

**THE ARUNACHAL PRADESH CO-OPERATIVE SOCIETIES ACT,  
1978**

**(Act No.3 of 1979)**

**(Received the assent of the Lt. Governor on 30<sup>th</sup> June, 1979)**

**AN**

**ACT**

*to provide for the proper management of the Co-operative movement in the State of Arunachal Pradesh.*

WHEREAS with a view to providing for the orderly development of the Co-operative movement in the Union Territory of Arunachal Pradesh in accordance with the relevant directive principles of State Policy enunciated in the Constitution of India, it is expedient to frame adequate legislation relating to co-operative societies in that territory; it is hereby enacted by the Legislative Assembly of Arunachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:-

**CHAPTER I**

**Preliminary**

1. (1) This Act may be called the Arunachal Pradesh Co-operative Societies Act, 1978.

Short title  
extent and  
commencement.

(2) It extends to the whole of the Union Territory of Arunachal Pradesh.

(3) It shall come into force on such date as the Government of Arunachal Pradesh may, by notification in the Official Gazette, appoint.

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

Definitions.

- 1) **“Agricultural marketing society”** means a society:-
- a) the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production, and
  - b) not less than three-fourth of the members of which are agriculturists or societies formed by agriculturists;
- 2) **“Arbitrator”** means a person appointed under this Act, to decide disputes referred to him by the Registrar and includes the Registrar’s nominees or board of nominees;
- 3) **“Apex Bank”** means the Arunachal Pradesh State Co-operative Apex Bank Limited;

- 4) **“Auditor”** means a person appointed by the Registrar or by a society to audit the accounts of the society;
- 5) **“Bonus”** means payment made in cash or kind out of the profits of a society to member, or to a person who is not a member, on the basis of his contribution ( including any contribution in the form of labour or service) to the business of the society. And in the case of a farming society, on the basis both of such contribution and also the value or income or, as the case of a farming society, on the basis both of such contribution and also the value or income or, as the case may be, the area of the lands of the members brought together for Joint cultivation, as may be decided by the society;
- 6) **“bye-laws”** means bye-laws registered under this Act and for the time being in force, and includes registered amendment of such bye-laws;
- 7) **“Central Bank”** means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies;
- 8) **“Committee”** means the committee of management, or other directing body, to which the management of the affairs of a society is entrusted;
- 9) **“company”** means a company as defined in the Companies Act, 1956 and includes a Banking Company and also any board, corporation or other corporate body constituted or established by any Central, or State Act for the purpose of the development of any industry;
- 10) **“Consumers’ society”** means a society the object of which is-
  - a) the procurement, production or processing and distribution of goods to, or the performance of other services for, its members as also other customers, and
  - b) the distribution among its members and customers, in the proportion prescribed by rules or by the bye-laws of the society, of the profits accruing from such procurement, production or processing and distribution;
- 11) **“co-operative bank”** means society registered under this Act and doing the business of banking as defined in clause (b) of sub-section (I) of section 5 of the Banking Companies Act, 1949;
- 12) **“Co-operative year”** means the 12 months period beginning on 1<sup>st</sup> July and ending on 30<sup>th</sup> June;
- 13) **“Dividend”** means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;
- 14) **“farming society”** means a society in which, the object of increasing agricultural production, employment and income and the better utilization of resources, lands are brought together and jointly cultivated by all the members, such lands-
  - a) being owned by or leased to the members (or some of them), or

b) coming in possession of the society in any other manner whatsoever;

15) **“Federal society”** means a society-

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

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

16) **“Firm”** means a firm registered under the Indian Partnership Act, 1932 ;

IX of 1932.

17) **“General society”** means a society not falling in any of the class of societies defined by other clauses of this section;

18) **“Government”** means the Government of Arunachal Pradesh;

19) **“housing society”** means a society the object of which is providing its members with dwelling houses;

20) **“liquidator”** means a person appointed as liquidator under this Act;

21) **“local authority”** includes a school board and an agricultural produce market committee constituted by or under any law for the time being in force;

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

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

(b) **“nominal member”** means a person admitted to membership as such after registration in accordance with the bye-laws;

(c) **“sympathizer member”** means a person who sympathizes with the aims and objectives of the society and who is admitted by the society as such member;

23) **“officer”** means a person elected or appointed by a society to any office of such society according to its bye-laws; and includes a Chairman, Vice-Chairman, President, Vice-President, Managing Director, Manager, Secretary, Treasurer, member of the committee, and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society;

24) **“Official Gazette”** means the Arunachal Pradesh Gazette;

- 25) “prescribed” means prescribed by rules;
- 26) “processing society” means a society the object of which is the processing of goods;
- 27) “producers society” means a society the object of which is the production and disposal of goods or the collective disposal of the labor of the members thereof;
- 28) “Register” means a person appointed to be the Registrar of Co-operative Societies under this Act;
- 29) “resource society” means a society the object of which is the obtaining for its members of credit, goods or services required by them;
- 30) “rules” means made under this Act;
- 31) “society” means a co-operative society registered or deemed to be registered, under this Act;
- 32) “society with limited liability” means a society having the liability of its members limited by its bye-laws;
- 33) “society with unlimited liability” means a society, the members of which are in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society;
- 34) “working capital” means funds at the disposal of a society inclusive of paid-up share capital, funds built out of profits, and money raised by borrowing and by other means.

## **CHAPTER II**

### **Registration**

**3.** The Government may appoint a person to be the Registrar of Co-operative Societies for the Union Territory; and may appoint one or more persons to assist such Registrar and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar.

Registrar.

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

Societies which may be registered.

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

Registration with limited or unlimited liability.

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

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

Conditions  
of  
Registration.

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

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

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

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

**Explanation-** For the purpose of this section and section 8, the expression “member of a family” means a wife, husband, father, step-mother, son, daughter, step-son, step-daughter, grandson, grand-daughter, brother, sister, half-brother, half-sister, and wife of brother or half-brother.

7. Notwithstanding anything contained in this Act, the Government may, be special order in each case, exempt, subject to such conditions, if any, as it may impose, any society from any of the requirements of this Act as to registration.

Power to  
exempt  
societies from  
conditions as  
to  
registration.

8. (1) For the purpose of registration, an application shall be made to the Registrar in the prescribed form, and shall be accompanied by four copies of the proposed bye-laws of the society. The person by whom or on whose behalf, such application is made shall furnish such information in regard to the society, as the Registrar may require.

Application  
for  
registration.

(2) The application shall be signed-

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

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

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

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

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

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

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

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

**11.** When, for the purpose of the formation, or registration or continuance, of a society, any question arises whether a person is an agriculturist or not, or whether a person resides in the area of operation of the society or not, such question shall be decided by the Registrar. Power of Registrar to decide questions.

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

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

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

**13.** (1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar. Amendment of bye-laws of society.

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

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

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

Power to direct amendment of bye-laws.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting such federal society as may be notified by the Government, register such amendment and issue to the society a copy of such amendment, certified by him. With effect from the date of registration of the amendment in the manner foresaid, the bye-laws shall be deemed to have been duly amended accordingly; and the bye-laws as amended shall, subject to appeal, if any, be binding on the society and its members.

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

Change of name.

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

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

Change of liability.

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

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

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

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

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

Amalgamation, transfer, division or conversion of societies.

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

- (a) to amalgamate with another society;
- (b) to transfer its assets and liabilities, in whole or in part to any other society;
- (c) to divide itself in it two or more societies; or
- (d) to convert itself into another class of society:

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

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

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

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

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

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

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

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

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

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

(a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned ; 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 two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society, or from any member or class of members thereof, or from any creditor or class of creditors.

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

(4) Every member of creditor of each of the societies to be amalgamated, divided or reorganized, who has objected to the scheme of amalgamation, division or reorganization, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganization, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganization, 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 17 shall apply to the societies so amalgamated, divided or reorganized as if they were amalgamated, divided or reorganized under that section, and to the society amalgamated, divided or reorganized.

**19.** Where a proposal for a compromise or arrangement-

Reconstruction of societies.

