.

- (2) No order shall be made under this section unless -
- (a) a copy of the proposed order has been sent in draft to the co-operative society or each of the co-operative societies concerned; and
 - (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than sixty days from the date on which a copy of the order aforesaid is received by the co-operative society or co-operative societies, as the case may be), as the Registrar may fix in that behalf, either from the co-operative society or from any of the co-operative societies concerned or from any member or class of members thereof or from any creditor or class of creditors thereof.
- (3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, division or reorganisation, as the case may be.
- (4) Every member or creditor of each of the co-operative society to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation,

division, or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation, his share or interest, if he be a member and the amount in satisfaction of his dues, if he be a creditor.

- (5) On the issue of an order under sub-section (1), the provisions of sub-sections (2), (3) and (4) of section 20 shall apply to the co-operative societies so amalgamated, divided or reorganised as if the amalgamation, division or reorganisation had been made under section 16.

Registrar to prepare scheme of amalgamation of co-operative bank in certain cases.

18. (1) When an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulations Act, 1949 (10 of 1949) in respect of a co-operative bank, the Registrar, with the previous approval of the Reserve Bank in writing, may, during the period of moratorium, prepare a scheme -

- (a) for the reorganisation of the co-operative bank; or
- (b) for the amalgamation of the co-operative bank with any other co-operative bank.

Liability of a co-operative bank to the Deposit Insurance Corporation.

19. Notwithstanding anything contained in sections 16 and 17 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is amalgamated or reorganised and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which insured bank is amalgamated or the new co-operative bank formed after such amalgamation, as the case may be, the insured bank or transferee bank shall be under an obligation, to repay the Deposit Insurance Corporation in the circumstances, to the extent of and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).

Cancellation of registration certificate of the co-operative societies in certain cases.

20.(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 16 or section 17, the registration of the first mentioned co-operative society shall stand cancelled and the co-operative society shall be deemed to have been dissolved and shall cease to exist as corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 16 or section 17, the registration of each of the amalgamating co-operative society shall stand cancelled on the registration of the new co-operative society, and each co-operative 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 16 or is divided by the Registrar in

accordance with the provisions of section 17, the registration of that co-operative society shall stand cancelled on the registration of the new co-operative society and that co-operative society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

- (4) The amalgamation and splitting of co-operative society or co-operative societies shall not in any manner whatsoever affect any right or obligation of resulting co-operative society or co-operative societies or render defective any legal proceedings by or against the co-operative society or co-operative societies or any legal proceedings that might have been continued or commenced by or against the co-operative society or co-operative societies, as the case may be, before the amalgamation or splitting may be continued or commenced by or against the resulting co-operative society or co-operative societies.
- (5) Where a co-operative society has not commenced business within one hundred and eighty days of its registration or has ceased to function or if the Registrar is satisfied on the basis of inspection, inquiry or audit that the co-operative society no longer has genuinely as its object one or more of the objects specified in section 4 and that its registration ought, in the interest of general public, be cancelled, he shall give an opportunity to the co-operative society to represent its case and if not satisfied he shall make an order cancelling the registration of the co-operative society, the co-operative society shall, from the date of such order of cancellation be deemed to be dissolved and shall cease to exist as a corporate body.

*** Provided that in the case of a co-operative society which has not conducted audit or annual general body meeting for five consecutive years or has no fixed assets and outside liabilities excluding share money of the members, such society shall be deemed to have been dissolved and shall cease to exist as corporate body after the expiry of the said period of five years.**

Classification.

21. The Registrar shall classify co-operative societies with reference to their objects, area of operation, membership or any other matter.

CHAPTER - III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

Persons who may become members.

- 22.(1) No person shall be admitted as member of a co-operative society except the following, namely -
- (a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (9 of 1872);
 - (b) any other co-operative society;
 - (c) the Government;

(d) a firm, a joint stock company, or any other body corporate constituted under any law; and

(e) such class or classes of persons or association of persons as may be notified by the Government in this behalf :

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

Provided further that no individual shall be eligible for admission as a member of any financing bank or federal co-operative society except as provided in clause (m) of section 2.

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

Nominal or associate or joint member.

23. (1) Notwithstanding anything contained in section 22, a co-operative society may admit any person as a nominal or associate or joint member in accordance with its bye-laws and subject to the rules.
- (2) A nominal or associate member shall not be entitled to any share in any form whatsoever, in the assets or profits of the co-operative society.
- (3) Save as provided in this section, a nominal or associate or joint member shall have such privileges and rights of a member and be subject to such liabilities of a member as may be prescribed in rules and specified in the bye-laws of the co-operative society.

Member not to exercise rights till due payment made.

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

Votes of members.

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

Provided that -

- (a) in the case of an equality of votes, the Chairman shall have a second or casting vote;
- (b) a nominal or associate or joint member shall not have the right of vote;
- (c) where the Government is a member of the co-operative society, each person nominated by the Government on the committee shall have one vote; and
- (d) if a member is in default in payment of the sum demanded by the co-operative society or has transferred his interest in a co-operative society to any other member or to any other person without the approval of the competent authority, he shall have no voting right in the general body meeting of the co-operative society.
- (e) "if a co-operative society becomes defunct and has ceased to function in accordance with the bye-laws and co-operative principles, its representative shall have no voting right in the affairs of a federal co-operative society or financial bank or financial society."

Explanation I. - Default means any default in payment of loan installment, land money, construction money and annual subscription payable as provided in the bye-laws of a co-operative society for which due notice for payment has been served on the member or an award has been passed for recovery of such sum.

* Explanation II. –Defunct society means a society which has not carried on business for three consecutive years or its accounts have not been audited for three or more consecutive years.

Manner of exercising vote.

- 26.(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), a co-operative society which is a member of another co-operative society, may appoint one of its member to vote on its behalf in the affairs of that other co-operative society.

Restriction on transfer of shares or interest.

- 27. The transfer of the share or interest of a member in the capital of a co-operative society shall be subject to such conditions as to maximum holding as are specified in section 6.

Transfer of interest on death of member.

- 28.(1) On the death of a member, a co-operative society shall transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules or the bye-laws:

Provided that -

(i) such nominee, heir or legal representative, as the case may be, may require payment by the co-operative society of the value of the share or interest of the deceased member ascertained as aforesaid; or

(ii) the co-operative society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and bye-laws for membership of the co-operative society, or on his application within one hundred and eighty days of the death of the deceased member to any person specified in the application who is so qualified; and

(iii) no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A co-operative society shall, subject to the provisions of section 45 and unless within three hundred and sixty five days of the death of member prevented by an order of a competent court, pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the co-operative society.

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

Liability of past member and estate of deceased member.

29. (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 co-operative society as they existed -

(a) in 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 seven hundred and thirty days from such date.

(2) Where a co-operative society is ordered to be wound up under section 95, section 96 or section 97, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within seven hundred and thirty days immediately preceding the date of the order of winding up shall continue until the entire liquidation proceedings are completed but such liability shall extend only to the debts of the co-operative society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER - IV

MANAGEMENT OF CO-OPEATIVE SOCIETIES

Final authority in a co-operative society.

30. (1) The final authority in a co-operative society shall vest in the general body of members :

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegates of members of the co-operative society elected or selected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the co-operative society.

- (2) Notwithstanding anything contained in sub-section (2) of section 26 each delegate shall have one vote in the affairs of the federal co-operative society.

Annual general body meeting.

- 31.(1) Every co-operative society shall within a period of **one hundred and eighty days** (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) next after the date fixed for making-up its accounts for the year under the rules for the time being in force, call a general body meeting of its members for the purpose of

–

- (a) approval of the programme of the activities of the co-operative society prepared by the committee for the ensuing year;
 - (b) election, if any, of the members of the committee other than the nominated members subject to the provisions of section 35;
 - (c) consideration of the audit report along with audited accounts and the annual report;
 - (d) disposal of the net profits; and
 - (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.
- (2) If a co-operative society fails to hold the annual general body meeting within the aforesaid period of **one hundred and eighty days**, (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) the Registrar or any person authorised by him may call such meeting in the manner prescribed and that meeting shall be deemed to be a general body meeting duly called by the co-operative society and the Registrar may order that the expenditure incurred in calling such a meeting shall be a charge on the delinquent members of the committee of the co-operative society who have failed to conduct the general body meeting within the prescribed time limit and the said amount shall be recoverable as arrears of land revenue from such delinquent members of the co-operative society in the same manner as provided in section 111.
- (3) At every annual general body meeting of the co-operative society, the committee shall lay before the general body a statement showing the details of the loans, if any, given to any of the members of the committee during the preceding year.

Returns to be filed to the Registrar after annual general body meeting.

32. Every year within thirty days of holding of annual general body meeting, the committee shall file returns relating to its constitution, business and allied matters to the Registrar as prescribed and if the returns are not filed, it shall be an offence under this Act and the persons responsible shall be penalised in accordance with the provisions of this Act.

Special general body meeting.

33. (1) The committee of a co-operative society may, at any time, call a special general body meeting of the co-operative society and shall call such meeting within thirty days after the receipt of a requisition in writing from the Registrar or on a request to the Registrar by the institution to which co-operative society is indebted, if the number of defaulter members of such co-operative society is one-fifths or more among the loanee members or on a requisition from one-fifths members out of total membership of a co-operative society.
- (2) If a special general body meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee and the Registrar may order that the expenditure incurred in calling such a meeting shall be paid out of the funds of the co-operative society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the special general body meeting and shall be recovered as arrears of land revenue in the same manner as provided in section 111.

Constitution of committee.

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

Election and nomination of members of committee.

- 35.(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of elections of the members of the committee of, a co-operative society shall be vested in the committee which shall appoint returning officer who shall not be a member or an employee of the society:

Provided that on the request of the committee or one-sixth members of the society, and in case of dispute in a society, the Registrar may appoint the returning officer to conduct the election of a society:

Provided further that the Government shall appoint returning officer, not below the rank of a gazetted officer or a retired gazetted officer to conduct the election of a co-operative bank, financial bank, federal co-operative society and such housing society as has been allotted land and draw of lots has not been conducted in accordance with the provisions of section 77 and such housing society as is awaiting allotment of land.

- (2) The vote at such election shall be by secret ballot.
- (3) The term of office of the elected members of the committee shall be three years.
- (4) All co-operative societies shall hold election at the commencement of this Act on the date fixed for holding annual general body meeting as provided in section 31 and on failure to conduct election as aforesaid, the committee shall cease to hold office and its affairs shall be managed by a person (hereinafter referred to as "administrator") appointed by the Registrar who shall also hold election within ninety days of his appointment.
- (5) Thereafter the committee shall arrange election of the new committee before the expiry of its term and in case the committee fails to do so, the committee shall cease to hold office on the expiry of its term and the affairs of the co-operative society shall be managed by an administrator appointed by the Registrar who shall also hold election within ninety days from the date of his appointment.
- (6) No person shall be eligible to be elected as a member of the committee of a co-operative society unless he is a shareholder of that co-operative society.
- (7) Notwithstanding any thing contained in this Act, a person shall be disqualified for election of office in a committee -
 - (a) if he holds any such office on a committee of another co-operative society of the same type;
 - (b) if he holds any such office on the committees of three or more co-operative societies of a different type or types;
 - (c) if he has been held guilty of any of the offences as enumerated in section 118;
 - (d) if he is an officer of a co-operative society which has not got its statutory audit completed within the statutory period prescribed in this Act; or
 - (e) if he fails to give a declaration on oath about his eligibility for contesting election as prescribed.
- (8) On the committee of a co-operative society or class of co-operative societies where the Government has subscribed to the share capital seats shall be reserved for scheduled castes, other backward classes and women as may be prescribed and two seats for women in all types of co-operative societies.
- (9) The Government may make rules generally to provide for or to regulate matters in respect of elections of members of the committees.
- (10) Notwithstanding anything contained in sub-section (1) to sub-section (9), where the Government has subscribed to the share capital of a co-operative society, the Government shall have right to nominate on the committee such number of persons as its members on the following basis, namely -
 - (a) where the total amount of issued equity share capital held by the Government is less than twenty six per cent of the total issued equity share capital, one member on the committee;

(b) where total amount of issued share capital held by the Government is twenty six per cent or more, but less than fifty one per cent of the total equity share capital, two members on the committee;

(c) where the total amount of issued equity share capital held by the Government is fifty one per cent but less than sixty per cent of the total issued share capital, three members of the committee:

Provided that in case of a financing bank, there shall be a Director on the Board from NABARD with or without any share holding with right to vote in the affairs thereof; (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

Provided that the number of such nominated persons shall not exceed one-thirds of the total number of members of the committee or three, whichever is less :

Provided further that where the Government has guaranteed repayment of principal and payment of interest on debenture issued by the co-operative society or guaranteed repayment of principal and payment of interest on loans and advances to a co-operative society, the Government shall have the right to nominate a person on the committee of such a co-operative society as may be prescribed:

Provided also that in case of a financing bank, there shall be a Director on the Board from NABARD with or without any share holding with the right of vote in the affairs thereof;

(cc) where the total amount of issued equity share capital held by the Government is sixty per cent or more of the total issued share capital or the Government has given loan or made advances to the co-operative society or guaranteed the repayment of principal and payment of interest on debentures or bonds issued by the co-operative society or guaranteed the payment of principal and payment of interest on loan and advances to the co-operative society in amount not less than sixty percent in the aggregate of the total amount so borrowed by the co-operative society, three-fourth of members of the committee including the Chairman;

Provided that the right once accrued under this clause shall continue until the percentage of the amount in respect of share contribution or guaranteed loan goes down to less than fifty per cent; (Inserted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

(d) where the Industrial Finance Corporation of India or a federal co-operative society or a financing bank or the Delhi Financial Corporation Ltd. or any other financing institution notified in this behalf by the Government has provided finance to a co-operative society, the Industrial Finance Corporation of India or such federal co-operative society or financing bank or the Delhi Financial Corporation Ltd., or such other financing institution, as the case may be, shall have the right to nominate one person on the committee.

