

SELECTED SECTIONS
of Amended Maharashtra Co-operative
Societies Act, 1960
FOR HOUSING SOCIETIES

(With latest changes from MCS (Amendment) Bill, 2013

Dated August 13, 2013)

Version 7

Dear Reader,

This book contains only those sections of the amended Maharashtra Co-operative Societies Act, 1960, which are directly relevant to housing societies. We have deleted sections, sub-sections, provisos, and explanations that are not applicable to housing societies, and are applicable to only agricultural societies, co-operative banks etc.

OUR REMARKS IN THE MARGIN
explain the implications of
various sections.

IMPORTANT NOTES:

1. Where the word “deleted” has been used, it means it was deleted either by MCS (Amendment) Act 2013, or earlier amendments e.g. 1974.
2. NA* means it is there in the amended Act, but we have deleted it in this book because it is “Not Applicable” to housing societies.
3. Underlined words are insertions, modifications and substitutions as per MCS (Amendment) Act 2013
4. Although in some cases we have shown the deletions to indicate the change that has happened vide the amendment e.g. “penalty of five ~~hundred~~ thousand rupees”, in most cases, the deletion has been carried out completely so that the deleted words are not seen at all. Where the whole section or sub-section has been deleted, we have retained the section or sub-section number, and noted “NA*” before them.

In the spirit of love and service,

CA Ramesh Prabhu

27th August 2013



MAHARASHTRA SOCIETIES WELFARE ASSOCIATION
A-2/302, Laram Centre, Above Golden Gate Hotel,
Opp. Railway Station, Andheri (W),
Mumbai : 400 058., Tel.: 022 - 42551414 / 26248589 / 65.

MAHARASHTRA CO-OPERATIVE SOCIETIES (Amendment)
ORDINANCE, 2013

Preamble of Ordinance

Whereas both Houses of the State Legislature are not in session;

And Whereas the Governor of Maharashtra is satisfied that in view of provisions of Art. 243ZT of the Constitutional (97th Amendment) Act 2011, the circumstances exist which render it necessary for him to take immediate action to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing;

Now therefore, in exercise of the powers conferred by clause (1) of Article 213 of Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following ordinance, namely:-

1. This amendment is *vide* an Ordinance, which requires to be ratified by the State Legislature at the earliest. If not ratified, it ceases to be in force six months after it was passed.

CHAPTER I
PRELIMINARY

1. Short Title and Commencement:-

(1) This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2013.

(2) It shall be deemed to have come into force on the 14th February 2013.

[Below, the changes from MCS (Amendment) Act 2013 have been carried out in the official copy of MCS Act 1960, downloaded from the Maharashtra Co-operation Department website.]

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

(1) NA*

(2) NA*

(2-A) 'authorised person' means any person duly authorised by the Registrar to take action under the provisions of the Act.

(3) Clause (3) deleted

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

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

(6) NA*

(7) "Committee" means the Committee of management or board of directors or the governing body or other directing body of a cooperative society, by whatever name called, in which the management of the affairs of a society is entrusted and vested under section 73;

2. The new concept of 'authorized person' (usually an active member of the society but not a managing committee member) is intended to minimise the scope of appointment of an outside person as administrator.

- (8) NA*
- (9) NA*
- (10) NA*

(10-ai) "Co-operative Appellate Court", means the Maharashtra Co-operative Appellate Court constituted under this Act;

(10—aii) "Co-operative Court" means a Court constituted under this Act to decide disputes referred to it under any of the provisions of this Act;

(10-aii-1) NA*

(10-aiii) "co-operative year" means a year ending on the 31st day of March or on such other day in regard to a particular society or class of societies as may have been fixed by the Registrar, from time to time for balancing its or their accounts;

(10-A) NA*

(10-B) Deleted*

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

(11-A) "expert director" means a person having experience in the field of banking, management, cooperation and finance, and includes a person having specialization in any other field relating to the objects and activities undertaken by the concerned society.

3. The concept of 'expert director' (who is not necessarily a member of the society) is intended to bring professional management into co-operative societies.

(12) NA*

(13) "Federal society" means a society-

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

(14) NA*

(14-A) "functional director" means a Managing Director or a Chief Executive Officer by whatever designation called, and includes any Head of the Department, workman or representative of the

4. The new concept of 'functional director' (who is not necessarily a member of the society) is intended to bring professional management into co-operative societies.

recognized union of the concerned society, nominated by the Committee

(15) NA*

(16) "housing society" means a society, the object of which is to provide its members with open plots for housing, dwelling houses or flats; or if open plots, the dwelling houses or flats are already acquired, to provide its members common amenities and services;

(16-A) NA*

(17) NA*

(18) NA*

(19) (a) "member" means a person joining in an application for the registration of a Co-operative society which is subsequently registered, or a person duly admitted to membership of a society after registration and includes a nominal, or associate member and any depositor or financial service user of primary agricultural co-operative credit society.

(a-1) 'Active member' means a member who participates in the affairs of the society and utilizes the minimum level of services and products of that society as may be specified in the bye-laws.

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

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

(d) Deleted*

(19A) NA*

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

5. The differentiation of 'active member' from a member of the society is intended to

i) make existing members more participative

ii) curtail the voting rights of non-active members after five years.

iii) enable expulsion of "non-active member" upon 10 years of such classification.

(20-A) "Official Assignee" means a person or body of persons appointed by the Registrar under sub-section (2) of section 21 -A;

(21) "Prescribed" means prescribed by rules;

(22) NA*

(23) NA*

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

(25) NA*

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

(27) "society" means a Co-operative society registered, or deemed to be registered, under this Act, which is an autonomous association of persons united voluntarily to meet their common needs and aspirations through a jointly owned democratically controlled enterprise and adhering to the co-operative principles and values;

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

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

(29-A) "State Co-operative Election Authority" means an authority constituted by the State Government under section 73CB.

(30) Deleted*.

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

.....

CHAPTER II
REGISTRATION

3. Registrar and his subordinates --

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

3A. NA*

4A. NA*

5. NA*

6. Conditions of registration:-

(1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic liability of a society and development of the Co-operative movement, determine from time to time for a class of societies (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:

Provided also that, the Registrar may specify the norms and conditions for registration of societies or class of societies.

(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 at least five societies as its members.

(4) NA*

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

Explanation :- For the purposes of this Section and Section 8 the expression "member of a family" means wife, husband, father, mother, son, or unmarried daughter.

7. NA*

8. Application for registration –

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

(2) The application shall be signed-

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

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

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

9. Registration.-

(1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, or any other law for the time being in force, or policy directives issued by the State Government under Section 4, and that its proposed bye-laws are not contrary to this Act or to the rules, he "shall within two months, from the date of receipt of the application register the society and its bye-laws.

(2) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of

such higher officer or the State Government, as the case may be, to dispose of the application within. That period, the society and its bye-laws shall be deemed to have been registered and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days.

(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 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 the Act.

10. Evidence of registration.—

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.

11. NA*

12. NA*

13. Amendment of bye-laws of society.-

(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. Every application for registration of an amendment of the bye-laws shall be disposed off by the Registrar within a period of two months from the date of its receipt:

(1A) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the amendment of the bye-laws shall be deemed to have been registered.

(1B) No amendment of the bye-laws of a society shall be registered by the Registrar under this section or in the case of the bye-laws which are deemed to have been registered, shall have effect, if the

amendment is repugnant to the policy directives, if any, issued by the State Government under Section 4.

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

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

14. Power to direct amendment of bye-Laws. –

(1) If it appears to the Registrar that an amendment of bye-laws of a Society is necessary or desirable in interest of such society, or any bye-laws of the society are inconsistent with the provisions of this Act or Rules and that amendment is necessary in such bye-laws, he may call upon the society, in the manner prescribed to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting such State federal society as may be notified by the State Government, register such amendment, and issue to the society a copy of such amendment certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the 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.

Provided that such notified State federal society shall communicate its opinion to the Registrar within a period of forty-five days from the date of receipt of communication, failing which it shall be presumed that such State federal society has no objection to the amendment and the Registrar shall be at liberty to proceed further to take action accordingly:

Provided further than, the Registrar shall specify the Model Bye-laws, for such type of societies or class of societies as he may deem fit.

15. Change of name.-

(1) A society may, by resolution passed at a general meeting and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the society, or of any of its

6. Bye-laws were always required to be framed within the parameters of the MCS Act and Rules, but this is now being stressed. Possibly, more conformity with the Act and Rules will be required now.

7. Registrar will keep the federal society in the loop while taking major decisions concerning societies, and he will consider its say in the matter, but he will not wait more than one month for the federal society's say. Silence will be deemed as consent.

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.

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

16. NA*

17. Amalgamation, transfer, division or conversion of societies.-

(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 into two or more societies; or -
- (d) To convert itself into another class of society:

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

- (i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,
- (ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and
- (iii) All claims of members and creditors and other interested persons, who exercise the option within

the period specified, have been met in full or otherwise satisfied.

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

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

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

NA*

18. Power to direct amalgamation, division and reorganization in public interest, or in the interest of members, etc:-

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

Provided that, such notified Federal Society shall communicate its opinion to the Registrar with forty-five days from the date of receipt of communication, failing which the Registrar would assume deemed consent and proceed further to take action accordingly.

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

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

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

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

(4) Every member or creditor of or other person interested in, 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 re-organization his share or interest if he be a member and the amount in satisfaction of his dues if he be a creditor.

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

(6) NA*

18-A. NA*

18-B. NA*

18-C. NA*

19. NA*

20. NA*

20-A. NA*

21. NA*

21-A. NA*

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

22. Person who may become a member.-

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

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

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

(d) The State Government or the Central Government;

(e) A local authority;

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

(g) NA*

(1-A)NA*

(1-B) NA*

(2) Where a person is refused admission as a member of society, the decision (with the reasons therefore) shall be communicated to that person within fifteen days of the date of the decision, or within three months from the date of receipt of the application for admission, whichever is earlier. If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been admitted as a member of the society. If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

23. Open membership.-

(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.

(1-A) Where a society refuses to accept the application from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with

payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any so paid, to the society concerned within thirty days from the date of receipt of such application and the amount; and thereupon if the society fails to communicate any decision to the applicant within sixty days from the date of receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such society. If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(2) Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar, within a period of sixty days from the date of the decision of the society. Every such appeal as far as possible is disposed of by the Registrar within a period of three months from the date of its receipt:

Provided that, where such appeal is not so disposed of within the staid period of three months, the Registrar shall record the reasons for the delay.

(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:

(4) NA*

24. Nominal or Associate member.-

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

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

(24-A) Co-operative Education and Training to Members, Member of the Committee and Employees, and Contribution thereof:-

(1) Every society shall organize co-operative education and training, for its members, officers and employees through

10. A mechanism is created for co-operative education and training, and also the funding for such activity on a regular basis.

This is a welcome move, as most of the difficulties of co-operative housing societies arise because

such State federal societies of State Apex Training Institutes as the State Government may, by notification in the *Official Gazette*, specify;

Such education and training shall –

- (i) ensure the effective and active participation of the members in the management of the society.
- (ii) groom talented employees for leadership position
- (iii) develop professional skills through co-operative education and training

(2) Every member of the committee, whether elected or co-opted, shall undergo such co-operative education and training for such period and at such intervals as may be prescribed.

(3) Every society shall contribute annually towards the education & training fund of the State federal societies or State Apex Training Institutes notified under sub-section (1), at such rates as may be prescribed, and different rates may be prescribed for different societies or classes of societies.

25. Cessation of membership-

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, or removal or expulsion from the society, or where a firm, company, any other corporate body, society or trust is a member on its dissolution or ceasing to exist.

25-A. Removal of names of members from Membership registers-

The committee of a society shall remove from the register of its members the name of a person who has ceased to be a member or who stands disqualified by or under the provisions of this Act for being the member or continuing to be the member of a society:

Provided that, if the society does not comply with the requirement of this section, the Registrar shall direct such society to remove the name of such person, and the society shall be bound to comply with such direction.

26. Rights & Duties of Members: -

(1) A member shall be entitled to exercise such rights as provided in the Act, rules and bye-laws

Provided that, no member shall exercise the rights, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed and specified under the bye-laws of the society, from time to time:

Provided further that, in case of increase in minimum contribution of member in share capital to exercise right of membership, the society shall give a due notice of demand to the members and give reasonable period to comply with.

(2) It shall be the duty of every member of a society

(a) To attend at least one general body meeting within a consecutive period of five years,

Provided that, nothing in this clause shall apply to the member whose absence has been condoned by the general body of the society;

(b) To utilize minimum level of services at least once in a period of five consecutive years as specified in the bye-laws of the society:

Provided that a member who does not attend at least one meeting of the general body as above and does not utilize minimum level of services at least once in a period of five consecutive years, as specified in the bye-laws of such society, shall be classified as non-active member

Provided further that, when a society classifies a member as a non-active member, the society shall, in the prescribed manner, communicate such classification to the concerned member within 30 days from the date of close of the financial year.

Provided also that, a non-active member who does not attend one meeting of the general body and does not utilize the minimum level of services as specified in the bye-laws, in next five years, from the date of classification as non-active member shall be liable for expulsion under section 35.

Provided also that, a member classified as non-active member shall, on fulfillment of the eligibility criteria as provided in this sub-section, be entitled to be re-classified as an active member.

Provided also that, if a question of a member being active or non-active member arises, an appeal shall lie to the Registrar within a period of sixty days from the date of communication of classification:

Provided also that, in any election conducted immediately after the date of commencement of the Maharashtra Co-operative Societies (Amendment) Ordinance 2013, all the existing

13. "Non-active member" loses his right to vote after 5 years, and is liable to be expelled after 10 years.

However, if he becomes active again by attending AGM, paying maintenance dues etc, he is entitled to be re-classified again as an active member.

members of the society shall be eligible for voting, unless otherwise ineligible to vote.

27. Voting powers of members.-

(1) Save as otherwise provided in sub-sections (2) to (7), both inclusive, no member of any society shall have more than one vote in its affairs; and every powers of right to vote shall be exercised personally, and not by proxy :

Provided that, in the case of an equality of votes the Chairman shall have a casting vote.

Explanation.- For the purposes of this sub-section, "votes to more than one candidate from the panel" shall be treated as one vote.