(a) between a society and its creditors, or

(b) between a society and its members,

is approved at a special general meeting called for the purpose, the Registrar may, on the application of the society, or of any member or of any creditor of the society which is

being wound up, of the Liquidator, order reconstruction in the prescribed manner, of the society.

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

Partnership  
of societies.

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

**21.** The registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, or it has not commenced business within a reasonable time of its registration or has ceased to function or if he is satisfied, after making such inquiry as he thinks fit, that the society no longer has genuinely as its objects one or more of the objects specified in section 4, and its registration ought, in the interests of the general public, be cancelled. The society shall, from the date of such order of cancellation, be deemed to be dissolved, and shall cease to exist as a corporate body.

Cancellation  
of  
registration.

### **CHAPTER III**

#### **Members and their Rights and Liabilities**

**22.** (1) Subject to the provisions of section 24, no person shall be admitted as a member of a society except the following, that is to say,-

Person who  
may  
become  
member

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

IX of 1872

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

XXI of  
1860.

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

(d) the Government;

(e) a local authority;

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

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

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

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

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

(2) Where a person is refused admission as a member of a society, the decision, together with the reasons thereof, shall be communicated to that person within fifteen days of the date of the decision, or within three months from the date of his application for admission, - whichever is earlier.

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

Open membership.

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

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

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

Nominal, associate and sympathizer member.

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

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

Cessation of membership.

**26.** No person shall exercise the rights of a member of a society, until he has made such payment to the society, in respect of membership or acquired such interest in the society, as may be prescribed by the rules or the bye-laws of such society.

membership to be exercised till due payments are made.

**27.** (1) No member of any society shall have more than one vote in its affairs provided that, in the case of an equality of votes, the chairman shall have a casting vote.

Voting powers of members.

(2) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the Share Certificate, shall have the right to vote.

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

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

(5) Where a firm has invested any part of its funds in the shares of a society, any one of its partners shall be entitled to vote in the affairs of the society on behalf of the firm.

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

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

(8) No nominal, associate, or sympathizer member shall have the right to vote.

**28.** In any society, no member other than the Government or any other society, shall:-

Restrictions on holding of shares.

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

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

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

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

Restrictions on transfer of charge on share or interest

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

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

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

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

**Explanation-** the right to forfeit the share or interest of any expelled member in the share capital by virtue of any bye-laws of the society, shall not be affected by the foresaid provisions.

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

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

Transfer of interest on death of member.

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

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

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

(3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

**31.** The share or interest of a member in the capital of a society, or the loan stock issued by a housing society, or in the funds raised by a society from its member by way of savings deposit, shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member.

Share or interest not liable to attachment.

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

Rights of member to see books, etc.

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

**33.** (1) Subject to the provisions of sub-section (2), the liability of a past member or the estate of a deceased member of a society for the debts of society as they stood,-

Liability of past member and estate of deceased member

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

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

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

Provided that provisions of sub-sections (1) and (2) shall not apply in the case of a minor who succeeds the deceased.

**34.** Notwithstanding anything contained in any law for the time being in force, the dues of society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to Government or to a local authority.

Insolvency of members.

**35.** (1) A society may, by resolution passed by three-fourths majority of the members entitled to vote who are present at general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society:

Expulsion of members

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

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

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

**36.** (1) Every member of a society shall exercise his vote in person and no member shall be permitted vote by proxy.

Manner of exercising vote.

(2) Notwithstanding anything contained in sub-section (1); a society which is a member of another society may, subject to the Rules, appoint one of the members to vote on its behalf in the affairs of that other society.

## CHAPTER-IV

### Incorporation, Duties and Privileges of Societies

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

Societies bodies to be corporate.

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

Address of Societies.

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

Register of members.

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

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

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

**40.** Every society shall keep, at the registered address of the society, a copy of this Act and the rules and of its bye-laws and a list of this Act and the rules and of its bye-laws and a list of members, open to inspection to the public free of charge, during office hours or any hours fixed by the society therefore.

Copy of Act, etc., to be open to inspection.

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

Admissibility of copy of entry as evidence.

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

**42.** Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908, shall apply-

XVI of 1908. Exemption from compulsory registration and instruments relating to shares and debentures of society.

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

(b) to any debentures issued by any society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security 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 debenture; or

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

**43.** The Government, by notification in the Official Gazette, may, in the case of any society or class or class of societies remit,-

Power to exempt from taxation.

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

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

(c) any other tax or fee or duty (or any portion thereof) payable by or on behalf of a society under any law for the time being in force, which the Government is competent to levy.

**44.** A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions as may be prescribed, or specified by the bye-laws of the society.

Restrictions on borrowings

**45.** (1) No society shall make a loan to any person other than a member, or on the security of its own shares or on the security of any person who is not a member:

Regulation of loan making policy.

Provided that with the special sanction of the Registrar, a society may make loans to another society.

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

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

**46.** Save as is provided in this Act, the transaction of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

Restrictions on transactions with persons other than members.

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

Charge and setoff in respect of share or interest of members.

Provided that no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 72 or its reserve fund; and no co-operative bank shall be entitled to set-off any such sum towards any debts due from the society.

**48.** (1) Notwithstanding anything in any other law for the time being in force, but subject to any prior claim to any prior claim of Government in respect of any money recoverable as a public demand and to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908 or the analogous law in force in the State of Arunachal Pradesh.

Prior claim of society.

V of 1908

(a) any debt or outstanding demand, owed to a society by any member or past member or deceased member, shall be a first charge,-

(i) upon the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by such member or past member or deceased member,

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery or raw materials for manufacture, or for manufacture, or workshop, go down or place of business supplied to or purchased member, in whole or past member or deceased member, in whole or past member or deceased member, in whole or in part, from any loan whether in money or goods made to him by the society, and

(iii) upon any movable property which may be hypothecated, pledged or otherwise mortgaged by a member with the society and remaining in his custody;

(b) any outstanding demands or dues payable to a society by any member or past member or deceased member in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

**Explanation-** the prior claim of Government in respect of dues, other than land revenue, shall be restricted for the purpose of sub-section (1) to the assets created by a member out of the funds in respect of which the Government has claim.

(2) No property or interest in property, which is subject to a charge under the foregoing sub-section, shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may impose.

(3) Any transfer made in contravention of sub-section (2) shall be void.

(4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has one of its objects the disposal of the produce of its members, may provide in its bye-laws, or may otherwise contract with its members,-

(a) that every such member shall dispose of his produce through the society; and

(b) that any member, who is found guilty of a breach of the bye-law or any such contract, shall reimburse the society for any loss, determined in such manner as may be specified in the bye-laws.

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

(a) any person, who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the form prescribed. Such declaration shall state that the applicant

Charge on the immovable property of members borrowing from certain societies.

thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances if any, required by him which the society may make to him as such member, subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances;

- (b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a); and no such person shall, unless and until he has made such declaration, be entitled to exercise any rights as a member of the society;
- (c) a declaration made under clause (a) or (b) may be varied at any time by a member, with the consent of the society in favor of which such charge is created;
- (d) no member shall alienate the whole or an, part of the land or interest therein, specified in the declaration made under clause (a) or (b) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

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

Provided further that, if a part of the amount borrowed by a member is paid, the Central Financing Agency may, on an applicant from the member, release from the charge (a) or (b), such part of the movable or immovable property specified in the said declaration, as it may deem proper, with due regard to the security of the balance of the amount remaining outstanding from the member:

Provided further that standing crops on any such land may be alienated with the previous permission of the society.

- (e) any alienation made in contravention of the provision of clause (d) shall be void;
- (f) subject to the prior claim of the Government in respect of land or any money recoverable as land revenue, or any part of the State there shall be first charge in favor of the society on the land or interest specified in the declaration made under clause (a) or (b), for and to the extent of the dues owing by him on account of the loan;
- (g) the records of rights shall also include the particulars of every charge on land or interest created under a declaration under clause (a) or clause (b) notwithstanding anything contained in any law relating to land revenue for the time being in force;
- (h) any sum due to a society in consequences of charge created under a declaration under clause (a) or clause (b) shall on application for its recovery being made by

such society accompanied by a certificate signed by the Registrar, be recoverable by the Deputy Commissioner/Additional Deputy Commissioner according to the laws and under the rules for the time being in force for recovery as a public demand under the Bengal Public demands recovery Act, 1913.

