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# **The Jharkhand Co-operative Societies Act, 2008**

**Preamble** - Whereas, it is expedient to facilitate the formation, working and consolidation of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common needs.

**Whereas**, it is a priority of the government to achieve integrated development of agriculture with the objective of enhancing income generation in rural areas,

**And Whereas** it is envisaged that the co-operative societies, specially the primary agriculture credit society and such other co-operative societies at grass root as well as higher levels, can play a major role in the development of agriculture in terms of supply of inputs as well as marketing of agriculture produce and their processing,

**And Whereas** it is imperative to improve the financial services rendered by credit co-operative societies and such other societies at all levels and to carry out reforms to make them more democratic, well governed and professionally managed in terms of the recommendations of the Vaidyanathan Committee constituted by Government of India for revival of the short term credit structure.

**And Whereas** it is necessary to bring out a new co-operative societies Act by unifying the Jharkhand Co-operative Societies Act, 1935 and Jharkhand Self Supporting Co-operative Societies Act, 1996.

Be it enacted by the legislature of the State of Jharkhand, in the 59<sup>th</sup> Year of the Republic of India as follows:-

## **CHAPTER – I**

**1. Short title and extent.** – (1) This Act may be called the Jharkhand Co-operative Societies Act, 2008.

(2) It extends to the whole of the State of Jharkhand

**2. Definitions.** - In this Act, unless there is anything repugnant to the subject or context –

- a. 'bye-laws' means the registered bye-laws for the time being in force and includes a registered amendment of the bye-laws;
- b. 'Co-operative Federation' means a registered co-operative society the main object of which is to co-ordinate and facilitate the activities of other registered societies and to foster the growth of the co-operative movement;
- c. 'Co-operative Year' means a year beginning from the 1<sup>st</sup> of April and ending on the 31<sup>st</sup> of March
- d. 'Financing bank' means Nationalised Commercial Bank, State Co-operative Bank, a District Co-operative Bank, a Land Development



- Bank, a Regional Rural Bank or any other commercial bank as notified by the State Government, the objects of which include the creation of funds out of which money is to be lent to the co-operative societies or other institutions or both;
- e. 'liquidator' means a person or persons appointed by the Registrar under sub-section (1) of Section 44 to wind up the affairs of a registered society;
  - f. 'managing committee' means the committee of management or other body to whom the management of the affairs of a registered society is entrusted;
  - g. 'Person' means and includes an individual, a primary co-operative society, a central co-operative society, Self Help Group, Farmers' club, Joint Liability group or any other similar group recognised by the Government of India, Reserve Bank of India, National Bank and State Government,
  - h. 'Member' means a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the Rules and bye-laws of such society.
  - i. 'Multi-purpose Co-operative Society' means a primary co-operative society formed for providing more than one type of service to its members.
  - j. 'nominal or associate member' means a member who possesses such privileges or rights of a member of a society, and who is subject only to such liabilities of a member as may be specified by the bye-laws;
  - k. 'Officer' means and includes chairman, secretary, treasurer, member of managing committee or any other person empowered by or under this Act, or the Rules or the bye-laws of registered society to give direction in regard to the business of the Society;
  - l. 'Office-bearer of a managing committee' means and includes the Chairman, the Vice-Chairman, the Secretary, the Joint Secretary, the Treasurer or any such functionary by whatever name he may be designated;
  - m. 'primary co-operative society' means a society of which no member is a registered co-operative society;
  - n. 'Primary agricultural credit society' means a co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers and includes farmers service society and multipurpose co-operative society;
  - o. 'Large Area Multi Purpose Society' means a primary agricultural credit society operating in a scheduled area;
  - p. 'Registered society' means a society registered or deemed to be registered under this Act;
  - q. 'Self Supporting Society' means a registered or deemed to be registered society the bye laws of which do not contain a provision for acceptance of equity from the State Government.
  - r. 'Registrar' means a person appointed to perform the duties of Registrar of Co-operative Societies under this Act;
  - s. 'Affiliating society' means a registered Society of which another registered society is a member and " Affiliated society" means a

registered Co-operative Society which is a member of an “affiliating society”.

- t. ‘The Co-operative Tribunal’ means the Co-operative Tribunal constituted under section 47 B (2) (a) of this Act.
- u. ‘The Co-operative Forum’ means the Co-operative Forum constituted under section 47 B (2) (b) of the Act.
- v. ‘State Co-operative Election Authority’ means an authority appointed by the State Government to conduct the elections of registered societies under this Act
- w. ‘Union’ means a central society at the District level, the main object of which is to co-ordinate and facilitate the activities of other registered societies and to foster the growth of the co-operative movement at the district level.
- x. ‘Family’ means and includes husband, wife, their dependent sons and unmarried daughters, as unit.
- y. ‘Short Term Co-operative Credit Structure’ includes the State Co-operative Bank, Central Co-operative Banks and Primary Agricultural Credit Societies.
- z. ‘National Bank’ means the National Bank for Agriculture and Rural Development established under section 3 of National Bank for Agriculture and Rural Development Act, 1981 (Act 61 of 1981)
- aa. ‘Reserve Bank’ means “Reserve Bank of India” established under section 3 of the Reserve Bank of India Act, 1934 (Act 2 of 34).
- bb. ‘Panchayat’ means the gram panchayat notified as per section.....of the Jharkhand Panchayat Raj Act,....., and the amendments made therein, if any, from time to time.
- cc. ‘co-operative society’ means a society registered under this Act, the bye laws of which contain a provision for acceptance of equity from the ‘State Government’.
- dd. ‘Registered society’ means and includes a registered co-operative society with government participation in share capital and self supporting co-operative society.
- ee. ‘sections’ referred to in this ‘Act’ means sections of this Act.

**3. Co-operative Principles.** – Individuals or registered societies intending to form a registered society under this Act shall frame bye-laws conforming to the following Principles of Co-operation, namely –

(a) membership of a registered society shall be voluntarily available without restriction of any social, political, racial or religious discrimination, to all the citizens of India who can make use of its services and are willing to accept the responsibilities of membership;

(b) Registered societies are democratic organisations; their affairs shall be administered by persons elected or appointed in a manner agreed to by the members and accountable to the societies. Members of registered societies shall enjoy

equal rights of voting (one member one vote) and participation in decisions affecting the registered societies of which they are members;

(c) the economic results, arising out of the operations of a registered society belong to the members of that registered society and shall be distributed in such a manner as would avoid one member gaining at the expense of others, which shall be achieved-

- i. by provision for development of the business of the Co-operative Society,
- ii. by provision of common services, or
- iii. by distribution among the members in proportion to their transactions with the Co-operative society in addition to the distribution of dividend to the share-holders;

(d) all registered societies shall make provision for the education and training of their members, office-bearers and employees and of the general public, in the principles and techniques of Co-operation, both economic and democratic;

(e) all registered societies, in order to best serve the interest of their members and their communities, shall actively co-operate in every practical way with other co-operatives at local, national and international levels for achievement of unity of action by co-operators throughout the world.

**3(2) Indian Companies Act, not to apply** - The provisions of the Indian Companies Act, 1956 (1 of 1956), as amended from time to time, shall not apply to the registered societies.

**4. Saving of existing societies.** – (1) Every registered society, prior to coming into force of this Act, registered either under Jharkhand Co-operative Societies Act 1935 or under Jharkhand Self supporting Co-operative Societies Act 1996 shall be deemed to have been registered under this Act, and its bye-laws shall, so far as they are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded .

(2) All appointments, Rules and orders made, notifications and notices issued, all transactions entered into, suit and other proceedings instituted under the said Acts, shall be deemed, so far as may be to have been respectively made, issued, entered into and instituted, under this Act.

**5. Construction of references to existing Co-operative Societies Act, in enactments.** - All references, prior to coming into force of this Act, to the Jharkhand Co-operative Societies Act, 1935 and Jharkhand Self Supporting Societies Act, 1996 occurring in any enactment made by any authority in India and for the time being in force shall, in the application of such enactment of the said Acts, be construed as references to this Act.

## **CHAPTER II**

### *Registration of societies*

**6. The Registrar.-** (1) The State Government may appoint a person to be the Registrar of registered societies for the State or any portion of it, and may appoint the following officers in such number as required to assist the such Registrar:-

- (i) Additional Registrar Co-operative Societies.
- (ii) Joint Registrar Co-operative Societies.
- (iii) Deputy Registrar Co-operative Societies.
- (iv) District Co-operative Officer.
- (v) Assistant Registrar Co-operative Societies.
- (vi) any other officer to be designated by the State Government to assist such Registrar.

(2) The State Government may, by general or special order, published in the official Gazette, confer-

- a. on any person appointed under sub-section (1) , to assist the Registrar, all or any of the powers of the Registrar under this Act except the powers under Section 26, and section 56 of this Act.
- b. on any Co-operative Federation or Financing Bank all or any of the powers of the Registrar under Section 20 , sub section (3) of Section 28, Section 33, Section 34, Section 35, and section 36.

(3) Notwithstanding anything to the contrary contained in any other provisions of the Act, the Registrar may delegate, transfer or assign to the Additional Registrar such of his powers and functions and duties as he may consider necessary including the power under sections 26 and 56 and the Additional Registrar shall,

thereupon have powers of Registrar in matters so delegated, transferred or assigned to him.

**7. Societies which may be registered.** - (1) Subject to the provisions of the Act, a society constituted in accordance with the provisions of this Act, as amended from time to time, which has as its object, the promotion of the common interest of its members in conformity with the co-operative principles and securing the fulfilment of any or all directives contained in Part IV of the Constitution of India may be registered as “Co-opertiaive Society” or Self Supporting Co-opertaive Society” under the Act with or without liability and which provide in its bye-laws for the social and economic betterment of its members through self help and mutual aid in accordance with the co-operative principles, may be registered under this Act with or without limited liability.