(11) A person nominated under sub-section (10) shall hold office during the pleasure of the Government or the concerned Corporation or federal co-operative society, or financing bank or other financing institution, as the case may be.

Removal of committee or its officer.

36.(1) A motion for expressing lack of confidence in the committee or any of its officer may be made in a special general body meeting convened for the purpose.

(2) The requisition for convening the special general body meeting as above shall not be admissible unless moved in writing by not less than one-fifths of the total members of a co-operative society, if the motion of no confidence is carried by a simple majority of the members present and voting, the committee shall be removed and special general body meeting shall also elect an ad-hoc committee to take care of the affairs of the co-operative society which shall also hold elections to the committee within ninety days of the date of the appointment of ad-hoc committee.

Supersession of committee.

37.(1) If, in the opinion of the Registrar, the committee of any co-operative society **continuously makes default for ninety days** (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) or is negligent in the performance of the duties imposed on it by or under this Act or the rules framed thereunder, the bye-laws or commits any act which is prejudicial to the interest of the co-operative society or its members or defies the directions issued by the Registrar under section 42 of this Act or **fails to comply with the provisions of section 92 or there is a stalemate in the constitution or function of the committee or fails to initiate recovery of the dues of the financing institution inspite of a notice issued to the co-operative society by the financing institution within a period of ninety days or fails to remit the recovered amount from members, to the financing institution to which the society is indebted within a period of ninety days,** (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) the Registrar may after giving the committee an opportunity to state its objections, if any, by order in writing direct -

- (a) to hold election of the committee within a period of thirty days by calling a special general body meeting; and
- (b) if in the opinion of the Registrar, the election of committee is not feasible under the prevailing circumstances, the Registrar shall pass an order in writing to remove the committee and appoint one or more administrators to manage the affairs of the co-operative society for a period not exceeding one hundred and eighty days to be specified in the order, which period may, at the discretion of the Registrar be extended from time to time, **however, that the aggregate period does not exceed three hundred and sixty five days :** (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

Provided that where the co-operative society is a co-operative bank, before issuing of a show-cause notice under sub-section (1), the prior consultation with the Reserve Bank and NABARD shall be necessary;

Proviso (Deleted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

- (c) Notwithstanding anything contained in this Act, the Registrar in case of the co-operative bank, if so required by the Reserve

Bank or the NABARD on requisition from the Reserve Bank to supersede management of a co-operative bank, the Registrar shall supersede the management of such a co-operative bank.

- (2) The Registrar may fix such remuneration, if any, for the administrator(s) as he may think fit and such remuneration shall be paid out of the funds of the co-operative society.
- (3) The administrator shall, subject to the control of the Registrar and to such instructions as he may from time to time give, exercise powers and perform functions of the committee or of any officer of the co-operative society and take all such actions as may be required in the interest of the co-operative society, but shall not be empowered to enroll new members **without the prior approval of the Registrar**. (Inserted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)
- (4) The administrator shall call the general body meeting of the co-operative society to spell out his plan of action.
- (5) The administrator shall before expiry of his term of office, arrange for the constitution of a new committee in accordance with the rules and the bye-laws of the co-operative society.
- (6) Before passing any order under clause (b) of sub-section (1) in respect of a co-operative society the Registrar shall, at first, consult the financing bank or the financing institution to which it is indebted :

Provided that where the co-operative society is a co-operative bank, before issuing a show cause notice under sub-section (1) prior consultation with the Reserve Bank shall be necessary :

Provided further that on a requisition of the Reserve Bank to supersede the Board of a co-operative bank, the Registrar shall supersede the committee of such a co-operative bank.

- (7) Notwithstanding anything contained in this Act, the Registrar shall in the case of a co-operative bank, if so required in writing by the Reserve Bank or NABARD in the public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of a co-operative bank, pass an order for the supersession of the committee of that co-operative bank and appoint an administrator therefor, for such period or periods not exceeding **three hundred and sixty five days** (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) in the aggregate, as may, from time to time be specified by the Reserve Bank.

Securing possession of records, etc.

- 38.** (1) (a) If the records, registers or the books of account of a co-operative society are likely to be tampered with or destroyed and the funds and property of a co-operative society are likely to be misappropriated or misapplied; or
- (b) if the committee of a co-operative society is reconstituted at general body meeting of the co-operative society or the committee of a co-operative society is removed

by the Registrar under section 37 or if the co-operative society is ordered to be wound up under section 95, section 96 or section 97 and the outgoing members of the committee refuse to hand over charge of the records and the property of the co-operative society within fifteen days of notice by the new committee or administrator or the liquidator to those having or entitled to receive such charge;

- (c) the newly elected committee or administrator or the liquidator, as the case may be, on expiry of fifteen days notice shall apply to the Registrar, who on application by the newly elected committee, administrator, the liquidator or suo-motu, if satisfied, may approach the Divisional Commissioner to authorise the Sub-divisional Magistrate in whose jurisdiction the registered office of the society is located, in the prescribed form setting forth the reasons therefor, to enter, search or break open any premises where such records and properties of the society are kept and seize any such records and properties of the society and to cause delivery to the new committee, administrator or the liquidator of the records and properties of the society.
- (2) For the purpose of the proceedings under sub-section (1), the authorization aforesaid shall be conclusive evidence that the records and properties to which it related belong to the society.
- (3) The officer authorised under sub-section (1) may take such police assistance as may be necessary for the said purpose and the expenses incurred under this section shall be borne from the funds of the society.
- (4) The provisions of section 100 to 102 (both inclusive) of the Code of Criminal Procedures, 1973 (Central Act, 2 of 1974) relating to searches and seizure shall apply, so far as may be, to searches and seizure under this section.

Acts of co-operative society not to be invalidated by certain defects.

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

Expulsion of members.

40. Any member of a co-operative society (other than a co-operative housing society) may be expelled by a resolution passed by the committee of the co-operative society subject to the approval of such resolution by the Registrar if :

(i) the member has wilfully deceived the co-operative society by false document to obtain the membership of such co-operative society; or

(ii) the member incurs any of the disqualifications for being a member of the co-operative society; or

(iii) the member has brought disrepute to the co-operative society or has done any other act detrimental to the interest and proper working of the co-operative society:

Provided that the member concerned shall not be expelled unless he has been given a reasonable opportunity to represent himself in the matter:

Provided further that no member shall be expelled unless the resolution for such expulsion is passed by a majority of not less than three-fourths of the members present and entitled to vote in the meeting of the committee and no resolution for expulsion shall be valid unless approved by the Registrar.

- (2) After the resolution for expulsion is passed as above by the committee, the resolution shall be referred to the Registrar for approval within a period of thirty days.
- (3) On receipt of the resolution for expulsion, the Registrar shall take cognizance of such resolution within thirty days and pass a final order either approving the expulsion or rejecting the proposal for expulsion within a period of one hundred and eighty days and if the matter is not decided by the Registrar within the aforesaid period, the expulsion of such a member shall be deemed have been approved:

Provided that the Registrar, before approving the resolution, shall hear the parties in the manner prescribed and shall have power to summon and enforce attendance of witness including the parties interested or any of them and compel them to give evidence on oath, affirmation or affidavit and to compel production of documents by the same means as far as possible in the same manner as provided in the case of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) and the order under this section so passed by the Registrar shall be final with a right for appeal before the Tribunal.

- (4) Any party aggrieved by the order of the Registrar or deemed approval of expulsion, as the case may be, under sub-section (3) may, within sixty days from the date of such order, appeal to the Tribunal.

Cessation of membership of Cooperative Society.

41. (1) Notwithstanding anything contained in this Act, a person shall cease to be a member of a cooperative society -

- (a) on his resignation from such membership; or
- (b) on his death, if there is no claim by the nominee or legal heirs within three hundred sixty five days; or
- (c) on transfer of the whole of his share or interest in that cooperative society; or
- (d) on his expulsion or incurring any disqualification for being a member of that cooperative society.

- (2) If any question as to whether a member has incurred any of the disqualifications mentioned in sub-section (1), it shall be referred to the Registrar for his decision, whose decision shall be final and binding.

- (3) The Registrar may of his own motion, if satisfied that any member has incurred any of the disqualification under sub-section (1) declare through an order in writing that such member is disqualified to be a member :

Provided that no such order shall be passed without affording opportunity of being heard to such member as prescribed.

Directions by the Registrar for successful conduct of business.

42. The Registrar may from time to time issue such directions or directives to a co-operative society or a class of co-operative societies as he considers necessary for successful conduct of business and on all matters incidental thereto and such directions or directives shall be binding on them.

Provided that this power shall be limited to cooperative society with government equity of fifty one percentum or more.

CHAPTER - V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

Co-operative society to be body corporate.

43. 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 contract, institute and defend suits and other legal proceedings and do all things necessary for the purposes for which it is constituted.

First charge of co-operative society on certain movable assets of member for the amount due to him.

44. (1) Notwithstanding anything contained in this Act or any other 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, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.
- (2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the prior permission in writing of the co-operative society which holds the charge.
- (3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.
- (4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883, (19 of 1883) or the Agriculturist's Loans Act, 1884, (12 of 1884) after the grant of the loan by the co-operative society.

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

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

(i) any person who makes an application to a co-operative society of which he is a member for a loan shall, if he owns any land or has interest in any land as tenant, make a declaration in the prescribed form which shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of loan which co-operative society may make to the member in pursuance of the application and for all future advances, if any, required by him which the co-operative society may make to him as such member subject to such maximum as may be determined by the co-operative society together with the interest on such amount of loan and advances;

(ii) a declaration made under clause (i) may be varied at any time by a member with the consent of the co-operative society in favour of which such charge is created;

(iii) no member shall alienate the whole or any part of the land or interest therein specified in the declaration made under clause (i) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that for the purpose of paying in full to the co-operative society the whole amount borrowed by the member together with interest thereon, the member may, with the previous permission in writing of the co-operative society and subject to such conditions as the co-operative society may impose, alienate the whole or any part of such land or interest thereon :

Provided further that standing crops on any such land may be alienated with the previous permission of the co-operative society;

(iv) any alienation made in contravention of the provisions of clause (iii) shall be void;

(v) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, there shall be a first charge in favour of the co-operative society on the land or interest specified in the declaration made under clause (i) for and to the extent of the dues owing by him on account of the loans and advances;

(vi) the record of rights shall also include the particulars of every charge on land or interest created under a declaration under clause (i) notwithstanding anything contained in any law relating to land revenue for the time being in force;

(vii) any sum due to a co-operative society in consequence of charge created under a declaration under clause (i) shall, on application of its recovery being made by such co-operative society accompanied by a certificate signed by the Registrar, be recoverable by the Collector, according to the law and under the rules for the time being in force for the recovery of land revenue.

Explanation. - For the purposes of this section, "co-operative society" shall mean any co-operative society or class of co-operative societies specified in this behalf by the Government by a general or special order.

Charge and set-off in respect of share or contribution or interest of members.

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

Share or contribution or interest not liable to attachment.

47. Subject to the provisions of section 45, the share or contribution or interest of a member or past member or deceased 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, and a receiver under the Provincial Insolvency Act, 1920 (5 of 1920) shall not be entitled to or have any claim on such share or contribution or interest.

Register of members.

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

- (a) the date on which any person entered in such register or list became a member; and
- (b) the date on which any such person ceased to be a member.

Admissibility of copy of entry as evidence.

49. (1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, 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 proceedings to which the co-operative society or the liquidator is not a party, be compelled to produce any of the co-operative 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 or the arbitrator made for special cause.

Exemption from compulsory registration of instruments.

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

- (1) any instrument relating to shares in a co-operative society notwithstanding that the assets of the co-operative society consist in whole or in part of immovable property; or
- (2) any debenture issued by any such co-operative society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder thereof to the security afforded by a registered instrument whereby the co-operative 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
- (3) any endorsement upon or transfer of any debenture issued by any such co-operative society.

Exemption from certain taxes, fees and duties.

51. (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 co-operative 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; and

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

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

(a) land revenue;

(b) taxes on agricultural income; and

(c) taxes on professions, trades, callings and employments.

Provided that the aforesaid exemption shall not include exemption in respect of Central sales taxes or Central taxes or duties or levies.

Deduction from salary to meet co-operative society's claim in certain cases.

52. (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 favour of the co-operative 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 co-operative society in satisfaction of any debt or other demand owing by the member to the co-operative society.
- (2) On the execution of such agreement, the employer shall, if so required by the co-operative society by a requisition in writing and so long as the co-operative society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the co-operative society, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936 (4 of 1936). Such payment shall be valid discharge of the employer for his liability to pay the amount deducted.
- (3) Where a requisition in writing from any co-operative society registered or deemed to be registered in any reciprocating State/Union territory in respect of a member of that co-operative society, who has executed any such agreement as is referred to in sub-section (1) and who, for the time being, is employed in Delhi, is received by his employer, the requisition shall be acted upon as if it had been made by a co-operative society in Delhi and the provisions of this section shall have effect accordingly.