**Explanation-** for the purposes of this section, the expression “society” means-

(i) any resource society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members, or

(ii) any society, or any society of the class of societies specified in this behalf by the Government, by a general or special order.

**50.** (1) It shall be compulsory for any office bearer or employees of a society, that in case of misappropriation, defalcation or in connection with an amount realizable from such person, shall be realized from his salaries, securities or any amounts that may be payable to him on the strength of the said agreement to be entered into before assuming office bearer or employee.

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

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

IV of 1936

(3) If after the receipt of a requisition made under the foregoing sub-section, the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof; and the amount shall be recoverable on behalf of the society from him as a public demand under the Bengal Public Demands Recovery Act, 1913 and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears.

(4) Nothing contained in this section shall apply to person employed in any railways and in mines and oil fields.

## CHAPTER V

### State aid to Societies

**51.** The Central Government may subscribe directly to the share capital of a society with limited liability upon such terms and conditions as may be agreed upon.

Direct partnership of Central Government in societies.

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

Indirect partnership of Central Government in society.

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

Principal State Partnership Fund.

(2) An Apex Society shall utilize the Principal State Partnership Fund for the purpose of-

- (a) directly purchasing shares in other societies with limited liability;
- (b) providing moneys to a society to enable that society (hereinafter in this Chapter referred to as a "Central Society") to purchase shares being hereinafter in this Chapter referred to as "Primary Society");
- (c) making payments to the Central Government in accordance with the provisions of this Chapter; and for no other purpose.

**54.** (1) A Central Society which is provided with moneys by an Apex Society from the Principal State Partnership Fund shall, with such moneys establish a Fund to be called the "Subsidiary State Partnership Fund".

Subsidiary State Partnership Fund.

(2) A Central Society shall utilize the Subsidiary State Partnership Fund for the purpose of-

- (a) purchasing shares in Primary Society;
- (b) making payments to the Apex Society in accordance with the provisions of this Chapter; and for no other purpose.

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

Approval of Central Government for purchase of shares.

**56.** Where any shares are purchased in a society by-

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

Liability to be limited in respect of certain shares.

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

**57.** An Apex Society has purchased shares in other societies from the moneys in the Principal State Partnership Fund and a Central Society which has purchased shares in Primary societies from the money in the Subsidiary State Partnership Fund, shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share holders of the society.

Restriction on amount of dividend.

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

Indemnity of Apex and Central Societies.

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

**59.** (1) All moneys received by an Apex Society in respect of shares of other societies purchased from the moneys in the Principal State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall be credited to that fund.

Disposal of Share Capital and dividend, etc.

(2) All moneys received by a Central Society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise shall in the first instance be credited to that Fund and then transferred to the Apex Society which shall credit them to the Principal State Partnership Fund.

(3) All moneys and dividends referred to in sub-sections (1) and (2) shall, notwithstanding that the shares stand in the name of the Apex Society, or the Central Society as the case may be paid to the Central Government.

(4) Save as provided in sub-section (3), the Central Government shall not be entitled to any other return on the moneys provided by it to an apex Society under section 52.

**60.** (1) If a Apex Society which has established a Principal State Partnership Fund is wound up or dissolved all moneys to the credit of or payable to that Fund shall be paid to the Central Government.

Disposal of Principal or Subsidiary State Partnership Fund on State winding up and Apex or Central Society.

(2) If a Central Society which has established a Subsidiary State partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to that fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 53.

**61.** Any amount to the credit of a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the Apex Society of the Central Society, as the case may be.

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

**62.** Subject to the foregoing provisions of the Chapter-

Agreement by Central Government and Apex Societies.

(a) the Central Government may enter into an agreement with an Apex Society setting out the terms and conditions on which it shall provide moneys to the Apex Society for the purpose specified in section 52;

(b) an Apex Society may, with the previous approval of the Central Government, enter into an agreement with a Central Society setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 53.

**63.** Notwithstanding anything contained in any law for the time being in force but subject to such conditions as the Central Government, by general or special order, may specify in this behalf, the Central Government may-

Other form of State aid to societies.

(a) give loans to a society;

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

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

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

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

**64.** The provisions of sections 52 to 62 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Provisions of this Chapter to override other laws.

## CHAPTER VI

### Property and Funds of Societies

**65.** No part of the funds, other than the net profits of a society, shall be paid by way of bonus or dividend, or otherwise distributed among its members:

Funds not to be divided.

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

**66.** (1) A society earning profit shall calculate the net profits by deducting from the gross profits for the year, all accrued interest which is overdue for more than six months, establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, taxes and depreciation, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profit. A society may, however, add to the net profits for the year, interest occurred in the proceeding years but actually recovered during the year. The net profits thus arrived at, together with the amount of profits brought forward from the previous year, shall be available for appropriation.

Appropriation of profits.

(2) A society may appropriate its profits to the reserve fund or any other fund to payment of dividends to members on their shares, to the contribution to educational fund of the territory level federal society which may be notified in this behalf by the Government to the payment of bonus on the basis of the support from the members and persons who are not members to its business to payment of honoraria, and towards any other purpose which may be specified in the rules

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

Reserve Fund.

(2) In the case of Resource or Producer's society at least one-fourth of the net profits of the society each year, and in the case of any other society, at-least one tenth of the net profits of the society each year, shall be carried to the reserve fund; and such reserve fund may be used in the business of the society or may subject to the provisions of section 71, be invested as the Government may, by general or special order, direct or may with the previous sanction of the Government, be used in part for some public purpose likely to promote the objects of this act, or for some such Purpose of the Union territory or of local interest.

**68.** No society shall pay a dividend to its members at a rate exceeding 25 per cent.

Restrictions on dividend.

**69.** (1) Every society which declares a dividend to its members at a rate of 4 per cent or more shall contribute towards the educational fund of the Territory level federal society which may be notified in this behalf by the Government at such rate as may be prescribed.

Contribution to educational fund of the State federal society.

(2) No society liable to contribute towards, the educational funds, shall pay a dividend to its members, unless the said contribution is made to the federal society notified as aforesaid. An officer willfully failing to comply with the requirement of this section shall be personally liable for making good the amount to the federal society notified as aforesaid.

**70.** After providing for the reserve fund as provided in section 67 and for the educational fund as provided in section 69, a society may set aside a sum not exceeding twenty per cent of its net profits and utilize, with the approval of such federal society as may be notified by the Government in this behalf from time to time the whole or part of such sum in contributing to any co-operative purpose or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

Contribution to public purposes.

VI of 1890

**71.** A society shall invest or deposit its funds in one or more of the following:-

Investment of funds.

- (a) in the Arunachal Pradesh State Co-operative Apex Bank Limited;
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1881;
- (c) in the shares or security bonds or debentures issue by any other society with limited liability;
- (d) in any banking company approved for this purpose by the Registrar, and on such conditions as the Registrar may from time to time impose;
- (e) in any other mode permitted by the rules, or by general or special order of the Government.

11 of 1882

**72.** (1) Any society may establish for its employees a provident fund into which shall be paid the contributions made by its employees and by the society. Such provident fund shall not be used in the business of the but shall be invested under the provisions of the last preceding section, and shall be administered in the manner prescribed.

Employees' provident fund.

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

XIX of 1952.

## **CHAPTER VII**

### **Management of Societies**

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

Final authority.

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

Committee, its powers and functions

75. The qualifications for the appointment of a Manager, Secretary, Accountant or any other officer of a society shall be such, as may, from time to time, be prescribed.

Appointment of manager, Secretary and other officers.

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

Annual general meeting.

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

Provided further that, if in the opinion of the Registrar, no such extension is necessary, or such meeting is not called by the society within the extended period (if any) granted by him, the registrar or any person authorized by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society.

(2) At every annual general meeting of a society, the committee shall lay before the society a balance sheet and profit and loss account for the year in the manner prescribed by the Registrar by general or special order for any class or classes of societies.

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

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

(4) At every annual general meeting, the balance sheet, the profit and loss account, the auditor’s report and the committee’s report shall be placed for adoption and such other business will be transacted as may be laid down in the bye-laws and of which due notice has been given.