Provided that, unless the State Government by general or special order otherwise directs:-

- (a) the liability of society of which a member is a registered society shall be limited; and
- (b) the liability of a society, of which the primary object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited.

(2) Where the liability of a society is limited, the liability of each member, past member, or the estate of a deceased member shall on liquidation, be limited to the amount, if any, unpaid on the shares held by such member, or where the liability is limited by guarantee, to the amount of such guarantee, or where it is limited in any other manner, then as may be determined by the Rules or bye-laws subject, however to the provisions of section 32.

(3) Where the liability of society is unlimited, all member, past members, and the estates of deceased members shall on liquidation, be jointly and severally liable for and in respect of all its obligations, subject, however , to the provisions of section 32.

**8. Conditions of registration.** – (1) No society, other than a society of which a member is registered society, shall be registered under this Act, which does not consist of at least fifteen persons, of different families above the age of eighteen

years and where the primary object of the society is the creation of funds to be lent to its members, unless such persons-

(a) reside in the same town or village or in the same group of villages; or

(b) save where the Registrar otherwise directs, are members of the same tribe, class or occupation.

(2) The State Government may by notification in the official Gazette reduce the minimum number of membership of fifteen persons for particular class of Co-operative Societies.

(3) The word “limited” shall be the last word in the name of every society with limited liability registered under this Act.

**9. Application for registration.** – (1) An application for the registration of a society shall be made to the Registrar, and shall be accompanied by four copies of the proposed bye-laws of the society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as are required by the Rules framed under this Act

(2) The application shall be signed –

(a) If none of the applicants is a registered society by at least fifteen persons or less number of persons qualified in accordance with the requirements of sub-sections (1) or sub-section (2) of section 8

Provided that applicants either male or female, shall be from different families :

(b) if any of the applicants is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by fifteen other members or, where there are less than fifteen other members, by all of them.

**10. Power of Registrar to decide questions:-** When any question arises whether for the purposes of this Act a person is an agriculturist, or non agriculturist, or whether any person is resident in a particular town or village or group of villages, or whether two or more villages shall be considered to form a group or whether any person belongs to any particular tribe, class or occupation, the question shall be decided by the Registrar, whose decision shall be final.

**11. Registration.** – (1) If the Registrar is satisfied that a society has complied with provisions of this Act and Rules and that its proposed bye-laws are not contrary to this Act or to the Rules, he may register the Society and its bye-laws and he will send by registered post to the organizer/promoter of the Society, within 90 days from the date of submission of application, a registration certificate along with the original copy of the registered bye-laws duly sealed and signed by him.

(2) If in the opinion of the Registrar, the conditions stipulated under sub section (1) above appear not to have been complied with, within 90 days of the presentation of the application before him, he shall record reasons for refusal and refuse to register the society and send this decision by registered post to the organiser/promoter. In the event of the refusal not being sent within the stipulated period, the Society shall be deemed to have been registered and in such a situation the Registrar within one month thereafter shall send by registered post, the registration certificate for deemed registration along with the original copy of the registered bye-laws duly sealed and signed.

(3) (A) In the event where the organizer/ promoter has received the refusal order in accordance with the provisions of sub-section (2) or has not received any registration certificate of deemed registration, an appeal shall lie to the Registrar if the refusal order has been passed or the certificate of deemed registration has not been issued by an officer appointed to assist the Registrar under sub-section 2 (a) of section 6 of this Act , and to the State Government , if such order has been passed or the certificate of deemed registration has not been issued within the period provided under the Act by the Registrar himself.

(B) In case of Self Supporting Societies, if the organizer/ promoter has received the refusal order in accordance with the provisions of sub-section (2) or has not received any registration certificate of deemed registration, an appeal shall lie to the Co-operative Forum and to the State Tribunal if such order has been passed or a certificate of deemed registration has not been issued within the stipulated period to the Registrar himself.

Provided that such appeal shall lie within sixty days from the receipt of the refusal order and in case of deemed registration within sixty days from the expiry of the prescribed period of communication.

(4) Where a Self Supporting Society or a co-operative society intends to covert itself into a co-operative society or vice versa it shall be free to do so after bringing about an amendment in the bye laws.

(5) If in the opinion of the Registrar, the organiser/promoter has got a society registered by fraud or mistake, the Registrar shall cancel the registration in case such registration has been made by an officer appointed to assist the Registrar under sub section (2)( a) of section 6 of the Act and by the State Government in case such registration has been made by the Registrar himself.

**12(1). Evidence of registration.** - A certificate of registration duly signed and sealed 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.

**(2) . Display of name and address . – (I)** Every registered society shall have an address, registered in accordance with Rules, to which all notices and communications may be sent, and shall send notice, in writing, to the Registrar and to the financing bank, if any, of which it is a share holder and to the Co-operative Federation, if any, of which it is member, of any change in the said address within fifteen days of such change.

**(II)** Every registered Society shall display its name and the address of its registered office as registered under this Act in legible letters and at such conspicuous places of every such office where it carries its business and in the following also:-

- (a) at every office or place at which it carries on business;
- (b) in all notices and other official publications;
- (c) on all its contracts, business letters, orders for goods invoices, statements of accounts, receipts and letters of credit; and
- (d) on all Bills of Exchange, promissory notes, endorsements, cheques and pay orders which are signed by it on its behalf.

**(3)** The name of every registered society and self supporting co-operative society shall contain the words “Co-operative” and “Limited” or “unlimited” in State language or synonymous words of other languages recognised in the State List.



## CHAPTER III

### *Incorporation, Duties and Privileges of Registered Societies*

**13. Society to be body corporate:-** (1) 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 and hold property, to enter into contract, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

**(2) – Promotion of Co-operative movement by the Government.-** (I) It shall be the duty of the State Government to encourage and promote the co-operative movement in the State and to take such steps in this direction as may be necessary;

**(II)** without prejudice to the generality of the provisions contained in sub-section 2 (I), the state Government may. –

- a. with a view to aid the growth of a registered society in general or of any class of registered societies subscribe directly to the share capital of a registered society;
- b. assist indirectly in the formation and augmentation of the share capital of a registered society;
- c. give loans or make advances to registered society or guarantee repayment of principal and payment of interest on debentures issued by a registered society or guarantee repayment of the principal amount and payment of interest on loans or advances to the registered society.

Provided that the State Government shall not subscribe to the share capital of a Self Supporting Co-operative Society by way of equity.

#### **14A. Registered societies to have a managing committee etc. –**

**(1)** The management of a registered society shall be vested in a managing committee constituted in accordance with the provisions of this Act and Rules/bye laws of the society made under this Act.

Notwithstanding anything contained in any provision of this Act or Rules/ bye laws of the society the maximum number of members including the office bearer in a Managing Committee of a society shall be as follows:-

- a. In case of apex society, it shall be fifteen percent of the total number of members or twenty seven, which ever is less subject to a minimum of fifteen members.
- b. In case of central society, it shall be fifteen percent of the total number of members or seventeen in number whichever is less subject to a minimum of eleven members.
- c. In case of primary society, it shall be fifteen percent of the total number of members or thirteen in number which ever is less subject to a minimum of seven members.

Provided that in the Managing Committee of such registered societies or of class of societies and in such areas as the State Government may, by general or special order, direct that at least two seats shall be reserved for members belonging to the scheduled tribes, one seat for scheduled caste, three seats for women. The seats so reserved, shall be filled up from amongst the members of scheduled castes, scheduled tribes and women members either by election or/and by co-option. This provision shall apply to all the Societies from the Primary Society up to the Apex Society.

(2) An Officer of the State Government if deputed to a registered society either as a Managing Director, Executive officer or in similar position shall be the Chief Executive thereof and subject to general direction, superintendence and control of the Managing Committee, shall have the following powers and functions; -

- (i) to have general control over the administration of the registered society;
- (ii) to convene meetings of the Managing Committee;
- (iii) to receive all money and securities on behalf of the registered society and to make arrangement for the proper maintenance and custody of cash balances and other properties of the registered society;
- (iv) to endorse and transfer promissory notes, Government and other Securities and to endorse, sign and negotiate cheques and other negotiable instrument on behalf of the registered society;
- (v) to be responsible for the general conduct, supervision and management to the day- to – day business and affairs of the registered society;

- (vi) to sign all deposits, receipts and operate the accounts of the registered society with Bank;
- (vii) to sign all bonds and agreements on behalf of the registered society;
- (viii) to determine the powers, duties and responsibilities of the employees of the registered society;
- (ix) to appoint, promote, transfer, punish, suspend, remove or dismiss any paid employee of the registered society except to the employees of the registered society;
- (x) to institute, conduct, defend, compound or to withdraw any suit or other legal proceedings for or against the registered society and also to compound and allow time for payment to satisfaction of any claims;
- (xi) to delegate all or any of the powers to an employee or employee of the registered society subject to his control and supervision;

**(4)** Notwithstanding any thing contained in any provision of this Act, or of Rules framed there under or the bye laws of any registered Society where the State Government has subscribed directly to the Share Capital of a registered Society, an amount exceeding Rupees Thirty Lakhs, the State Government shall have the right to nominate three persons as members in the Managing Committee of that Society:

Provided that among the members so nominated two will be from the Government service and the third one will be an officer of the Co-operative or Financing Institution connected with the affairs of the Society.

Provided further that those ex-officio members as provided in the bye-laws of the society shall be counted in the quota or numbers fixed or provided for nomination.

Provided further also that such nominated members shall participate in any meeting of the managing committee or ordinary general meeting of the share holders of the registered society, convened in accordance with the provisions of the Act and Rules framed there under and its bye laws. They shall have right to vote in the meeting of the managing committee but shall have no right to vote in the ordinary general meeting of the share holders.