Explanation-For the purpose of this sub-section "reciprocating State/Union territory" means any State or Union territory which the Government may, by notification in the official Gazette, declare to be reciprocating State/Union territory.

- (4) If, after the receipt of a requisition made under sub-section (2) or sub-section (3), 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 co-operative society, the co-operative society shall be entitled to recover any such amount from the employer as arrears of land revenue and the amount so due from the employer shall rank in priority in respect of the liability of the employer equal to that of the wages in arrears.
- (5) Nothing contained in this section shall apply to an establishment under a railway administration operating any railway as defined in clause (20) of article 366 of the Constitution.

CHAPTER - VI

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

Funds other than net profits not to be divided among members.

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

Provided that after at least one-fourths of the net profits in the year has been carried to the reserve fund, payments from the remainder of such profits and from any profits of past

years available for distribution may be made to the member to such extent and under such conditions as may be prescribed by the rules or bye-laws.

Contribution to charitable purpose.

54. Any co-operative society may, with the prior approval of the general body, after one-fourths of the net profits in any year has been carried to the reserve fund, contribute an amount not exceeding five per cent of the remaining net profits to any purpose connected with the development of co-operative movement or charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890).

Contribution to Co-operative Education Fund.

55. A co-operative society shall out of its net profits in any year credit such portion of the profits not exceeding five per cent as may be prescribed to the Co-operative Education Fund constituted under the rules.

Investment of funds.

56. (1) A co-operative society may invest or deposit its fund -

- (a) in the postal savings bank; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (2 of 1882); or
- (c) in the shares or securities of any other co-operative society;
or
- (d) with co-operative or scheduled or nationalised banks; or
- (e) in any federal co-operative society of which it is a member or apex or financing bank; or
- (f) in any other mode permitted by the rules :

Provided that the co-operative bank shall be required to make investment of its funds in accordance with the directions, instructions and guidelines of the Reserve Bank.

(2) Any investment or deposit made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

Restrictions on loans.

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

Provided that with the general or special sanction of the Registrar, a co-operative society may make a loan to another co-operative society :

Provided further that the co-operative bank shall make loans and advances as per directions of the Reserve Bank from time to time.

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

Restrictions on borrowings.

58. (1) A co-operative society may receive deposits, raise loans and receive grants from external sources to such extent and under such conditions as may be specified in the bye-laws:

Provided that the total amount of deposits and loans received during any financial year shall not exceed ten times of the sum of subscribed share capital and accumulated reserves:

Provided further that while calculating the total sum of subscribed share capital accumulated reserves, the accumulated losses shall be deducted.

- (2) Subject to the provisions of sub-section (1), a cooperative society may accept funds or borrow fund for the fulfillment of its objects as are mutually contracted upon and approved by the general body of members of the co-operative society.
- (3) A co-operative society may issue non-convertible debentures or other instruments subject to the provisions of any law for the time being in force to raise resources for fulfillment of its objectives to the extent of twenty five per cent of its paid up share capital with the approval of general body of members with a provision for redemption fund for its repayment on maturity:

Provided that in case of borrowing by a co-operative bank, it shall be in accordance with the directions, instructions and guidelines issued by the Reserve Bank from time to time.

Restrictions on other transactions with non-members.

59. Save as provided in section 57 and section 58, the transactions of a co-operative society with any person other than a member shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

CHAPTER - VII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

Audit.

60. (1) A co-operative society shall get its accounts audited annually by an auditor selected from the panel prepared by the Registrar in the prescribed manner within the period of **1** one hundred twenty days from the prescribed date for making up its account for the year.

- (2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance, securities and a valuation of the assets and liabilities of the co-operative society :

Provided that in the case of a co-operative group housing society where land has been allotted, the audit report shall contain a separate chapter regarding detailed financial working of the co-operative society before construction, during construction, and on allotment of flats to members, detailing individual investment, defaults if any, by an individual, action taken by the committee in case of default, etc. :

Provided further that the Registrar shall be competent to issue guidelines and instructions in this regard from time to time.

- (3) The person auditing the accounts of a co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such co-operative society and shall be allowed to verify its cash balance and securities.
- (4) The directors, managers, administrators and other officers of the co-operative society shall furnish to the person auditing the accounts of a co-operative society all such information as to its transactions and working as such person may require.
- (5) It shall be the duty of the committee of the co-operative society to ensure that its accounts are audited annually and the audit report presented for consideration in annual general body meeting of the co-operative society as provided in section 31 and a copy of the audit report shall also be forwarded by the co-operative society to the Registrar for his information and record.
- (6) On failure to get the audit of the co-operative society conducted in time, the Registrar shall get the audit conducted and fee paid shall be a charge against the delinquent officers of the committee and shall be recoverable from them as an arrears of land revenue as provided in section 111.
- (7) The auditor appointed under sub-section (1) to audit the accounts of a co-operative society shall have power where necessary -
- (a) to summon at the time of his audit any officer, agent, servant or member of the co-operative society , past or present, who he has reason to believe can give valuable information in regard to transactions of the co-operative society or the management of its affairs; and
 - (b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the co-operative society by any officer, agent, servant, or member in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.
- (8) If at the time of audit the accounts of a co-operative society are not complete, the Registrar or the person authorised by him under sub-section (1) to audit, may cause the accounts to be written up at the expense of the co-operative society.

- (9) Audit fee, if any, due from co-operative society shall be recoverable in the same manner as is provided in section 111.

Inspection of co-operative societies.

61. (1) The Registrar may, on the request made by a creditor or, not less than one thirds of the members of the committee, or not less than one fifths of the total number of members, of a co-operative society, undertake inspection of a co-operative society or class of co-operative societies by general or special order in writing and authorise any person by order in writing in this behalf, to make an inspection into the constitution, working and financial condition of a co-operative society.

*** Provided that where a serious complaint is made by a member or a public servant in writing about the affairs of a co-operative society or committee or office bearers, to the Registrar or to any person authorized by him in this regard not below the rank of Joint Registrar and if the Registrar is prima-facie satisfied, after recording his views in writing and affording an opportunity to the person against whom complaint has been made, he may order an inspection in respect of only issue or issues as the case may be, raised in the complaint and the inspection shall be conducted by a person not below the rank of an Assistant Registrar. (Added vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)**

- (2) For the purpose of inspection under sub-section (1), the Registrar or a person authorised by him under that sub-section shall at all times have access to all books, accounts, papers, vouchers, securities, stock and other property of that society and may, in the event of serious irregularities discovered during inspection, take into custody and shall have power to verify the cash balance of the society and subject to general or special order of the Registrar, call a meeting of the committee and also a general body meeting of the society, where general body meeting is, in his opinion, necessary.
- (3) Every officer or member of a co-operative society shall furnish such information with regard to working of the society as the Registrar or the person making such inspection may require.
- (4) A copy of the inspection under this section shall be communicated to the co-operative society within a period of ninety days from the date of completion of such inspection.

Inquiry by Registrar.

62. (1) The Registrar may on the basis of findings of audit or inspection under section 61 or request from any creditor, or not less than one-thirds of the total members of the co-operative society, by general or special order in writing in this behalf, hold an inquiry or direct any of the subordinate officials authorised by general or special order in this behalf to hold an inquiry in respect of such matters and such period as may be specified in this order, into the constitution, business, management and financial affairs of a co-operative society and such enquiry shall be completed within such period as may be specified in the order but not exceeding ninety days.
- (2) The Registrar or the official authorised by him under sub-section (1) shall have the following powers, namely -

- (a) he shall at all times have, for purpose of examination free access to the books, accounts, cash and other properties belonging to, or in the custody of, the co-operative society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place specified by him;
 - (b) he may, notwithstanding any rule or bye-laws specifying the period of notice for a general body meeting of the co-operative society, require the officers of the co-operative society to call a general body meeting at such time and place at the headquarters of the co-operative society to consider such matter as may be directed by him and where the officer of the co-operative society refuse or fail to call such a meeting, he shall have power to call it himself;
 - (c) he may summon any person who is reasonably believed by him to have any knowledge of the affairs of the co-operative society to appear before him at any place at the headquarters of the co-operative society or any branch thereof and may examine such person on oath.
- (3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general body meeting called under the bye-laws of the co-operative society and its proceedings shall be regulated by such bye-laws.
- (4) The Registrar shall supply a copy of the report of the inquiry to the co-operative society, the financing institution, federal co-operative society if any, to which the co-operative society is affiliated and indebted and also to the person or authority, if any, at whose instance the inquiry is made.

Inspection of books of indebted co-operative societies.

- 63.** (1) The Registrar shall, on the application of creditor of a co-operative society, inspect or direct a subordinate official authorised by him by order in writing in this behalf, to inspect the books of the co-operative society :

Provided that no such inspection shall be made unless the applicant -

- (a) satisfies the Registrar that the debt is sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b) deposits with the Registrar such sum as security for the costs of proposed inspection as the Registrar may require.

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

Cost of inquiry.

- 64.** Where an inspection is held under section 61, or an inquiry is made under sections 62, the Registrar may apportion the costs or such part of the costs as he may think fit, between the co-operative society, the members or creditor demanding

an inspection or inquiry if any and the officers or former officers and the members or past members of the co-operative society :

Provided that -

(a) no order of the apportionment of the costs shall be made under this section unless the co-operative society or the person liable to pay the costs thereunder has had reasonable opportunity of being heard;

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

Recovery of cost.

65. Any sum awarded by way of costs under section 64 may be recovered, as if it were an arrears of land revenue.

Surcharge.

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

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

(3) Any sum ordered under this section to be repaid to a co-operative society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding that such person or officer or servant have incurred criminal liability by this Act.

Rectification of defects in audit, inspection or inquiry.

67. The Registrar shall draw the attention of the co-operative society to the defects noticed in every audit conducted under section 60 or inspection held under section 61 or inquiry made under section 62 or inspection of books made under section 63 and if the co-operative society is affiliated to federal co-operative society also draw the attention of that federal co-operative society and may make an order directing the

co-operative society or its officers to take such action and within such time as may be specified therein to remedy such defects.

Power to summon and examine documents and persons, etc.

68. (1) The Registrar, or the auditor or any person authorised by either of them to exercise any powers under this Act shall at all reasonable times have free access to the books, accounts, documents, records, securities, cash and other properties belonging to, or in the custody of the co-operative society and may summon any person in possession of, or responsible for the custody of any such books, accounts, documents, records, securities, cash or other properties, to produce all or any of them at any place at the headquarters of the co-operative society or any branch thereof.

(2) The Registrar or any other subordinate official authorised by him to exercise any powers under this Act -

(a) may summon any person who, he has reason to believe has knowledge of any of the affairs of the co-operative society to appear before him at any place at the headquarters of the co-operative society or any branch thereof or at any other place specified by the Registrar, and may examine that person on oath;

(b) may seize the books, accounts or documents belonging to, or in the custody of, the co-operative society, if he considers that such seizure is necessary to ensure safety of such books, accounts or documents, and shall give the person from whose custody the books, accounts or documents have been seized, a receipt for the same :

Provided that the books, accounts or documents so seized shall be retained by him only for so long as may be necessary

Provided further that the books, accounts or documents so seized shall not be retained for more than sixty days at a time except with the permission of the next higher authority.

Maintenance of accounts and books, etc.

69. (1) The paid executive of every co-operative society by whatsoever designation he is called, or the president or any other office bearer as provided in the bye-laws of the co-operative society, if there is no such paid executive for that co-operative society, shall be bound to keep, maintain or cause to be maintained such accounts and books relating to that co-operative society in such manner as may be prescribed and shall be responsible for the correct and up-to-date maintenance of such accounts and books, for producing or causing production of the same when called for in connection with audit, inspection or inquiry.

(2) If such accounts and books are not maintained, the Registrar may direct the person who is responsible to bring the accounts and books up-to-date to make them up-to-date, and he shall be bound to comply with such direction within the period specified therein.

- (3) If the person fails to comply with the direction under sub-section (2), the Registrar may ask the committee of the co-operative society for taking action against such person including suspension for such period, if necessary, as he may consider necessary and authorise any person to take action for bringing such accounts and books up-to-date at the expenses of the co-operative society and such expenses shall be recoverable from the co-operative society as if it were an arrear of land revenue.
- (4) Where the Registrar takes action under sub-section (3), the Registrar may call upon the person concerned whom he considers to be responsible for not complying with the direction made under sub-section (2) and after giving such person an opportunity of being heard, may require him to pay to the co-operative society the expenses paid or payable by him to the Government as a result of his failure to take action.

CHAPTER - VIII

SETTLEMENT OF DISPUTES

Disputes which may be referred for arbitration.

70. (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 other than a dispute regarding disciplinary action taken by the co-operative society or its committee against a paid employee of the co-operative society arises -

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

(b) between a member, past member or person claiming through a member, past member or deceased member and the co-operative society, its committee or any officer, agent or employee of the co-operative society or liquidator, past or present; or

(c) between the co-operative 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 co-operative society; or

(d) between the co-operative society and any other co-operative society, between a co-operative society and liquidator of another co-operative society or between the liquidator of one co-operative society and the liquidator of another co-operative society;

such disputes shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such disputes.

(2) If any question arises whether a dispute referred to the Registrar under this section is or is not 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.