(1A) Notwithstanding anything contained in sub-section (1), an active member who subsequently fails to participate in affairs of the society and to use the services up to a minimum level as specified, from time to time, in the byelaws, shall cease to be an active member and shall not be entitled to vote.

Provided that, in the case of an equality of votes the Chairman shall have a casting vote.

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

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

Provided that, any new member society of a federal society shall be eligible to vote in the affairs of that federal society only after the completion of the period of three years from the date of its investing any part of its fund in the shares of such federal society:

Provided further that, where the election is to a reserved seat under section 73-B, no person shall have more than one vote.

(3-A) An individual member of a society shall not be eligible for voting in the affairs of that society for a period of two years from the date of his enrollment as a member of such society.

Provided that, nothing in this sub-section shall apply in respect of a co-operative housing society and a co-operative premises 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 share of a society, may appoint any 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 appointed by the firm shall be entitled to vote in the affairs of the society on behalf of the firm.

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

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

(8) No nominal or sympathizer member shall have the right to vote and no such member shall be eligible to be a member of a committee or for appointment as a representative of the society on any other society.

(9) No nominee of the Government or any financing bank on the committee of any society shall be entitled to vote at any election of officers of such committee such as, the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer by whatsoever designation called, who holds the office by virtue of his election to that office.

(10) If a member has taken a loan from the society, such member shall, whenever he is a defaulter, as provided in the Explanation to clause (i) of sub-section (1) of section 73-CA, have no right to vote in the affairs of the society:

NA*

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

(12) Deleted*

28. Restrictions on holding of shares -

In any society, no member other than the Government, or any other society, or with the previous sanction of the State Government, a Zillah Perished constituted under the Maharashtra Zillah Parishes and Panchayat Samitis Act, 1961, shall-

- (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 twenty thousand rupees:

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

29. Restrictions on transfer or charge on share or interest.-

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

(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, or to a person whose appeal under section 23 of the Act has been allowed by the Registrar or to a person who is deemed to be a member under sub-section (1A) of Section 23.

(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 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 I- 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 aforesaid provision.

Explanation II - In this section, the expression "financial year" means the year ending on the 31st day of March or in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day; the year ending on such day.

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

30. Transfer of interest on death of member.

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

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 person of unsound mind from acquiring by in heritage or otherwise, any share or interest of a deceased member in a society

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

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

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

31. Share or interest not liable to attachment-

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

32. Rights of _members to see books, etc.-

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

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

32-A. certain societies to give pass books to members and entries in such book evidence of amount due.-

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

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

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

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

(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 provisions 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.

34. Insolvency of members.-

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

35. Expulsion of members.-

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

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

(2) No member of a society who has been expelled under the foregoing 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, the Registrar may, on an application by the society and in special circumstances, sanction the re-admission or admission, within the staid period, of any such member as a member of the said society or of any other society, as the case may be.

.....

CHAPTER IV

INCORPORATION DUTIES AND PRIVILEGES OF SOCIETIES

36. Societies to be bodies corporate.-

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

36. Address of societies.-

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.

37. Register of members.-

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

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

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

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

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

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 members, open to inspection to the public, free of charge, during office hours or any hours fixed by the society therefore.

40. Admissibility of copy of entry of evidence.-

(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.

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

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

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

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

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

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

42. Power to exempt from taxation; Power to refund-

(1) The State Government by notification in the Official Gazette may, in the case of any society or class of societies reduce or remit whether; prospectively or retrospectively, in the whole of the State or any part thereof-

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

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

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

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

43. Restrictions on borrowings.-

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

NA*

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

Provided that, nothing in this sub-section shall apply to a society which has not taken any financial assistance from the Government in the form of share capital, loan, subsidy or guarantee and such society may, adopt its own borrowing

policy having regard to its financial position. However, such society shall send to the Registrar, in writing, full details about its borrowing policy, and change, if any introduced in such policy at any time:

NA*

(3) NA*

44. Regulation of loan making policy.-

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

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

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

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

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

NA*

44-(A) NA*

45. Restrictions on other transactions with non-members.—

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

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

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 such member, in respect of any debt due from such member or his estate to the society; and the society may set-off any sum credited or payable to such member in or towards payment of any such debt:

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

47. Prior claim of society.—

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

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

(i) NA*

(ii) NA*

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

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

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

(2) No property or interest in property, which is subject to a charge under the foregoing sub—section, shall be transferred in any

manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may impose.

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

(4) NA*

48. NA*

48A. NA*

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

--

(1) A member of a society may execute an agreement in favor of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such total amount payable to the society and in such installments as may be specified in the agreement and to pay to the society the amounts so deducted in satisfaction of any debt or other demand of the society against the member. A copy of such agreement duly attested by an officer of the society shall be forwarded by the society to the employer.

(2) On receipt of a copy of such agreement, the employer shall, if so required by the society by a requisition in writing and so long as the total amount shown in the copy of the agreement as payable to the society has been deducted and paid to the society, make the deduction in accordance with the agreement, and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the Payment of Wages Act, 1936 on the day on which he makes payment.

(3) If after the receipt of a requisition made under the foregoing subsection, 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 of such amount or where the employer has made deductions but the amount so deducted is not remitted to the society, then such amount together with interest thereon at one and half times the rate of interest charged by the society to the member for the period commencing on the date on which the amount was due to be paid to the society and ending on the date of actually remitting it to the society; and such amount together with the interest thereon, if any, shall, on a certificate issued by the

registrar, be recoverable from him as an arrear of land revenue, and the amount and interest so due shall rank in priority in respect of such liability of the employer as wages in arrears.

(4) NA*

.....

CHAPTER V
STATE AID TO SOCIETIES

50. NA*

51. NA*

52. NA*

53. NA*

54. NA*

55. NA*

56. NA*

57. NA*

58. NA*

59. NA*

60. NA*

61. NA*

62. NA*

63. NA*

.....

CHAPTER VI
PROPERTY AND FUNDS OF SOCIETIES

64. Funds not to be divided.—

No part of the funds, other than the dividend equalization or bonus equalization funds as may be prescribed or the net profits of a society shall be paid by way of bonus or dividend, or otherwise distributed among its members:

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

65. Ascertainment and appropriation of profits.-

(1) A Society shall construct its relevant annual financial statements and arrive at its consequent net profit or loss in the manner prescribed.

(2) A society may appropriate its net profits to the reserve fund or any other fund to payment of dividends to members on their shares to the payment of bonus on the basis of support received from members and persons who are not members to its business, to payment of honoraria and towards any other purpose which may be specified in the rules or bye-laws :

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

66. Reserve Fund—

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

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

Provided that, the Registrar may, having regard to the financial position of any society or class of societies, fix the contribution to be made to the reserve fund under this sub-

section at a lower rate, but not lower than one-tenth of the net profits of the society or societies concerned.

67. Restriction on dividend.-

No society shall pay dividend to its members at a rate exceeding 15 per cent except with the prior sanction of the Registrar.

68. Provision for contribution to Co-operative education fund and contribution —

(1) Every society shall contribute annual towards the education fund of the state federal society which may be notified in this behalf by the state government at such rate as may be prescribed and different rates may be prescribed for different societies or classes of societies depending on their financial condition.

(2) Every society shall pay its contributions to the said fund within three months after the close of the co operative year. Any 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. Irrespective of its financial condition allocating its funds for co-operative education as stated in sub-section (1) shall also contribute and pay its contribution annually towards the Education Fund of the State Federal Society or State Apex Training institute, if any, which may be notified in this behalf by the State Government at such a rate as may be prescribed.

(3) Where any society fails to pay the contribution within the period specified in subsection (2), the amount of contribution due shall be recoverable as an arrear of land revenue and on the State Federal Society making a report of such failure to the Registrar, the Registrar shall, after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue.

(4) With effect from the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013, the provisions of sub-sections (1) to (3) shall cease to be in force.

(5) Notwithstanding anything contained in sub-section (4), any amount due on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013, shall be recoverable as an arrear of land revenue and upon the request of the State federal society, the Registrar shall, after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue. ”.

69. Contribution to public purposes.-

After providing for the reserve fund as provided in Section 66, and for ~~the educational funds as provided in Section 68~~ funds towards co-operative education and training as provided in section 24-A, 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 State Government in this behalf from time to time, the whole or part of such sum in contributing to any co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

69A. Deleted*

69 B. Constitutions of District Level and State Level Committees-

The State Government shall constitute District Level Committees and the State Level Committee, from time to time as it shall deem fit, for solving the problems of Group Secretaries in the State.

70. Investment of funds.-

A society shall invest or deposit its funds in one or more of the following:

- (a) In a District Central Cooperative Bank, the State Co-operative Bank having awarded at least "A" Audit Class in the last three consecutive years
- (b) In any of the securities specified in Section 20 of the Indian Trusts Act, 1882;
- (c) In the shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs
- (d) In any other mode permitted by the rules, or by general or special order in that behalf by the State Government:

Provided that, no society shall invest more than such proportion of its paid up share capital as may be prescribed;

71. Employees Provident Fund.--

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

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

71-A. Funds not to be utilized for certain proceedings filed or taken by or against officers in personal capacities.-

(1) No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under sections 78, 78A or 96. ~~or 144~~ If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

(2) If any person incurs expenditure in violation of sub-section (1), the Registrar shall direct the person to repay the amount to the society within one month and where such person fails to repay the amount as directed, such amount shall, on a certificate issued by the Registrar, be recoverable as arrears of land revenue.

(3) The person against whom action is taken by the Registrar under sub-section (2) shall be disqualified to continue to be the officer of any society or to be officer of any society at any next election including any next by-election held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (2).

.....

CHAPTER VII
MANAGEMENT OF SOCIETIES

72. Final authority of society.-

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.

Where the bye-laws of a society so provide, the general meeting shall be attended by delegates appointed by the members, and such meeting shall be deemed to be A meeting of the general body, for the purpose of exercising all the powers of the general body.

72-A NA*

73. Committee, its powers and functions.—

(1)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. .

(1AB) the members of the committee shall be jointly and severally responsible for all the decisions taken by the committee during its term relating to the business of the society. The members of the committee shall be jointly and severally responsible for all the acts and omissions detrimental to the interest of the society.

Provided that, before fixing any responsibility mentioned above, the Registrar shall inspect the record of the society and decide as to whether the losses incurred by the society are on account of acts or omissions on the part of the members of the committee or on account of any natural calamities, accident or any circumstances beyond the control of such members:

Provided further that, any member of the committee, who does not agree with any of the resolution or decision of the committee, may express his dissenting opinion which shall be recorded in the proceedings of the meeting and such member shall not be held responsible for the decision embodied in the said resolution or such acts or omissions committed by the committee of that society as per the said resolution. Such dissenting member, if he so desires, may also

communicate in writing, his dissenting note to the Registrar **within seven fifteen days from the date of the said resolution or decision or from the date of confirmation of the said resolution or decision.** Any member, who is not present for the meeting in which the business of the society is transacted, and who has not subsequently confirmed the proceedings of that meeting, such member shall also not be held responsible for any of the business transacted in that meeting of the society.

(1A) notwithstanding anything contained in this Act, the rules made there under or in the bye-laws of any society or class of societies,-

(a) The first general meeting of a society shall be convened within three months from the date of its registration to appoint a provisional committee and to transact other business as may be prescribed. The term of the members of such provisional committee shall be for a period of one year from the date on which it has been first appointed or till the date on which a regular committee is duly constituted in accordance with the provisions of the rules or bye-laws made under this Act, whichever is earlier; and all the members of such provisional committee shall vacate office on the date of expiry of such period or such constitution of the committee:

(b) notwithstanding anything contained in clause (a), the provisional committees for the Co-operative Sugar Factories and Co-operative Spinning Mills and such other class of societies, as the State Government may, by special or general order, in the official Gazette, specify in this behalf, shall be appointed by the State Government; and the members thereof shall hold office for a period of three years, which period may be extended by one year, at a time, so however that, the total period shall not exceed five years, in the aggregate:

Provided that, the State Government shall have the power to change or reconstitute such committee or, any or all members thereof at its discretion even before the expiry of the period for which a member or members were nominated thereon:

Provided further that, the member or members assuming office on such change or re-constitution of the committee shall hold office for the period for which the provisional committee has been appointed under this clause;

(c) pending the first constitution of the committee of a society, the provisional committee of the society shall exercise the powers and perform the duties of the committee of such society as provided in this Act, the rules and bye-laws and make necessary arrangements for holding election of the committee, before the expiry of its term.

(2 Deleted*

(3) (a) Deleted*

(b) Deleted*

73-IA Deleted*

73-IB. Deleted*

73-IC Deleted*

73-ID Motion of no-confidence against officers of societies —

(1) An officer who holds office by virtue of his election to that office shall cease to be such officer, if a motion of no-confidence is passed at a meeting of the committee by two-third majority of the total number of committee members who are entitled to vote at the election of such officer and his office shall, thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are entitled to elect the officer of the committee, and shall be delivered to the Registrar. The requisition shall be made in such form and such manner as may be prescribed.

Provided that no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office.

(3) The Registrar shall, within seven days from the date of receipt of the requisition under sub-section (2), convene a special meeting of the committee. The meeting shall be held on a date not later than fifteen days from the date of issue of the notice of the meeting.

(4) The meeting shall be presided over by the Registrar or such officer not below the rank of an Assistant Registrar of Co-operative Societies authorised by him in his behalf. The Registrar or such officer shall, when presiding over such meeting, have the same powers as the President or Chairman when presiding over a committee meeting has, but shall not have the right to vote.

(5) The meeting called under this section shall not, for any reason, be adjourned.

(6) The names of the committee members voting for and against the motion shall be read in the meeting and recorded in the minute book of committee meetings.

(7) If the motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought before the committee within a period of one year from the date of such rejection of the motion.

73-A. Disqualification for being designated officer simultaneously of certain categories of societies or for being designated officer of the same society for more than ten years.—

(1) In this section, "a designated officer" means the Chairman and the President, and includes any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated officer, but does not include any officer appointed or nominated by the State Government or by the Registrar.

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

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

Category II - Societies, the area of operation of which does not extend to the whole of the State,

(a) But extends to at least one whole district irrespective of their authorised share capital; or

(b) But extends to areas comprised in part or parts in one or more districts and the authorised share capital of which is more than Rs.10 Lack.