**(5)** Notwithstanding anything contained in any provision of this Act, Rules made there under and bye laws of the society, the existing members and the office

bearers nominated by the Government shall cease to be members of the managing committee within 120 days of the publication of this Act, in the official gazette; such registered society shall have elections to the vacant posts for the remaining period of its term provided that in the superseded societies the administrator of the society shall constitute new managing committee through an election within six months from the date of publication in the official gazette of this Act, otherwise the Registrar shall appoint new administrator for a further period of three months and get the managing committee constituted through an election within such extended period.

(6) Notwithstanding anything contained in the Rules or the Bye Laws of any registered society, the term of the members and office bearers of the managing committee of a registered society shall not exceed five years from the date of election.

(7) Notwithstanding the provision of sub-section (4) the nominated members of the managing committee shall hold office during the pleasure of the State Government.

(8) If for any reason elections of a co-operative society are not held within the said period after expiry of the term of the managing committee the committee shall be deemed to have been superseded with effect from the said date and the Registrar Co-operative Societies shall appoint any government servant as Administrator for a period not exceeding six months for the constitution of managing committee in accordance with law:

Provided that if for certain special circumstances the election of the members and office bearer of the managing committee is not held within the stipulated period of six months, the Registrar after obtaining explanation from the Administrator and recording reasons in writing may extend the period of super session for a further period not exceeding three months:

Provided further that the term of the Managing Committee as provided in sub-section (5) shall be effective if the election of the Managing Committee has been held after coming into force of this Act:

Provided further that the administrator appointed for the superseded society prior to the commencement of this Act shall continue to hold office till six months from the date of commencement of this Act or constitution of a new managing committee by election whichever is earlier.

Provided further that in self supporting societies if the elections of the managing committee are not held within the prescribed period, the Registrar shall suo motto convene a general meeting of the members for appointing an ad hoc board for the purpose of managing the affairs of the society and to ensure elections through the State Co-operative Election Authority in accordance with the rules. The term of such ad hoc committee, so appointed, shall not exceed three months and shall cease to function as soon as regular board is elected in accordance with the bye laws.

(9) Every registered society shall keep open to inspection free of charge at all reasonable times at its registered address –

- (a) a copy of this Act
- (b) a copy of the Rules
- (c) a copy of the bye-laws of such society, and
- (d) a register of its members;

**B. Elections to the managing committee of registered societies:-**

(1) The Election to the managing committee of a class or classes of registered societies shall be conducted by an authority known as “State Co-operative Election Authority”, to be constituted in accordance with the rules and notified by the State Government in the official gazette.

(2) Notwithstanding anything contained in any provision of this Act the elections to the managing committee of such class or classes of registered societies specified in sub section (1) shall be in held terms of the provisions of the Rules.

Provided that the provision of this section shall not be applicable in cases where the process of elections has already been started.

(3) No election to any class or classes of registered societies notified under sub section (1) shall be called in question except by way of election petition filed within forty five days from the declaration of the result and the same shall be decided as a dispute under section 48 of this Act.

**C.** The process of elections of every registered society shall be started six months before the term of office of the outgoing managing committee comes to an end, however the newly elected managing committee shall take over charge or deemed to have taken over charge of the office on expiry of the term of the outgoing committee.

**15 Mobilisation of Funds and Restrictions on Borrowing :-**(1) A registered society may mobilise funds in the shape of share capital from its members, deposits, bonds, debentures, loans and other contributions from its members to such extent and under such conditions as may be permissible under the bye- laws of the Society.

Provided that at the time of dissolution of a society the amounts due to the members shall be settled only after settlement of due to others.

(2) A co-operative society may mobilise debentures, deposits, raised loans and receive grants from external sources to such extent and other such conditions as may be specified in the bye laws. Deposits and loans raised from external sources, however, shall at no time exceed ten times the sum of member funds and organisational reserves, less accumulated deficit, if any.

(3) A co-operative society may accept funds or guarantees from the government or other financing institutions for the fulfillments of its objectives on such terms and conditions as are mutually contracted upon and such conditions may include the right of the government or other financier to nominate an expert on the board.

(4) No member in a primary society shall, at any time hold more than one tenth of the paid up equity capital.

(5) No self supporting co-operative society shall accept funds from the government by way of equity.

**16. Restrictions on lending. –** (1) No co-operative society shall, except with the general or special sanction of the Registrar and subject to such restrictions as he may impose,

(a) make a loan to any person other than a member, or

(b) lend money on the security of movable property.

Provided that if any reference is received, the Registrar shall dispose off the reference within three months of its receipt.

(2) The State Government may, in registered co-operative society or class of registered co-operative societies prohibit or restrict the lending of money or mortgage of immovable property, by general or special order

(3) Where the Registrar has accorded sanction to a financing bank under the provisions of sub-section (1), a registered society which is a member of such financing bank may, subject to the terms of the sanction and such other terms and conditions as may be prescribed by the Registrar, act as agent for the financing bank and as such agent carry out, with or without any commission, all or any transactions connected with loans or advances made or to be made by the financing bank.

Provided that a self supporting co-operative society shall make loans to its members or to non members and shall lend money on the security of movable or immovable property, subject to the approval by the general body.

**17. Restrictions on other transactions with non-member. -** The transactions of a registered society with persons other than members shall be subject to such further prohibitions and restrictions, if any, as the State Government may by Rules prescribe.

**18. Reserve Fund. -** (1) At least twenty five percent of the net profits of a registered society shall each year be deposited to reserve fund provided that the State Government may by rule increase or decrease this proportion for the working of any Society or class of Societies.

(2) The reserve fund shall not be used for the business of the society except to such extent and in such manner as may be prescribed by the Rules.

(3) At least ten percent of the net profit shall be transferred to “Co-operative Education, Training & Development Fund” by all the registered societies.

(4) In registered co-operative societies at least ten percent of the net profit shall be transferred to an “Equity Redemption Fund” till such time as the amount of this fund becomes equal to the share capital contribution of the State Government.

(5) Any portion of the reserve fund not used for the business of the society may be invested or deposited in one or more of the ways specified in section 19 subject to such Rules as the State Government may make in this behalf.

**19. Investment of fund** – Subject to the provision of sub-section (2) of section 16 a registered Society shall invest or deposit its funds –

- (a) in a Government Saving Bank or
- (b) in its own financing Bank or
- (c) in any of the securities specified in section 20 of Indian Trust Act, 1982 (2 of 1882)
- (d) in securities specified by Reserve Bank of India / NABARD , or
- (e) may invest or deposit in any other mode permitted by the Rules.
- (f) in case of co-operative society with the general or special sanction of the Registrar and on such conditions as he may impose:
  - (i) in shares or securities of any other registered societies.
  - (ii) in any scheduled Bank or with the sanction of Registrar
  - (iii) in other registered societies carrying on Banking business.

**20. Contribution to charitable purpose.** - Any registered society may, after the amount required by sub-section (1) of section 18, or by any rule has been carried to the reserve fund, contribute an amount not exceeding ten percent of the net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890).

Provided that the Registrar may, by general or special order, prohibit any Society or class of societies from making any condition under this section.

**21. Restrictions on division of fund.** – No part of the funds of registered society shall be divided by law of bonus or dividend or otherwise among its members;

Provided that after the amount required by section 18 or by any rule, has been carried to reserve fund, the balance of the net profits, if any, together with any available profits of past years, may be distributed as dividend among members or paid as bonus or remuneration to a member to any specific service rendered to the society or used for the common benefit of the members to such extent and under such conditions as may be prescribed by the Rules or bye-laws.

**22. Charge and set off in respect of shares or interest of members.** - A registered society shall have a charge upon the share or interest in the capital and on the deposits or contribution of a member, past member or deceased member and upon any amount payable out of profits to a member or past member or to the estate of a deceased or the estate of such deceased member to the society, and may set off any sum credited or payable to a member, past member or the estate of a deceased member in or towards payment of any such debt.

**23. Prior claim of society.** - Subject to claim of the Government in respect of land revenue or any money recoverable as land revenue or as a public demand or any claim of landlord in respect of rent or any money recoverable as rent, any debt or

outstanding demand due to a registered society from any member, past member, or the estate of deceased member, shall be a first charge. –

(a) if the demand as due in respect of the supply of or any loan granted for the purchase of seed or manure, upon the crops or other agricultural produce of such member or past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan shall become re-payable.

(b) if the demand as due in respect of the supply of or any loan granted for the purchase of cattle, fodder for cattle, agriculture or industrial implements or machinery or raw materials for manufacture, if any, upon cattle or thing so supplied, or purchased, the whole or any part from any such loan or upon any articles manufactured from raw materials so supplied or purchased,

**23A. Application of section 23 to non members.** – Any debt or outstanding demand due to a registered society, authorised under clause (a) of sub-section (1) of section 16, from any non-member or estate of a deceased non-member, shall be a first charge on the property of the non-member or belonging to the deceased non-member to the same extent and subject to the same claims, conditions and restrictions as debt or outstanding demand due to a registered society from any member or the estate of a deceased member is under section 23, a first charge on the property of the member or belonging to the estate of the deceased member.

**24. Transfer of interest on death of member.** – (1) A registered society, may on the death of a member, transfer his share or interest in the capital of the society to the person nominated in accordance with the Rules or, if there is no person so nominated, to such person as may appear to the society or, managing committee to be an heir or legal representative, as per law for the time being in force.

Provided that –

- (i) In the case of society with unlimited liability, such nominee, heir or legal representative as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained, after, deducting the amount of any charge existing under section 22;
- (ii) In the case of society with limited liability, the society shall transfer, subject to any charge existing under section 22, the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the Rules and bye-laws for membership of the society or in his application within three months of the death of the deceased member, to any person specified in the application within three months of the death of the deceased member, to any person specified in the application who is so qualified:

Provided further that no payment of sum in excess of rupees one thousand shall be made to any such heir or legal representative who has not been nominated in accordance with the rule, until after the decision under section 48 of any claim which may, within that period, be made by any other person.

(2) Subject as aforesaid, a registered society may pay all other money due to a deceased member from the society to such nominee, heir or legal representative, as the case may be.