- (3) The Registrar shall decide the aforesaid question within a period of ninety days and in case the aforesaid question, as enumerated under sub-section (2) is not decided within the stipulated period of ninety days, the dispute shall be deemed to have been admitted under section 70 of this Act and the same shall be referred for decision under section 71.
- (4) (a) Notwithstanding anything contained in the Limitation Act, 1963 (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 sub-section (1) shall -
- (i) when the dispute relates to the recovery of any sum including interest thereon due to a co-operative society by a member thereof, be computed from the date on which such member dies or ceases to be member of the co-operative society, be three years;
 - (ii) save as otherwise provided in sub-clause (iii), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1), be six years from the date on which the act or omission with reference to which the dispute arose or took place;
 - (iii) when the disputes relates to a co-operative society which has been ordered to be wound up under section 95 or section 96 or section 97 or in respect of which an administrator has been appointed under section 37, be six years from the date of the order issued under section 95 or section 96 or section 97 or section 37, as the case may be; and
 - (iv) when the dispute is in respect of an election of an officer of a co-operative society be thirty days from the date of the declaration of the result of the election.
- (b) The period of limitation in the case of any other dispute except those mentioned in the foregoing clause which are required to be referred to the Registrar shall be regulated by the provisions of the Limitation Act, 1963 (36 of 1963), as if the dispute was a suit and the Registrar a civil court.
- (c) Notwithstanding anything contained in clauses (a) and (b), the Registrar may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation has expired.
- (5) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to all arbitrations under this Act, as if proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

Reference of disputes to arbitration.

71. (1) The Registrar may, on receipt of the reference of dispute under section 70 –

- (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.
- (2) The method, manner of selection, appointment of arbitrators, their qualifications, terms and conditions of appointment and fees payable to them shall be as prescribed under the rules.
- (3) (a) For selecting persons for appointment as arbitrators, the Government shall constitute a selection committee which shall consist of the following, namely :-
- (i) Minister in charge of the Department of Co-operative Societies – Chairman
 - (ii) One elected member of the Delhi Legislative Assembly - Member
 - (iii) Secretary (Cooperation) to the Government - Member
 - (iv) Secretary (Law & Justice) to the Government - Member
 - (v) Registrar, Cooperative Societies - Member
- (b) All decisions of the selection committee shall be taken by majority.
- (4) The Registrar may withdraw any reference under clause (b) of sub-section (1) or referred under clause (c) of sub-section (1) and decide it himself or refer the same to another arbitrator for decision.
- (5) The Registrar or any other arbitrator 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 interest of justice.
(Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

Power of financing bank and federal co-operative society to proceed.

72. (1) If a co-operative society is unable to pay its debts to a financing bank or a federal co-operative society by reason of its members committing default in the payment of the moneys due by them, the financing bank or the federal co-operative society as the case may be, may direct the committee of such a co-operative society to proceed against such members under section 71 and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank or the federal co-operative society itself may proceed against such members in which case the provisions of this Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions were references to the financing bank or the federal co-operative society.
- (2) Where a financing bank or federal co-operative society has obtained a decree or award against a co-operative society in respect of moneys due to it from the co-operative society, the financing bank or the federal co-operative society may proceed to recover such moneys firstly, from the assets of the co-operative society and secondly, from the members to the extent of their debts due to the co-operative society.

CHAPTER - IX

SPECIAL PROVISIONS FOR CO-OPERATIVE HOUSING SOCIETIES

Application of this chapter.

73. This Chapter II apply to -

- (a) all co-operative housing societies including housing finance society registered or deemed to be registered at the commencement of this Act;
- (b) all co-operative housing societies including housing finance society registered or deemed to be registered under this Act.

Definitions.

74. In this Chapter, unless the context otherwise require-

- (a) "allottee" means a member of a co-operative housing society to whom a plot of land or a site, or a flat in a building or complex held by it, is allotted by the co-operative society;
- (b) "apex" means the Delhi Co-operative Housing Finance Corporation Ltd; a co-operative society registered to provide long term finances for construction, development of infrastructure, bridge loan for land etc., against certain securities or sureties for construction, purchase of land, etc.;
- (c) "building fund" means a fund created by the collection of contributions from members for -
 - (i) the purchase and or acquisition of land; or
 - (ii) the land development; or
 - (iii) the construction of dwelling units in a complex or buildings; or
 - (iv) for the purpose of providing any other common amenities to achieve the objectives of the co-operative housing society;
- (d) "building maintenance fund" means a fund created by collection of the contribution from its members at such rate as may be determined by the general body meeting of the members annually as a part of budget provision for carrying out repairs or structural additions, improvements or alterations to the property of the co-operative housing society which is likely to increase the life of such property and to maintain the property of the said society in good and habitable conditions at all times;

(e) "co-operative housing society" means a co-operative society -

(i) registered or deemed to be registered as a co-operative housing society under this Act;

(ii) the principal object of which is to provide its members open plots under plot housing, dwelling units or flats (whether in a multi-storeyed building or otherwise) in a complex under group housing and in case where open plots or dwelling units or flats are already acquired to provide its members common amenities and services including services relating to the arrangement of finances for facilitating construction of dwelling units in order to solve their needs of dwelling units through mutual-aid in accordance with the co-operative principles, and includes a house building, co-partnership, co-ownership housing society, co-operative housing maintenance society, multipurpose co-operative housing society and any other co-operative society of like nature and purpose;

(iii) "co-operative housing maintenance society" means a co-operative society formed by the owners of dwelling units in a building for the purpose of maintenance of the building and provisions of common amenities, services, etc;

(iv) "co-ownership co-operative housing society" means a co-operative society known as "house building" or plotted society in which the land is held either on lease-hold or free-hold basis by the co-operative society and the houses constructed on it are owned or to be owned by its members;

(v) "co-partnership co-operative housing society" known as group housing means a co-operative society in which land and buildings are held by the co-operative society on lease-hold or free hold basis and members are allotted flats or such other premises in such buildings with a right to occupy the same in accordance with terms of lease, Government's guidelines and the bye-laws of such group housing;

(vi) "multi-purpose co-operative housing society" means a society formed with the object of undertaking multifarious activities for the economic and social development of its members, particularly of slum dwellers and economically weaker sections of the people, in addition to providing better housing accommodation and better environment to improve their quality of life;

(f) "dwelling unit" includes a house, flat and apartment for the purpose of dwelling;

(g) "external repairs" means all structural repairs and repairs required to be carried out to the property of the co-operative society the use of which is common to two or more members, and includes repairs of common walls, external walls, roads, lifts, water tanks, electric pumps, staircases, terraces and parapet walls, roofs of flats, street lights, electric lines, all leakages of water, water pipelines, compound walls, septic tanks, fencing, drainage, gates and other like common amenities;

- (h) "internal repairs" means such repairs as are not external repairs;
- (i) "maintenance fund" means periodical payments which are made by the members or occupants of house or flat to meet the expenditure incurred by a housing co-operative society towards providing of cleanliness, watch and ward, landscape, water supply, lifts, maintenance services for sanitary, electric fittings, drains, fire fighting system, generation sets, intercom systems, etc. within the complex fixed annually by the general body meeting of the members as a budget provision;
- (j) "National Housing Bank" means the National Housing Bank established under the National Housing Bank Act, 1987 (53 of 1987);
- (k) "occupancy right" means the right of an allottee to possess and use the plot of land, site or dwelling unit or flat allotted to him with power to give it on hire or on lease and licence or to mortgage it or to donate or to gift or to transmit it by will or by inheritance or to transfer it after paying the transfer fee;
- (l) "outgoings" means ground rent, if any, municipal and other local taxes, cesses, charges, water charges, electricity charges, revenue assessments, expenses of management and maintenance, repairs to or replacement of any property, insurance premium, other like expenses in respect of the co-operative housing society on recurring or non-recurring basis;
- (m) "sub-allottee" means an individual or body of persons, whether incorporated or not, in whose favour the possession of the dwelling unit or part thereof is transferred for a period of not less than ninety days, and includes a tenant, licensee, paying guest and caretaker thereof;
- (n) "transfer fee" means fee payable to transfer the membership of a member to another person in a co-operative housing society as provided in section 91;
- (o) words and expressions defined in this Act and used, but not defined, in this Chapter, shall have the same meanings, assigned to them in this Act.

Limit on membership.

75. A co-operative housing society shall not admit to its membership persons exceeding the number of dwelling units or plots as the case may be, available for allotment in that co-operative housing society.

- * Provided that a cooperative house building society may admit to its membership more than the plots allotted in case the plot owner has constructed and sold floors, by charging transfer fee of five thousand rupees and share money and admission fee as per provisions of the by-laws of the society and in that case the committee shall grant membership within a period of thirty days after the submission of application for grant of membership by such applicant and in case of refusal by the committee, the applicant may appeal to the Registrar within thirty days of the refusal by the committee and the decision of the Registrar in such appeal shall be final.

Rights and privileges of members on allotment of plot or dwelling unit in a co-operative housing society.

76. (1) Every member of a co-operative housing society, whether registered before or after the commencement of this Act, to whom plots of land or dwelling units have been allotted, shall be issued certificate of allotment by the co-operative housing society under its seal and signature in such form as may be prescribed.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or the Registration Act, 1908 (16 of 1908), any allotment (including re-allotment) of a plot of land or dwelling unit in a building of a co-operative housing society to its member as per terms of allotment shall entitle such member to hold such plot of land or dwelling unit with such title or interest.

(3) A member of a co-operative housing society shall not be entitled to any title or interest in any plot of land or dwelling unit in a building of the co-operative society until he has made such payment as may be specified by the co-operative housing society towards the cost of such plot of land or construction of such dwelling unit, as the case may be, to the co-operative housing society.

(4) The right, title and interest in a plot of land or dwelling unit in a building of the co-operative housing society (including the undivided interest in common areas and facilities) shall constitute a heritable and transferable immovable property within the meaning of any law for the time being in force :

Provided that notwithstanding anything contained in any other law for the time being in force, such land or building shall not be partitioned for any purpose whatsoever.

(5) Every member of a co-operative housing society shall be entitled to an undivided interest in the common areas and facilities pertaining to the plot of land or dwelling unit allotted to him, which shall be described in the certificate of allotment as provided in sub-section (1).

(6) Every member of a co-operative housing society in whose favour a plot of land or a dwelling unit has been allotted shall have the right to use the common areas and facilities as prescribed by the co-operative housing society and in case of any violation by a member, the committee shall be competent to recover it at the cost of the encroacher which also be applicable with regard to the common areas under the control of the co-operative housing society.

(7) The work relating to the maintenance, repair and replacement of the common areas and facilities (including additions or improvements thereto) shall be carried out in accordance with the building rules of the concerned civic authorities, or other competent authority, as the case may be, and the costs thereof shall be apportioned amongst the members of the co-operative housing society in such manner as may be determined and notified by the committee from time to time.

Allotment of plots, flats or houses through draw of lots.

77. (1) Allotment of plots of land, flats, houses or other dwelling units shall be made by the committee of a co-operative housing society to the members strictly on the basis of draw of lots only in respect of such members whose enrolment as a member of a co-operative housing society is found proper in accordance with the provisions of this Act, rules framed thereunder and the bye-laws of the co-operative housing society by the Registrar with the prior approval of a

committee as prescribed and such a draw of lot shall be conducted by the lessor of the land in accordance with the terms and conditions of lease.

(2) If any draw of lot is held in violation of the above provisions it shall be void and any financial loss on account of this shall be recovered as arrears of land revenue from persons who were responsible for it and such persons shall be debarred from holding any office in the co-operative housing society in future.

(3) Every member of a co-operative housing society, whether registered before or after the commencement of this Act, to whom plots of lands, flats, houses or other dwelling units have been allotted, shall be issued certificate of occupancy by the co-operative housing society under its seal and signature in such form, on such terms and on such conditions as may be prescribed and such certificate shall be issued forthwith when all the dues as may be determined and notified by the co-operative housing society are duly paid by the member.

Provision for nomination.

78. (1) Every member of a co-operative housing society shall nominate a person or persons to whom in the event of his death his right and interest in such co-operative housing society shall be transferred.

(2) The member of the co-operative housing society shall have right to change the nomination at any time.

(3) There shall not be more than one nomination subsisting at any time:

Provided that joint and more than one nomination within the blood relation shall be permissible.

Restriction on transfer of share or interest of a member.

79. Subject to the provisions of this Act, in the case of a co-operative housing society, no transfer of share or interest of a member or the occupancy right, except the transfer to his heir or a nominee, shall be effective, unless -

(a) the previous permission of the co-operative housing society has been obtained * by the transferor;

(b) the dues of the co-operative housing society are paid or transferred to the transferee with the consent of the co-operative housing society;

(c) the transferor vacates and gives possession of the premises to the transferee; and

(d) the transferee applies and acquires membership of the co-operative society :

Provided that the transfer of share or interest in respect of lease hold properties shall be governed by the terms of the lease.

Permission for transfer of occupancy right not to be ordinarily refused and provision for appeal.

80. (1) No co-operative housing society shall ordinarily refuse to grant to its member permission for transfer of his occupancy right in the property of the co-operative housing society unless the transferee is otherwise not qualified to be a member :

Provided that nothing contained in any agreement, contract or the bye-laws regarding eligibility for membership stipulated therein shall apply to a nominee, heir or legal representative of the deceased member for his admission to membership of the co-operative housing society :

Provided further that aforesaid transfer in case of lease hold land shall be governed by the provisions of the perpetual lease of land.