(5) If default is made in calling a general meeting within the period or as the case may be, the extended period, prescribed under sub-section (1) or in complying with sub-sections (2), (3) or (4) and who without reasonable excuse failed to comply with any of the aforesaid sub-sections disqualified for being elected and for being an officer or member of the committee for such period not exceeding three years, as he may specify in such an order and if the officer is a servant of the society, impose a penalty on him to an amount not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give or cause to be given, a reasonable opportunity to the person concerned of showing cause in regard to the action proposed to be taken against him.

(6) Any penalty imposed under sub-section (5) or under the next succeeding section, may be recovered in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Magistrate, as of such fine were imposed by the Magistrate himself.

II of  
1974

**77.** (1) A special general meeting may be called at any time by the Chairman or by a majority of the members of the committee and shall be called within one month-

Special  
general  
meeting.

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

(ii) at the instance of the Registrar, or

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

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

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

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

**78.** (1) No act of a society or a committee or any officer done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defects subsequently discovered in the organization of the society, or in the constitution of the

Act of  
societies,  
etc., not to  
be  
invalidated  
by certain  
defects.

committee or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office.

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

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

**79.** (1) If, in the opinion of the Registrar, the committee of any society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interests of the society or its members, or willfully disobeys directions issued by him for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by Government, or is otherwise not functioning properly, the Registrar may, after giving the committee an opportunity of stating its objections (if any) within thirty days from the date of issue of notice, and after consulting the federal society to which the society is affiliated, order in writing, remove the committee; and

Super  
session of  
committee.

- (a) appoint a committee, consisting of three or more members of the society, in its place or
- (b) appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for a period, not exceeding two years, specified in the order which may, at the discretion of the Registrar, be however, extended from time to time, as deemed necessary.

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

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

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

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

(6) The Registrar may fix the remuneration to the administrator and any expenses of management which shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix and if such remuneration or expenses are not paid within such time, and at such intervals, the registrar may direct the person having the custody of the funds of the society to pay to the administrator such remuneration and expenses in priority to any other payment (except and amount recoverable as a public demand under the Bengal Public Demands, Recovery Act, 1913) and such person shall so far as the funds to the credit of the society allow, comply with the order of the Registrar.

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

Registrar's power to enforce performance of obligations.

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

- (a) within the time provided in this Act, the rules or the bye-laws, or the order, as the case may be, or
- (b) Where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing.

The Registrar may himself or through a person authorized by him take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were a public demand under the Bengal Public demands recovery Act, 1913.

(3) Where the registrar takes action under sub-section (2) the registrar may call upon the officer or other officers of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the bye-laws, or the order made under sub-section (1), and after giving such officer or officers an opportunity of being heard may require him or them to pay to the society the expenses paid or payable by it to the State Government as a result of their failure to take action, and to pay to the assets of the society such sum not exceeding twenty-five rupees as the registrar may think fit for each day until the Registrar's directions are carried out.

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

Registrar's power to seize records, etc.

(2) On receipt of an application under sub-section (1), the Magistrate may in a warrant authorize any police officer not below the rank of a Sub-Inspector, to enter and

search any place where the records and property are kept or likely to be kept, and to seize them and handover possession thereof to the registrar or the person authorized by him, as the case may be.

## **CHAPTER VIII**

### **Audit, Inquiry, Inspection and Supervision**

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

Audit

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

(3) The Registrar or the person authorized shall, for the purpose of audit, at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of the society, and may summon any person in possession, or responsible for the custody, of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

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

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

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

(7) If at the time of audit the accounts of the society are not complete, the registrar or the person authorized by him under sub-section (1) may cause the accounts to be written up-to-date at the expense of the society.

(8) Audit fee if any due from any society shall be recoverable in the same manner as is provided in section 123.

**83.** If the result of the audit held under the last preceding section discloses any defects in the working of a society, the society shall within three months from the date of the audit report explain to the Registrar the defects or the irregularities pointed out by the auditor, and

Rectificat  
ion of  
defects in  
accounts.

take steps to rectify the defects and remedy irregularities, and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action, as may be specified in the order to remedy the defects, within the time specified therein. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.

**84.** (1) The Registrar may, of his own motion, himself, or by a person duly authorized by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

Inquiry by Registrar.

(2) The Registrar shall hold such an inquiry-

- (a) on the requisition of a society duly authorized by rules made in this behalf to make such requisition, in respect of one of its members such member being itself a society, or
- (b) on the application of a majority of the committee of a society, or
- (c) on the application of one-third of the members of society.

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

(b) If any refuses to produce to the Registrar or any person authorized by him under sub-section (1), any book or papers which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar or the person authorized by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorized by the Registrar may certify the refusal and the Registrar after hearing any statement which may be offered in defence, punish the defaulter with a penalty not exceeding five hundred rupees. Any sum imposed as penalty under this section shall, on the application by the Registrar or the person authorized by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by himself.

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

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

**85.** The Registrar, or any person, authorized by general or special order in this behalf by him, may inspect a Co-operative Society. For the purpose of inspection, the Registrar or the person so authorized by him, shall at all times have access to all books, accounts, papers, vouchers, securities, stock and other property of the society and may in the event of serious irregularities discovered during inspection take them into custody and shall have power to

Inspection of the societies.

verify the cash balance of the society and subject to the general or special order of the registrar to call a committee meeting, general meeting. Every officer or member of the society shall furnish such information with regard to the working of the society as the Registrar or the person making such inspection may require.

**86.** (1) On the application of a creditor of a society who-

Inspection  
of books of  
indebted  
society.

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

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

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

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

**87.** (1) Where an inquiry is held under section 84 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs, he may think just, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society:

Costs of  
inquiry and  
inspection.

Provided that-

- (a) no order of apportionment of the costs shall be made under this section, unless the society or persons or the legal representative of the deceased person liable to pay the costs thereunder; has or have been heard, or has or have had a reasonable opportunity of being heard;
- (b) the Registrar shall state in writing the grounds on which the costs are apportioned.

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

**88.** Any sum awarded by way of costs under the last preceding section, may be recovered, on an application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides or carries on business, and such

Recovery  
of costs.

Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

**89.** (1) If the result or any inquiry held under section 84 or an inspection made under section 85 discloses any defects in the constitution, working of financial condition or the books of a society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to make such action as may be specified in the order to remedy the defects, within the time specified therein.

Registrar to bring defects disclosed in inquiry or inspection of notice of society.

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

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

(4) If a society fails to rectify the defects disclosed in the course of or as a result of an audit under section 82 or fails to rectify the defects as directed by the Registrar, and where no appeal has been made to the State Government within the time specified in the order, or where on appeal so made the State Government has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified and may recover the costs from the officer or officers of the society who in his opinion, has or have failed to rectify the defects.

**90.** (1) Where, in the course of or as a result of an audit under section 82 or an inquiry under section 84 or an inspection under section 86 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorized to make by the auditor or the person authorized to make inquiry under section 84 or the person authorized to inspect the books under section 86 or the Liquidator under section 109 or otherwise that any person who has taken any part in the organization or management of the society or any deceased, or past or present officer of the society has within a period of five years, prior to the date of such audit, inquiry, inspection or order for winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person, authorized by him in that behalf, may frame charge against such person or persons and after giving reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate to answer the charges and make an order requiring him to repay or restore the money or property or any part thereof; with interest at such rate as the Registrar or the person authorized under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance, or breach of trust, as he may determine.

Power of registrar to assess damages against delinquent promoters, etc.

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

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

**91.** The Registrar or the persons authorized by him, when acting under sections 84,86 or 90 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908, or the analogous law in force in the Union territory of Arunachal Pradesh.

Power to enforce attendance, etc. V of 1908.

**92.** (1) The State Government may constitute or recognize one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government may impose, for supervision of a society or a class of societies and may frame rules for making grants to such an authority.

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

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

(3) A society to which sub-section (2) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and, if it fails to pay such fee within that reasonable time, the authority may recover it as if it were a public demand under the Bengal Public Demands recovery Act, 1913.