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



**24A. Power of Registrar to sanction compromise between a registered society and its creditors. -** (1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a registered society and its creditors or any class of them, the Registrar may on the application in a summary way of the co-operative society or of any creditor or on reference by the Forum or Tribunal, as provided under the Act, or in the case of society in respect of which an order of winding up has been passed, if the liquidator, orders a meeting of the creditors or class of creditors as the case may be, to be called, held and conducted in such manner as may be prescribed by Rules.

(2) if a majority in number representing three-fourths in value of the creditors, or class of creditors, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by an order of the Registrar, be binding on all the creditors or the class of creditors as the case may be and also on the registered society, in the case of a society in respect of which an order of winding up has been passed, on the liquidator and on all persons who have been or may be required by the liquidator acting under clause (c) of sub-section (3) of section 44 to contribute to the assets of the society.]

(3) if at any time it appears to the Registrar that it is expedient that any compromise or arrangement between a registered society and its creditors or any class of them, which has become final in accordance with the law in force on the class of them, which has become final in accordance with the law in force on the date of the commencement of the Jharkhand Co-operative Societies Act, 2008, or which was, after the date sanctioned by the Registrar under sub-section (2) of this section , should, in the interest of society or of its creditors or of the said class of creditors, be revised or replaced by a fresh compromise or arrangement, he may either of his own motion or on the application of the society, order a meeting of the creditors or class of creditors as the case may be, present either in person or by proxy at the meeting, agree to the revision of the previous compromise or arrangement, or to any fresh compromise or arrangement, the Registrar may sanction such revised compromise or arrangement or such fresh compromise or arrangement.

(4) Any revised compromise or arrangement or fresh compromise or arrangement sanctioned under sub-section (3) may be revised or replaced by a fresh compromise or arrangement in the like manner and subject, to the like conditions as a compromise or arrangement may be revised or replaced by a fresh compromise or arrangement under sub-section (3).

(5) Any revised compromise or arrangement or fresh compromise or arrangement sanctioned by the Registrar under sub-section (3) or sub-section (4) shall be binding on all the creditors or the class of creditors, as the case may be, and also on the society.

(6) A compromise or arrangement under sub-section (2) or a revised compromise or arrangement or a fresh compromise or arrangement under sub-section (3) or sub-section (4) shall not be liable to be challenged, set aside, modified, revised or declared void in any court, upon merits or upon any ground whatsoever except for want of jurisdiction.

(7) The order of the Registrar calling a meeting of creditors or class of creditors, as the case may be, under sub-section (1) or sub-section (3), and the order of the Registrar sanctioning a compromise or arrangement under sub-section (2) or a revised compromise or arrangement or a fresh compromise or arrangement under sub-section (3) , or sub section (4) shall be published in the official Gazette.]

**25. Amendment of the bye-laws of a registered society. – (1)** A co-operative society may amend any of the provisions of its registered bye-laws by a resolution of its general body, or by the representatives of the General Body by a majority of two third members having voting rights.

**(2)** No amendment of the bye-laws of a Registered society shall be valid until the amendment has been registered under this Act.

**(3)** If the Registrar is satisfied that an amendment of the bye-laws is not contrary to this Act or to the Rules, he shall register the amendment within ninety days from the date of submission of the proposal for amendment.

**(4)** When the Registrar registers an amendment of the bye-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the amendment has been duly registered.

**(5)** If the conditions specified in sub-section(2) have not been fulfilled the Registrar shall dispatch refusal order with reasons by registered post within ninety days from the submission of the proposal.

**(6)** In case of non-dispatch of the refusal order within ninety days, the amendment shall be deemed registered. In such case it will be essential for the Registrar to issue the certificate of registration under his seal and signature, which will be conclusive evidence that the amendment has been duly registered.

**(7)** On receipt of the refusal order under sub-section (5) and on non-receipt of the conclusive evidence relating to the amendment as specified under sub-section (6) an appeal shall lie before the Registrar if the conclusive evidence or refusal order relates to the Registrar having been delegated with the power of Registrar and if such order has been passed by the Registrar Co-operative Society himself then appeal shall lie before the State Government:

Provided that such appeal shall be filed within two months from the receipt of order or non receipt of conclusive evidence.

**26. Power of Registrar to direct amendment of the bye-laws of a registered society. - (1)** If it appears to the Registrar that an amendment of the byelaws of a registered society, in which the State Government has contributed by way of equity, is necessary or desirable in the interest of such society, after taking the opinion of affiliating society/federation of that society, he may, by order in writing to be issued to the society, by registered post, require the society to make the amendment within such time as he may specify in such order.

**(2)** If any such society fails to make any such amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard, register such amendment, and issue to the society by registered post a copy of the amendment, certified by him, which shall be conclusive evidence that the amendment has been duly registered, and such amendment shall be binding on the members of such society.

**(3)** An appeal shall lie to the State Government from any order of the Registrar passed under sub-section (2) within two months from the date of the issue of such order, The order of the State Government on appeal and subject to the result of such appeal, if any, the decision of the Registrar shall be final.

## **CHAPTER – IV**

### *Rights and liabilities of Members of Registered Societies*

**27. Member not to Exercise rights till due payment made.** - No member of a registered society shall exercise the right of a member unless or until he has made such payment to the society in respect of membership as may be prescribed by the Rules or the bye laws:

Provided that notwithstanding any thing contained in any provisions of this Act, the member of a registered society shall exercise the right to vote at the election of members of the managing committee of society only after acquiring such interest in the society, as may be prescribed by the Rules or bye-laws.

**28 Votes of members.** - (1) Subject to provisions of sub-section (2) of this section and of sub-section (4) of section 14 each member of a registered society shall have one vote only as a member in the affairs of the society, provided that in the case of an equality of votes, the Chairman shall have a casting vote.

(2) A registered society which is a member of any other registered society shall have as many votes as may be prescribed by the bye-laws of such other society and may, subject to such bye-laws, appoint any number of its members, not exceeding the number of such votes, to exercise its voting power, provided that no member who is disqualified for such appointment under any rule shall be so appointed.

(3) Save as provided in sub-section (2) , voting by proxy shall not be allowed except with the general or special sanction of the Registrar for any society or class of societies.

**29. Restriction on holding of members.** – No member of a registered co-operative society, other than the State Government or another registered society, shall have or claim any interest in the capital of a registered society exceeding one-fifth of the total capital or such smaller proportion as may be prescribed by the Rules.

**30. Share or interest not liable to attachment.** - Subject to the provisions of section 22 , the share or interest of a member in the capital of, or contribution to, a registered society shall not be liable to attachment or sale under any decree or order of a Court of justice in respect of any debt or liability incurred by such member and neither the Official assignee under the Presidency-towns Insolvency Act, 1909 (3 of 1909) nor a Receiver under the Provincial Insolvency Act, 1920 (5 of 1920) shall be entitled to, or have any claim on, such share , interest or contribution.

**31. Restrictions on transfer of share or interest.** - (1) The transfer of charge of the share or interest of member in the capital of registered society shall be subject to such conditions, regarding the maximum holding, as may be prescribed by this Act or by the Rules.

(2) In case of society registered with unlimited liability, a member shall not transfer any share held by him or his interest in the capital or property of the society or any part thereof unless –

- (a) he has held such share or interest for not less than one year; and
- (b) the transfer charge is made to the society or to a member of society or to a person whose application for membership has been accepted by the society.

**32. Liability of a past member and of the estate of a deceased member.** - The liability of a past member or the estate of a deceased member for the debts of a registered society as they existed on the date of his ceasing to be a member or of his death, as the case may be, shall continue for a period of two years from such date.

## **CHAPTER – V**

### *Audit and Inspection*

**33.A. Audit. - (1)** The Registrar shall audit or cause to be audited, by an auditor selected from the panel prepared by him, accounts of every registered society once at least in every year. Such auditor shall either be a Chartered Accountant within the meaning of Chartered Accountant Act, 1949 or from the office of the Registrar by general or special order in writing in this behalf.

**(2)** (1) It shall be the duty of the Board/ Managing Committee to ensure that annual financial statements are prepared and presented for audit within forty five days of closure of the co-operative year.

(2) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the auditor may require.

**(3)** The audit under sub-section (1) shall be conducted according to the Rules, and shall include an examination of over due debts, if any, the verification of the cash balance, fund management, and securities and valuation of the assets and liabilities of the society.

**(4)** The auditor shall submit a report on such examination, verification and valuation within thirty days of such examination in case of Primary Societies and forty five days in case of Central and Apex Societies and shall include in his report a statement of :-

- (a) every transaction which appears to the auditor to be contrary to law or to the Rules or bye-laws of the society;
- (b) the amount of any deficiency, waste or loss which appears to have been caused by the culpable negligence or misconduct of any person in the performance of duties
- (c) the amount of any sum received which ought to have been but has not been brought into account by any person.
- (d) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due
- (e) any money or property belonging to the society which has been misappropriated or fraudulently retained by any person taking part in the organization or management of the society or by any past or present officer of the society or by any other person.

**(5)** The auditor's report, in addition to the report on the accounts of the registered society shall also contain report on the attendance at meetings by Directors, loans and advances sanctioned to or business done with the registered society by the Directors, expenditure of board meetings, remuneration paid to Directors, expenses reimbursed to Directors, expenditure on education and training for members, staff, directors and others.

**(6)** The Registrar may determine the sum to be paid by any society towards the cost of auditing its accounts under this section, and such shall be paid by the society in such manner as the Registrar may direct.

**33B.Special Audit:- (1)** A registered society dealing with funds from the government or other external individual or institution may be subject to a special audit initiated by the Registrar at the request of such creditor, on such specific terms of reference as agreed to by the Registrar.

(2) The cost of the special audit under sub section (1) shall be met by the creditor:

Provided that where the special audit reveals serious mismanagement in the society, such costs may be recovered from the society or the persons responsible for the mismanagement.