(2) The decision of the co-operative housing society on an application for permission to such transfer shall be communicated to the applicant within thirty days from the date of receipt of the application.

(3) Any person aggrieved by the decision of the co-operative housing society refusing permission for such transfer may within thirty days from the date on which the refusal of permission is communicated to him appeal to the Registrar.

(4) The Registrar shall dispose of the appeal within a period of one hundred and twenty five days whose decision shall be final.

Creation, maintenance and utilisation of building and replacement fund.

81. (1) A co-operative housing society which owns land or building shall maintain a corpus of building maintenance fund by collecting money from its members as their contribution to the extent and in the manner as may be fixed annually by the general body meeting.

(2) The building maintenance fund shall be utilised only for the purposes of repairs and maintenance of the building and for carrying out such structural additions and alterations to the building which are essential for the safety of the building and to increase its life.

(3) The building maintenance fund of the co-operative housing society, when not required by it for its immediate use, shall be invested with the apex or financing bank.

(4) A corpus for replacement fund shall be created annually through a budget provision duly approved by the general body of members of the society and shall be utilized only for replacement of building in course of time.

Registration of mortgage in favour of co-operative housing society or apex.

82. Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), it shall not be necessary to register mortgages, executed in favour of co-operative housing society or apex provided that the co-operative housing society or apex sends, within a period of sixty days, a copy of the instrument whereby the property is mortgaged or a written declaration creating a charge on such property in the prescribed form and manner to the registering officer within whose jurisdiction the whole or part of the mortgaged property is situated and such

registering officer shall file a copy or copies thereof, as the case may be, in Book No.1 prescribed under section 51 of the Registration Act, 1908 (16 of 1908).

Settlement of disputes.

83. (1) Notwithstanding anything contained in any law relating to rents or any other corresponding law for the time being in force in Delhi, any dispute relating to the occupation or recovery of possession of any plot, dwelling unit or flat in any co-operative housing society, the recovery of dues payable by a member or sub-allottee to a co-operative housing society or vice-versa arising on or after the date of the commencement of this Act and suits or proceedings pending in any court after such commencement, shall be deemed to be a dispute within the meaning of section 70 of this Act and shall be decided in accordance with the provisions of this Act, and no court or other tribunal or authority shall have jurisdiction to entertain and decide any proceedings in respect of such disputes.

(2) Notwithstanding anything contained in the law relating to rents or any other corresponding law for the time being in force, no licensee, caretaker, or sub-allottee who is occupying the dwelling unit or flat, or plot of land in a co-operative housing society shall be a tenant of such dwelling unit or flat or plot of land within the meaning of that law.

(3) Where any property mortgaged to the co-operative housing society including the apex, as the case may be, is wholly or partially destroyed or for any reasons the security is rendered insufficient and the mortgagor having been given reasonable opportunity to repay such portion of loan as may be determined by the co-operative housing society or the apex, as the case may be, has failed to provide such security or to such portion of loans, the whole of the loan shall be deemed to fall due at once notwithstanding the original terms on which the loan was advanced, and the co-operative housing society or the apex, as the case may be, shall be entitled to take action against the mortgagor for the recovery thereof.

(4) All loans granted by the co-operative housing society or the apex, as the case may be, and all interests chargeable thereon and costs incurred in making the same, shall be recoverable when they become due by the co-operative housing society or the apex, as the case may be.

(5) If any installment payable under the mortgage executed in favour of the co-operative housing society or the apex, as the case may be, or any financial institution which the National Housing Bank, having regard to the objects of this Chapter, has recognised for the purposes of this section, being a financial institution whose main object is to provide housing finance and any part of such installment has remained unpaid for more than ninety days from the date on which it falls due, the co-operative housing society or the apex or the said financial institution may, in addition to any other remedy available to it, apply to the Registrar for the recovery of such installments or part thereof as arrears of land revenue, who will complete the enquiry to satisfy himself about the request within a period of thirty days from the date of receipt of such application and shall either issue a certificate for recovery as arrears of land revenue or reject it after giving grounds for doing so within the said period of thirty days.

(6) On the issuance of letter for execution of award, the right of the original allottee member shall be suspended subject to the mortgage interest of the

mortgage and in case the property has been transferred through the instrument of power of attorney and agreement for sale, the occupant as power of attorney holder or purchaser of agreement for sale shall be deemed as trespasser.

(7) The committee shall give sixty days time to such a person to vacate the premises failing which the committee shall take appropriate legal recourse for implementation of the decision of the committee.

Recovery of outgoings and arrears of dues as arrears of land revenue.

84. (1) Notwithstanding anything contained in this Act, on an application made by a co-operative housing society or the apex for the recovery of its outgoings and of arrears of its dues of such sums advanced by it to any of its members, on its furnishing statement of the accounts in respect of 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 and such an enquiry shall be completed by the Registrar within thirty days.

(2) Where the Registrar is satisfied that the concerned co-operative housing society has failed to take action under sub-section (1) in respect of any amount due as arrears and outgoings, the Registrar may of his own motion, after making such an enquiry as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears and such a certificate shall be deemed to have been issued as if issued on an application made by the co-operative housing society or the apex concerned.

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

(4) It shall be lawful for the Collector and the Registrar to take precautionary measures authorised by law until the arrears due to the co-operative housing society or the apex, as the case may be, together with interest and any incidental charges incurred in the recovery of such arrears are paid or security of such arrears is furnished to the satisfaction of the Registrar.

(5) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the co-operative housing society or the apex, as the case may be, together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar or the person authorised by him.

Recovery of dues and foreclosure.

85. (1) Where a co-operative housing society has raised loan from the apex or any other approved housing finance institution against the security of land and building and the possession of such building has been handed over to the loanee members, if any member fails to repay the loan installment for a continuous period of sixty days after the installment has become due, the co-operative housing society shall issue a notice for repayment of the defaulted amount along with the balance outstanding as recall of loan.

(2) If the member fails to repay the recalled amount of loan together with the interest, if any, within thirty days, the committee shall refer the case to the Registrar who may make further enquiries as deem fit and issue a notice to the defaulter member providing him an opportunity to pay the defaulted amount within such time as he may deem fit subject to a maximum of ninety days and pass orders to that effect and in case the defaulter member still persists in default, the Registrar may issue a recovery certificate for the recovery of defaulted amount along with interest and cost, if any, as arrears of land revenue :

Provided that the apex or the financing institution may directly approach the Registrar for initiating proceedings against the defaulter member as above, in case the committee fails to initiate action against the defaulter member within thirty days.

Expulsion of a member.

86. (1) Notwithstanding anything contained in this Act and the rules framed thereunder, the committee of a co-operative housing society may, by a resolution, expel a member on any one or more of the following grounds, namely

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(a) if he has been a persistent defaulter in respect of any dues of the co-operative housing society; or

(b) if he has willfully deceived the co-operative housing society by making any false statement or submitting any false document to obtain the membership of such co-operative society; or

(c) if he has brought disrepute to the co-operative society or has done any other act detrimental to the interest and proper working of the co-operative society :

Provided that no such resolution shall be passed unless the member concerned has been given an opportunity of being heard after service of three registered notices confronting the member with the grounds for his proposed expulsion :

Provided further that no member shall be expelled unless a resolution to that effect is passed by not less than three-fourths of the members of the committee present and entitled to vote at the meeting and no resolution for expulsion shall be valid unless approved by the Registrar.

(2) After the resolution for expulsion is passed as above by the committee, the resolution shall be referred to the Registrar for approval within a period of thirty days.

(3) On the receipt of the resolution for expulsion, the Registrar shall take cognizance of such resolution within thirty days and pass a final order either approving the expulsion or rejecting the proposal for expulsion within a period of one hundred and eighty days and if the matter is not decided by the Registrar within the aforesaid period, the expulsion of such a member shall be deemed to have been approved :

Provided that the Registrar, before approving the resolution, shall hear the parties concerned in the manner prescribed and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and compel them to give evidence on oath, affirmation or affidavit and to compel production of documents by the same means and as far as possible in the same manner as provided in the case of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) and the order under this section so passed by the Registrar, shall be final with a right for appeal before the Tribunal.

(4) Any party aggrieved by the order of the Registrar or deemed approval of expulsion, as the case may be, under sub-section (3) may, within sixty days from the date of such order, appeal to the Tribunal.

Additional grounds for Cessation of membership of co-operative housing society.

87. Subject to the provision of this Act, in the case of a cooperative housing society, a person shall also cease to be a member of a cooperative society -

(a) on disposing of the property through instrument of power of attorney and agreement for sale subject to the interest of the mortgagee if there is any loan on the property; or

(b) if he -

(i) before becoming a member of a cooperative housing society, already owns, either in his own name or in the name of his spouse or any of his dependent children;

(ii) after becoming a member in a cooperative housing society, during the currency of such membership, till allotment of any plot or flat to him, as the case may be, acquires either in his own name or in the name of his spouse or any of his dependent children; a residential property exceeding 66.72 sq. meters in area, in any of the approved or unapproved colonies or other localities in Delhi either on lease-hold basis or free-hold basis or on power of attorney or on agreement for sale basis :

Provided that no person having residential property under this section in the village abadi area in Delhi shall be disqualified :

Provided further that no such disqualification shall be applicable in the case of a person who has acquired property on power of attorney or through agreement for sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the membership of the cooperative housing society concerned :

Provided also that no member shall earn disqualification in clause (b) above, if the residential property devolves on him by way of inheritance.

Management of co-operative housing societies.

88. The management of every co-operative housing society shall vest in its committee.

Maintenance of essential services in co-operative housing societies.

89. (1) Every co-operative housing society shall frame regulations from time to time with the approval of the general body meeting of the co-operative housing society for maintenance of essential services including mandatory green area in the co-operative housing society which shall contain details of services to be provided and service charges to be recovered for such services from the members and residents of its housing complex.

(2) If any member or resident fails to make payment of such services for thirty days after raising of the demand by the committee such member or resident, as the case may be, will be asked to clear default within thirty days and in case of default by the member, the committee may institute proceedings for recovery of the dues in accordance with the provisions of this Act as arrears of land revenue.

Co-operative housing society to maintain register of its properties with prescribed details.

90. Every co-operative housing society shall maintain register of its properties in such form as may be prescribed.

Special provision for regularisation of occupancy right of persons who have acquired such a right through the instrument of power of attorney or agreement for sale.

91. A member of a housing society who has sold his plot or flat on the power of attorney or agreement for sale or by sale deed, shall cease to be a member of that society from the date of the sale of plot or flat:

Provided that the purchaser having registered power of attorney or registered agreement for sale or registered sale deed, as the case may be, in respect of such plot or flat, may apply for membership by paying transfer fee of five hundred rupees and share money and admission fee as per the provisions of the bye-laws of the society and the committee shall grant membership to the applicant within thirty days after the submission of his application. In case of refusal by the committee, the applicant may appeal to the Registrar within thirty days and the decision of the Registrar shall be final:

Provided further that no purchaser shall be entitled for more than one membership in a housing society

Execution of housing project.

92. (1) On allotment of land to, and possession thereof by the co-operative housing society, the committee shall appoint the architect and the contractor with a provision that construction shall be completed as per time limit fixed for completion of construction of the housing project of the society in the sanction letter conveying approval of layout and building plans by the sanctioning authority under the applicable building bye-laws or within five years from the date of

sanction of layout and building plans by the competent civic authority, whichever is earlier, with the prior approval of the general body:

Provided that if due to unforeseen circumstances, the aforesaid time limit cannot be adhered, the committee shall approach the Government for further extension of time to complete the project with the approval of its general body at least one hundred and eighty days in advance and failure to adhere to the above time limit by the committee shall be an offence.

(2) After the appointment of the architect and the contractor the committee shall finalise the likely cost, the time for the execution of the project, the size, category and design of the flats with a five years defect liability provision to attend defects in the construction by the concerned contractor and all incidental matters thereto and get the approval of the general body.

(3) During the construction period, there shall be, at least, two special general body meetings every year besides one annual general body meeting to give progress report to the members.

(4) No escalation in cost of the project, and the time fixed for the execution thereof shall be extended by the committee without the prior approval of the general body.

(5) There will not be unilateral change of category or size of flat by the committee without giving an opportunity to the concerned member of hearing after communicating to him the grounds for change of category or size and preference shall be given to the existing members in case of any vacancy falling in the higher category.

(6) All proposals as above, shall be approved by the general body in a meeting by a majority of not less than two-thirds the * members present in the meeting.

(7) It shall be the responsibility of the committee to ensure quality and structure stability of the project and the availability of all facilities including electricity, water, lifts, sewage, roads, mandatory green and landscape, etc. before allotment.

(8) The Registrar may issue directions and guidelines from time to time in public interest for timely execution of the project.

Management of co-operative housing complex by co-operative societies.

93. (1) The management of co-operative housing complex shall be entrusted to the committee which will ensure cleanliness, security, upkeep of common areas, services, landscape and exterior of the building, prepare a budget for annual maintenance charges which shall be got approved annually from the general body and it shall be the responsibility of the member or occupant, as the case may be, to make payment of maintenance charges to the committee.