**93.** (1) If the Registrar or any person authorized by him in this behalf, while making audit, inspection, inquiry or supervision as the case may be, believes or has reason to believe that the registered society is not keeping or maintaining the account books and records of society's property or finds or reasonably suspects gross negligence of duties, misappropriation or mis-use of funds of the society, irregularity in recording proceedings or keeping accounts or books, he shall have power to take possession of any of the books registers or documents, cash in hand or account books of the society and remove such seized property or keep in proper custody such seized property till it is disposed of in any manner as may be directed by the Registrar.

Power to seize records of society.

(2) The persons seizing the properties should prepare duplicate copies of inventory of the properties seized with his signature and require the officer or member from whose possession or custody the property is seized to put his signature in witness thereof and if such officer or member refuses to sign, then the person seizing the property shall call upon two or more persons to sign seizure list. A copy of the list prepared under this section signed by the witness, shall be delivered to the office of the society.

(3) The Registrar shall take immediate steps by way of audit or inspection and pass such orders as he may think fit.

(4) The Administrative head of the respective place shall give police help to all officers mentioned in sub-section (1) of this section when sought for.

## CHAPTER IX

### Disputes and Arbitration

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

Dispute

- (a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society;
- (b) a member, past member or a person claiming through a member, past member or a deceased member of a society or a society which is a member of the society;
- (c) a person other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 46, and any person claiming through such person;
- (d) a surety of a member, past member or a deceased member or a person other than a member who has been granted a loan by the society under section 46, whether such a surety is or not a member of the society;
- (e) any other society, or the liquidator of such a society.

(2) When any question arises whether for the purposes of the foregoing sub-section, a matter referred to for decision is a dispute or not, the question shall be considered by the registrar whose decision shall be final.

(3) Save as otherwise provided under sub-section 3 of section 97, no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

**Explanation 1.-** A dispute between the Liquidator of a society and the members of the same society shall not be referred to the Registrar under the provisions of sub-section (1).

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

- (i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member or servant or employee whether such a debt or demand be admitted or not;
- (ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower whether such a sum or demand be admitted or not;

- (iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant or by its committees, past or present, whether such loss be admitted or not;
- (iv) a refusal or failure by a member, past member or a nominee, heir or legal representative of a deceased member, to deliver possession to a society land or any other asset resumed by it for breach of conditions of the assignment.

**95.** (1) If any society is unable to pay its debt to the Apex Bank by reason of any of its members committing default in the payment of the moneys due by them or to the society, the Apex Bank may direct such society to refer to the Registrar, under section 94, the dispute between the society and the defaulting members thereof;

Power of the Apex Bank to proceed against members of the society for recovery of the money

Provided that, if such society fails to refer the dispute as aforesaid within a period of ninety days from the date of receipt of such direction, the Apex Bank itself may refer to the Registrar the said dispute:

Provided further that, in case of a reference, the bye-laws of the defaulting society shall apply as if all reference to the society or its committee in the said bye-laws was reference to the Apex Bank.

(2) Where an Apex Bank has obtained a decree or award against any society in respect of the moneys due to it by such society, the Apex Bank may proceed to recover such moneys firstly from the assets of that society and secondly from the members of that society to the extent of the moneys due by them to that society.

**96.** (1) Notwithstanding anything contained in the Indian Limitation Act, 1963 but subject to the specific provision made in this Act, the period of limitation in the case of a dispute referred to the Registrar under the proceeding section, shall-

Limitation. XXXVI of 1963.

- (a) when the dispute relates to the recovery of any sum including interest thereon, due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;
- (b) when the dispute is between a society or its committee and any past committee, or any past or present officer, or past or present agent, or past or present servant, or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member of the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 106, or in respect of which a nominated committee or an administrator has been appointed under section 79, be six years from the date of the issue under section 106, or section 79, as the case may be;

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

(2) the period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to the Registrar under the last preceding section shall be regulated by the provisions of the Indian Limitation Act, 1963, as if the dispute were a suit, and the Registrar a Civil Court.

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

**97.** (1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 94, the registrar shall, subject to the rules, decide the dispute himself, or refer it for disposal to a nominee or a board of nominees, appointed by the Registrar.

Settlement of disputes.

(2) Where any dispute is referred under the fore-going sub-section, for decision to the Registrar's nominee or board of nominees, the Registrar may, at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee or board of nominees, appointed by him.

(3) Notwithstanding anything contained in section 94, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such, suit is not instituted within two months from the Registrar's order suspending proceedings; the Registrar shall take action as is provided in sub-section (1).

**98.** (1) The Registrar, or his nominee or board of nominees, hearing a dispute under the last preceding section shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witness including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of Civil Court by the Code of Civil Procedure, 1908 or the analogous law in force the Union territory of Arunachal Pradesh.

Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees. V of 1908.

(2) Except with the permission of the registrar or his nominee or board of nominees, as the case may be, no party shall be represented at the hearing of a legal practitioner.

(3) (a) If the Registrar or his nominee or board of nominees is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Registrar or his nominee or board of nominees shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of wrong person, or where all the defendants have not been included, the Registrar or his nominee or board of nominees may, at any stage of the hearing of the dispute, if satisfied that the mistake was *bonafide*, order any other person to be substituted or added as a plaintiff or a defendant upon such terms as he thinks just.

(c) The Registrar, his nominee or board of nominees may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the registrar, his nominee or board of nominees, as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, his nominee or board of nominees as the case may be, necessary in order to enable the registrar, his nominee or board of nominees effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such relief; but if he omits to claim for all such relief's he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, his nominee or board of nominees.

**99.** (1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 97 or under section 109 or where the Registrar or the person 97 or under section 109 or where the Registrar or the person authorized under section 90, hears a person against whom charges are framed under that section, the Registrar or his nominee or board of nominees or as the case may be, the person so authorized under section 90, if satisfied on enquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 90 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,-

Attachment  
before  
award.

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

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

(2) Where the Registrar, his nominee or board of nominees or the person authorized under section 90 direct attachment of property under the foregoing sub-section, he shall issue

a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period; and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees or, as the case may be, the person authorized under section 90 may confirm the order and after the decision in the dispute or the completion of the proceeding referred to in the foregoing sub-section may direct the disposal of the property so attached towards the claim if awarded.

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

**100.** When a dispute is referred to arbitration, the Registrar or his nominee or board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute on the expenses incurred by the parties to the dispute in connection with the proceedings, and the fees and expenses payable to the registrar or his nominee or, as the case may be, board of nominees. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal or review or revision, be binding on the parties to the dispute.

Decision of Registrar or his nominee or board of nominees.

Appeal against decision of Registrar or his nominee or board of nominees.

**101.** Any party aggrieved by any decision of the Registrar or his nominee or board of nominees under the last preceding section or an order, passed under section 99 may, within two months from the date of the decision or order, appeal to the Government.

**102.** Every order passed by the registrar or a person authorized by him under section 90 or by the Registrar, his nominee or board of nominees under section 99 or 100 every order passed in appeal under the last preceding section, every order passed by a Liquidator under section 109, every order passed by the Government in appeal against orders passed under section 109 and every order passed in revision under section 122 shall, if not carried out,-

Money how recovered.

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

(b) be executed according to the law and under the rules for the time being in force for the recovery as a public demand under the Bengal Public Demands recovery Act, 1913;

provided that any application for the recovery in such manner of any such sum shall be made to the Collector or Deputy Commissioner and shall accompanied by a certificate signed by the Registrar, or by an Assistant Registrar to whom the said power has been delegated by the Registrar. Such application shall be made within twelve months from the date fixed in the order and if no such date is fixed, from the date of the order.

**103.** Any private transfer or delivery of or encumbrance or charge on, property made or created after the issue of the certificate of the registrar, Liquidator, or Assistant Registrar, as the case may be, under section 102 shall be null and void as against the society on whose application the said certificate was issued.

Private transfer of property made after issue of certificate void against society.

**104.** (1) When in any execution of an order sought to be executed under section 102, any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person on his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 102, the Court or the Collector or the Deputy Commissioner or the Registrar, as the case may be, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof, shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.

Transfer of property which cannot be sold.