(3) Every special audit shall be completed and the report submitted to the Registrar within 120 days of its commencement or within such period as fixed by the Registrar.

(4) The special audit report shall contain a detailed statement as provided in section 33 A (a) to (e).

(5) The Registrar shall within a period of thirty days from the receipt of the special audit report, transmit copies of the same to (a) the applicant creditor ,

(b) the society concerned and

(c) The Co-operative Forum or Tribunal, where necessary.

**34. Inspection by Registrar.** – The Registrar may from time to time inspect a registered society, where the State Government has contributed by way of equity, himself or cause it to be inspected by some person authorised by him in this behalf by general or special order.

**35. Inquiry by Registrar.** - (1) Every registered society shall furnish any relevant information required by the Registrar in order to enable him to satisfy whether the co-operative society has conducted its affairs in accordance with co-operative principles and provisions of this Act,

(2) The Registrar, may of his own motion and shall on the application of union/ federation to which the society concerned is affiliated or of a creditor to whom the registered society is indebted or of not less than one third of the Directors or of not less than ten percent of the members hold an enquiry or cause an enquiry to be made into the specific matter or matters relating to any gross violation of any of the provisions of this Act, or into the constitution, working and financial condition of a registered society.

(3) The Registrar shall order an enquiry only after the receipt of a fee, from the applicant or applicants, to meet the cost of enquiry to be conducted. The cost of enquiry in respect of Primary Society, Central Society/ Union and Federation/ Apex shall be Rs. 500/- (Rupees Five Hundreds Only), Rs. 1,000 (Rupees One Thousand) and Rs. 5,000/- (Rupees Five Thousands Only) respectively.

(4)(a) When an enquiry is made under this section, the Registrar shall communicate the results of the inquiry to the society concerned, to the applicant/ applicants and persons designated by the applicant to receive such report, to the Financing Bank to which the Society is affiliated to any Federation/ Union of which the co-operative society is a member.

(b) A creditor or any other member of the co-operative society may also obtain a copy of the enquiry report on payment of fee specified by the Registrar.

**36. Inspection of books by the Registrar.** – (1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorised by him in this behalf by order in writing to inspect, the books of the society.

(2) No inspection shall be made or directed under section (1) unless the applicant –

(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 a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor, to the society and to the financing bank, if any to which the society is affiliated.

**37. Inspection of books by financing bank.** – (1) A financing bank may cause an inspection to be made of the books of any co-operative society which is affiliated to it and may direct such society to furnish such information, statements and returns as may be required.

(2) An inspection under sub-section (1) may be made by any of the officers of the financing bank or by any member of its paid staff approved by the Registrar by general or special order.

(3) The financing bank shall communicate the result of such inspection to the Registrar and to the society concerned.

**38. Power to call for documents and to issue summons.** – The Registrar or any person authorised to audit the accounts of a society under section 33 and to hold an enquiry under section 35 and or to make an inspection or to hold an inquiry under sections 34, 35, 36 or 37.

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

(b) may summon any person who, he has reason to believe has knowledge of any of the affairs of the society to appear before him at the office of the society or, at any branch thereof or except in the case of a financing bank, at any place at its headquarters, and may examine such person on oath,

(c) In co-operative societies may seize in the presence of two persons the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society, if he apprehends any fraud, or damage or mutilation of any of the articles above referred to, and the officer so doing shall grant proper receipt thereof and, when he is an officer other than the Registrar, immediately report the seizure to his immediate superior officer and the Registrar.

Provided that the power under this clause shall be exercised only by such persons as are authorised by rule made in this behalf.

**39. Cost of inquiry and inspection.** – Where an inquiry is held under section 35, or an inspection is made under section 36, the Registrar may, after giving the parties an opportunity of being heard and after recording the reasons, apportion the costs of such inquiry or inspection, or such part of the costs as he may think fit, between the society, the members or creditor demanding inquiry or inspection and the officers or former officers of the society.

**40. Surcharge.** - (1) Where as the result of an audit under section 33 or an inquiry under section 35, or an inspection under section 34, section 36, or section 37, or the winding up of a society, it appears to the Registrar that any person who has

taken part in the organisation or management of the society or any past or present officer of the society has –

- (a) made any payment which is contrary to law or to the Rules or bye-laws of the society, or against the directions or instructions of the financing bank for which the society is acting as agent under sub-section (3) of section 16, or
- (b) by reason of his culpable negligence or misconduct, involved the society, 2[or the financing bank for which it is acting as agent under sub-section (3) of section 16] in any loss or deficiency, or
- (c) failed to bring into account any sum which ought to have been brought into account, or
- (d) misappropriated or fraudulently retained any property of the society 1[or of the financing bank which it is acting as agent under sub-section (3) of section 16]

the Registrar may inquire into the conduct of such person, or officer and after giving such person or officer an opportunity of being heard make an order requiring him to contribute such sum to the assets of the society or of the financing bank as the case may be, by way of compensation in respect of such payment or loss of sum, or to restore such property as the Registrar thinks fit, together with such sum as the Registrar may fix to meet the cost of the proceedings under this section:

Provided that, before any order requiring such person or officer to contribute is passed in respect of a payment referred to in clause (a) reasonable time shall be given to such person or officer to recover the amount of such payment from the payee and credit it to the funds of the society, 1[or, as the case may be of the financing bank.]

Provided further that any order under this sub-section shall be passed for any commission or omission specified in (a), (b), (c) and (d) within six years from the date of Knowledge on the basis of submission of inspection, enquiry and audit report of occurrence or within two years from the submission of the surcharge proposal which ever is earlier.

Provided further that in case of Self Supporting Societies, on communication of a Special audit Report under section 33 B or an enquiry report under section 36 to the persons concerned the Registrar, may, where the special audit or enquiry report reveal mismanagement on the part of any or all of the office bearers or directors without prejudice to any civil or criminal proceedings to which they may be liable- a. direct the Board to convene a General Body meeting within such reasonable time as he may specify, to enable him to bring to the notice of the General Body, either directly or through his nominee the findings of the Special Audit report or enquiry report for necessary action; or

(b) Make a prayer to the Co-operative Forum or Co-operative Tribunal as the case may be for necessary action

(2) For any commission or omission specified in (a), (b), (c) and (d) the auditor or enquiry officer shall submit Surcharge proposal within 90 days from the date of submission of such audit or enquiry report through his controlling officer.

(3) This section shall apply notwithstanding that such person or officer may have incurred criminal liability under this Act or under any other law.

(4) An appeal shall lie from an order of Registrar to the State Government on application made by the person or officer against whom such order was passed within three months from the date of the communication of such order. The order of the Secretary on appeal and subject to the result of such appeal if any, the order of Registrar shall be final.

## CHAPTER – V

### *Dissolution of Managing Committee*

**41. Dissolution of Managing Committee.** - (1) If in the opinion of the Registrar the managing committee of any registered co-operative society, is mismanaging the affairs of the registered co-operative society or has failed to sufficiently improve the affairs of registered society or is persistently making default or is negligent in the performance of the duties imposed on it by this Act, the Rules or the bye-laws, he may by order in writing after giving the managing committee an opportunity to state its objections, if any, dissolve the managing committee for any period not exceeding six months and order that all or any of its members shall be disqualified from being elected to the managing committee of the registered co-operative society for a period to be specified in the order not exceeding five years.

Provided further that the Registrar, in special circumstances and for constitution of Managing Committee by election, may further extend period of super session by a maximum period of three months.

Provided that in respect of Self Supporting Societies, the Registrar may after giving the society thirty days notice of the proposed application, apply to the Tribunal for an order superseding the society where he has reason to believe that the society is mismanaging the affairs, failed to sufficiently improve the affairs or is persistently making default or is negligent in the performance of the duties imposed on it by this Act, the Rules or the bye-laws of the registered society.

The Registrar shall record every order passed under this section and inform the concerned society by registered post.

(2) When a Managing Committee is superseded under sub-section (2), the Registrar shall appoint an Administrator on such remuneration, if any, as he may fix to carry on the business of the society, and the Administrator, shall subject to any direction issued by the Registrar from time to time, exercise all the powers and perform all the duties which may under this Act, the Rules and the bye-laws, be exercised or performed by the Managing Committee or any officer of the registered society:

Provided that Registrar shall have the power to change the Administrator during the period of dissolution.

(3) The Registrar shall, before the expiry of the period of super session under sub-section (2), require the Administrator to take necessary action for the constitution of the new Managing Committee and the Administrator shall forthwith hand over the management to the new Managing Committee constituted in accordance with the provisions of the Act and the Rules.

(4) The Registrar may dissolve the Managing Committee of a registered co-operative society in case where –

(a) majority of the members and elected office-bearers of the Managing Committee of a registered society resign from their respective membership or office; or

(b) half the total number of seats of the Managing Committee of a registered society, becomes vacant for any reason whatsoever;

and shall appoint Administrator for the better management of the registered society;

Provided that if during the period of dissolution of the Managing Committee, the Registrar is satisfied that the affairs of a registered society have sufficiently



improved and it is desirable to restore the management to a newly elected Managing Committee, he may by order direct that the Administrator shall take steps for the constitution of a new Managing Committee and on such Committee having been constituted in accordance with the provision of this Act and the Rules, the Administrator shall hand over the management to such newly constituted Managing Committee forthwith.

(5) An appeal shall lie from an order of the Registrar under sub-section (1) & subsection (2) to the State Government on application made by any member of the Managing Committee within one month from the date of communication of the order to the registered society concerned. The order of the State Government on appeal, and subject to the result of such appeal, if any, the order of the Registrar shall be final.

(6) The Registrar may issue such direction to the Administrator as to his powers and duties and the affairs of registered society as the Registrar deems desirable and the Administrator may apply to the Registrar at any time for instruction as to the manner in which the Administrator shall conduct the management of the registered society.