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

Explanation -For the purposes of this sub-section, the expression "society" shall not include a society with no share capital and a society not engaged in commercial activities.

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

(3) Sub-section (3) deleted

(4) If any person becomes, at the same time a designated officer of societies, in excess of the number prescribed under sub-section (2), unless he resigns his office in the society or societies in excess of the staid number within a period of ten days from the date on which he is elected or appointed a designated officer of more than the permissible number of society or societies, or if the elections, co-options or nominations are held or made simultaneously, from the date on which the result of last of such elections or appointments is declared, he shall, at the expiration of the said period of ten days, cease to be a designated officer of all such societies, and thereupon, notwithstanding anything contained in any other provisions of this Act, a person so resigning or ceasing to be a designated officer of any or all such societies shall not be eligible for being re-elected, re-co-opted or re-nominated as a designated officer of such society or societies during remainder of the term of office for which he was so elected, co-opted or nominated; and at no point of time such person shall be a designated officer of societies in excess of the number prescribed under sub-section (2).

(5) Deleted.

(6) Deleted.

(6) Deleted*

(7) Where a person is elected, co-opted, appointed or nominated as a member of the committee of any society by virtue of his holding office under the Central Government or the State Government, or in any local authority, or in any body corporate, or in any organization, he shall cease to be such member on the date on which he ceases to hold such office.

(8) No member of a society who is nominated to represent it on any other society, shall be eligible for being elected, co-opted or nominated as a designated officer of the other society, unless the other society is its federal society.

(9) In the case of such class or classes of societies as may be specified by the State Government, by notification in the *Official Gazette*, no member shall be eligible for being elected, co-opted or nominated as a designated officer, if he is not an active member or does not fulfill the minimum qualification relating to his monetary transactions with the society as may be laid down, in such notification.

73-AAA. Committee, its constitution:

- (1) The Committee shall consist of such number of members as may be provided in the bye laws:

Provided that the maximum number of members of the committee of a Society shall not exceed twenty one.

NA*

- (2) The Committee of the society may co-opt "expert directors" relating to the objects and activities undertaken by the society:

Provided that the number of Expert Directors shall not exceed two which shall be in addition to maximum twenty one members of the committee as specified in first proviso to sub-section (1).

Provided further that, the committee may, in case of the committee having not more than seventeen members, nominate a person as a functional director and and in case the committee's having more than seventeen members and not more than twenty-one members, may nominate such number of functional directors not exceeding two.

Provided also that, in respect of the society having contribution of the Government towards its share capital, the members of the committee shall include two officers of the Government nominated by the State Government, which shall be in addition to the number of members specified in the first proviso to sub-section (1):

Provided also that, in case the committee consists of two functional directors, one of such functional directors shall be an employee of the concerned society who is workman or is a representative of the recognized union of the employees of such society:

Provided also that the functional directors of a co-operative society and the members nominated by the State Government under the third proviso of a society shall also be the members of the committee and such members shall be excluded for the purposes of counting the total number of members of the committee specified in the first proviso to sub-section (1):

Provided also that, such expert directors shall not have the right to vote at any election of the society

and shall not be eligible to be elected as office bearers of the committee.

- (3) The term of the office of the elected members of the committee and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the committee.
- (4) Any casual vacancy in the Committee may be filled in from amongst the members belonging to the same category of persons in respect of which a casual vacancy has arisen.
- (5) (a) If, at any general election of members of the committee, the committee could not be constituted after declaration of results, then notwithstanding anything contained in this Act or the rules or the bye-laws of the society, the returning officer or any other officer or authority conducting such election shall, within seven days of the declaration of two-thirds or more number of members, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office; and upon such publication of the committee of the society shall be deemed to be duly constituted. In determining two-thirds of the number of members, fraction shall be ignored;

Provided that, such publication shall not be deemed,-

- (i) To preclude the completion of elections of the remaining members and the publication of their names and the permanent addresses of the elected members likewise as and when they are available;
or
- (ii) To affect the term of the office of members of the Committee under the Act;
- (b) The names of the remaining members after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar.

73AA Deleted*

73AB. Deleted*

73-B. Reservation of certain seats on committees of societies and election thereto

(1) Notwithstanding anything contained in this Act or in the rules made thereunder or in any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, ~~two~~ three seats shall be reserved,—

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes; and

(b) Deleted*

(c) two women, who shall be elected from the District;

~~(2)~~—The ~~three~~ three reserved seats referred to in sub-section (1), shall [unless where the bye-laws of the society already provide for the reserved seats], be in addition to the strength of the members of the committee of such a society or class of societies.

(3) Any individual member of the society, or any elected, member of the committee of a member-society, or any member of the committee of a member-society, whether elected, co-opted or appointed under this section, shall be eligible to contest the election to a reserved seat and every person who is entitled to vote at the election to the committee shall be entitled to vote at the election to any such reserved seats.

(4) Deleted*

(4) Where no person is elected to any of the three reserved seats, then such seat or seats shall be filled in by nomination from amongst the persons entitled to contest the election to the reserved seats under sub-section (3);

Explanation.—For the purposes of this section—

(a) a general or special order, if any, issued by the State Government under section 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983 shall be deemed to have been issued under sub-section (1) of this section and shall continue to be in force until duly repealed or amended ;

(b) the expression "Scheduled Castes" includes "Nav-Boudhas", and the expression "Scheduled Tribes" includes "Denotified Tribes and Nomadic Tribes" ;

73BB. Deleted*

73-BBB Deleted*

73-C. Deleted*

73-C. Reservation for Women:

- (1) Notwithstanding anything contained in this Act, or in the rules made there under, or in the bye-laws of any society, there shall be two seats reserved for women on the committee of each society consisting of individuals as members and having members from such class or category of persons, to represent the women members;
- (2) Any individual women member of the society, or any woman member of the committee of a member society, whether elected, co-opted or nominated, shall be eligible to contest the election to the seat reserved under sub-section (1).
- (3) Where no woman member or, as the case may be, women members are elected to such reserved seats, then such seat or seats shall be filled in by nomination from amongst the women members entitled to contest the election under sub-section (2)
- (4) Nothing in this section shall apply to a committee of a society exclusively of women members.

73-D Society's nominee on other society not eligible to be designated officer except in federal society,-

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

73-E. Deleted*

73-EA. Deleted*

73-F. Deleted*

~~73-FF~~ 73-CA. Disqualification of committee and its members

(A1)

(a) NA*

(b) NA*

(1) Without prejudice to the other provisions of this Act or the rules made there under, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of committee, if he-

(i) is a defaulter of any society;

Explanation —for the purposes of this clause, the term "defaulter" includes-

(a) NA*

(b) NA*

(c) NA*

(d) NA*

(e) in the case of housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues;

(f) NA*

(ii) NA*

(ii-a) has been classified as a non-active member under sub-section (2) of section 26; or

(iii) Has been held responsible under section 79 or 88 or has been held responsible for payment of costs of inquiry under section 85; or

(iv)Has incurred any disqualification under this Act or the rules made there under; or

(v) NA*

(vi) is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is nominated as functional director on the committee of a society under sub-section (2) of section 73-A;

(vii) Has more than two children:

Provided that, a person having more than two children on the date of commencement of the Maharashtra Co-operative Societies (second Amendment) Act, 2001 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that, a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause

Explanation- For the purposes of this clause,-

(a) Where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity;

(b) "Child" does not include an adopted child or children.

(viii) is held guilty for any offence under section 146 and convicted under section 147; or

(ix) is convicted with imprisonment of not less than one year for an offence under the provisions of any law for the time being in force;

(2) A member, who has incurred any disqualification under subsection (1), shall cease to be a member of the committee and his seat shall thereupon be deemed to be vacant.

(3) A member of a committee who has ceased to be a member thereof, on account of having incurred disqualification under sub-section (A1) and clauses (i) to (ix) of sub-section (1) shall not be eligible to be re-elected, re-co-opted or re-nominated as a member of the committee till the expiry of the period of next term of five years of the committee from the date on which he has so ceased to be a member of the committee.

(4) A member of a committee who has ceased to be a member thereof, other than disqualification referred to in sub-section (3), shall, unless otherwise specifically provided in this Act, be eligible to be re-nominated, re-co-opted or re-elected as a member of the committee as soon as such disqualification ceases to exist.

73-FFF Deleted*

73CB. State Co-operative Election Authority:

(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society shall vest in the authority called as 'the State Co-operative Election Authority', as may be constituted by the State Government in that behalf. Every general election of the members of the committee and

election of the office bearers of a society including any casual vacancy to the extent applicable shall be held as per the procedure prescribed.

- (2) The State Co-operative Election Authority shall consist of a State Co-operative Election Commissioner, who held the post not below the rank of Secretary to the State Government. The State Co-operative Election Commissioner shall be appointed by the Governor. The State Co-operative Election Commissioner shall hold the office for a period of three years, and he may be re-appointed for a further period of two years. The office of the State Co-operative Election Authority shall be at such place as may be notified by the State Government:

Provided that a person appointed as the State Co-operative Election Commissioner shall retire from the office on completion of the age of 65 years.

- (3) The State Government shall appoint on deputation, any person holding a post not below the rank of Additional Registrar as a secretary to the State Co-operative Election Authority.

(4) NA*

(5) NA*

(6) NA*

- (7) The State Government, after consultation with the State Co-operative Election Commissioner, shall provide the officers and employees for his office, to assist him in performing the functions under this Act.

- (8) The State Government shall, when so requested by the State Co-operative Election Commissioner, make available to the State Co-operative Election Authority such staff as may be necessary for discharge of the functions conferred on the State Co-operative Election Authority by sub-section (1).

(9)

(a) If any person to whom sub-section (8) applies is without reasonable cause, guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(b) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

Explanation.- For the purpose of this sub-section, the expression, "persons to whom sub-section (8) applies

are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers, and any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

- (10)Notwithstanding anything contained in any law for the time being in force, the election of the committee of each society shall be conducted by the State Co-operative Election Authority before the expiry of the term of the existing committee so as to ensure that the newly elected members of the committee assume office immediately on the expiry of the office of the members of the outgoing committee.
- (11)The State Co-operative Election Authority shall hold election of the society or class of societies as per the procedure, guidelines, and the manner, including using the latest technology and expertise, as may be prescribed.
- (12)The State Co-operative Election Authority shall conduct elections to the committee and also to office of President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected as per the bye-laws of the Society within fifteen days from the constitution of the Committee after a general election.
- (13)There shall be an Election Fund maintained at the level of the State Co-operative Election Authority. Every society shall deposit in advance the estimated amount of expenditure on its election, as may be prescribed and required by the State Co-operative Election Authority towards the Election Fund. The State Co-operative Election Authority shall incur the necessary expenses for the conduct of the election of the societies, including the election of the office bearers from the said fund. The expenses of holding any election, including the payment of travelling allowances, daily allowances and remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be incurred from the said fund and the expenditure shall be made in the manner prescribed. The Registrar, on requisition by the State Co-operative Election Authority, shall recover expenses of holding election from any such society or class of societies; Provided that, if any society fails to pay the election expenses, the Registrar may issue the recovery

certificate for recovery of the amount due, and such amount shall be recovered as arrears of land revenue.

(14) The Committee of every co-operative society shall, -

- a. Inform the State Co-operative Election Authority about the expiry of its term of office at least six months before the date of expiry of such term;
- b. Inform any casual vacancy occurred in the committee or its office bearers within fifteen days of the occurrence of such vacancy;
- c. Furnish such books, records and information as the State Co-operative Election Authority may require as per the calendar prescribed by the State Co-operative Election Authority;
- d. Provide all necessary help, assistance and co-operation for the smooth preparation of election rolls for the conduct of the election.

(15) Notwithstanding anything contained in this Act, the rules or the bye-laws of any co-operative society, the election to the committee and consequent election of the office bearers which is due on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013, or may become due after such date, until 31st March, 2013, shall be held before the 31st December 2013.

73-F. Election to more than one seat on the committee of society:

If a person is elected to more than one seat on the committee, then, unless within a period of thirty days from the date of declaration of the result of the election, he resigns all but one of the seats by writing under his hand addressed to the Election Officer, or as the case may be, the officer authorised by the State Co-operative Election Authority in this regard, all the seats shall become vacant. On receipt of such resignation or on the seats becoming vacant as aforesaid, the Election Officer, or as the case may be, the officer authorised by the State Co-operative Election Authority in this regard, shall cause to hold the election for filling the vacancy.

73 G. Deleted*

73H. Deleted*

73-I. Responsibility of committee or Administrator/s or authorised officer as the case may be to intimate and assist to arrange for election before expiry of term. –

- (1) As provided under sub-section 14 of section 73CB, it shall be the duty of the committee to intimate to the State Co-operative Election Authority, for holding of its election, before expiry of its term.
- (2) Where there is a willful failure on the part of the committee to intimate to the State Co-operative Election Authority as required under sub-section (1) for holding of its election, and for any reason whatsoever, election of the members of the committee could not be held before the expiry of its term, then the members thereof shall cease to hold their office and in such a situation the Registrar shall take action as contemplated under section 77-A.
- (3) On taking such action under sub-section (2), the authorised officer so appointed shall intimate to the State Co-operative Election Authority for holding of the election with immediate effect and assist to make necessary arrangement for holding such election within the period specified.

74. NA*

75. Annual General Body Meeting

(1) Every society shall, within a period of six four months after the close of the financial year, get its books of accounts audited and within six months after the close of financial year to transact its business as may be provided in this Act, call the annual general body meeting of all its members:

Provided that, where such meeting is not called by the society, the Registrar or any officer authorised by him may call such meeting in the manner prescribed and that meeting shall be deemed to be a general body meeting duly called by the society.

(2) At every general body meeting of a society, the committee shall lay before the society,-

(i) a statement showing the details of the loans (if any) given to any members of the committee, or any member of the family of any committee member including a society or firm or company of which such member or members of his family is a member, partner or director, as the case may be; the details of repayment of loan made during the preceding year and the amount outstanding and overdue at the end of that year;

(ii) annual report of its activities;

- (iii) plan for disposal of surplus;
- (iv) list of amendments of the bye-laws of the society, if any;
- (v) declaration regarding date and conduct of its election of its committee, when due;
- (vi) audit report of the preceding financial year;
- (vii) rectification report of earlier audit;
- (viii) annual budget for next year;
- (ix) any other information required by the Registrar in pursuance of any of the provisions of the Act and Rules, and;
- (x) such other business will be transacted as may be laid down in the bye-laws, and of which due notice has been given.