(2) Where property is transferred to the society under the foregoing sub-section, or where property is sold under section 102 the Court, the Collector, the Deputy Commissioner or the Registrar, as the case may be, may in accordance with rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

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

**105.** The Registrar may by general or special order, specify the scale of fees and expenses to be paid to his nominees or the board of nominees.

Scales of fees to be paid to the registrar's nominees.

## **CHAPTER X**

### **Liquidation**

**106.** (1) If the Registrar,-

- (a) after an inquiry has been held under section 84 or an inspection has been made under section 86 or on the report of the auditing of the account of the society, or
- (b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present of a special meeting called for the purpose, or
- (c) of his own motion in the case of a society which-

Winding up.

- (i) not commenced working, or
- (ii) Has ceased working, of
- (iii) Possesses shares or member's deposits not exceeding five hundred rupees, or
- (iv) Has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws,

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

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

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

Appointmen  
t of  
Liquidator.

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

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

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 109. The registrar may remove such persons and appoint another in his place without assigning any reason.

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

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

**108.** (1) The Committee, or any member, of the society ordered to be wound up, may within two months from the date of the issue of the order made under section 106, appeal to the Government:

Appeal  
against  
order of  
winding up.

Provided that no appeal shall lie against an order issued under sub-clauses (i), (ii) or (iii) of clause © of sub-section (1) of section 106.

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

**109.** The Liquidator appointed under section 107 shall have power subject to the rules and the general supervision, control and direction, of the Registrar,-

Powers of the  
Liquidator.

- (a) to institute and defend any suit and other legal proceeding civil or criminal, on behalf of the society, in the name of his office;
- (b) to carry on the business of the society, so far as may be necessary for the beneficial winding up of the same;
- (c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels;
- (d) to raise, on the security of the assets of the society any money required;
- (e) to investigate all claims against the society and, subject to the provisions of the Act, to decide questions of priority arising out of such claims, and to pay any class or classes of creditors in full or ratable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates;
- (f) to make any compromise or arrangement with creditors or persons claiming to be creditors or, having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable;
- (g) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts and all claims present or future certain or contingent, subsisting or supposed to subsist, between the society and contributory or alleged contributory or other debtor or person apprehending liability to the society, and

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

- (h) to determine from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officers or the estate or nominees, heirs, or legal representatives of a deceased officer to the assets of the society such contribution being inclusive of debts due from such members or officers;
- (i) to issue requisitions under section 102;
- (j) to get disputes referred to the registrar for decision by himself or his nominee or board of nominees;
- (k) to determine by what person and in what proportion the cost of the liquidation shall be borne;
- (l) to fix the time or times within which the creditors shall prove their debts and claim to be included for the benefit of any distribution made before these debts or claims are proved;
- (m) to summon and enforce the attendance of witness and compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in custody of the society by the same means and in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure, 1908;
- (n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up;
- (o) to take such action as may be necessary under section 19, with the prior approval of the Registrar, if there is reason to believe that the society can be re-constructed.

V of 1908.

**110.** After expiry of the period for appeal against the order made under sub-section (1) of section 106 or where the appeal, has been dismissed the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributors of the society, as if it had been made on the joint petition of creditors and contributors. When a winding up order becomes effective the Liquidator shall proceed to realize the assets of the society by sale or otherwise, and no dispute shall be commenced or if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose. The Registrar may, of his own motion, however, entertain or dispose of any dispute by or against the society.

Effect of  
order of  
winding up.

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

Bar or suit in winding up and dissolution matters.

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

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

Audit of Liquidator's accounts.

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

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

(4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions subsequent to his taking over the affairs of the society and may be proceeded against as if it were an act against which action could be taken under section 90:

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

**113.** (1) The winding up proceedings of a society shall be closed within three years from the date of the order of the winding up, unless the period is extended by the Registrar;

Termination of liquidation proceedings.

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

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

(2) Notwithstanding anything contained in the foregoing sub-section the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed and how the winding up has been conducted and the property of and the

claims of the society have been disposed of and shall include a statement showing a summary of the account of the winding up including the cost of liquidation the amount (if any) standing to the credit of the society in liquidation, after paying of its liabilities including the share or interest of members, and suggest how the surplus should be utilized.

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

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

Disposal of surplus assets.

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

- (a) an object of public utility and of local interest as may be recommended by the member in general meeting held under the preceding section;
- (b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society exists, the territory level federal society which may be notified in this behalf by the State Government; and
- (c) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

VI of 1890.

**115.** Notwithstanding anything contained in this Act,-

- (i) order for the winding up, or an order sanctioning a scheme of compromise or arrangement or amalgamation or reconstruction of an insured Co-operative Bank cannot be made save with the previous sanction in writing of the Reserve Bank of India;
- (ii) an order for the winding up of an insured Co-operative Bank shall be made if so required by the Reserve Bank of India in the circumstances referred to in section 13D of the Deposit Insurance Corporation Act, 1961;
- (iii) if so required by the Reserve bank of India in the public interest or for preventing the affairs of an insured Co-operative Bank from being conducted

Order for winding up of insured Co-operative Bank, etc. not to be made without sanction of Reserve Bank of India. XL VII of 1961.

in a manner detrimental to the interest of the depositors or for securing the proper management of such Bank, an order shall be made for the suppression of the managing body by whatever name called, of such Bank and for the appointment of an administrator for five years in the aggregate, as may from time to time be specified by the Reserve Bank of India;

- (iv) an order for winding up of an insured Co-operative Bank or an order sanctioning a scheme or compromise or arrangement or of amalgamation or reconstruction or an order for the super session of the managing body, by whatever name called, of such Bank and appointment of an administrator therefore, made with the previous sanction in writing or on requisition of the Reserve Bank of India shall not be liable to be called in question in any manner; and
- (v) the liquidator or the insured Co-operative Bank or the transferee Bank, as the case may be, shall be under an obligation to repay to the Deposit Insurance Corporation established under section 3 (1) of the deposit Insurance Corporation Act, 1961 in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance Corporation Act, 1961.

XLVII of 1961.

**Explanation:-** For the purpose of this section, an “insured Co-operative Bank” means a society which is an insured Bank as defined under the provisions of the deposit Insurance Corporation Act, 1961.

XLVII of 1961.

## **CHAPTER XI Offences and Penalties**

**116.** (1) No person, other than a society registered or deemed to be registered, under this Act, and a person or his successor in interest of any name or title under which he traded or carried in business at the date on which this Act comes into force, shall without the sanction of the Government, function, trade or carry on business under any name or title of which the word “co-operative”, or its equivalent in any Indian language, forms part.

Prohibition of use of the word Co-operative.

(2) Every person contravening the provisions of the foregoing sub-section shall in conviction, be punished with fine which may extend to five hundred rupees.

**117.** It shall be an offence under this Act, if-

Offences.

- (a) any member of a society transfers any property or interest in the property in contravention of sub-section (2) of section 48 or any person knowingly acquires, or abets in the acquisition of, such property:
- (b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer who without sufficient cause, fails to comply with sub-section (2) of section 50; or

- (c) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 71; or
- (d) any person, collecting share money for a society in formation does not within a reasonable period deposit the same in the Apex bank, or an Urban Co-operative Bank, or Postal Savings Bank; or
- (e) any person, collecting the share money for a society in formation makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise; or
- (f) a committee of a society, or an officer member thereof fails to comply with the provisions of sub-sections (2), (3) or (4) of section 76; or
- (g) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorized by the State Government or the Registrar under sections 79,82,84,86 or 98 or 107; or
- (h) any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer to a person appointed under section 79 or 107, or
- (i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof, fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders made under section 80; or
- (j) a committee of a society or an officer or member thereof willfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act, by the Registrar, or other person duly authorized by him in writing in this behalf; or
- (k) a committee of a society or an officer or member thereof willfully makes a false return or furnishes false information or fails to maintain proper accounts; or
- (l) any member, officer, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 82; or
- (m) any officer or a member of a society willfully fails to comply with any decision, award or order passed under section 97; or

- (n) a member of a society fraudulently disposes of property over which the society has a prior claim or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise with the fraudulent intention of evading the dues of the society; or
- (o) any officer of a society willfully recommends of sanctions for his own personal use or benefit or for the sue of benefit of a person in whom he is interested a loan in the name of any other person; or
- (p) any officer or member of a society destroys, mutilates, tampers with or, otherwise alters, falsifies or secrets or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, paper or securities or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society; or
- (q) any officer or member of a society or any person does any act declared by the rules to be an offence.