(7) Nothing in this section shall be deemed to effect the powers of Registrar to order the windings up of a registered society under section 42 or to cancel the registration of the registered society under sub-section (8) of section 44.

**42. Winding up order.** - (1) The Registrar may, after giving an opportunity of being heard to registered co-operative societies, by notification, order a registered society to be wound up if –

(a) after an inquiry has been held under section 35 or an inspection made under section 34, section 36 or section 37, or on receipt of an application made by three-fourth of the members of the society, or of his own motion, in the case of a society that has not commenced working or has ceased working, he is of opinion that the society ought to be dissolved, or

(b) it is a condition of the registration of the society that it should consist of at least fifteen members who have attained the age of eighteen years, and it is proved to the satisfaction of the Registrar that the number of members has been reduced to less than fifteen.

Provided that in Self Supporting Society the Registrar shall after giving the society an opportunity of being heard apply to the tribunal for an order dissolving the co-operative society, where he has reasonable cause to believe that the co-operative society has no right to be or to continue to be recognised as a co-operative society, because it,

(a) obtained its registration by fraud or mistake;

(b) is serving illegal purposes;

(c) has wilfully, after notice by the Registrar; violated any of the provisions of this Act or its bye-laws;

(d) Is no longer operating in accordance with the Co-operative principles and the provision of this Act;

(e) has not commenced business within two years of the date of registration; or

(f) has not carried on business for the past two consecutive years.

(2) (i) A self –supporting co-operative society may, by a special resolution, authorise its own dissolution:

Provided that a notice of the general meeting shall also be sent with an invitation to attend, to the Registrar, to any federation of which the Co-operative Society is affiliated, to creditors and to any organisation with which a partnership contract has been entered into.

(ii) Invitees under the proviso of sub section 1 have the right to make representation to the General Body if they so wish to, giving reason why dissolution is not called for.

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

(iv) The authorisation approved in pursuance of sub section 1 shall be required to set out the following namely :- a. The assets and liabilities of the co-operative societies.

b. The claim of creditors.

c. The number of members

d. The nature and extent of the members' interest in the co-operative society; and

e. The name of the liquidator if appointed by the General Body or a request to the Registrar to appoint the liquidator or a request to the Registrar to issue a certificate of dissolution where there are no assets and liabilities.

- (v) Where the Registrar receives a special resolution passed in pursuance of sub section 1 he shall cause at the expense of the co-operative society a notice of the special resolution to be published once a week for two weeks in a newspaper published or distributed in the district where the registered office of the co-operative society is located.
- (vi) The Registrar may require from the society, the liquidator appointed in the society or any other person who is required to furnish information a periodical return showing (a) The progress of dissolution (b) the distribution of any undistributed surplus or reserve; and (c) any other relevant information that he may require.
- (vi) Dissolution by Tribunal:- The Registrar or an interested person may, after giving the Self Supporting Co-operative Society ninety days notice of the proposed application apply to the Tribunal for an order dissolving the Co-operative Society, where he has reasonable cause to believe that the Co-operative Society has no right to be or to continue to be recognised as a co-operative society because it,-
- (a) obtained its registration by fraud or mistake;
- (b) is serving illegal purposes,
- (c) has wilfully after notice by the Registrar, violated any of the provisions of this Act or its bye laws;
- (d) is no longer operating in accordance with the co-operative principles and provisions of this Act:
- (e) has not commenced business within two years of the date of registration; and
- (f) has not carried on business for the part two consecutive years.
- (vii) Where an interested person applies in pursuance of this section he shall give the Registrar notice of his application and the Registrar shall be entitled to appear and be heard in person or through a counsel.

- (viii) Where the Tribunal receives an application in pursuance of this section it may, after giving a reasonable opportunity to the Self Supporting Co-operative Society to state its case order that the Co-operative Society be dissolved and liquidated and dissolved under the supervision of the Registrar.
- (ix) Where the Registrar receives an order made in pursuance of sub section (viii) he shall (a) where the order is to dissolve the Self Supporting Co-operative Society issue a certificate of dissolution or (b) where the order is to liquidate and dissolve the co-operative society under the supervision of the Registrar, publish a notice in a newspaper published or distributed in the district in which the registered office of the Self Supporting Co-operative Society is situated.

**43. Appeal against the order of winding up.** - (1) Any member of a society in respect of which an order under section 42 has been passed may, within two months from the date, of the publication of such order in the official Gazette appeal to the State Government from such order.

(2) An order under section 42 shall not take effect until the expiry of two months from the date of the publication of such order in the official Gazette.

(3) The order of the State Government on appeal and, subject to the result of such appeal, if any, the order of the Registrar shall be final.

**44. Liquidation and Dissolution :** (1) where an order has been passed for the winding up of a registered societies by the Registrar and in case of self supporting societies by the Tribunal, the Registrar shall appoint a person or persons to be liquidator of the society .

(2) Notwithstanding anything contained in sub-section (2) of section 43, a liquidator on appointment shall have power to take immediate possession of all assets belonging to the society and all books, records and other documents pertaining to the business thereof and to carry on the business of the society so far as may be necessary and all the rights, duties, assets and liabilities of the society shall be vested and shall devolve upon the liquidator as such.

(3) Subject to the Registrar's power of control and revision, such liquidator shall also have power –

- (a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office
- (b) to determine and realise all sums due to the society from any person;
- (c) to determine from time to time , subject to the provisions of section 32, the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society and from time to time, to revise any order of contribution until the winding up is completed, and to realise such contribution;
- (d) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimants after giving an opportunity of being heard to all the creditors;
- (e) to pay claims against society the (including interest) up to the date of the publication in the official Gazette of the notification ordering the winding up of the society according to their respective priorities, if

any, in full or rateably as the assets of the society permit; and to apply the surplus, if any, remaining after payment of the claims in full, in payment of interest from the said date of a rate fixed by him but not exceeding in any case the rate agreed to be paid by the society;

- (f) to make any compromise or arrangement with persons between whom and the society there exists any dispute or to refer any such dispute to arbitration;
- (g) to determine by what persons and in what proportions the cost of the liquidation are to be borne; and
- (h) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

Provided that the liquidator shall not determine the contribution, debt or assets to be recovered from any person unless an opportunity of being heard has been given to such person.

(4) If an appeal from the order of winding up is allowed by the State Government under section 43, the liquidator shall give up possession of the assets, books, records and other documents of the society or the managing committee; and shall cease to carry on the business of the society, provided that all his acts done in his capacity as liquidator shall continue to have legal validity as if they had been done by the managing committee or the society.

(5) With the special sanction of the Registrar, an appeal shall lie to the Co-operative Tribunal within three months from the date of communication by registered post of an order of a liquidator under clauses (b),(c),(d),(e),(g) or (h) of sub-section (3) to the person concerned.

(6) The order of the liquidator, subject to any order of the Registrar in revision or to any order of the Co-operative Tribunal on appeal, if any shall be final.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(8) After the records of a society have been deposited under sub-section(7), the Registrar shall cancel the registration of the society and the society shall then cease to exist as a corporate body.

## **CHAPTER – VIA**

### *Co-operative Bank*

**44A. Application of the Chapter to Co-operative Banks.** – (1) The provisions of this Chapter shall apply to a Co-operative Bank as defined in the Deposit Insurance Corporation Act, 1961 (47 of 1961) in addition to the provisions contained in other parts of this Act, where any question of apparent or implied inconsistency arises, the provisions of this Chapter shall prevail over the provisions of the other parts of this Act.

(2) For the purposes of this Chapter, ‘Deposit Insurance Corporation means the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961 (47 of 1961) and ‘Reserve Bank’ means the Reserve Bank of India established under the Reserve Bank of India Act, 1934 (2 of 1934).

**44B Division, amalgamation, compromise, etc.** - (1) No order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or of

division or transfer of assets and liabilities of a Co-operative Bank shall be made without the previous sanction in writing of the Reserve Bank.

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

- (i) for the reconstruction of the Co-operative Bank ; or
- (ii) for its amalgamation with any other Co-operative Bank ( herein referred to as the transferee Bank.

(3) Notwithstanding anything to the contrary contained in this Act where a Co-operative Bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (47 of 1961) is amalgamated or in respect of which a scheme of compromise or arrangement or of reconstruction has been sanctioned and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank, under sub-section (2) of section 16 of the Act, the bank with which such insured bank is amalgamated or , the new Co-operative Bank formed after such amalgamation or , as the case may be, the insured bank or the transferee bank shall be under an obligation to repay the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

**44C. Supersession of managing Committee of Co-operative Bank. -** Notwithstanding anything contrary contained in this Act the Registrar shall if so required in writing by the Reserve Bank in public interest or for preventing the affairs of the Co-operative Bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the Co-operative Bank; pass an order for the supersession of the managing committee or other managing body (by whatever name called) of that Co-operative Bank and appointment of an administrator therefore, upon such terms and for such periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank.

**44D. Reserve Bank's sanction or requisition for winding up order. -** (1) Notwithstanding anything to the contrary contained in this Act, no Co-operative Bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

(2) Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for the winding up of a Co-operative Bank if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance Corporation Act, 1961(47 of 1961)

**44E. Reimbursement to Deposit Insurance Corporation. -** Where a Co-operative Bank, being an insured bank within the meaning of Deposit Insurance Corporation Act, 1961 (47 of 1961) is wound up or is taken into liquidation and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section(1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed in the circumstances to the extent and in the manner provided in section 21 of that Act.

**44F. Finality of the Reserve Bank's sanction or requisition. -** Notwithstanding anything to the contrary contained in this act where with the previous sanction in writing or on the requisition of the Reserve Bank –

- (i) an order of winding up of the co-operative bank is made, or
- (ii) in respect of which a scheme of compromise or arrangement or of reconstruction or amalgamation is made, or

(iii) in respect of which an order for the supersession of its managing committee or other managing body (by whatever name called ) and the appointment of an administrator therefore has been made,

No appeal or revision on review there against shall lie or be permissible and such sanction or requisition of the Reserve Bank shall not be liable to be called in question in any manner.