(2) If any defects occur in the flats and any repairs are required after allotment, the committee shall have the right to get such defects rectified or repairs carried out at the cost of the member or members concerned in whose flats such defects need rectification or need repairs and if the member or members concerned fail

to make payment to the committee for getting such repairs carried out upon being given proper notice, the committee shall recover the above dues as arrears of land revenue by making a reference to appropriate authority under section 111.

(3) A member who wants to carry out internal repairs may apply to the committee for necessary permission and if no structural changes are involved and the proposed repairs are not likely to cause any defect in the flat of any other member, the committee may grant permission to the concerned member to carry out the internal repairs.

(4) In case any defect occurs in the flat of any other member or members on account of internal repairs in his flat by a member, the member or members concerned shall be compensated by the member who has carried out repairs and in case the member concerned does not pay the necessary compensation after service of notice, the committee shall recover the same as arrears of land revenue by making reference to appropriate authority under section 111 and after such recovery to make payment to the affected member.

(5) All the flats besides other assets of the co-operative housing society shall have to be insured for all risks including earthquake annually on reinstatement basis against the value of the inflation for the same type of buildings.

House building co-operative societies which have achieved their objectives.

94. In case of a house building co-operative society where all plots have been allotted to its members and basic civic services have been transferred to the local civic body, the Registrar shall, after giving sixty days' notice to the committee, initiate winding up proceedings and such co-operative house building society shall be wound up :

Provided that in the case of a co-operative house building society where land has been allotted on perpetual lease, before passing winding up orders the prior consent of the lessor shall be obtained.

Provided further that where a house building co-operative society has been provided land to run a club, school, community centre, dispensary or community facility, etc., by the lessor, the above provision shall not apply to such a co-operative house building society, if the general body decides to run these activities for the benefit of the members and the residents. (Added vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

CHAPTER - X

WINDING UP OF CO-OPERATIVE SOCIETIES

Dissolution of co-operative society by members.

95. (1) A co-operative society may by special resolution, authorise its own dissolution, a notice of the general body meeting called for the purpose shall also

be sent by registered post with an invitation to attend, to the Registrar, to creditors, if any, to any co-operative society to which the co-operative society is affiliated, and to any co-operative society with which a partnership contract has been entered into.

(2) The invitee under sub-section (1) shall have the right only to make a presentation to the general body, if he wishes to do so, on the issue of the proposed dissolution.

(3) Within fifteen days of such authorisation for dissolution, the co-operative society shall send to the Registrar a copy by registered post of the authorisation to dissolve the co-operative society.

(4) The authorisation approved under sub-section (1) shall set out -

- (a) the assets and liabilities of the co-operative society;
- (b) the claims of creditors;
- (c) the number of members;
- (d) the nature and extent of the members interest in the co-operative society; and
- (e) the name and address of the liquidator appointed by the co-operative society.

(5) When the Registrar receives the special resolution passed under sub-section (1) -

- (a) where he is satisfied that the co-operative society has no assets or liabilities, he shall dissolve the co-operative society, delete its name from the register of co-operative societies and issue a certificate of dissolution of such co-operative society; or
- (b) he shall, within thirty days of the date of receipt of such resolution, cause at the expense of the co-operative society a notice of the special resolution to be published in the official Gazette and in a newspaper in Hindi and English.

(6) In the case of dissolution, the Registrar may require, till the certificate of dissolution is issued by him, from the liquidator appointed by the co-operative society or from any other person who is required to furnish information, a periodical return showing -

- (a) the progress of dissolution;
- (b) the distribution of any undistributed surplus or reserve; and
- (c) any other relevant information.

Dissolution of co-operative society by the Registrar.

96. (1) Where the Registrar has reason to believe that a co-operative society -

- (a) has not commenced business within seven hundred seventy five days after the date shown on its certificate of registration; or
- (b) has not carried on business for two consecutive co-operative years; he shall send to the co-operative society a letter by registered post, inquiring whether the co-operative society is carrying on business.
- (c) has not got the accounts of the society audited since last three or more consecutive years;

* he shall send to the co-operative society a letter by registered post, inquiring whether the co-operative society is carrying on business or got its accounts audited.

(2) Where the Registrar -

(i) does not, within thirty days of the date of sending a letter under sub-section (1) , receive a reply to the letter, he shall, within fifteen days after the expiry of said thirty days, send to the co-operative society a letter stating that -

- (a) a letter was sent to the co-operative society under sub-section (1);
- (b) no reply to the letter has been received by him within thirty days from the date of sending it.

(ii) receives a reply from the co-operative society that it is not carrying on business; or got its accounts audited or

(iii) does not , within thirty days from the date he sent a letter under sub-section (i) receive a reply to that letter; he shall publish the notice in the newspaper and send to the co-operative society a notice that, at the expiry of thirty days from the date of the notice, the co-operative society shall, unless cause is shown to the contrary, be dissolved and have its name deleted from the register of co-operative societies.

(3) On the expiry of thirty days from the date of issue of the letter under sub-section (2), the Registrar shall, unless cause to the contrary is previously shown by the co-operative society -

- (a) where he is satisfied that the co-operative society has no assets or liabilities, dissolve the co-operative society, delete its name from the register of co-operative societies and issue a certificate of dissolution of such co-operative society; or
- (b) appoint a liquidator under section 99 to wind up the affairs of the co-operative society.

(4) Where a co-operative society fails to file returns and furnish information, as required by section 32, the Registrar shall send a requisition under sub-section (1) of section 33 to the committee to call a special general body

meeting for the purpose of considering the annual returns to be filed with, and the information to be furnished to the Registrar.

(5) Where the committee fails to call a special general meeting within the period specified in sub-section (1) of section 33 the Registrar may at the cost of the co-operative society call the special general body meeting notwithstanding anything contained in this Act -

(a) to review the affairs of the co-operative society; and

(b) to ascertain whether the general body desires to continue the co-operative society.

(6) Where -

(a) a quorum of members is not present at the special general body meeting called under sub-section (4) or sub-section (5); or

(b) the general body meeting fails to pass a resolution to the effect that -

(i) the co-operative society is to carry on business;

(ii) the committee shall present, within sixty days from the date of special general body meeting to the general body the annual returns to be filed with, and the information to be furnished to, the Registrar; and

(iii) the co-operative society shall file the returns with, and furnish the information to, the Registrar within ninety days from the date of special general body meeting; or

(c) if the co-operative society fails to file the returns with, and furnish the information to, the Registrar within ninety days from the date of the special general body meeting; the Registrar shall -

(i) if he is satisfied that the co-operative society has no assets or liabilities, dissolve the co-operative society, delete its name from the register of co-operative societies and issue a certificate of dissolution of such co-operative society; or

(ii) appoint a liquidator under section 99 to wind up the affairs of the co-operative society.

Winding up of co-operative banks at the direction of the Reserve Bank.

- 97. Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up or an order sanctioning scheme of compromise or arrangement or of amalgamation or reconstruction of a co-operative bank, if so required by the Reserve Bank.** (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

Reimburse-ment to the Deposit Insurance Corporation by the liquidator.

98. Where a co-operative bank being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961) is wound up, or taken into liquidation, and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances to the extent and in the manner provided in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).

Appointment of liquidator.

99. (1) Where the Registrar has made an order under section 96 for the winding up of a co-operative society, the Registrar may appoint a liquidator for the purpose and fix his remuneration.

(2) Where a co-operative society is to be dissolved and no liquidator is appointed by the general body meeting, the Registrar shall appoint any person as a liquidator to wind up the affairs of the co-operative society.

Duties of liquidator.

100. A liquidator on his appointment shall -

(a) immediately give notice of his appointment -

(i) in the case of a liquidator not appointed by the Registrar, to the Registrar; and

(ii) to each claimant and creditor known to the liquidator;

(b) immediately publish notice of his appointment in the official Gazette and in a newspaper in Hindi and English and take reasonable steps to give notice of the liquidation in every jurisdiction where the co-operative society carries on business;

(c) include in the notice mentioned in clauses (a) and (b) a provision requiring any person -

(i) indebted to the co-operative society to render an account and pay to the liquidator at the time and place specified in the notice any amount owing;

(ii) possessing property of the co-operative society to deliver it to the liquidator at the time and place specified in the notice; and

(iii) having a claim against the co-operative society, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator at the time and place specified in the notice within the period specified in such notice which shall not exceed sixty days from the date of first publication of the notice.

(d) take into his custody and under his control all the property and actionable claims to which the co-operative 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;

(e) open and maintain a trust account for the moneys of the co-operative society;

(f) keep accounts of the moneys of the co-operative society received and paid out by him;

(g) maintain separate lists of the members, creditors and other persons having claims against the co-operative society;

(h) where at any time he determines that the co-operative society is unable to pay or adequately provide for the discharge of its obligations, apply to the Registrar or general body, as the case may be, for directions; and

(i) deliver to the Registrar or general body, as the case may be, periodically as the Registrar or general body may require, financial statements of the co-operative society in such form the liquidator considers proper or that the Registrar or general body may require.

Powers of liquidator.

101. (1) 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 99 from the date the order takes effect.

(2) The liquidator may -

(a) retain lawyers, accountants, engineers, appraisers and other professional advisors;

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

(c) carry on the business of the co-operative society so far as may be necessary for the beneficial winding up of the same;

(d) sell by public auction or private sale any property of the co-operative society;

(e) do all acts and execute any documents in the name and on behalf of the co-operative society;

(f) borrow money on the security of the property of the co-operative society;

(g) settle or compromise any claims by or against the co-operative society; and

(h) do all other things that he considers necessary for the liquidation of the co-operative society and distribution of its property.

(3) Where a liquidator has reasons to believe that any person has in his possession or under his control, or has concealed, withheld or misappropriated any property of the co-operative society, he may apply to the Metropolitan Magistrate for an order requiring that person to appear before the court at the time and place designated in the order and to be examined.

(4) Where the examination under sub-section (3) discloses that a person has concealed, withheld or misappropriated property of the co-operative society or has in possession or under his control the property of the co-operative society, the Metropolitan Magistrate may order that person to restore the property or pay compensation to the liquidator on behalf of the co-operative society.

(5) No liquidator shall purchase, directly or indirectly, any part of the stock-in-trade, debts or assets of the co-operative society.

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

Disposal of surplus assets of liquidated co-operative societies.

102. After all the liabilities including the paid up share capital of a wound up co-operative society have been met, the surplus assets shall not be divided among its members but they shall be applied to any object described in the rules and when no object is so described, to any object of public utility determined by the general body meeting.

Final accounts.

103. (1) A liquidator shall pay the costs of liquidation out of the property of the co-operative society and shall pay or make adequate provision for all claims against the co-operative society.

(2) Subject to the provisions of section 102 after paying or making adequate provision for all claims against the co-operative society, the liquidator shall apply to the Registrar for approval of his final accounts and for permission to distribute in cash or in kind, the remaining property of the co-operative society in accordance with the rules.

(3) Where the Registrar approves the final accounts rendered by a liquidator under sub-section (2), he shall -

(i) issue directions with respect to the custody or disposal of the documents and records of the co-operative society; and

(ii) discharge the liquidator.

(4) Where the Registrar discharges a liquidator under sub-section (3) the Registrar shall dissolve the co-operative society, issue a certificate of dissolution and delete its name from the register of co-operative societies.

(5) The co-operative society ceases to exist on the date shown in the certificate of dissolution, which shall not be later than seven hundred and thirty days after the appointment of the liquidator.

(6) An order passed under sub-section (1) shall be communicated by registered post to the president of the co-operative society and to the financing bank or federal co-operative society to which co-operative society if indebted, if any, of which the co-operative society was a member.

CHAPTER - XI

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

Enforcement of charge.

104. Notwithstanding anything contained in Chapter VIII or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the co-operative society by any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under section 45 :

Provided that no order shall be made under this section unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice in the manner prescribed.

Execution of orders, etc.

105. Every decision award or order duly passed by the Registrar or the **arbitrator** (substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) or the Tribunal, or the Government under section 31, section 32, section 33, section 66, section 71, section 104, section 110, section 112, section 114, section 115, section 116 or any other provisions of this Act shall, if not carried out -

(a) where the decision, award or order provides for the recovery of money, be executed according to the law for the time being in force relating to the recovery of land revenue :

Provided that an application for the recovery of any sum in the manner aforesaid shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person subordinate to him and empowered by the Registrar in this behalf;

(b) in any other case be executed by the Registrar or any person subordinate to him and empowered by the Registrar in this behalf, in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908 (5 of 1908).

Execution of orders of liquidator.

106. The orders of the liquidator under section 101 shall be executed according to the Act and under the rules for the time being in force for the recovery of arrears of land revenues.

Attachment before award.

107. Where the Registrar is satisfied that a party to any reference made to him under section 70 with intent to defeat or delay the execution of any decision that may be passed thereon is about to -

(a) dispose of the whole or any part of the property; or

(b) remove the whole or any part of the property from the local limits of the jurisdiction of the Registrar;

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall be executed as if by a civil court having jurisdiction in the same way as an attachment order passed by itself and shall have the same effect as such an order:

Provided that the powers of the Registrar under this section shall not be delegated to any officer below such rank as may be prescribed.

Recovery of debt.

108. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force and without prejudice to any mode of recovery which is being taken or may be taken, the Registrar may, on application made by a co-operative society including federal co-operative society or financial institution for recovery of arrears of any sums advanced to any of its members and on its furnishing a statement of accounts in respect of arrears and after making such inquiry as he deems fit, issue a certificate for recovery of the amount stated therein to be due as arrears.