Explanation I.- For the purposes of this sub-section, the expression "family" means a wife, husband, father, mother, brother, sister, son, daughter, son-in-law, or daughter-in-law;

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

(2A) Every society shall, appoint an auditor or auditing firm from a panel approved by the State Government in this behalf in its annual general body meeting having such minimum qualifications and experience as laid down in Section 81 of the Act, for the current financial year and shall also file in the form of return to the Registrar, the name of the auditor appointed and his written consent for auditing the accounts of the society within a period of thirty days from the date of Annual General Body Meeting.

Provided that, the same auditor shall not be appointed for more than three consecutive years by the Annual General Body Meeting of the same society.

(3) There shall be attached to every balance sheet laid before the society, in general meeting, a report by its committee, With respect to (a) the state of the society's affairs; (b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet or any specific balance sheet; and (c) the amounts if any, which it recommends, should be paid by way of dividend, bonus, or

honoraria to honorary workers. The committee's report shall also deal with any 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 authorised to sign on behalf of the committee.

(4) At every annual general meeting, the audited balance sheet, the audited profit and loss account, audit report of the preceding financial year submitted by the auditor appointed under section 81, rectification report of earlier audit, 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 body meeting within the period prescribed under sub-section (1), or in complying with sub-section (2), (2A), (3) or (4), the Registrar may by order declare any officer or member of the committee whose duty it was to call such a meeting or comply with sub-section (2), (2A), (3) or (4) and who without reasonable excuse failed to comply with any of the aforesaid sub-sections disqualified for being elected and for being any officer or member of the committee for such period not exceeding ~~three~~ five years, as he may specify in such an order and if the officer is a servant of the society, impose a penalty on him to pay an amount not exceeding ~~one hundred~~ five thousand rupees.

Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

(6) Any penalty imposed under sub-section (5) or under [section 76], may be recovered in the manner provided by the [Code of Criminal Procedure, 1973], for the recovery of fines imposed by a Magistrate, as if such fine was imposed by the Magistrate himself.

76. Special general body meeting.-

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

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

(ii) At the instance of the Registrar, or

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

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

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

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

77. Acts of societies etc., not to be invalidated by certain defects.-

(1) No act of a society or a committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organization of the society, or in the constitution of the committee, or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office.

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

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

77A. Appointment of member of committee, new committee, authorised officers or administrator, where there is failure to elect member, to constitute committee or where committee does not enter upon office, etc.

(1) Where the Registrar is satisfied that,—

(1-a) a provisional committee has failed to make necessary arrangements for holding election for the constitution of the first committee, before the expiry of its term as specified in sub-section (1A) of section 73,

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

(b) the term ~~or extended term as the case may be~~ of the committee of any society or of any of its members has expired or for any other reason election to committee could not be held before the expiry of its term or election is held and there is a failure to elect all or any of the members required to fill the vacancies;

(b-1) there is a stalemate in the constitution or committee has ceased to function and vacuum is created in the management;

(c) Any committee is prevented from entering upon office;
or

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

(e) Deleted

(f) Where more than one group of persons in a society is claiming to be elected as the committee members and proceedings in respect thereof have been filed in the Co-operative Court; The Registrar may, either, *suo moto* or on the application of any officer or member of the society, by order appoint-

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

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

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

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

Provided also that if no member or members of the Society are willing to work on such Committee, it shall be lawful for the Registrar, to appoint one or more Authorised Officers not being a member of the society, as he may deem fit, to look after affairs of the society.

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

(3) The Committee or ~~Administrator~~ Authorised Officer so appointed shall hold office for a period of six months from the date of assuming the management of the society and shall make necessary arrangements for constituting a new committee within the staid period and for enabling the new Committee including any new Committee referred to in sub-clause (1) of sub-section (1), which is determined by the Court to have been legally elected, to enter upon office.

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

Provided ~~also~~ that, in no circumstances the term of office of the committee or ~~the Administrator appointed on, the co-operative credit structure entity~~ Authorised Officer shall exceed six months from the date of their holding office.

(4) The Registrar shall have the power to change the committee or any or all members thereof or any or all the ~~administrators~~ authorised officers appointed under sub-section (1) at his discretion even before the expiry of the period specified in the order made under sub-section (1) from the date of their holding office.

(5) The provisions of sub-section (2) of section 78A ~~(2A) of Section 78~~ shall apply *mutatis mutandis* for fixation of remuneration to be paid to the ~~members or administrators~~ authorised officers appointed under sub-section (1).

14. The maximum period of suspension of a society's managing committee is now six months. A committee of administrators (who may consist of active members of the society, and rarely an outsider) can now be appointed for a maximum of six months, after which elections must be called, and the society must be restored to normal functioning.

In most housing societies

78. Power of suspension of committee.-

(1) If in the opinion of the Registrar, the committee makes a persistent default in performance of its duties or is negligent in the performance of duties or is otherwise not discharging its functions properly and diligently or there is a stalemate in the constitution or functioning of the committee, occasioned by resignation, disqualification of members of committee or otherwise, the Registrar, after giving the committee an opportunity of showing cause, in writing, if any, within fifteen days from the date of receipt of the notice and after giving reasonable opportunity of being heard, and after consultation with the federal society to which the society is affiliated, comes to a conclusion that the charges mentioned in the notice *prima facie* exist, but are capable of being remedied with, he may by order. -

(i) keep the committee under suspension for such temporary period not exceeding six months, as may be specified in the order;

(ii) And appoint an administrator or committee of administrators consisting of three or more members of the society, otherwise than the members of the committee so suspended, in its place or appoint an administrator or committee of administrators who need not be the members of the society, to manage the affairs of society;

Provided that nothing in this sub-section shall apply to a society, where there is no government shareholding or loan or financial assistance in terms of any cash or kind or any guarantee by the Government;

Provided also that the Registrar shall have the power to change the committee or any member thereof or Administrator appointed, at his discretion even before the expiry of the period specified in the order made under that section.

Provided also that, such State Federal Society, shall communicate its opinion to the Registrar within ~~thirty~~ forty-five days from the date of receipt of communication, failing which it shall be presumed that such notified federal society has no objection to the order of suspension and the Registrar shall be at liberty to proceed further to take action accordingly.

(2) The Administrator or Committee of Administrators as the case may be so appointed under clause (ii) of sub-section (1), shall submit a report to the Registrar within such period as may be specified in

the order as to the remedial measures taken and after going through the report or any other material placed on record, if the Registrar is satisfied that the charges mentioned in the notice are made good or remedied, he shall by order revoke the order of suspension and direct the Administrator or the committee of Administrators to handover the management to the suspended committee with immediate effect.

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

(4) The Administrator or Committee of Administrators so appointed shall, subject to the control of the Registrar, and such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such actions as may be required in the interest of the society and shall arrange for conduct of the election, through the State Co-operative Election Authority, within the period specified and handover the management to the newly elected committee in accordance with the Act, Rules and bye-laws of the society. The administrator or committee of administrators so appointed as aforesaid shall, notwithstanding anything contained in the bye-laws, have power to call a special general body meeting of the society to review or reconsider the decisions or the resolutions taken or passed at the general body meetings called by the previous committee or to endorse the action taken by it.

(5) The conditions of the service of the administrator shall be fixed by the Registrar which shall include the remuneration payable to him and expenses of management. Such remuneration and expenses shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals, the Registrar may direct the person having custody of the funds of the society to pay to the administrator or committee of administrators such remuneration and expenses in priority to any other payments, except land revenue, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue, and he shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar.

(6) All acts done or purported to be done by the administrator or committee of administrators during the period the affairs of the society are carried on by the administrator or committee or

administrators appointed under sub-section (1) shall be binding on the new committee.

78-A. Power of suspension of committee or removal of member thereof —

(1) If in the opinion of the Registrar, the committee or any member of such committee has committed any act, which is prejudicial to the interest of the society or its members or if the State Co-operative Election Authority constituted under section 73-E has failed to conduct the elections in accordance with the provisions of this Act or where situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions and the business of the society has, or is likely to, come to a stand-still, or if serious financial irregularities or frauds have been identified or if there are judicial directives to this effect or, if there is a perpetual lack of quorum or where in the opinion of the Registrar the grounds mentioned in sub section (1) of section 78 are not remedied or not complied with, or where any member of such Committee, stands disqualified by or under this Act for being a member of committee, the Registrar may after giving the committee or the member, as the case may be an opportunity of stating its or his objections in writing as provided under sub-section (1) of section 78 and after giving a reasonable opportunity of being heard, and after consultation with the federal society to which the society is affiliated comes to a conclusion that the charges mentioned in the notice are proved, and the administration of the society cannot be carried out in accordance with the provisions of this Act, Rules and bye-laws, he may by order stating reasons therefor -

(a) (i) supersede the committee and –

(ii) appoint a committee consisting of three or more members of the society otherwise than the members of the committee so superseded, in its place or appoint an administrator or committee of administrators who need not be the members of the society, to manage the affairs of society for a period not exceeding six months:

Provided that the Registrar shall have the power to change the committee or any member thereof, or administrator or administrators appointed at his discretion even before the expiry of the period specified in the order made in this sub-section:

Provided further that, such federal society shall communicate its opinion to the Registrar within forty-five days, from the date of receipt of

communication, failing which it shall be presumed that such federal society has no objection to the order of supersession or removal of a member and the Registrar shall be at liberty to proceed further to take action accordingly:

Provided also that, nothing in this sub-section shall apply to a society, where there is no government shareholding or loan or financial assistance in terms of any cash or kind or any guarantee by the government;

(b) Remove the member:

Provided that the member who has been so removed shall not be eligible to be re-elected, re-co-opted or re-nominated as a member of any committee of any society till the expiry of period of next one term of the committee from the date on which he has been so removed:

(2) The provisions of sub-sections (3), (4), (5) and (6) of section 78 shall apply *mutatis mutandis*, in relation to supersession or removal under this section.

79. Society's obligation to file returns and statements and Registrar's power to enforce performance of such obligations.—

(1) The Registrar may direct any society or class of societies, to keep proper books of accounts in such form, including electronic or any other form, as may be prescribed 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.

(1A) Every society shall file returns within six months of the close of every financial year to which such accounts relate, to the Registrar or to the person authorised by him. The returns shall contain the following matters, namely-

- (a) Annual report of its activities;
- (b) Its audited statement of accounts;
- (c) Plans for disposal of surplus funds as approved by the general body of the society;
- (d) List of amendments to the byelaws of the society, if any;

15. The role of the Registrar in ensuring proper accounting is now made more strict.
Managing committees will have to be more disciplined and regular.

(e) Declaration regarding date of holding of its general body meeting and conduct of elections when due;

(f) Any other information required by the Registrar in pursuance of any of the provisions of this Act.

(1B) Every society shall also file a return regarding the name of the auditor or auditing firm from a panel approved by State Government in this behalf, appointed in the general body meeting together with his written consent, within a period of one month from the date of annual general body meeting.

(2) Where any society is required to take any action including filing of returns under this Act, the rules or the bye-laws, or to comply with an order made under the foregoing sub-sections, 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 authorised by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrears of land revenue.

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

(4) The Registrar or the authorised person on his behalf shall scrutinize the returns and information so received and take further necessary action, if required.

79-A. Governments powers to give directions in the public interest etc.

(1) If the State Government, on receipt of a report from the Registrar or otherwise, is satisfied] that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by Government, or to secure the proper management of

the business of the society generally, or for preventing the affairs of the interest, etc. society being conducted in a manner detrimental to the interest of the members of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the State Government may issue directions to them from time to time, and all societies or the societies concerned, as the case may be, shall be bound to comply with such directions.

(2) [The State Government may] modify or cancel any directions issued under sub-section (7), and in modifying or canceling such directions may impose such conditions as [it may deem fit].

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

(a) If the person is a member of the committee of the society, declare him to be disqualified to be or to continue to be a member of the committee of any society, for a period of six years from the date of the order,

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

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

Provided further that, such notified State Federal Society shall communicate its opinion to the Registrar within a period of ~~thirty~~ forty-five days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to take action under this section, and the Registrar shall be at liberty to proceed further to take action accordingly.

79AA. Registrar's powers to give directions to frame regulations.-

(1) If the Registrar or an officer not below the rank of District Deputy Registrar is of the opinion that having regard to the financial condition of the society and financial interest of Government therein, it is necessary to regulate the manner of carrying on its trade or business, he may, subject to any rules made in this behalf, direct such society to make regulations in that behalf and forward them to him for approval.

(2) On receipt of the regulations made by the society, the Registrar or such officer may approve them with or without modifications. On approval of such regulations, the society shall carry on its business in accordance with such regulations.

(3) if any society fails to forward such regulations to the Registrar or such officer when directed by him under sub-section (1) within a period of three months from the date on which the dictions is given, the Registrar or such officer shall himself make or cause to be made such regulations and require the society to carry on its business in accordance with such regulations and thereupon the society shall be bound to comply with such requirement.

79B. Deleted *

80. Registrar's power to seize records etc.—

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

(2) On receipt of an application under sub-section (1) the Magistrate shall forthwith consider such application and, if satisfied that immediate action is required, shall 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 hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

(3) Where the Registrar or an officer not below the rank of District Deputy Registrar (hereinafter referred to in this section as "the said officer") is satisfied that immediate action is required to be taken or that the Executive Magistrate having jurisdiction is not likely to be available at the head quarters for a consecutive period of three days or the books and records of a co-operative society are in the immediate danger of being tampered with or funds and property of a society are in the immediate danger of being misappropriated or

misapplied, the Registrar or the said officer may, notwithstanding anything contained in subsections (1) and (2), make an order to seize such books, records or funds of the society either himself or through an officer authorised by him in this behalf, and for that purpose the Registrar or the said officer or the officer so authorised may after reasonable notice at any reasonable time enter and search without warrant any premises where he believes such books, records or funds to be and inspect and seize such books, records or funds, and the officer or officers of the society responsible for the custody of such books, records and funds shall deliver such books, records or funds forthwith to the Registrar, the said officer or the officer so authorised, who shall acknowledge receipt of the books, records or funds of the society so seized. The Registrar, the said officer or the officer so authorised, may, for the purpose of execution of the said order, request the officer in-charge of the nearest police station to give him necessary assistance and such police officer shall thereupon give him such assistance.