## **CHAPTER – VIB**

*Special provisions for primary agricultural credit society, farmers service society and multi purpose co-operative society*

### **44G. Provisions of this Chapter to apply to Agricultural Credit Society. –**

The provisions contained in this Chapter shall apply only to Primary agricultural Credit Society, the Farmers Service Society and the Multipurpose Co-operative society.

**44H. Power of the Registrar to order liquidation of Societies and amalgamation of several Societies. –** (1) Notwithstanding anything to the contrary contained in the Act where the Registrar is satisfied that, in the interest of the Co-operative Movement or for the purpose of securing proper management of Co-operative Societies or for the reason that the society has not been working as a viable unit or has incurred bad debts or has remained inactive, it is necessary to liquidate a society he may , by an order published in the official gazette, direct for the liquidation of the society and shall appoint person or persons for carrying out the functions of the liquidator as laid down in section 44.

(2) Where in the opinion of the Registrar, or an officer authorised by the Registrar to act on his behalf (who shall not be below the rank of the District Co-operative Officer), amalgamation of two or more primary agricultural societies is necessary in order to improve the working of such society or for increasing their strength or usefulness, he may by an order, notwithstanding anything to the contrary contained in this act, direct the amalgamation of two or more such societies, within such time as may be specified therein, into one single society and register the same as a new society.

(3) The societies which are amalgamated under sub-section (2) shall be deemed to have been dissolved and shall cease to exist and the membership thereof shall stand transferred to, and all the assets and liabilities thereof shall vest, in the new society formed by amalgamation of two or more societies.

(4) Upon the amalgamation of societies and establishment of a new society, the Registrar shall, for purposes of managing the affairs of the new society, depute an officer of the State Government subordinate to him, till such time as a new managing committee is constituted and the officer so deputed shall exercise such powers and perform such functions as may be prescribed.

(5) The Registrar may by an order in writing and published in the official Gazette determine the local limits of the new society established after the amalgamation of several societies.

(6) Every family residing within the local limits of the new society determined under sub-section(5) shall be represented by at least one adult member of the family who shall be a normal or associate member of the society and shall be entitled to a right of voting if he pays a membership fee of Re. 1/- (Rupee One only) and may become a full-fledged member of the society if he purchases at least one share of the

society and he shall be entitled to receive loan there from and shall also be eligible to hold any elective post of the society.

**44I. Appeal from the order of the Registrar.** – Any person aggrieved by the liquidation under sub-section(1) of section 44AO or by amalgamation or establishment of new societies and the registration there of under sub-section(2) of the said section may file a representation before the State government against the order of the Registrar within thirty days of the date of order and the state Government may, after hearing the objections, pass such orders as may be deemed fit and the order of the State Government thereon shall be final and shall not be called in question in any Court of law.

**44J. Election of new society formed after amalgamation.** – The election of the new society established under sub-section(2) of section H shall be held within a period of six months from the date of registration of the society unless, for special reasons to be recorded in writing, the State government may extend the period by another six months.

## **CHAPTER – VI C**

*Special provisions applicable to societies in Short Term Co-operative Credit Structure*

**44K. Overriding effect of chapter VI C:-** Notwithstanding anything contrary to or inconsistent with any provision contained in any other chapter of this Act or Rules framed there under or bye-laws of any registered society or orders issued there under the provision of this chapter shall have over riding effect

**44L. - Ensuring membership of primary Agricultural credit societies/LAMPS to depositor and borrowers:-** Every person who is a borrower or depositor of Large Area Multipurpose Co-operative Societies/ PACS or wants to become a borrower or depositor of such society shall be compulsorily made a member or an associate member of such society in terms of sub section(6) of section 44H with full voting rights.

**44M. - Autonomy in all financial & internal administrative matters** – A Co-operative Society under short term Co-operative credit structure shall have autonomy in all financial and internal administrative matters including the following areas:-

- (a) interest rate on deposit and loans in conformity with Reserve Bank guidelines
- (b) Borrowings & investment.
- (c) Loan policies individual loan decisions
- (d) Personal policy, staff recruitment posting and compensation to staff and
- (e) Appointment of Auditors and internal control system and payment of audit fee.

**44N. - Limit on State Governments subscription :-** The State Governments subscription in the share capital of any Co-operative Society under the short term Co-operative credit structure shall not exceed 25% of the total paid up share capital at such society.

Provided that the State Govt .or such society have option to further reduce the State Govt. equity and the society shall not be prevented from doing so by the State Govt.

**44O. – Restriction on number of Government Nominees :-** (1) There shall be only one Government nominee who shall be a government servant in the Managing Committee of the State Co-operative Bank and Central Co-operative Banks.

(2) There shall be no Government nominee in the Managing Committee of a PACS/LAMPS

**44P. - Membership of an affiliating society:-(1)** (a) A registered co-operative society under the Short Term Co-operative Credit Structure registered under this Act shall be eligible to be a member of a Self Supporting Affiliating Society under short term co-operative credit structure registered under this Act in accordance with the procedure prescribed and notified by the Government.

(b) A self Supporting Co-operative Society under the Short term Credit Structure registered under this Act may become the member of an affiliating society, other than Self Supporting Co-operative Society under the Short Term Credit Structure registered under this Act in accordance with the procedure prescribed under the Acts and rules.

(2) A co-operative society under the Short Term Co-operative Credit Structure may become a member of an affiliating society of its choice or leave the membership of such society.

**44Q. - Restriction regarding area of operation:-** There shall be no restriction regarding area of operation for the conduct of business by a society under Short Term Co-operative Credit Structure.

**44R. - Freedom of investment & Deposit –** A registered society under the Short Term Co-operative Credit Structure will have freedom to invest or deposit its funds in any financial institution subject to guidelines framed by Reserve Bank.

**44S. - Freedom of borrowing:-** A registered society under Short Term Co-operative Credit Structure may obtain loans from any Reserve Bank regulated financial institution and refinance from National Bank or any other refinancing agency directly or through any Reserve Bank regulated financial institution of its choice and not necessarily from the affiliating society to which it is affiliated.

**44T:- Guidelines for payment of dividend by Primary Agricultural Credit Society:-** The Registrar in consultation with National Bank shall issue general guidelines for payment of dividend by a Primary Agricultural Credit Society.

**44U:- Contribution to any fund:-** – No society under short term co-operative credit structure shall be directed to contribute any fund other than those for improving the net worth and own fund of the society.

**44V:- Disqualification of member of the managing committee to State Co-operative Bank or Central Bank –**

1. A member of the managing committee representing a co-operative society other than LAMPS/PACS in the managing committee of State Co-operative Bank or Central Co-operative Bank shall not be allowed to continue as a member of the managing committee by the Registrar in the event of such registered society committing a default for a period exceeding 90 (ninety) days on intimation of such default by the Chief Executive of the Bank concerned.
2. A member of the managing committee representing co-operative society under the Short Term Co-operative Credit Structure in the Managing committee of State Co-operative Bank or Central Bank shall not be allowed to continue as member by the Registrar in the event of such society committing a default for a period exceeding one year on intimation of such default by the Chief Executive of the bank concerned.



3. No person shall be eligible for election to the managing committee of a co-operative society under short term Co-operative Credit Structure, if –
  - a. Such person is not a member of the society, or
  - b. Such person is in default to the society or any other registered society in respect of any loan taken by him or has any dues of the society on the date of filing of nomination, or
  - c. he has directly or indirectly, any interest in any subsistent contract made with the society or in any property sold or purchased by the society or in any other transaction of the society , except in any investment made in, or any loan taken from the society,
  - d. he has any proceeding for surcharge under section 40 of this Act relating to any registered society pending against him
  - e. he has a criminal proceeding relating to any transaction of a registered society or in any offence involving moral turpitude pending against him in which cognizance has been taken.

4. No person elected as member of the managing committee of a co-operative credit structure shall be allowed to act as such if he is in default for a period exceeding twelve months in payment of dues to the society unless the amount in default with due interest is paid to the society.

**44W. – Supersession of Short Term Co-operative Credit Structure :-**

1. The Supersession of the managing committee of State Co-operative Bank or Central Co-operative Bank under section 41 of this Act shall be done by Registrar Co-operative Societies in consultation with the Reserve Bank.
2. The supersession of a managing committee under section 41 of this Act of a Primary Agricultural Credit Society shall be done by the Registrar, only under the following conditions:-
  - (a) If a society incurs losses for three consecutive years, or
  - (b) If serious financial irregularities or frauds have been identified, or
  - (c) If there are judicial directives to this effect, or
  - (d) If there is lack of quorum for three consecutive meetings,

**44X. - Elections-**

1. The elections to the managing committee of a co-operative society under the Short Term Co-operative Credit Structure shall be conducted before the expiry of the term of the existing Managing committee and in case of supersession of the Managing Committee of such co-operative society the election may invariably be conducted within six months from the date of supersession.
2. A member of the Managing committee of a Primary Agriculture Credit Society which has been superseded under the conditions mentioned in sub-clause (a) and (b) of section -44 W (2) shall not be entitled to contest again for a period of five years after such supersession.

**44Y. - The Prudential norms :-**

The prudential norms including Capital to Risk Weighted Assets Ratio shall be specified by the Registrar for all financial societies, other than Co-operative banks but including the Primary Agriculture Credit Society and Large Area Multi Purpose Society in consultation with National Bank

**44Z - Removal of Directors and Chief Executive Officers-**

1. The members of the Managing committee or chief executive officer of the State Co-operative Bank or central co-operative bank shall fulfill such criteria as may be prescribed by the Reserve Bank of India.
2. A person who does not fulfill the criteria for the post of Chief Executive officer or a member in the committee of the State Co-operative Bank or a Central Co-operative Bank as stipulated by the Reserve Bank shall be treated as ineligible for such post and if such person is holding the post, he shall be removed by the Registrar on receipt of advice to this effect from the Reserve Bank or the National Bank.