**Explanation:-** For the purpose of this section an officer or a member referred to in the section shall include past officer and past member, as the case may be.

**118.** Every society, officer or past officer, member or past member, or past employee of a society, or any other person who commits an offence under section 117 shall, on conviction, be punished,-

Punishments for offences under section 117.

(a) if it is an offence under clause (a) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both;

(b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

(c) if it is an offence under clause (c) of that section, with fine which may extend to five hundred rupees;

(d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees;

(e) if it is an offence under clause (e) of that section, with imprisonment for a term which may extend to one year, or with fine, which may extend to one thousand rupees, or with both;

(f) if it is an offence under clause (f) of that section, with fine which may extend to two hundred and fifty rupees;

(g) if it is an offence under clause (g) of that section, with fine which may extend to five hundred rupees;

(h) if it is an offence under clause (h) of that section, with fine which may extend to five hundred rupees;

(i) if it is an offence under clause (i) of that section, with fine which may extend to five hundred rupees;

(j) if it is an offence under clause (j) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred, or with both;

(k) if it is an offence under clause (k) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both;

(l) if it is an offence under clause (l) of that section, with fine which may extend to one hundred rupees;

(m) if it is an offence under clause (m) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;

(n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both;

(o) if it is an offence under clause (o) of that section, with imprisonment for a term which may extend to three years, or with fine or with both;

(p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to three years, or with fine or with both;

(q) if it is an offence under clause (q) of that section, with fine which may extend to two hundred and fifty rupees.

**119.** (1) A Magistrate of the First Class or a Magistrate of Second Class shall try any offence under this Act.

Cognizance  
of  
offences.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for a Magistrate of the first Class or a Magistrate of Second Class to pass a sentence or fine on any person convicted of an offence under clause (b) of section 117 as provided under section 118 in excess of his powers under section 29 of that Code.

(3) No prosecution under this Act shall be lodged except with the previous sanction of the Government in the case of an offence under clause (b) of section 117 and of the Registrar in the case of any other offence under this Act. Such sanction shall not be given except after hearing the party concerned by an officer authorized in this behalf by the Government by a general or special order.

## CHAPTER XII

### Appeals, Review and Revision

**120.** (1) An appeal against an order or decision under sections, 4,9,11,12,13,14,17,18,19,21,29,35,79,106 and 109 shall lie,-

(a) if made or sanctioned or approved by the Registrar or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the Government.,

(b) if made or sanctioned by any person other than the registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the Registrar.

(2) An appeal against an order or decision under sections 80,87 and 90 and any order passed by the Registrar for paying compensation to a society, shall be to the Government.

(3) An appeal under sub-section (1) or (2) shall be filed within two months of the date of the communication of the order or decision.

(4) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act; and every such order, decision or award shall be final and where any appeal has been provided for, any order passed on appeal shall be final and no further appeal shall lie against it.

**121.** In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

Extension of period of limitation by appellate authority in certain cases.

**122.** The Government and the Registrar may call for and examine the record of any enquiry or the proceedings of any other matter conducted by any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer. If in any case, it appears to the Government, or the Registrar, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Government or the Registrar, as the case may be, after giving persons affected thereby an opportunity of being heard pass such order thereon as may seem just.

Power of Government and Registrar to call for proceedings of subordinate officers and to pass order.

## CHAPTER XIII

### Miscellaneous

**123.** (1) Unless otherwise provided by this Act all sums due from a society or from an officer or members or past member or a deceased member of a society as such to the Government, may be recovered according to the law and under the rules, for the time being in force for the recovery as a public demand under the Bengal Public Demands Recovery Act, 1913.

Recovery of sums due to Government

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

Liability

(3) The liability of past members or create of deceased members shall in all cases be subject to the provisions of section 33.

**124.** (1) The Registrar or any officer subordinate to him and empowered by him in this behalf may, subject to such rules as may be made by the Government, but without prejudice to any other mode of recovery provided by or under this Act, recover-

Registrar's powers to recover certain sums by attachment and sale of property.

- (a) any amount due under a decree or order of Civil Court obtained by a society;
- (b) any amount due under decision, award or order of the Registrar, Arbitrator or Liquidator;
- (c) any sum awarded by way of costs under this Act;
- (d) any sum ordered to be paid under this Act as a contribution to the assets of the society;

together with interest, if any, due on such amount or sum and costs of process by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section, or when passing any orders on any application made to him for such recovery to be a Civil Court for the purposes of article 136 in the Schedule to the Indian Limitation Act, 1963.

XXXVI of 1963.

**125.** The Government may by general or special order to be published in the Official Gazette, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order;

Power to exempt societies from provisions of Act.

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

**126.** The Government may, by notification in the Official Gazette and subject to such conditions (if any as it may think fit to impose delegate all or any of the powers of the registrar under this Act to any federal authority or to an officer thereof and such officer shall work under the general guidance superintendence and control of the Registrar, specified in the notification.

Delegation of power of Registrar to federal authorities.

**127.** (1) No society shall open a branch or a place of business outside the Union Territory of Arunachal Pradesh and no co-operative society registered under law elsewhere in Indian shall open a branch or a place of business in the Union Territory of Arunachal Pradesh without the permission of the Registrar.

Branches etc. of societies outside the State.

(2) Every co-operative society registered under any law elsewhere in India, and permitted to open a branch or place of business in the Union Territory of Arunachal Pradesh under the foregoing sub-section, or which has a branch or a place of business in the union Territory of Arunachal Pradesh at the commencement of this Act, shall within three months from the opening of such branch of place of business or from the commencement of this Act, as the case may be, file with the Registrar a certified copy of the bye-laws and language, a certified translation thereof in English or Hindi, and shall submit to the registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State/union Territory where such society is registered.

**128.** (1) On the election of a new committee and its Chairman the retiring Chairman, in whose place the new Chairman is elected shall hand over charge of the office of the committee and all papers and property, if any, of the society in possession of the committee or any officer thereof, to the new Chairman of the committee.

Handing over records and property to new Chairman in election.

(2) If the retiring Chairman fails or refuses to hand over charge or to hand over the papers and property of the society as aforesaid the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forth-with hand over such charge and property.

(3) If the retiring Chairman to whom a direction has been issued as aforesaid does not comply with such direction, he shall on conviction be punished with simple imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both; and the registrar may, on the retiring Chairman's failure to comply with such direction, make order for seizing the records and property and handing it over to the new Chairman in the manner provided in section 81.

**129.** The Registrar, a person exercising the powers of the Registrar, a person authorized to audit the accounts of a society under section 82, or to hold an inquiry under section 84, or to make an inspection under section 86, and a person appointed as an administrator under

Registrar and other officers to be public servants.

section 79, or as a nominee or board of nominee or board of nominees under section 97, or as a Liquidator under section 107 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

**130.** No suit, prosecution or other legal proceeding shall lie against the registrar or any person subordinate to him or acting on his authority, in respect of anything in good faith done or purported to be done by him or under this Act.

Indemnity  
for act done  
in good  
faith

**131.** (1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of-

Bar of  
jurisdiction  
of Courts.

- (a) the registration of society or its bye-laws or the amendment of its bye-laws, or the dissolution of the committee or a society or the management of the society on dissolution thereof; or
- (b) any dispute required to be referred to the Registrar or his nominee, or board of nominees, for decision; or
- (c) any matter concerned with the winding up and dissolution of a society.

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

(3) All orders, decisions or awards passed in accordance with this Act or the rules shall, subject to the provisions for appeal or revision in this Act, be final and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits or upon any other ground whatsoever except for want of jurisdiction.

**132.** No suit shall be instituted against a society or any of its offices in respect of any act touching the business of the society, until the expiration of two months next after notice in writing has been delivered to the registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims and the plaint shall contain a statement that such notice has been so delivered or left.

Notice  
necessary  
in suits.