.....

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

81. Audit.--

(1) (a) The society shall cause to be audited its accounts at least once in each financial year and also cause it to be completed within a period of ~~six~~ four months from the close of financial year to which such accounts relate and in any case before issuance of notice of the holding of annual general body meeting, by auditor or auditing firm from a panel prepared by the Registrar and approved by the State Government or an authority authorised by it in this behalf, possessing required qualifications and experience as may be prescribed to be eligible for auditing accounts of societies, appointed by a general body of a society, as provided in sub-section (2A) of section 75 and shall lay such audit report before the annual general body meeting. In case of apex society, the audit report shall also be laid before both houses of State Legislature, in such manner, as may be prescribed:

Provided that, if the Registrar is satisfied that the society has failed to intimate and file the return as provided by sub-section (2A) of section 75 and sub-section (1B) of section 79, by order, for the reasons to be recorded in writing, he may cause its accounts to be audited, by an auditor from the panel of the auditors approved by the State Govt. or an authority authorised by it in this behalf:

Provided further that no auditor shall accept audit of more than twenty societies for audit in a financial year excluding societies having paid up share capital of less than Rs. one lakh.

Provided also that, the Registrar shall maintain a panel of auditors and auditing firms as approved by the State Government or an authority authorised by it in this behalf.

(b) The manner of preparation, declaration and maintenance of the panel of auditors and auditing firms by the Registrar shall be such as may be prescribed.

(c) The committee of every society shall ensure that the annual financial statements like the receipts and payments or income and expenditure, profit and loss and the balance sheet along with such schedules and other statements are audited within **four months of the closure of the financial year.**

(d) The Registrar shall submit the audit report of every apex co-operative society to the State Government annually for being laid

16. The role of the Auditor of the society is now made more strict. The general body will now interact with the auditor at every AGM.

before both the Houses of State Legislature in the manner prescribed.

(e) The auditor's report shall have:

(i) All particulars of the defects or the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or the auditing firm shall investigate and report the *modus operandi*, the entrustment and amount involved;

(ii) Accounting irregularities and their implications on the financial statements to be indicated in detail in the report with the corresponding effects on the profit and loss

(iii) The functioning of committee and sub-committees of the societies be checked and if any irregularities or violation are observed or reported, duly fixing the responsibilities for such irregularities or violations.

(f) The remuneration of the auditor or auditing firm of a society shall be borne by the society and shall be at such rate as may be prescribed.

(g) The Registrar shall maintain the list of societies district-wise, the list of working societies, the lists of societies whose accounts are audited, the list of societies whose accounts are not audited within the prescribed time and reasons therefor. The Registrar shall co-ordinate with the societies and the auditors or auditing firms and ensure the completion of audit of accounts of all the co-operative societies in time every year.

Explanation-1: For the purposes of this section, the expression "possessing required qualifications" for being included in the panel duly approved by the State Government or an authority authorised by the State Government in this behalf, from time to time, shall mean and include-

(a) A person who is Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, who has a fair knowledge of the functioning of the societies and an experience of at least one year in auditing of societies, with a working knowledge of Marathi language;

(b) "Auditing firm" which is a firm of more than one Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, who have a fair

17. The Auditor is now required to find defects, irregularities, fraud etc. He can no longer perform his job like a mere formality.

knowledge of the functioning of the societies, with a working knowledge of the Marathi language;

- (c) A “certified auditor” means a person who holds a Degree from recognized University and also has completed a Government Diploma in Co-operation and Accountancy and who has a fair knowledge of the functioning of the societies and an experience of at least three years in auditing of societies, with a working knowledge of Marathi language;
- (d) “Government Auditor” means an employee of the Co-operation Department of the State possessing the Graduation or Post Graduation Degree, in addition to the Higher Diploma in Co-operative Management or Diploma in Co-operative Audit or Government Diploma in Co-operation and Accountancy with a working knowledge of Marathi knowledge, who has completed a period of probation successfully;

Explanation-2: The terms and conditions for inclusion and retention of name as an auditor or auditing firm in the panel of auditors shall be subject to the terms and conditions, as may be prescribed.

(2) The audit under sub-section (1) shall be carried out as per Accounting Standards as may be notified by the State Government from time to time and shall also include examination or verification of the following items, namely:-

- (i) Over dues of debts, if any;
- (ii) Cash balance and securities and a valuation of the assets and liabilities of the society;
- (iii) Whether loan and advances and debts made by the society on the basis of security have been properly secured and the terms on which such loans and advances are made or debts are incurred are not pre-judicial to the interest of the society and its members;
- (iv) Whether transactions of the society which are represented merely by book entries are not prejudicial to the interest of the society;
- (v) Whether loans and advances made by the society have been shown as deposits;
- (vi) Whether personal expenses have been charged to revenue account;
- (vii) Whether the society has incurred any expenditure in furtherance of its objects;

(viii) Whether the society has properly utilized the financial assistance granted by government or Government undertakings or financial institutions, for the purpose for which such assistance was granted;

(ix) Whether the society is properly carrying out its objects and obligations towards members.

(2A) Where, in the opinion of the State Government, it is necessary in the public interest or in the interest of the society to do so in relation to any society or class of societies for ensuring management thereof in accordance with sound business principles or prudent commercial practices, the State Government may, by order, direct that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time to time and that cost audit or performance audit or both, of such society or class of societies, as may be specified in the order, shall be conducted.

(2B) where any order is issued under sub-section (2A), the ~~Registrar~~ society shall cause its audit to be conducted by a cost accountant who is a member of the institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959.

(3) (a) The ~~Registrar or the person authorised~~ Auditor 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

(b) If the Registrar has reason to believe that there exists an element of fraud, misapplication of funds, manipulation of the accounts and the accounts of the society are likely to be tampered with, thereby causing loss to the society, he shall be competent to depute Flying Squad to a society or societies for examination of books, records, accounts, and such other papers and for verification of cash balance. The report of the Flying Squad shall be treated as sufficient evidence for further action, if any.

(c) If it is brought to the notice of the Registrar that the audit report submitted by the auditor does not disclose the true and correct picture of the accounts, the Registrar or the authorised person may carry out or cause to be carried out a test audit of the accounts of such society. The test audit shall

18. If the Auditor tries to cover-up any fraud, then the Registrar may call for a separate test audit.

include the examination of such items as may be prescribed and specified by the Registrar in such order.

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

(5) The auditor appointed under sub-section (1) shall have the right to receive all notices and ever 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.

(5A) If, during the course of audit of any society, the auditor is satisfied that some books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society the auditor shall immediately report the matter to the Registrar and, with previous permission of the Registrar, may impound the books or documents and give a receipt thereof to the society.

(5B) The auditor shall submit his audit report within a period of one month from its completion and in any case before issuance of notice of the annual general body meeting, to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him by the society they said accounts give all information required by or under this Act and present the true and fair view of the financial transactions of the society.

Provided that, where the auditor has come to a conclusion in his audit report that any person is guilty of any offence relating to the accounts or any other offences, he shall file a specific report to the Registrar within a period of 15 days from the date of submission of his audit report. The Auditor concerned shall, after obtaining written permission of the Registrar, file a First Information Report of the offence. The Auditor who fails to file First information Report shall be liable for disqualification and his name shall be liable to be removed from panel of auditors, and he shall also be liable to any other action as the Registrar may think fit:

Provided further that when it is brought to the notice of the Registrar that the Auditor has failed to initiate action as specified above, the Registrar shall cause a First Information

19. The Auditor is required to point out misappropriation etc. to the Registrar, and file an FIR against the persons responsible.

Report to be filed by a person authorised by him in that behalf:

Provided also that, on conclusion of his audit, if the auditor finds that there are apparent instances of financial irregularities resulting into losses to the society caused by any member of the committee, or officers of the society or by any other person, then he shall prepare a Special Report and submit the same to the Registrar along with his audit report. Failure to file such Special Report would amount to negligence in the duties of the Auditor, and he shall be liable for disqualification for appointment as an auditor or any other action as Registrar may think fit.

20. If the Auditor fails to file an FIR in case of fraud, then the Registrar is duty-bound to do so. Also, the Auditor may be disqualified from carrying out audits.

(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 account so 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.

82. Rectification of defects in accounts.-

If the result of the audit held under the last preceding section discloses any defects. A in the working of a society the society shall within three months from the date of audit report, explain to the Registrar the defects, or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities and report to the Registrar, the action taken by it thereon, and place the same before the next general body meeting. 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. If, the committee of a society fails to submit the Audit Rectification Report to the Registrar and to the Annual General Body Meeting, all members of the committee shall deemed to have committed an offence under Section 146 and accordingly shall be liable for penalty provided in Section 147. Where the society concerned is a member of a federal society, such order of imposition of penalty shall be made after consulting the State federal society concerned."

Provided that the Registrar or the person authorised by him shall scrutinize the audit rectification report accordingly, and inform the society about such report within six months from the date of receipt thereof:

Provided further that, it shall be the responsibility of the auditor concerned to offer his remarks on the rectification report of the society, itemwise, till entire rectification is made by the society, and submit his report to the Registrar.

Provided also that, such federal society shall communicate its opinion to the Registrar within a period of ~~thirty~~ forty-five days from the date of receipt of communication, failing it shall be presumed that such federal society has no objection to the proposed action and the Registrar shall be at liberty to proceed further to take action accordingly.

83. Inquiry by Registrar

(1) The Registrar may *suo-motu* or, on the application of ~~one third~~ one-fifth members of the society or on the basis of Special Report under the third proviso of to sub-section (5B) of section 81, himself or by a person duly authorised by him in writing, in this behalf, shall hold an inquiry into the constitution, working and financial conditions of the society.

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

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

(b) If any such person refuses to produce to the Registrar or any person authorised by him under sub section (1), any book or papers which it is his duty under clause (a), to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub— clause (a), the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar after hearing any statement which may be offered in defense,

21. In case of fraud, one fifth of members may make an application to the Registrar to hold an enquiry into all the matters of the society.

punish the defaulter with a penalty not exceeding five ~~hundred~~ thousand rupees. Any sum imposed as penalty, under this section shall, on the application by the Registrar or the person authorised by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by him.

(c) The Registrar or the officer authorised by him shall complete the inquiry and submit his report as far as possible within a period of six months and in any case not later than nine months.

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

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

84. Inspection of books of indebted society-

(1) On the application of a creditor of a society who;

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

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

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

(2) The Registrar shall communicate the result of any 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.

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

85. Costs of inquiry and inspection.-

(1) Where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs as he may think just between the

22. Tight deadline for Registrar's inquiry - report to be submitted within nine months.

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 and pass such order within a period of six months from the date of submission of inquiry report:

Provided that;

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

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

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

86. Recovery of costs.-

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

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

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

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

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

(4) If a society fails to rectify the defects disclosed in the course of or as a result of an audit under section 81 or fails to rectify the defects as directed by the Registrar, and where no appeal has been made to

the State Government within this time specified in the order, or where on the appeal so made the State Government has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the costs from the officer or officers of the society who, in his opinion, has or have failed to rectify the defects.

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

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

Provided that proceedings under this sub-section shall be completed by the authorised person within a period of two years from the date of issue of order by the Registrar:

Provided further that, the Registrar may, after recording the reasons therefor, extend the set period for a maximum period of six months.

(2) The Registrar or the person authorised under sub-section (1) on 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.

88A. Deposit towards fees of inquiry.-

Where the Registrar on his own motion decides and orders an inquiry under section 83 or proceeds or authorised to make inquiry under section 88 he may, having regard to the nature of allegations and the inquiry involved, require the society concerned to deposit with him such sum of money as he may determine, towards the cost of inquiry. If the sum so determined is not deposited with the Registrar within 15 days from the date of receipt of the order requiring the society to deposit the sum, it shall on a certificate issued by the Registrar, be recoverable as an arrears of land revenue.

89. Power to enforce, attendance etc.—

The Registrar or the person authorised by him, when acting under section 83, 84 or 88 shall have the power to summon and enforce the attendance of any person and examining him on oath or affirmation or by affidavit or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure; 1908.

89A. Power to inspect working of society.-

(1) It shall be competent for the Registrar to inspect or cause to be inspected the working of any society to ensure that

(a) the provisions of the Act, rules and bye-laws of the society are being properly followed by the society;

(b) the records and books of accounts are kept in proper forms;

(c) overall view is taken to ensure that the business of the society is being run on sound business principles and under professional and efficient management;

(d) The society is following the co-operative principles and the directives or directions given by the State Government in accordance with the provisions of this Act and the rules made there under;

(e) The returns as provided by Section 79 are submitted to the Registrar regularly and properly.

(2) For the purpose of supervision over the societies, the Registrar shall have the power

(a) To inspect the records and books of accounts of the society and for that purpose he shall have, at all times, access to all the records and books of accounts of the society; and

(b) To summon any officer or employee who has the custody of the records or books of accounts of the society to produce them before him

(3) The State Government may levy supervision fees on any society or class of societies at such rates, as the State Government may, having regard to the area of operation, the nature of business and the objects of the society, by notification in the Official Gazette, fix from time to time.

(4) Every society liable to pay the fees levied under sub—section (3) shall pay such fees by such date and in such manner as the State Government may specify in the notification issued under sub-section (3).

(5) The State Government may, having regard to the financial position of any society or class of societies, by general or special order published in the Official Gazette exempt such society or class of societies from payment of such fees for such period as may be specified in such order, or reduce or remit in whole or in part such fees.

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

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

(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 reimbursement of expenditure which the State Government or any person authorised in that behalf has incurred or is likely to incur, in respect of supervision of societies:

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

.....

CHAPTER IX
SETTLEMENT OF DISPUTES

91. DISPUTES.-

(1) Notwithstanding anything contained in any other law for the time being in force, in any dispute touching the constitution, election of the committee or its officers, 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 a Co-operative Court if both the parties thereto are one or other of the following:

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or -nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or Liquidator of the or the Official Assignee of a de-registered society

(b) A member, past member or a person claiming through a member, past member or a deceased member of society, or a society which is a member of the society or al person who claims to be a member of the society;

(c) a person other than a member of the society, with whom the society has any transactions in respect of which any restrictions or regulations have been imposed, 3 made or prescribed under section 43, 44 or 45, and any person claiming through , such person;

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

(e) Any other society or the Liquidator of such a society or de-registered society or the Official Assignee of such a de-registered society.

Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947, or rejection of nomination paper at the election to a committee of any society or refusal of admission to membership by a society to any person qualified there for or any proceeding for the recovery of the amount as arrears of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or sub-section (1) of

Section 137 or the recover proceeding of the Registrar or any officer subordinate to him or an officer of society notified by the State Government, who is empowered by the Registrar under sub-86 section (1) of section 156 shall not be deemed to be a dispute for the purposes of this section.

(2) Sub section (2) deleted

(3) save as otherwise provided under sub-section (2) of section 93, no Court shall have jurisdiction to entertain any suit or other proceeding in respect of any dispute referred to in sub-section (1).

Explanation 1- A dispute between the Liquidator of a society or Official Assignee of a de-registered society and 7the members (including past members, or nominees, heirs or legal representative or deceased members) of the same society shall not be referred to the Co-operative Court under provisions of sub-section (1). -

Explanation 2 - for the purposes of this sub-section a dispute shall include-

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

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

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

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

91.A. Constitution of Co-operative Courts.- ·

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

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

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

(4) All disputes and other proceedings pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, before any nominee or board of nominees appointed by the Registrar, shall be transferred by him, by general or special order, to any Co-operative Court specified by him in that behalf and shall be heard and disposed of by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing de novo.

(5) All disputes and other proceedings pending, immediately before the commencement of the Maharashtra Co-operative Societies, (Amendment and. Validation) Act, 1982, before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made there under, have been delegated shall be transferred by him, by general or special order, to any Co-operative Court specified by him and shall be heard and disposed of by that Court as if they had been originally filed before it. That Court may proceed to hear and dispose of such proceeding from the stage reached before such transfer or may commence the hearing de novo.

92. Limitation. -

(1) Notwithstanding anything contained in the Limitation Act, 1963, but subject to the specific provisions made in this Act, the period of limitation in the case of dispute referred to the Cooperative Court under the last preceding section shall-

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

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

agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) When the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated committee or an administrator or committee or authorised person has been appointed under sections 77A, 78 or 78A, be six years from the date of the order issued under section section 77A, 78 or 78A, or under section 102, as the case may be;

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

(3) Notwithstanding anything contained in sub-sections (1) and (2), 5 the Co- operative Court may admit a dispute after the expiry of the limitation period, if the applicant satisfies the Co-operative Court that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be dispute which shall not be barred on the ground that the period of limitation had expired.

93. Transfer of disputes from one Co-operative Court to another and suspension of proceedings in certain cases

(1) Where any dispute is referred to any Co-operative Court, the President of the Co operative Appellate Court may, at any time, for reasons to be recorded in writing, withdraw such dispute from that Court and may refer it for decision to any other Co-operative Court as he deems fit.

(2) Notwithstanding anything contained in this Act, the Co-operative Court, on an application made to it by any of the parties to the dispute, may, if it thinks fit suspend any proceedings in respect of 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 I by one of the parties or by the society. If any such suit is not instituted in a Civil Court within two months from the date of the order of the Co-operative Court, that Court shall continue the proceedings and decide the dispute.

(3) Notwithstanding anything contained in this Act, where it appears to the Co-operative Court that there exist elements of settlement which may be acceptable to the parties, the court may formulate the terms of the settlement and give the same to the parties for their observation and after receiving the observations of the parties, the court shall formulate the terms of possible settlement and refer the disputes for,-

(i) Arbitration;

(ii) Conciliation;

(iii) Judicial Settlement including settlement through Lok Adalat;

(iv) Mediation.

(4) Where dispute has been referred-

(a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996, shall apply as if proceedings for Arbitration and Conciliation were referred for settlement of the dispute under the provisions of the said Act;

(b) to Lok Adalat, the Court may refer the same to the Lok-Adalat in accordance with the provision of Legal Services Authorities Act, 1987 and all other provisions of that Act shall apply in respect of the dispute so referred to in the Lok-Adalat;

(c) for judicial settlement, the Court may refer the same to a suitable institution or a person working in that field and such institution or a person shall be deemed to be a Lok Adalat and all the provisions of Legal Services Authorities Act, 1987 shall apply as if the disputes were referred to Lok-Adalat under the provisions of the said Act;

(d) for mediation, the Court may affect compromise between the parties and shall follow such procedure as may be prescribed.

94. Procedure for settlement of disputes and power of Co-operative Court.-

(1) The Co-operative Court, hearing a dispute under the last preceding section shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as

23. The Co-operative court is also mandated to sort out grievances and disputes with win-win solutions through arbitration-conciliation etc., rather than pronouncing judicial judgments.

far as possible in the same manner, as is provided in the case of a Civil Court by Code of Civil Procedure, 1908.

{1A) Save as otherwise provided in this Act, every dispute in relation to any election shall be heard and decided by the Co-operative Court as expeditiously as possible and endeavor shall be made to conclude the hearing and decision within six months from the date on which the dispute is filed before it.

(2) Except with the permission of the Co-operative Court no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Co-operative Court is satisfied that a person whether he be a member of the society or not has acquired any interest in the property of a person who is a party to a dispute it 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 Co-operative Court shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Cooperative Court may, at any stage of the hearing of the dispute, if satisfied that the mistake was bona fide order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as it thinks just

(c) The Co-operative Court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Co-operative Court, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Cooperative Court, may be necessary in order 4to enable the Co-operative Court effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added

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

(3A) If disputant is present and the opponent is absent, when the dispute is called out for hearing, the Co-operative Court may decide the dispute *ex-parte*, and pass an award. The Co-operative Court, may set aside the *ex-parte* award upon such terms as to the

payment of costs, to the court or otherwise as it thinks fit, if the opponent makes an application within thirty days from the date of the award, and satisfies the court that there was sufficient cause for his failure to appear, when the dispute was called out for hearing and appoint a day for hearing and deciding the dispute on merits.

(3B) If the opponent is present and the disputant is absent when the matter is called out for hearing, the Co-operative Court may dismiss the dispute for default, and pass an award accordingly. The Co-operative Court may restore the dispute which is dismissed for default and restore the same, upon such terms as to the payment of costs, as it thinks fit, if the disputant makes an application within thirty days from the date of its dismissal, and satisfies the court that there was sufficient cause for his failure to appear, when the dispute was called for hearing and appoint a day for hearing and deciding the dispute on merits.

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

95. Attachment before award or order and interlocutory order.-

(1) Where a dispute has been referred to the Co-operative Court under section 91, 93 or 105 or whether the Registrar or the ~~person~~ authorised officer under section 88 (hereinafter in this section referred to as "the authorised officer") hears a person against whom charges are framed under that section and the Cooperative Court or the Registrar or the authorised officer, as the case may be, is satisfied on inquiry or otherwise that a party to such dispute or the person against whom proceedings are pending under section 88, with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,—

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

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

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

(2) Where attachment of property is directed under sub-section (1), the Co-operative Court or the Registrar or the authorised person, as the case may be, shall issue a notice calling upon the person whose property is so attached to furnish security as it or he thinks adequate within a specified period. If the person fails to provide the

security so demanded, the authority issuing the notice may confirm the order and, after the decision in the dispute or the completion of the proceedings under section 88 may direct the disposal of the property so attached towards the claim if awarded.

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

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

96. Decision of Co-operative Court.-

When a dispute is referred to the Co-operative Court, it may, after giving reasonable opportunity of being heard to the parties to the dispute, make an award regarding the dispute, the expenses incurred by the parties to the dispute in connection with the proceedings, and fees and expenses payable to the Co-operative Court. In case of money claim preferred by society against a member, the amount of award representing the interest shall not be less than the amount of interest accrued thereon, in accordance with the contractual rate of interest, but where such money claim relates to any loan referred to in section 44A, the provisions of that section shall apply to such money claim as they apply to loan under section 44A.

97. Appeal against decision under section 96 and order under Section 95.-

Any party aggrieved by any decision of the Co-operative Court under the last preceding section, or order passed by the Cooperative Court or the Registrar or the authorised officer under section 95 may, within two months from the date of the decision or order, appeal to the Co-operative Appellate Court.

98. Money how recovered.-

Every order passed by the Official Assignee of a de-registered society under sub-section (3) of section 21A or every order passed by the Registrar or an officer authorised by him under Section 88 or by the Registrar or the Co-operative Court under section 95 or by the Co-operative Court under section 96 every order passed in appeal under the last preceding section, every order passed by a

Liquidator under section 105, every order passed by the State Government in, appeal against orders passed under section 105, and every order passed by the State Government or by the Registrar in revision under section 154 or every order passed by the Registrar for recovery under this Act shall, if not carried out;

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

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

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

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

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

100. Transfer of property which cannot be sold.-

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

(2) Where property is transferred to the society under the foregoing sub-section or where property is sold under section 98, 101 or 137,

the Court, the Collector, or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

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

101. Recovery of certain sums and arrears due to certain societies as arrears of land revenue.

(1) Notwithstanding anything contained in section 91, 93 and 98, on an application made ...(NA*)... by a co-operative housing society for the recovery of its maintenance and service charges, ...(NA*)... and on the society concerned furnishing a statement of accounts and any other documents as may be prescribed in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears,

Explanation.I- NA*

Explanation.II- For the purposes of this sub-section the expression "maintenance and service charges" means such charges as are specified in the bye-laws of the concerned co-operative housing society.

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

(3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force, as arrears of land revenue. A revision shall lie against such order or grant of certificate, in the manner laid down under section 154 and such certificate shall not be liable to be questioned in any court.

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

.....

CHAPTER X
LIQUIDATION

- 102. NA*
- 103. NA*
- 104. NA*
- 105. NA*
- 106. NA*
- 107. NA*
- 108. NA*
- 109. NA*
- 110. NA*

CHAPTER X-A
INSURED CO-OPERATIVE BANK

- 110-A. NA*

CHAPTER XI
CO-OPERATIVE AGRICULTURE AND RURAL MULTIPURPOSE
DEVELOPMENT BANKS

- 111. NA*
- 112. NA*
- 112A. NA*
- 112AA. NA*
- 112B. NA*
- 112-C. deleted
- 113. NA*
- 114. NA*
- 115. NA*
- 116. NA*
- 117. NA*
- 118. deleted
- 119. NA*
- 120. NA*
- 121. NA*
- 122. NA*
- 123. NA*
- 124. deleted
- 125. NA*
- 126. NA*
- 127. NA*
- 128. NA*
- 129. NA*
- 130. NA*
- 131. NA*
- 132. NA*
- 133. NA*

- 134. NA*
- 135. NA*
- 136. NA*
- 137. NA*
- 138. NA*
- 139. NA*
- 140. NA*
- 141. NA*
- 142. NA*
- 143. NA*
- 143A. NA*
- 144. NA*
- 144-1 A. NA*
- 144-1B Deleted.

CHAPTER XI-A

ELECTIONS OF COMMITTEE AND OFFICERS OF CERTAIN SOCIETIES

- 144- A .- Deleted
- 144-B.-Deleted
- 144-C.- Deleted
- 144-D.- Deleted
- 144-E..-Deleted
- 144-F. Deleted
- 144-G Deleted
- 144 H. Deleted
- 144-I. Deleted
- 144-J.–Deleted
- 144-K. Deleted
- 144. L. Deleted
- 144-M. Deleted
- 144-N. Deleted
- 144-O. Deleted
- 144-P. Deleted
- 144-Q. Deleted
- 144-R. Deleted
- 144-S. Deleted
- 144-T. Deleted
- 144-U. Deleted
- 144-V. Deleted
- 144-W. Deleted
- 144-X. Deleted
- 144-Y. Deleted

.....

CHAPTER XII

OFFENCES AND PENALTIES

145. Prohibition of use of the word "Co-operative".-

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

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

146. Offences.-

It shall be an offence under this Act, if-

(a) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 47 or any person knowingly acquires, or abets in the acquisition of, such property; or

(b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer who without any sufficient cause fails to pay a co-operative society amount deducted by him from its employee within a period of 14 days from the date on which such deduction is made, and also any person who fails to comply with sub-section (2) of section 49; or

(c) A committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 70; or

(d) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or an Urban Co-operative Bank, or a Postal Savings Bank; or

(e) any person, collecting the share money for a society in formation, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise; or

(e-1) any person, who collects share money or any other sum by misrepresentation to the members or prospective members in the name of the society to be registered or after registration of a society by such misrepresentation, or otherwise; or,

(e-2) any person knowingly gives a false certificate in whatever form showing that a person is or is not a "defaulter" within the meaning of that expression in the Explanation to clause (i) of sub-section (1) of section 73CA; or

(f) A committee of a society or an officer or member thereof, fails to comply with the provisions of sub-sections (2), (2A), (3) or (4) of section 75; or

(g) a co-operative society or an officer or member thereof willfully makes a false return or fails to furnish a return under section 75 or 79 of the Act, or furnishes false information or willfully fails to furnish any information required from him by a person holding an inquiry under section 83, person authorised under section 88 or as required under any provisions of this Act, any officer or member of a society who is in possession of information books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the State Government or the Registrar under sections 77A, 78, 78A, 81, 83, 84, 88, 89A, 94, 103 or 110A;

(h) any officer or custodian who willfully fails to hand over custody of books, accounts, documents, records, cash, security and any other property belonging to a cooperative society of which he is an officer or custodian, to an authorised person or, to a person appointed under section 77A, 78, 78A, 103 or 110A, or any other person appointed under this Act or

(h-1) a committee of a society or an officer or member thereof involved in corrupt practices during the election, or

(i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof, fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders made under section 79; or

(j) any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under sections 81, 83, 88 or any other provisions under the Act, or 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 authorised 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

24. Some new offences, especially those in respect of act of commission or omission committed by managing committee members and office bearers, have been defined.

(l) any officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 81,

(l-1) the Committee fails to submit Audit Rectification Report to the Registrar and the Annual General Body Meeting as per 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 96; 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 off 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 or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested, a loan in the name of any other person or

(p) any officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secrets or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to X 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.