(2) Where the Registrar is satisfied that a co-operative society has failed to take action under sub-section (1) in respect of any amount due as arrears, he may on his own motion, and after making such enquiry as he deems fit, issue a certificate for the recovery of the amount stated therein to be due as arrears and such certificate shall be deemed to have been issued on an application made by co-operative society or financial institution concerned.

- (3) A certificate issued by the Registrar under sub-section (1) or sub-section (2) shall be final and conclusive proof of the arrears stated to be due therein and the certificate shall be executed in the manner specified in section 111.

Registrar or person empowered by him to be civil court for certain purposes.

- 109.** The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step in aid of such recovery, to be civil court for the purposes of article 136 of the Schedule to the Limitation Act, 1963 (36 of 1963).

Recovery of sums due to Government.

- 110.** (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 Government, including any costs awarded to 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 co-operative society to Government and recoverable under sub-section (1), may be recovered, firstly, from the property of the co-operative society, secondly, in the case of the co-operative 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 co-operative societies, from the members, past members or the estates of the deceased members :

Provided that the liability of past members and the estate of deceased members shall in all cases be subject to the provisions of section 29.

Special powers of Registrar for recovery of amount recoverable as arrears of land revenue.

- 111.** (1) For the purpose of effecting recovery of amount due and recoverable under the provisions of this Act and the rules made thereunder, as arrears of land revenue -
- (i) the Registrar appointed under section 3 shall have and exercise all powers and perform all the duties of the Collector under the Delhi Land Reforms Act, 1954; (Delhi Act 8 of 1954) read with the Delhi Land Revenue Act, 1954 (Delhi Act 12 of 1954);
 - (ii) the Joint Registrars appointed to assist the Registrar under section 3 of this Act shall have and exercise all powers and perform all the duties of the Additional Collector;
 - (iii) the Deputy Registrars, Assistant Registrars and the Recovery Officer appointed under section 3 of this Act shall have and exercise all powers and perform all the duties of the Assistant Collector Grade I; and

- (iv) Inspectors Grade II assigned the duties of recovery shall have and exercise all the powers and perform all the duties of Assistant Collector Grade II.
- (2) Every notice issued or order passed in exercise of the powers conferred by sub-section (1) shall, for the purpose of sections 31, 33, 44, 51, 65, 66, 69, 77, 83, 84, 85, 89, 93, 105, 106, 108, 110, 111, 116 and 122 be deemed to be a notice or an order passed under this Act.

CHAPTER - XII

APPEALS, REVISION AND REVIEW

Appeals.

112. (1) Subject to the provisions of section 113, an appeal shall lie under this section against-
- (a) an order of the Registrar made under sub-section (2) of section 9 refusing to register a co-operative society;
 - (b) an order of the Registrar made under sub-section (4) of section 12 refusing to register an amendment of the bye-laws of a co-operative society;
 - (c) an order of the Registrar made under sub-section (1) of section 17;
 - (d) disputes relating to election under section 35;
 - (e) an order of the Registrar removing the committee of a co-operative society made under section 37;
 - (f) a decision of a co-operative society expelling any of its member under section 40;
 - (g) an order made by the Registrar under section 64 apportioning the cost of an inspection held under section 61 or an inquiry made under section 62;
 - (h) an order of surcharge under sub-section (2) of section 66;
 - (i) any decision made under section 70;
 - (j) any deemed admission of case under sub-section (3) of section 70;
 - (k) any decision or award made under section 71;
 - (l) application for implementation of award for vacating possession of flat or plot under sub-section (7) of section 83;

- (m) expulsion from the membership under sub-section (3) of section 86;
- (n) an order made by the co-operative society or the Registrar under section 95 or section 96 or section 97 directing the winding up of a co-operative society;
- (o) any order made by the liquidator of a co-operative society in exercise of the powers conferred on him by section 101;
- (p) any order made under section 107; and
- (q) a decision of a co-operative society refusing to admit any person as a member of the co-operative society who is otherwise duly qualified for membership under the bye-laws of the co-operative society.

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

- (a) if the decision or order falls under clauses (d), (f) (g), (h), (i), (j), (k) and (m) of sub-section (1), to the Tribunal;
- (b) if the decision or order falls under clause (e), to the Government;
- (c) if decision or order falls under clause (l), to the court of Metropolitan Magistrate; and
- (d) in any other case, to the Government or the Registrar according as the decision or order was made by the Registrar or any other person.

(3) No appeal shall lie under this section from any decision or order by the Registrar in appeal.

No appeal or revision in certain cases.

113. Notwithstanding anything contained in this Act where, with the previous sanction in writing or on requisition of the Reserve Bank -

- (i) a co-operative bank is being wound up; or
- (ii) in respect of which a scheme of amalgamation or reorganisation is given effect to; or
- (iii) in respect of which an order for the supersession of the committee and the appointment of an administrator therefor has been made;

no appeal, revision or review thereagainst shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question.

Delhi Co-operative Tribunal.

- 114.** (1) The Government shall by notification published in the official Gazette, constitute a Tribunal to be called the Delhi Co-operative Tribunal to exercise the powers and perform the functions conferred by or under this Act upon such Tribunal.
- (2) The Tribunal shall consist of a Chairman and not more than two other members possessing such qualifications as may be prescribed, and shall be appointed by the Government by notification in the official Gazette for such term as may be prescribed.
- (3) Any vacancy in the membership of the Tribunal shall be filled by the Government.
- (4) Subject to the previous approval 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.
- (5) The regulations made under sub-section (4) shall be published by the Government in the official Gazette.
- (6) The Tribunal may call for and examine the record of any proceedings, in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem fit.
- (7) An order passed in appeal under section 112 or in revision under sub-section (6) of this section or in review under section 115 by the Tribunal shall be final and conclusive, and shall not be called in question in any civil or revenue court.

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

Review.

- 115.** (1) The Government or the Tribunal or the Registrar on the application of any party may review their own order in any case, and pass in reference thereto such order as they think just :

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

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and being heard in support of such order.

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

Revision.

116. (1) Government may of its own motion or on application made to it, call for and examine the record of the Registrar, in respect of any proceeding not being a proceeding in respect of which an appeal to the Tribunal is provided by section 114 to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision passed or order made therein and if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly :

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

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) Government may suspend the decision or order pending the exercise of its power under sub-section (1) in respect thereof.

(4) Government may award costs in proceedings under this section to be paid either out of the funds of the co-operative society or by such party to the application for the revision as the Government may deem fit which may be recovered as arrears of land revenue.

Interlocutory orders.

117. Where an appeal is made under section 112 or where the Tribunal or the Government calls for the record of a case under section 113 or section 115, the appellate authority or the Tribunal or the Government, as the case may be, may in order to prevent the ends of justice being defeated, make such interlocutory order, including an order of stay, pending the decision of the appeal or revision as such authority or the Tribunal or the Government may deem fit.

CHAPTER - XIII

OFFENCES AND PENALTIES

Offences and penalties.

118. (1) Any co-operative society or an officer or member thereof, willfully making a false return or furnishing false information, or any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act, or willfully not furnishing any information required from it or him or by a person authorized in this behalf under the provisions of this Act, shall be punishable with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees.

- (2) Any employer who, without sufficient cause, fails to pay to a co-operative society the amount deducted by him under section 52 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five thousand rupees.
- (3) Any officer or custodian who willfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to a person entitled under section 38 or section 60 or section 61 or section 62 or section 99 shall be punishable with fine which may extend to two thousand rupees and in the case of a continuing breach, with a further fine which may extend to five thousand rupees for every day during which the breach is continued after conviction for the first such breach.
- (4) Any person who acts in contravention of section 44 or section 45 or sub-section (2) of section 66 or section 67 or section 68 or section 138 shall be punishable with fine of five hundred rupees.
- (5) The committee of a co-operative society or any of its officers or employees who falsify or tamper with the record of the co-operative society, shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.
- (6) Any officer or employee of a co-operative society including the paid secretary who dishonestly or fraudulently misappropriates or otherwise converts for his own use or intentionally causes loss to the property of the co-operative society entrusted to him or under his control as such officer or employee, or allows another person so to do shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.
- (7) If any allotment of plot or flat is made by the committee in contravention of the provisions of sub-section (1) of section 77, the committee and its members responsible shall be punishable with imprisonment which may extend to seven years and shall also be liable to fine.
- (8) If a co-operative society fails to file return as required under section 32, the committee or the negligent officer shall be punishable with a fine, which may extend to five hundred rupees.
- (9) If committee fails to dispose of application within the period prescribed in section 91, the committee members responsible shall be liable for a penalty of ten thousand rupees and in the case of a continuing breach, with a further fine of one hundred rupees for every day during which the breach is continued after the expiry of the prescribed period.
- (10) On conviction, a member of the co-operative society shall be debarred from contesting election of a committee for a period of six years.”
(substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)

Prohibition of the use of the word 'co-operative' or its equivalent.

- 119.** (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 forms part without the sanction of the Government :

Provided that nothing in this sub-section shall apply to the use, by any person or his successor in interest, of any name or title under which he traded or carried on

business at the date on which the Co-operative Societies Act, 1912, (2 of 1912) come into operation.

- (2) Whoever contravenes the provisions of sub- section (1) shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with further fine of five hundred rupees for each day during which the offence is continued after conviction therefor.

Punishment for offences not otherwise provided for.

- 120.** Any co-operative society or any officer or member thereof or any other person contravening the provisions of this Act for which no punishment is expressly provided herein shall be punishable with a fine which may extend to five thousand rupees.

Cognizance of offences.

- 121.** (1) No court inferior to that of a Metropolitan Magistrate shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given unless the person concerned has been provided a reasonable opportunity to represent his case.

(3) Every offence under this Act shall, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to be a cognizable offence.

Presumption as to commission of offence in certain cases.

- 122.** (1) In the trial of offences by the Metropolitan Magistrate, it shall be presumed until the contrary is proved that any officer or employee of a co-operative society -

- (a) who draws the amounts from the financing institution and fails to properly disburse or account for it, has misused or misappropriated the amounts;
- (b) who is responsible for the custody of books and properties or who is in actual possession thereof, fails to produce the same on requisition by the Registrar or any person authorised by him, has wilfully withheld the same;
- (c) who makes any false entries or manipulates or alters the account books of the co-operative society, has wilfully committed the said act in order to cause loss or damage to the co-operative society;
- (d) who misuses the properties of the co-operative society in contravention of the provisions of this Act and the rules made thereunder or the bye-laws of the co-operative society has done so, for his personal benefit;
- (e) who executes any documents or enters into an agreement for sale or purchase of the land, plots, flats, etc., in contravention of the provisions of the registered bye-laws of the co-operative society,

has done so for his personal benefit and in order to cause loss to the members of the co-operative society.

- (2) Any officer or employee of a co-operative society who issues any receipt shall be deemed to have issued the same in the name of the co-operative society and shall be responsible to account for the same.
- (3) Notwithstanding the criminal liability, the officer or employee of a co-operative society shall be responsible to make good the loss caused to the co-operative society by committing such offences and the same shall be recovered as arrears of land revenue by the Registrar or the person authorised by him from the person responsible for causing such loss or his legal heirs or any person who has acquired the properties from such person or with the assistance of such person.

Presumption as to statements.

123. Where any member, officer or employee of a co-operative society has made a statement during the audit under section 60, or inspection under section 61, or inquiry under section 62, or inspection of debtor institution under section 63, or proceedings under section 66 and the statement is recorded by the Registrar or the person authorised by the Registrar in exercise of their powers conferred on them under this Act, the court shall presume that the statement was so recorded by the Registrar or the person authorised by him as a statement within the meaning of the Indian Evidence Act, 1872 (Act 1 of 1872).

Address of co-operative society.

124. Every co-operative society shall have an address registered in the manner prescribed to which all notices and communications may be sent and shall send to the Registrar notice of every change thereof within thirty days of such change.

Copy of Act, rules and bye-laws, etc. to be open for inspection.

125. Every co-operative society shall keep a copy of this Act, the rule and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times at the registered address of the co-operative society.

Power to exempt co-operative societies from conditions as to registration.

126. Notwithstanding anything contained in this Act, the Government may, by general or special order and subject to such conditions, if any, as it may impose, exempt any co-operative society or class of co-operative societies from any of the requirements of this Act as to registration.

Power to exempt co-operative societies from the provisions of the Act.

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

Officers and employees to be public servants.

128. The Registrar or any person authorised by him to recover any amount or to execute any orders or decisions taken under any provisions of this Act and every officer and employee of the co-operative society shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860)

Notice necessary in suits.

129. No suit shall be instituted against a co-operative society or any of its officer in respect of any act touching the business of the co-operative society until the expiration of ninety days next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

Companies Act not to apply.

130. The provisions of the Companies Act, 1956 (1 of 1956) shall not apply to co-operative societies.

Saving of existing co-operative societies.

131. (1) Every existing co-operative society which had been registered under the Co-operative Credit Societies Act, 1904 or under the Co-operative Societies Act, 1912, or under the Bombay Co-operative Societies Act, 1925, as was in force in Delhi, or the Delhi Co-operative Societies Act, 1972 shall be deemed to be registered under the corresponding provisions of this Act and rules framed thereunder and bye-laws thereof shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the said Acts shall, so far as they are consistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act, save that an order made cancelling registration of a co-operative society shall be deemed, unless the co-operative society has already been finally liquidated, as an order issued under section 95 or section 96 or section 97 for its being wound up.