**133.** (1) The Government may, for the whole or any part of the Territory and for any society or class of societies make rules for the conduct and regulation of the business of such society or class of societies and for carrying out the purpose of this Act.

Rules.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may-

- i. subject to the provisions of section 3, prescribe the delegation of powers vested in the Registrar to persons appointed to assist the Registrar;
- ii. prescribed forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 8 and the procedure in the matter of such application;
- iii. prescribe the matter in respect of which a society may make or the registrar may direct a society to make bye-laws and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;
- iv. prescribe the form of and procedure for an application under section 19 and the procedure for reconstruction of a society under that section;
- v. prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the election and admission of member and the payment to be made and the interest to be acquired before the exercise of the right of membership;
- vi. prescribe in the case of a federal society or class of federal societies the proportion of individual members to society members in such society or class of societies and the proportion of individual members to society or class of societies;
- vii. subject to the provisions of sections 28, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- viii. prescribe the procedure for the admission of joint members, members of a joint undivided family and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;
- ix. provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members;
- x. prescribe the conditions and procedures for the transfer of shares or interest;
- xi. provide for the nomination of a person to whom the share or the interest of a deceased member may be paid or transferred;
- xii. provide for ascertaining the value of a share or interest of a past member or deceased member;

- xiii. prescribe the payments to be made and the condition to be complied with by members applying for loans, the period for which loans may be made and the amount which may be lent to an individual member;
- xiv. provide for the inspection of documents in the registrar's office and the levy of fee for granting certified copies of the same;
- xv. provide for the procedure for registering the address of a society and the change of its address;
- xvi. provide for the formation and maintenance of a register of members and where the liability of members is limited by shares, of a register of shares and list of members;
- xvii. provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;
- xviii. provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;
- xix. prescribe the period for and terms upon which Government aid may be given to societies and terms under which Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by society;
- xx. regulate the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;
- xxi. prescribe the limits for loans to be granted by a society or class of societies against different class of securities or without security and the procedure for granting loans;
- xxii. prescribe the manner of recalling a loan;
- xxiii. prescribe the limits for granting credit by a non-credit societies may trade or transport business with persons who are not members;
- xxiv. prescribe the prohibition and restrictions subject to which societies may trade or transact business with persons who are not member
- xxv. prescribe the conditions on which any charge in favour of a society shall be satisfied and the extent to which and the order in which the property to the charge shall be used in its satisfaction;
- xxvi. provide for giving reasonable notice of the charge under section 49;

- xxvii. prescribe the procedure by which a society shall calculate and write off bad debts;
- xxviii. prescribe the sums which in addition to those referred to in section 66(1) shall be deducted from profits before arriving at the profit for the purpose of section 66(2);
- xxix. provide for the formation and maintenance of reserve fund and the objects to which such fund may be applied and for the investment and use of any fund including reserve fund under the control of a society;
- xxx. prescribe the conditions under which profits may be distributed as dividend and bonus among the members and non-members of a society:
- xxxi. prescribe the rate at which a society shall contribute towards the educational fund of the Territory level federal society under section 69;
- xxxii. define the co-operative purpose for which a society shall, under section 70, utilize its fund;
- xxxiii. prescribe the mode of investment of funds of a society under section 71 and the proportion of investment in any security of class of securities;
- xxxiv. provide for the payment of contribution to any provident fund which may be established by a society for the benefit of officers and servants employed by it and for the administration of such provident fund;
- xxxv. prescribe the procedure and conditions for the exercise by a federal society of the powers to be exercised by such meetings;
- xxxvi. provide for general meetings of the member for the procedure at such meetings and the powers to be exercised by such meetings;
- xxxvii. prescribe the conditions in which a member of a society may be disqualified from voting;
- xxxviii. provide for the appointment, suspension and removal of the members of the committee and other officers and for the appointment of administrator under section 79 and prescribe procedure for meeting of the committee and for the powers to be exercised and the duties to be performed by the committee, administrator and other officers;
- xxxix. prescribe qualifications for members of the committee and employees of a society or class of societies and the condition of service subject to which persons may be employed by societies.

- xl. Prescribe the returns to be submitted by a society to the registrar and provide for the persons by whom and the form in which such returns shall be submitted;
- xli. Provide for the persons by whom and the form in which copies of documents and entries in books of societies may be certified and the charges to be levied for the supply of copies thereof;
- xlii. provide for the procedure to be adopted by the Registrar in the cases where the taking of possession of books, documents, securities, cash and other properties of a society the affairs of which have been ordered to be wound up, by the Registrar or by a person entitled to the same is resisted or obstructed;
- xliii. provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 82, 84 and 86 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tampered with or destroyed or removed;
- xliv. prescribe the accounts and books to be kept by a society or class of societies;
- xlv. prescribe the procedure for conducting an audit the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for this audit, the limits within which the auditor may examine the monetary transactions of a society , the form of audit, memorandum and report and the charges, if any, to be paid by a society for audit;
- xlvi. prescribe the procedure for appointment of auditors under section 82;
- xlvii. prescribe the form for the rectification of defects discovered in the course of audit, inspection or inquiry;
- xlviii. prescribe the procedure and principles for the conduct of inquiry under section 84 and inspection under section 86;
- xlix. prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 90 and for recovery of cost and damages;

1. prescribe the manner in which appointment shall be made and control exercised by, and the number of persons comprising and functions to be performed by, the authority constituted under section 92, the manner of election and nomination of such persons, the fees to be paid to such authority and the manner of such payment and the procedure for and the method of calculating any cost, charges or expenses required to be levied under this Act or the rules;

li. provide for appointment of the registrar's nominee or board of nominees, procedure to be followed in proceedings before the registrar or his nominee or board of nominees and for fixing and levying the expenses for determining the disputes and for enforcing the decision or awards in such proceedings;

lii. prescribe the form in which a dispute shall be referred to the Registrar

liii. provide for the issue and service of processes and for providing of service thereof;

liv. provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar;

lv. prescribe the procedure for and the method of recovery of any sums due under this Act or the rules;

lvi. prescribe the procedure to be followed for the custody of property attached under section 99;

lvii. prescribe the procedure to be followed in the execution of awards;

lviii. prescribe the manner in which any property shall be delivered to and the terms and conditions subject to which such property shall be held by a society under section 104;

lix. prescribe the procedure for attachment and sale of property for the realization of any security given by a person in the course of execution proceedings;

lx. prescribe the procedure and conditions for the exercise of the power conferred under section 109 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets;

lxi. prescribe the matters in which an appeal shall lie from the order of Liquidator appointed under section 107;

lxii. prescribe the procedure to be followed in presenting and disposing of appeals;

lxiii. prescribe in the case of appeals lying to the Government the authority to which power of hearing appeals may be delegated;

lxiv. prescribe the method of communicating or publishing order, decision or award required to be communicated or published under this Act or the rules;

lxv. provide that the contravention of any of the rules shall be an offence under the Act;

lxvi. provide for all other matters expressly required or allowed by this Act to be prescribed by rules;

lxvii. prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion or reconstruction of society.

- (3) All rules made under this Act shall be subject to the condition of previous publication and every rule made by the Government of Arunachal Pradesh under this Act shall be laid, as soon as may be after it is made, before the Legislature of Arunachal Pradesh while it is in session, for a total period of four days which may be comprised in section or in the successive session, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature agrees in making any modification in the rule or the Legislature 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.

**134.** For the removal of doubt it is hereby declared that the provisions of the Companies Act, 1956, shall not apply to societies registered, or deemed to be registered under this Act.

Companies Act not to Apply. 1 of 1956

**135.** On the day on which Arunachal Pradesh Co-operative Societies Act, 1978 comes into force, the Co-operative Societies Act, 1912 as in force in the Union Territory of Arunachal Pradesh shall stand repealed provided that the repeal shall not affect-

Repeal and savings.

- (a) the previous operation of the Act so repealed or anything duly done or suffered there under; or
- (b) any right, privilege, obligation of the Act so repealed or anything duly done or suffered there under; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding 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.

---

**Note:- Published in Arunachal Pradesh Gazette, Extraordinary, Vol - II. No 36 dated, July 17, 1979.**