147. Punishments for Offences under section 146.—

Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under section 146 shall, on conviction, be punished-

(a) If it is an offence under clause (a) of that section, with imprisonment for a term which may extend to six month, or with fine which may extend to five ~~hundred~~ thousand 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 three years, or with fine which may extend to ~~five~~ fifteen thousand rupees, or with both;

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

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

(e) If it is an offence under clause (e) of that section, with imprisonment for a term which may extend to one year;

(e-1) if it is an offence under clause (e-1) of that section, with imprisonment of a term which may extend to three years, or with fine which may extend to ~~five~~ fifteen thousand rupees, or with both;

(e-2) if it is an offence under clause (e-2) of that section, with imprisonment of a term which may extend to three years, or with fine which may extend to ~~five~~ fifteen 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~~ five thousand rupees;

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

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

(h-1) If it is an offence under clause (h-1) under that section, with fine which may extend to five thousand rupees;

(i) if it is an offence under clause (i) of that section, with fine which may extend to five ~~hundred~~ thousand 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~~ thousand rupees, 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~~ ten 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~~ thousand rupees.-

(l-1) If it is an offence under clause (l-1) under that section, with fine which may extend to five thousand 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~~ thousand 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~~ five thousand rupees, or with both;

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

(p) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to three years, or with fine which may extend to fifteen thousand rupees, 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~~ one thousand rupees.

148. Cognizance of offences.-

(1) No Court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence under this Act.

(2) Sub-section 2 deleted.

(3) No prosecution under this Act shall be lodged, except with the previous sanction of the Registrar.

148 A. Contempt of Co-operative Courts and of Co-operative Appellate Court

(1) If any person-

(a) when ordered by a Co-operative Court or the Co-operative Appellate Court to produce or deliver up any document or to furnish information, being legally bound so to do intentionally omits to do so; or

(b) When required by any such Court to bind himself by an oath or affirmation to state the truth, refuses to do so;

(c) being legally bound to state the truth on any subject to any such Court, refuses to answer any question demanded of him touching such subject by the Court; or _

(d) Intentionally offers any insult or causes any interruption to any such Court at any stage of its judicial proceeding,

he shall on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person refuses to sign any statement made by him, when required to do so by a Co-operative Court or the Co-operative Appellate Court, he shall on conviction be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) If any offence under sub-section (1) or (2) is committed in the view or presence of a Court concerned, the said court may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same, and may require security to be, given for the appearance of the accused person before such Magistrate or, if sufficient security is

not given, shall forward such person in custody to such Magistrate. The Magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the Code of Criminal Procedure, 1973.

(4) If any person commits any act or publishes any writing which is calculated to improperly influence a Co-operative Court or the Cooperative Appellate Court Tribunal constituted under section 88 of the Act to bring any such Court or a member thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.

(5) In the case of contempt of itself, the Co-operative Appellate Court shall record the facts constituting such contempt, and make a report in that behalf to the High Court:

(6) In the case of contempt of a Co-operative Court, the Co-operative Court shall record the facts constituting such contempt, and make a report in that behalf to the Co-operative Appellate Court, and thereupon, that Court may, if it considers it expedient to do so, forward the report to the High Court.

(7) When any intimation or report in respect of any contempt is received by the High Court under sub-section (5) or (5) the High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.

.....

CHAPTER XIII

APPEALS, REVIEW AND REVISION

149. Maharashtra State Co-operative Appellate Court.-

(1) A Court to be called the Maharashtra State Co—operative Appellate Court is hereby constituted to exercise the powers and to discharge the functions conferred on it by or under this Act.

(2) The Co-operative Appellate Court shall consist of the President, and such number of other members as the State Government may from time to time consider necessary, who possess such qualifications as may be prescribed. The President and other members shall hold office for such period or such different periods as may be prescribed.

(3) Any vacancy in the membership of the Co-operative Appellate Court shall be filled by the State Government.

(4) All or any of the powers and functions of the Co-operative Appellate Court may be exercised and discharged by any of its members sitting singly or in Benches, as may be determined by the President.

(5) Such Benches shall consist of two or more members.

(6) Where a matter is heard by an odd number of members constituting a Bench the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members the opinion of the President shall prevail; and in other cases the matter shall be referred for hearing to the President, and shall be decided in accordance with his decision.

(7) Subject to the previous sanction of the State Government, the Co-operative Appellate Court shall frame regulations consistent with the provisions of this Act and rules made there under, for regulating its procedure and the disposal of its business.

(8) The regulation made under sub-section (7), shall be published in the Official Gazette.

(9) The Co-operative Appellate Court may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Co-operative Appellate Court that any such decision or order should be modified, annulled or reversed, the Co-operative Appellate Court may pass such order thereon as it may deem just.

(10)Where an appeal or application is made to the Co-operative Appellate Court under this Act, it may, in order to prevent the ends of justice being defeated, make such interlocutory order pending the decision of the appeal or application as the case may be, may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Co-operative Appellate Court.

(11)An order passed in appeal or in revision under sub-section (9), or in review under section 150 by the Co-operative Appellate Court shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

Explanation.--The Co-operative Appellate Court hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and Order XLI in the First Schedule of the Code of civil Procedure, 1908

(12) (a) The President and other members of the Maharashtra State Co-operative Tribunal functioning immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, shall be deemed, respectively to be the President and other members of the Maharashtra State Co-operative Appellate Court constituted for the purpose of this Act; and all appeals and other proceedings pending before the said Tribunal shall be heard and disposed of by the said Court from the stage they reached before such commencement.

(b) Anything done or any action taken (including any orders passed or regulations made by the said Tribunal, shall be deemed to have been done or taken by the said Court and shall continue in operation until duly modified or annulled.

(c) Any reference to the said Tribunal in any, law or instrument, for the time being in force, shall, with effect from the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, be construed as a reference to the said Court.

150. Review of orders of Co-operative Appellate Court.-

(1)The Co-operative Appellate Court may, either on the application of the Registrar or on the application of any party interested review its own order in any case and pass in reference thereto such order as it thinks just:

Provided that, no such application made by the party interested shall be entertained, unless the Co-operative Appellate Court is satisfied that there has been the

discovery of and important matter of evidence, which after the exercise of the diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error, apparent on the face of the record, or for any other sufficient reason.

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

(2) An application for review under the foregoing sub-section by any party shall be made within ninety days from date of the communication of the order of the Co-operative Appellate Court.

151. Co-operative Appellate Court to have power of Civil Court.

(1) In exercising, the functions conferred on it by or under this Act, the Co-operative Appellate Court shall have the same powers as are vested in a Court in respect of

- (a) Proof of facts by affidavit,
- (b) Summoning and enforcing the attendance of any person and examining him on oath,
- (c) Compelling discovery or the production of documents, and
- (d) Issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the Co-operative Appellate Court in this behalf may administer the oath to the deponent.

152. Appeals.-

(1) An appeal against an order or decision under sections 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 21A, 29, 35, 77A, 78, 79, 85, 88 and 105 including against an order for paying compensation to a society shall

- (a) If made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government.
- (b) If made or sanctioned by any person other than the Registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred to the Registrar.

Provided that, no order of stay shall be issued in respect of the recovery of dues under the award issued by the Liquidator unless fifty percent of the amount stated in the award is deposited with the society by the Appellant

(2) Where an appeal against any order or decision to the Cooperative Appellate Court has been provided under this Act, it shall lie to the Co-operative Appellate Court.

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

(3-A) The Appellate Authority, in order to prevent the ends of justice being defeated may pass such interim orders including order of stay against the impugned order, pending the decision and final hearing of the Appeal.

Provided that, if any interim order has been passed by the Appellate Authority without hearing the other side, the Appellate Authority shall decide such application within a period of three months and pass the necessary orders on merits by giving opportunity of being heard and for the reasons to be recorded in writing.

(4) Save as expressly provided, no appeal shall lie against any order, decision or award passed in accordance with the provisions of this Act; and every such order decision or award shall, whether expressly provided or not, be final, but shall always be subject to the provisions for revision in this Act; and where an appeal has been provided for, any order passed on appeal shall likewise be final, but be subject to such revision provisions.

152A. Appeal against rejection of nomination paper at election.-

(1) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under a person aggrieved by the rejection of nomination of a candidate at the election of a committee of any society may file an appeal to the Registrar within three days of the date of rejection of the nomination. The Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal and the decision of the Registrar in appeal shall be final and no further appeal or revision shall lie against the decision of the Registrar in such appeal. In the case of a society, an appeal shall lie to the ~~Divisional Commissioner~~ officer as may be specified by the State Co-operative Election Authority, who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of such officer shall be final.

(2) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under, the list of validly nominated candidates shall be subject to the decision of any appeal filed under sub-section (1), and the period between the date of scrutiny of nomination papers and the last date of the withdrawal of candidatures shall not be less than fifteen days.

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

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

154. Revisionary powers of State Government and Registrar-

(1)The State Government or the Registrar, so moth or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings, if in any case, it appears to the State Government, or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.

(2)Under this section, the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

(2A)No application for revision shall be entertained against the recovery certificate issued by the Registrar under section 101 or certificate issued by Liquidator under section 105 unless the applicant deposits with the concerned society, fifty percent of the amount of the total amount of recoverable dues.

Provided that, in case of such revision where revisional authority has granted a stay to the recovery of dues, the authority shall as far as may be practicable, dispose of such revision application as expeditiously as possible but not later than six months from the date of the first order.

(3)No application for revision shall be entertained, if made after two months of the date of communication of the decision or order. The provisional authority may entertain any such application made after such period, if the applicant satisfies it that he had sufficient cause for not making the application within such period.

(3A) The revisional authority, in order to prevent the ends of justice being defeated, may pass such interim orders including order of stay

against the impugned order, pending the decision and final hearing of the Revision Application:

Provided that if any interim order has been passed by the revisional authority without hearing the other side, the revisional authority shall decide such application within a period of three months and pass the necessary orders on merits by giving opportunity of being heard and for the reasons to be recorded in writing.

(4)The State Government may, by order, direct that the powers conferred on it by this section shall, in such circumstances and under such conditions if any, as may be specified in the direction, be exercised also by an officer of the rank of Secretary to Government.

.....

CHAPTER XIII-A

MAHARASHTRA STATE CO-OPERATIVE COUNCIL

154A. Constitution of State Co-operative Council, its functions, etc.-

(1) There shall be a Council to be called the Maharashtra State Cooperative Council consisting of such number of member or members, including the Chairman and the Vice-Chairman, as the State Government may determine and nominate from time to time.

(2) The State Government shall appoint a Secretary of the Council.

(3) The functions of the Council constituted under sub-section (1) shall be as follows namely:-

(a) To advise the State Government on all matters relating to cooperative movement;

(b) To review the co-operative movement and to suggest way of coordinating the activities of co-operative societies in the State

(c) To suggest ways and means to remove the difficulties experienced by the co-operative societies;

(d) To report to the State Government on such matters as may be referred to it by the A State Government;

(e) To recommend the plans and policies for the development of co-operative movement in the State

(f) To evaluate existing schemes and suggest new schemes for cooperative development especially for the development of backward classes and economically weaker section of the society;

(g) To advise the State Government for the implementation of special scheme of economic development through co-operative methods and

(h) To undertake studies for any of the purposes aforesaid either through department of specified bodies.

(4) The State Government may, by general or special order, provide for

(a) The calling of the meetings of the Council and the procedure at such meetings,

(b) Duties of the Secretary to the Council,

(c) Sub-committee or committees of the Council

(d) The term of office of members of the Council and traveling and daily allowances admissible to the members of the Council.

.....

CHAPTER XIV
MISCELLANEOUS

155. Recovery of sums due to Government-

(1) Unless otherwise provided by this Act, all sums due from a society or from an officer or member and a past member or deceased member of a society as such to the Government, may be recovered according to the law and under the rules for the time in force or the recovery of arrears of land revenue.

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

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

156. Registrars powers to recover certain sums by attachment and sale of A property.-

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

(a) Any amount due under a decree or order of a Civil Court obtained by a society;

(b) Any amount due under a decision, award or order of the Registrar, Co-operative Court or Liquidator or Co-operative Appellate Court;

(c) Any sum awarded by way of costs under this Act;

(d) Any sum ordered to be paid under this Act as a contribution to the assets of the society; '

(e) Any amount due under a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or under sub-section (1) of section 137; together with interest, if any, due on such amount or sum and the costs of process according to the scales of fees laid down by the Registrar from time to time, 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)NA*

157. Power to exempt societies from provisions of Act.—

The state Government may, by general or special order, exempt any society or class of societies from any of the provisions of this Act, or of the rules made there under, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order.

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

Provided further that the State Government shall not exempt any society or class of societies from provisions made under sections 73A, 73B, 73C, 73E, 75, 76, 78, 78A and 81.

158. Delegation of Power of Registrar to certain authorities and officers -

The State Government may, by notification in the Official Gazette, and subject to such conditions (if any) as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal authority or to an officer thereof or to any other authority ~~or to any officer of the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act 1961~~ and such officer or authorities shall work under the general guidance, superintendence and control of the Registrar specified in the notification,

159. NA*

160. Handing over records and property to new Chairman on election.-

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

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

order in writing direct him to forthwith hand over such charge and property.

(3) If the retiring Chairman to whom 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~~ thousand rupees or with both; and the Registrar may, on the retiring Chairman's failure to comply with such direction, take order for seizing the records and property and handing it over to the new Chairman, in the manner provided in section 80.

160A. NA*

160B. Members of committees not entitled to traveling allowance, daily allowance, etc., at a rate higher than maximum prescribed.-

Subject to the provisions of section 160A, no member of the committee of any society shall be entitled to receive from the society the traveling allowance, the daily allowance or such other allowances or fees which are paid to the members for attending meetings of its committee, or for performing any other functions as such members, at a rate higher than the maximum rate prescribed in this behalf and different maximum rates may be prescribed for different societies or class of societies or for different purposes.