Bar of jurisdiction of civil or revenue courts.

132. (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 its bye-laws or of an amendment of a bye-law;

(b) the removal of the committee;

(c) any dispute required under section 70 to be referred to the Registrar; and

(d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such co-operative society shall be proceeded with or instituted against the liquidator as such or against the co-operative society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award made under this Act, shall be questioned in any court on any ground whatsoever.

Powers of civil Court.

133. (1) In exercising the functions conferred on him by or under this Act, the Registrar, the **arbitrator** (substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) or any other person deciding a dispute under section 70 and the liquidator of a co-operative society or person entitled to audit, inspect or hold an inquiry and the Tribunal shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (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 witness.

(2) In the case of an affidavit, the Registrar or any officer appointed by him, the **arbitrator** (substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005), the liquidator or the Tribunal, as the case may be, may administer the oath to the deponent.

Indemnity.

134. 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 under this Act.

Service rules for employees of co-operative societies.

135. The Government shall as soon as may be after the commencement of this Act, direct all co-operative societies or class of co-operative societies to frame service rules for their employees and get them approved from the committee within a period of three hundred and sixty five days.

CHAPTER - XIV

RULES AND MISCELLANEOUS PROVISIONS

Power to delegate.

136. The Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised by such officer as may be mentioned therein in such cases and subject to such conditions, if any, as may be specified therein.

Power to make rules.

137. (1) The Government may, by notification published in the official Gazette, make rules for carrying out all or any of the purposes of this Act and for any class of co-operative societies.

(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 -

- (a) prescription of viability norms for registration of a co-operative society;
- (b) the maximum number of shares or proportion of the capital of a co-operative society which may be held by a member;
- (c) the form to be used and conditions to be complied with in making of application for the registration of a co-operative society and the procedure in the matter of such applications;
- (d) the procedure to be followed in making, altering and abrogating the bye-laws and the conditions to be specified prior to such making, alteration and abrogation and compulsory amendment of the bye-laws by the Registrar;
- (e) the procedure and conditions for change in the form and extent of liability of a co-operative society;
- (f) procedure for amalgamation, transfer of assets and division of co-operative society;
- (g) classifications of co-operative societies with reference to their objects, area of operation, membership or any other matter by the Registrar;
- (h) conditions to be complied with by a person applying for admission or admitted as member;
- (i) admission of any person as nominal, associate or joint member and the terms and conditions and the procedure to be followed therefor;
- (j) right of membership to be acquired only on payment made towards membership and interest to be acquired to exercise the

right of membership and the manner in which vote can be exercised;

- (k) restriction on transfer of shares or interest;
- (l) transfer of interest on death of a member, procedure and liability of past member and estate of the deceased member;
- (m) the proportion of individual and co-operative society in the constitution of the committee and the general body of co-operative society of which other co-operative society is a member and the power exercisable by such committee or general body;
- (n) the procedure for holding of annual general body meeting, time to be given for finalising the accounts at the close of the co-operative year, consequence of failure of a committee to conduct the annual general body meeting in time and action by the Registrar to conduct the same and recovery of the expenses as arrears of land revenue from the defaulting persons;
- (o) details of the returns and their format to be filed relating to the constitution, business and allied matters by a co-operative society within thirty days of holding of the annual general body meeting;
- (p) the procedure for holding a special general body meeting and recovery of expenses from delinquent officers of the committee;
- (q) the constitution of the committee of a co-operative society for its management, procedure for nomination of members on the committees where the Government has contributed equity share capital and the Government guarantees have been given for loans or floating of bonds;
- (r) the procedure for holding of the elections and the steps to be initiated for such election before the expiry of the term, appointment of an administrator on failure to conduct elections and to conduct election within ninety days, recovery of expenses from the delinquent officers of the committee in cases of default;
- (s) prescribing reservation of seats for schedule castes, other backward classes and woman on the committee, where share capital is subscribed by the government and reservation of two seats for woman in all types of co-operative societies;
- (t) rules and procedure for conducting the election of the committees;
- (u) the procedure for making a motion expressing lack of confidence in the committee or any of its officer in the special general body meeting convened for the purpose and setting up an ad-hoc committee to conduct fresh elections within the period of ninety days;

- (v) the modalities to be complied with before supersession of the committee of a co-operative society and constitution of the new committee by the administrator before the expiry of his term;
- (w) procedure for authorisation to Sub-divisional Magistrate for securing possession of records of a co-operative society;
- (x) the manner in which funds may be raised for running the business of a co-operative society,
- (y) the procedure to be followed for cessation of membership in a cooperative society.
- (z) procedure to be followed for expulsion of members other than members of co-operative housing societies;
- (za) the procedure for certifying any entries in the books of a co-operative society and charges to be levied for supply of copies thereof;
- (zb) the formation and maintenance of reserve fund and other funds, and the objects to which such funds may be applied and allocation and distribution of the net profit arrived thereafter;
- (zc) the amount and percentage of net profit to be contributed by a co-operative society for Co-operative Education Fund and its utilisation;
- (zd) manner in which a co-operative society may invest or deposit its funds;
- (ze) the limit up to which a co-operative society can receive deposits and loans, conditions for it;
- (zf) prohibitions and restrictions subject to which co-operative societies may transact business with the persons who are not members;
- (zg) the manner of getting the audit conducted by an auditor on the panel of the Registrar with in the prescribed time limit, action by the Registrar on failure to comply with the time limit by a co-operative society and recovery of expenses for getting the audit conducted as a arrears of land revenue from the officers of the committee;
- (zh) the manner in which a copy of audit report to be sent to the Registrar and rectification of defects by a co-operative society reported in the audit report by an auditor;
- (zi) the manner in which inspection, inquiry and inspection of books of indebted co-operative society is to be conducted, the security money to be deposited by a creditor for such inspection and the

follow up action to be taken on the findings including the rectification thereof;

- (zj) the accounts and books to be kept by a co-operative society during the course of its business and on failure to do so, to get them completed by the Registrar by engaging other persons as a charge on the committee recoverable as arrears of land revenue, the procedure and fee to be charged for it;
- (zk) the manner in which disputes to be referred for arbitration and fee for it;
- (zl) the procedure for selection and appointment of members of **arbitrator** (substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005), their terms and conditions of service and related matters;
- (zm) the procedure to be followed before the Registrar or **arbitrator** (substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) for settlement of disputes and guidelines and the format for announcing the award;
- (zn) the manner in which the affairs of a co-operative housing society shall be managed, rights and privileges of members on allotment of plot or flat, issue of certificate of allotment giving therein the details of plot or flat and the rights and privileges of member therein and member's obligations towards the co-operative society;
- (zo) the procedure for the allotment of plot or flat by draw of lots and for the verification of membership or change in the membership, with special reference to co-operative housing societies which have been allotted land on leasehold right basis by the lessor;
- (zp) the manner in which membership can be transferred in a co-operative housing society to heir or a nominee subject to the terms and conditions of the lease of land;
- (zq) the manner in which occupancy rights may be transferred in a co-operative housing society subject to right of the lesser in terms of lease deed of the land;
- (zr) the guidelines for the creation, maintenance and utilisation of the building maintenance fund and replacement fund in a co-operative housing society;
- (zs) the manner in which a mortgage in favour of a co-operative housing society or apex can be registered, its procedure and format;
- (zt) the procedure and manner of settling disputes in a co-operative housing society;

- (zu) the procedure for recovery of outgoings and arrears of dues of co-operative housing society or the apex by the Registrar as arrears of land revenue;
- (zv) the recovery of dues and foreclosure of properties in respect of dues of a co-operative housing society, apex and other approved housing finance institutions;
- (zw) the manner and procedure in which a member of a co-operative housing society may be expelled;
- (zx) the manner and procedure in which the membership of a member of co-operative housing society can be ceased;
- (zy) the guidelines for the management of co-operative housing societies;
- (zz) the guidelines for the maintenance of essential services in a co-operative housing society;
- (zza) the form of register of the properties to be maintained by co-operative housing society;
- (zzb) the manner of regularisation of membership of persons who have acquired property in a co-operative housing society as power of attorney holder or purchaser of property through agreement of sale and purchase subject to right of lessor and procedure for enforcement of time limit for conversion of property to freehold;
- (zzc) the prescription of the guidelines for execution of co-operative housing projects and procedure for initiating action in case of default;
- (zzd) the prescription of the guidelines for the management of co-operative housing complex by the co-operative housing societies;
- (zze) the manner in which a house building co-operative society which has achieved its objects is to be wound up and the scheme therefor subject to the prior consent of the lessor;
- (zzf) the procedure to be followed in respect of co-operative societies which have decided for the dissolution or where liquidator has been appointed for winding up proceedings by the Registrar and finalisation thereof;
- (zzg) the manner of service of notice regarding the procedure for enforcement of charge;
- (zzh) the manner of effecting execution of orders and attachment;

- (zzi) attachment before award and authorisation of officers by the Registrar for taking custody, preservation and sale of property under attachment, recovery of debt as arrears of land revenue, specifying officers who can be delegated powers of the Registrar to attach property before announcement of the award;
- (zzj) recovery of dues as arrears of land revenue procedure for it;
- (zzk) the procedure to be followed in presenting and disposing of appeals;
- (zzl) the procedure for selection of members of the Tribunal, laying down the qualifications and the terms of the Chairman and the members of the Tribunal, and framing of regulations for the working of Tribunal;
- (zzm) the procedure for submission of application for review;
- (zzn) the procedure for making submission for revision;
- (zzo) issuing directions to the co-operative societies to frame service rules for employees;
- (zzp) fee to be fixed for supply of documents and information to a member or a creditor;
- (zzq) the method of communication or publishing any order, decree or award required to be communicated or published under this Act or the rules;
- (zzr) any other matter which is required to be, or may be, prescribed under this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly of the National Capital Territory of Delhi while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the Legislative Assembly agrees in making any modification to the rule or the Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of the Registrar to give directions to the co- operative banks.

138. The Registrar may generally or in any particular matter under this Act or for enforcement of directions of the Reserve Bank to protect the interest of members and depositors of the co-operative banks licensed by the Reserve Bank and registered under this Act or operating in Delhi under the Multi-State Co-operative Societies Act, 2002 (39 of 2002), issue such orders or directions as he may consider necessary to a co-operative bank or banks and thereupon such co-

operative bank shall give effect to such orders or directions and shall report to him the compliance within the time specified in the order or direction.

Right to information.

139. (1) Any member or creditor having interest in the affairs of the co-operative society may seek information relating to any transaction of the co-operative society and for that purpose may be provided a certified copy of any document within thirty days from the date of receipt of application relating to such transaction on payment of such fee as may be specified.

(2) Where a member or creditor having interest in affairs of a society seeking information prefers an appeal to the Registrar stating that the officer of the society without any reasonable cause, has refused to receive his application for providing information or has not furnished information within the time specified under sub-section (1) or has refused the request for information or knowingly given incorrect information or obstructed in any manner in furnishing the information, the Registrar, after affording a reasonable opportunity of being heard to the officer of the society and the appellant, may either reject the appeal; or direct the officer of the society to furnish information within the period specified in the order or such extended period as may be allowed, and in case of default the Registrar may impose a penalty of two hundred and fifty rupees each day till the information is furnished, so however, the total amount of such penalty shall not exceed ten thousand rupees which shall be recoverable as arrears of land revenue in case of default in payment.

Act to override other laws.

140. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Repeal and savings.

141. On the day on which the Delhi Co-operative Societies Act, 2003 comes into force, the Delhi Co-operative Societies Act, 1972 (35 of 1972) in force in the National Capital Territory of Delhi shall stand repealed. Provided that the repeal shall not affect -

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and

any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if that Act had not been repealed.

Removal of difficulties.

- 142.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, do any thing not inconsistent with such provisions of this Act for the purpose of removing the difficulties :

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

- (2) Every order under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi for ratification.

THE FIRST SCHEDULE

**[SEE SECTION 2(g)]
CO-OPERATIVE PRINCIPLES**

- 1. Voluntary and Open Membership** _ Co-operatives are voluntary organisations, open to all persons capable of using their services and willing to accept the responsibilities of membership, without discrimination on basis of gender, social inequality, racial, political ideologies or religious consideration.

2. **Democratic Member Control** _ Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and decision making. Elected representatives of these co-operatives are responsible and accountable to their members.
3. **Member's Economic Participation** _ Members contribute equitably and control the capital of their Co-operative democratically. At least a part of the surplus arising out of the economic results would be the common property of the co-operatives. The remaining surplus could be utilised benefiting the members in proportion to their share in the Co-operative.
4. **Autonomy and Independence** _ Co-operatives are autonomous, self-help organisations controlled by their members. If co-operatives enter into agreement with other organisations including Government or raise capital from external sources, they do so on terms that ensure their democratic control by members and maintenance of Co-operative autonomy.
5. **Education, Training and Information** _ Co-operatives provide education and training to their members, elected representatives and employees so that they can contribute effectively to the development of their Co-operatives. They also make general public, particularly young people and leaders aware of the nature and benefits of co-operation.
6. **Co-operation among Co-operatives** _ Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through available local, regional, national and international structures.
7. **Concern for Community** _ While focusing on the needs of their members, co-operatives work for the sustainable development of communities through policies accepted by their members.

Sd/-

(P.S. PARMAR)

DEPUTY SECRETARY (LAW,JUSTICE & L.A.)