161. Registrar and other officers to be public servants.-

The Registrar, a person exercising the powers of the Registrar, an officer as defined in clause (20) of section 2, or a person appointed as an Official Assignee under sub section (2) of section 21A, State Co-operative Election Commissioner and officers, employees and staff employed under sub-section (7) and (8) of section 73CB or as an Administrator under section 77A or 78, 78A or clause (iii) of sub-section (1) of section 110A, or a person authorised to seize books, records or funds of a society under sub-section (3) of section 80, or to audit the accounts of a society under section 81 or to hold an inquiry under section 83, or to make an inspection under section 84, or 89A or to make an order under section 88, or a person appointed as a member constituting a Cooperative Court under section 91A or the Co-operative Appellate Court under section 149 or any officer empowered under section 156 of the Act or a Liquidator under section 103, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

162. Indemnity for acts done, in good faith-

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his

authority, in respect of anything in good faith done, or purported to be done by him by or under this Act.

163. Bar of jurisdiction of Courts.—

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

(a) The registration of a society or its by-laws, or the amendments of its by-laws, or the dissolution of the committee of a society, or the management of the society on dissolution thereof; or

(b) Any dispute required to be referred to the Co—operative Court, for decision;

(c) Any matter concerned with the winding up and dissolution of a society.

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

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

164. Notice necessary in suits.-

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

165. Rules.-

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

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

(i) Subject to the provisions of section, prescribe the designation of officers who shall exercise powers vested in the Registrar;

(ii) Prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 8 and the procedure in the matter of such application;

(iii) prescribe the matters in respect of which a society may make, or the Registrar may direct a society to make, by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(iv) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion, or reconstruction of society;

(v) Prescribe the form of and procedure for an application under section 19 and then I procedure for reconstruction of a society under that section;

(v-a) NA*

(v-b) NA*

(v-c) prescribe the form of application, under section 23-(1A);

(v-c1) prescribe the period of training and education and the intervals at which such training shall be given; and the different rates at which different societies shall contribute towards the training and education fund under section 24A of the Act;

(v-c2) prescribe the amount of payment to be made to the society by a member in respect of the membership; and the manner of communicating the classification of a member as a non-active member under section 26 of the Act;

(v-d) prescribe the manner for entering into collaboration by any society or societies with any Government undertaking or any undertaking approved by Government for carrying on any business.

(vi) prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership.

(vii) Prescribe in the case of a federal society or class of federal societies the proportion of individual members to society members in such society or class of societies and the proportion of individual members to society members in the committee of such society or class of societies;

(viii) Subject to the provision of section 28, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(ix) prescribe the procedure for the admission of joint members, members of a joint Hindu undivided family; and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;

(x) Provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members;

(xi) Prescribe the conditions and procedure for the transfer of share or interest;

(xii) Provide for the nomination of a person to whom the share or the interest of a deceased member may be paid or transferred;

(xiii) Provide for ascertaining the value of a share or interest of a past member or deceased member;

(xiv) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;

(xv) Provide for the inspection of documents in the Registrar's office and the levy of fee for granting certified copies of the same;

(xvi) Provide for the procedure for registering the address of a society and the change of its address;

(xvii) Provide for the formation and maintenance of a register of members, and where the liability of members is limited by shares, or register of shares and a list of members;

(xviii) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;

- (xix) Provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;
- (xx) prescribe the period for and terms upon which Government aid may be given to societies and terms under which the State Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies;
- (xxi) Regulate the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;
- (xxii) Prescribe the limits for loans to be granted by a society or class of societies against different class of securities or without security and the procedure for granting loans;
- (xxiii) Prescribe the manner of recalling a loan;
- (xxiv) Prescribe the limits for granting credit by a non-credit society or a class of non-credit societies;
- (xxv) Prescribe the prohibitions and restrictions subject to which societies may trade or transact business with persons who are not members;
- (xxvi) Prescribe the conditions on which any charge in favors of a society shall be satisfied and the extent to which and the order in which property to the charge shall be used in its' satisfaction;
- (Xxvii) NA*
- (xxviii) Prescribe the procedure by which a society shall calculate and write off bad debts;
- (xxix) The manner in which a society shall construct its annual financial statements and the other purposes for which a society may appropriate its net profits, under section 65;
- (xxx) 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;
- (xxxi) Prescribe the conditions under which profits may be distributed as dividend and bonus among the members and non-members of a society;
- (xxxii) Deleted
- (xxxii-a) prescribe the rate or rates at which, and the manner in which, the societies (including other corporate

bodies) shall contribute towards the Co-operative State Carder Employment Fund under section 69A;

(xxxiii) Define the co-operative purpose for which a society shall, under section 69, utilize its fund;

(xxxiv) Prescribe the mode of investment of funds of a society under section 70 and the proportion of investment in any security or class of securities;

(xxxv) Provide for the payment of contribution to any provident fund which may be established by a society for the benefit of officers and servants employed by it and for the administration of such provident fund;

(xxxv-a) prescribe the procedure for the election to societies, provide for intimation and making arrangements for holding the elections of the committee to the election authority; to provide for preparation of electoral rolls, for conduct of elections of the society or class of societies, also for classification of societies for this purpose;

(xxxv-b) Deleted*

(xxxv-c) prescribe the requisition form and the manner in which the motion of no Confidence Can be brought under section 73-ID;

(xxxv-d) Deleted*

(xxxv-d-1) prescribe the conditions, on which the society may grant permission to a member to carry on the business of the kind carried on by it, outside its area of operation, under section 73CA(A1);

(xxxv-d-2) prescribe the procedure and manner of holding elections, including the latest technology to be used, and the manner of classification of societies for the purposes of elections; and the conditions of service of the State Co-operative Election Commissioner under section 73CB(1), (4), (11) of the Act;

(xxxv-e) prescribe the body of persons for selection of persons on a panel for appointment, under section 74(2)

(xxxvi) Prescribe the procedure and conditions for the exercise by a federal society of the powers conferred by this Act;

(xxxvii) Provide for general meetings of the members, for the procedure at such meetings and the powers to be exercised by such meetings;

25. Creating a State Co-operative Election Authority may tighten the norms and at least put some check on, if not entirely stop, the evil of informal elections through show of hands, which enables some office-bearers to continue unchallenged for decades!

However, much depends on the rules framed by the Election Authority, and their subsequent implementation.

(xxxviii) Prescribe the conditions in which a member of a society may be disqualified from voting;

(xxxix) Provide for the removal and appointment of the committee or its members and other officers and for the appointment of administrator under section 78 and prescribe procedure at meeting of the committee and for the powers to be exercised and the duties to be performed by the committee, administrator and other officers;

(xl) Prescribe qualifications for members of the committee and employees of a society or class of societies duties to be performed by, and several and joint liabilities therefore, of such members and the conditions of service subject to which person may be employed by societies;

(xl-a) prescribe the amount and nature of the security to be furnished by any officers or employees of any society or class of societies, who are required to handle cash, securities or property belonging to the society, the maximum amount of cash which may be handled or kept at a time by any officer or employee, and the amount, in excess of which, all payments shall be made by or on behalf of the society by means of a Cherub

(xli) Prescribe the returns to be submitted by a society to the Registrar and provide for the person by whom and the form in which such returns shall be submitted;

(xlii) Provide for the persons by whom and the form in which copies of documents and entries in books of societies may be certified and the charges to be levied for the supply of copies thereof;

(xl-iii) provide for the procedure to be adopted by the Registrar in the cases where the taking of possession of books, documents, securities, cash and other properties of a society or of a society the affairs of which have been ordered to be wound up, by the Registrar or by a person entitled to the same is resisted or obstructed;

(xliv) provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 81, 83 and 84 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tampered with or destroyed or removed.

(xiv) prescribe the accounts and books to be kept by a society or class of societies; prescribe the form including electronic form, of accounts and books to be kept by a society or class of societies;

(xlv) prescribe the procedure for conduction an audit, the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of society, the form of audit memorandum and report and the charges, if any, to be paid by a society for audit;

(xlvii) Prescribe the procedure for appointment of auditors under sections 75 and 81 and fees to be paid to such auditors; laying audit reports of Apex Societies before both Houses of the State Legislature; norms of qualifications, experience and disqualifications of an auditor; and form of audit report;

(xlviii) Prescribe the form for the rectification of defects discovered in the course of audit, inspection or inquiry;

(xlix) Prescribe the procedure and principles for the conduct of inquiry under section 83 and inspection under section 84;

(l) prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 88 and for recovery of cost and damages;

(li) prescribe the manner in which appointment shall be made and control exercised by, and the number of persons comprising, and functions to be performed by, the authority constituted under section 90, the manner of election and nomination of such persons, the fees to be paid to such authority and the manner of such payment and the procedure for and the method of calculating any cost, charges or expenses required to be levied under this Act or the rules;

(lii) prescribe the qualifications of the members constituting the Co-operative Courts, provide for the terms and conditions of their appointment, prescribe the procedure to be followed in proceedings, before the Co—operative Courts for fixing, Levying and collecting appropriate fees and expenses for determining the disputes (including expenses incurred by the parties to the proceedings), having regard to the services rendered or to be rendered or any expenditure incurred or likely to be incurred for the machinery set up

therefore, provide for delegation of the power of fixing the scale of any such fees and expenses to the Registrar, (and all such fees and expenses being applicable to any disputes and other proceedings which may be pending immediately before the commencement of the Maharashtra Co-operative Societies (Third Amendment) Act, 1973, or which may be referred to or instituted thereafter), provide for the mode of payment of these fees and expenses whether in the form of court—fee stamps, in cash or in any other manner; and provide, for enforcing the decisions, awards or orders in such proceedings;

(liii) Prescribe the form in which a dispute shall be referred to the Co-operative Court; prescribe procedure for transfer of disputes for mediation compromise under Section 93 (4);

(liv) Provide for, the issue and service of processes and for providing of service thereof;

(lv) Provide for the investigation of claims and objections that may be preferred against any attachment effected under section 95;

(lvi) Prescribe the procedure for and the method of recovery of any sums due under this Act or the rules;

(lvii) Prescribe the procedure to be followed for the custody of property attached under section 95;

(lviii) Prescribe the procedure to be followed in the execution of awards;

(ix) Prescribe the manner, in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by a society under section 100;

(lix-a) prescribe the manner in which inquiry is to be made by the Registrar for grant of certificate for recovery under section 101; the form and procedure for the application for grant of such certificate and the fees and documents to be accompanied thereto; prescribe form of Statement of Accounts and other documents;

(lx) 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;

(lxi) Prescribe the procedure and conditions for the exercise of the powers conferred under section 105 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets;

(lxii) NA*

(lxiii) NA*

(lxiv) NA*

(lxv) NA*

(lxvi) NA*

(lxvii) NA*

(lxviii) NA*

(xix) NA*

(xx) Prescribe the procedure to be followed in presenting and disposing of appeals;

(xxi) Prescribe the qualifications and the period of office of members of the Co-operative Appellate Court;

(xxii) prescribe in the case of appeals lying to the State Government the authority to which power of hearing appeal may be delegated; _

(xxiii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules; ·

(xxiv) Provide that the contravention of any of the rules shall be an offence under the Act;

(xxv) Provide for all other matters expressly required or allowed by this Act, to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

166. Repeal, saving and construction.-

(1) The Bombay Cooperative Societies Act, 1925, in its application to the State of Maharashtra is hereby repealed Provided that, the repeal shall not affect the previous operation of the Act so repealed and anything done or action taken or deemed to have been done or taken (including any appointment or delegation made, application or other document filed, certificate of registration granted, agreements executed, notification, order, direction or notice issued, regulation, form or bye-law framed, rule made or deemed to made or proceedings instituted before any Registrar, arbitrator, liquidator or tribunal other officer, authority or person) by or under the

provisions of that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(2) Accordingly, all societies registered or deemed to be registered under the Act repealed the registration of which is in force at the commencement of his Act, shall on such commencement be deemed to be registered under this Act; and all proceedings pending immediately before such commencement before any Registrar, arbitrator, Liquidator or tribunal or other officer, authority or person under the provisions of the repealed. Act shall stand transferred, where necessary, to the Registrar, arbitrator, Liquidator or tribunal or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person to such officer as the State Government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

(3) Any reference to the Act repealed or to any provisions thereof or to any officer, authority or person entrusted with any functions there under, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this Act or its relevant provisions or the corresponding officer, authority or person functioning under this Act and the corresponding officer, authority or person functioning under this Act and the corresponding officer, authority or person as the case may be, shall have the exercise the functions under the repealed Act or under the instrument or document.

(4) Notwithstanding anything contained in this Act as amended by the Maharashtra Co-operative Societies (Amendment) Act, 2013, but subject to the provisions of sub-section (15) of section 73CB, the committees of which the elections become due after the 31st March 2013, shall continue till the elections to such societies are held under the provisions of this Act as amended by the said Act or till the expiration of their term, whichever is earlier. All the orders of the Administrator, Liquidator or the Registrar shall continue for the period mentioned in such order as if such orders are passed under this Act as amended by the said Act. All proceedings pending before the Registrar, person authorised by him, Liquidator or any other officer, or authority or court, under the provisions of this Act shall stand transfered wherever necessary to the Registrar or any corresponding officer or, authority or court under the provisions of this Act, as amended by the said Act and shall be continued or disposed of by such Registrar, officer, authority or court in

accordance with the provisions of this Act as amended by the said Act:

Provided that, any such committee of the society shall continue till the newly elected committee assumes the office.

167. NA*

168. Power to Remove Difficulties:-

(1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the Maharashtra Co-operative Societies (Amendment) Act, 2013, the State Government may, by an order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as amended by the said Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each house of the State Legislature.

.....End of Amended MCS Act, 1960

[Final Section of Maharashtra Act no. XVI of 2013]

REPEAL OF Mah. Ord. VI of 2013 and special provisions regarding savings.

84. (1) The Maharashtra Co-operative Societies (Amendment and Continuance) Ordinance 2013, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the Maharashtra Co-operative Societies (Amendment) Ordinances, 2013 and the Maharashtra Co-operative Societies (Amendment and Continuance) Ordinance, 2013 shall be deemed to have been done, taken or, as the case may be, issued under the corresponding provisions of principal Act, as amended by this Act.

**DISCLAIMER OF PERSONS CREATING THIS DOCUMENT TO AID
THE UNDERSTANDING OF THE CURRENT LEGAL POSITION**

All due efforts have been made to ensure the accuracy of this document. However, if any doubt arises, kindly cross-check by studying the older unamended official copy of MCS Act 1960 with the MCS (Amendment) Act 2013. ---- CA Ramesh Prabhu