**44ZA. - Co-option of professionals in managing committee of State Co-operative Bank and Central Co-operative Bank:-**

1. The managing committee of State Co-operative Bank and Central Co-operative Bank shall have such number of professionals as members having the professional qualification or experience as may be stipulated by the Reserve Bank Of India.
2. If members with professional qualifications or experience as stipulated by the Reserve Bank are not elected in number specified by the Reserve Bank Of India. in the Committee of the State Co-operative Bank or Central Co-operative Bank, to the extent of shortfall, such vacancies shall be filled by co-option of such person in the committee and such co-opted members shall have full voting right.

**44ZB. - Audit of accounts-** The State Co-operative Bank or Central Co-operative Bank shall cause audit of its accounts by a Chartered Accountant selected from a panel approved by the National Bank.

**44ZC. - Special audit of State Co-operative Bank or Central Co-operative Bank-**

1. The Registrar shall arrange to conduct the special audit of State Co-operative Bank or Central Co-operative Banks, on the request of the Reserve Bank on such specific terms of references as agreed to by the Registrar and also arrange to furnish the report to Reserve Bank within the time stipulated.
2. The Registrar may also on its own motion or on the request of the Managing Committee of State Co-operative Bank or Central Co-operative Bank arrange to conduct the special audit of such bank.

**44ZD. - Restriction of using word the 'Bank' by the Primary Agricultural Credit Society-**

1. No Primary Agricultural Credit Society, shall use the word "Bank", "Banker" or a "Banking" or any other derivativw of the word "Bank"
2. The Registrar shall deregister such the Primary Agricultural Credit Society which violates the provision of sub-section (1) of this section.

**44ZE. - Abolition of Cadre system-** There shall be no Cadre system in the Co-operative Credit Structure with effect from such date as notified by the State Government.

**44ZF. - Winding up of State Co-operative Bank or Central Co-operative Bank -** The Registrar shall make an order for the winding up of State Co-operative Bank or Central Co-operative Bank and appointment of a liquidator within one month if so advised by the Reserve Bank.

**44ZG. - Implementation of regulatory prescription of Reserve Bank-** Notwithstanding anything contained in this Act or Rules made there under, the Registrar shall ensure the implementation of regulatory prescriptions of the Reserve Bank in case of State Co-operative Bank and Central Co-operative Banks.

**44ZH. - Exemption by the State Government :-** No society in the Short Term Co-operative Credit Structure shall be exempted under sections 62(2) of this Act in any manner from the application of the provision of this chapter without prior consultation with the Reserve Bank or the National Bank

## **CHAPTER VII**

### *Penalties and Procedure,*

**45. Offences and Penalties –** (1) It shall be an offence under this Act, if a registered society:-

- a. fails to give a notice, send a return or document or fails to do or allows to be done any act which a registered society is by this act or under its bye laws required to give, send, do or allow to be done;
- b. willfully neglects or refuses to do an act or to furnish information required for the purposes of this Act or does an act forbidden by this Act or the bye-laws;
- c. makes a return, or willfully furnishes information in any respect which is false or insufficient;
- d. indulges in fraudulent activities concerning the constitution, management and business of the registered society;
- e. misuses the funds and property of the registered society; or
- f. indulges in the conduct of elections to the Board in “corrupt practices” as defined under section 123 of the Representation of People Act, 1951.

**(2)** It shall be an offence under this Act, if any person or a registered society contravenes the provisions of this Act or the by-laws of the registered society.

**(3).** An offence by a Co-operative Society or self supporting co-operative society shall be deemed to have been also committed by each office-bearer of the Co-operative Society or self supporting co-operative society, an officer or member of a co-operative society or any person appointed under sub section (2) of section 41, bound by the bye-laws thereof to fulfil the duties whereof the breach is an offence, or if there is no such office bearer then each of the directors, unless the office bearer or director, as the case may be, proves to have attempted to prevent the commission of the offence.

**(4)** An offence under this section shall be punishable with simple imprisonment for a term which may extend to three years or with fine which may extend to Rs. 5,000/- (Rupees Five Thousands Only), or with both.

Provided that where a person is guilty of misappropriation, fraud, breach of trust, cheating or any other act involving moral turpitude, resulting in a loss to the registered society he shall be punishable under the relevant provisions of the Indian Penal Code, 1860.

**45A.** - (1) On election of a new secretary, or on the expiry of the term of the office bearers of a registered society or on supersession of co-operative society, the outgoing secretary or the person holding charge of the office of the registered society shall hand over charge of his office and all papers and properties in his possession as secretary or in-charge of the said society to the new secretary or the officer directed by the prescribed authority to take charge of the affairs of the said society.

(2) If the outgoing secretary of a registered society or the person holding charge of the office of secretary fails or refuses to hand over charge of his office as required under sub-section (1) above, the prescribed authority or any officer empowered by it in this behalf, may by an order in writing, direct the outgoing secretary or the person holding charge of the office of Secretary to hand over immediately the charge of his office and all papers and properties in his possession to the new secretary in case of fresh election, and in case of supersession or on the expiry of the term of office, to the officer appointed to manage the affairs of the society.

(3) If the person to whom a direction has been issued under sub-section (2) fails to comply with the said direction he shall be punishable with the imprisonment which may extend up to the period of three years or a fine of Rs. 5000/- (Rupees Five Thousands Only), or with both.

(4) The offence under sub-section (4) of section 45 and sub section (3) of section 45 A shall be cognizable.

(5) If it is so required, the prescribed authority may, by order in writing, authorize any officer to forcibly take possession with the help of local police and magistrate, of all papers and properties from the outgoing secretary or the person holding charge of the office of secretary and hand them over to the new secretary in case of fresh election and to the officer of the State Government so appointed to run the affairs of the society in case of its supersession or expiry of the term of office bearers where fresh election is still to be held.

**45B. Production of records by the Secretary or person in-charge of the office of a registered society.** - (1) The Chairperson, Secretary or other authority shall forthwith hand over all records and documents of the society as the Registrar or any other Gazetted officer of co-operative department authorised in this behalf may require for the purpose of inspection, inquiry and special audit of a registered co-operative society and for the purpose of inquiry and special audit in case of Self Supporting Co-operative Society, relating to the affairs of the said registered Society.

(2) If the secretary or the person in-charge of the office of the registered co-operative society fails, refuses or avoids to hand over the documents as required under foregoing sub-section (1) he shall be punishable with imprisonment for a period which may extend up to six months or with a fine of Rs. 5000/- (Rupees Five Thousands Only)- or with both; and such an offence shall be cognizable.

(3) When a person to whom a direction has been issued under sub-section(1) of this section fails, refuses or avoids to furnish all records and documents of that Society, the Registrar or any person on behalf of the Registrar shall seize the records and documents with the help of police and magistrate.

**46. Prohibition of the use of the word ‘co-operative’.** – (1) No person or society other than a registered society shall trade or carry on business under any name or title of which the word co-operative is part without the sanction of the State Government:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act came into operation.

(2) Any officer or member of a society or any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to 5,000 (Rupees Five Thousands Only) rupees, and, in the case of a continuing offence, with a further fine of Rs. 100/- (Rupees One Hundred Only) for each day on which the offence is continued after conviction thereof:

**47A. Cognizance of offences.** – (1) No Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(2) Every offence under this Act shall, for the purpose of the Code of Criminal Procedure, 1898 (5 of 1898) be deemed to be non-cognizable except the offence under section 45 (4) and 45 A (3) of the Act..

(3) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar, and the Registrar shall not sanction the prosecution of any person unless he has given such person an opportunity of being heard.

**47B (1). Co-operative Tribunal.** – (a) Subject to such Rules as may be prescribed, the State Government shall, by a notification, published in the Official Gazette, constitute a State Co-operative Tribunal for such area or areas as many be specified in the notification, consisting of three members to exercise all the powers and perform all the functions conferred by or under this Act or any other law for the time being in force upon such Tribunal.

The State Co-operative tribunal shall comprise of (i) A retired High Court Judge or sitting District Judge as Chairman (ii) Joint Registrar of Co-operative Societies , working or retired as member (iii) A person of ability , integrity and standing having adequate knowledge and experience of at least ten years in dealing with the problems relating to co-operative law as member.

(b) A person not below the rank of Deputy Registrar, either working or retired, shall be posted by the State Government as Secretary of the State Co-operative Tribunal.

**47 B (2). Co-operative Forum. – (a)**The State Government shall, by notification establish for the purposes of this Act , Co-operative Forums in each district or Group of Districts as the case may be , by notification.

The Co-operative Forum shall comprise of (i) sitting or retired District Judge as Chairman , (ii) Deputy Registrar of Co-operative Societies , sitting or retired as member (iii) A person of ability , integrity and standing having adequate knowledge and experience of at least five years in dealing with the problems relating to co-operative law as member

**(b)** A person not below the rank of Assistant Registrar, either working or retired, shall be posted by the State Government as Secretary of the Co-operative Forum.

Provided that a person shall be disqualified for appointment as a member of State co-operative Tribunal or Co-operative Forum, if he –

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
  - (b) is an undischarged insolvent; or
  - (c) is of unsound mind and stands so declared by a competent Court; or
  - (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
  - (e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or
  - (f) has such other disqualifications as may be prescribed by the State Government.
- (C) The members of the co-operative Tribunal and Forum, other than the Chairman shall be appointed on the recommendation of a Selection Committee consisting of the following , namely :-
- (i) Principal Secretary Department of Co-operation- Chairman,

(ii) Principal Secretary, Law Department - Member,

(iii) Principal Secretary, Department of Personnel & Administrative Reforms

- Member:

(iv) Principal Secretary, Department of Finance - Member

Provided that the State Government shall appoint/nominate the Chairman of the Co-operative Tribunal and the Forum and also fix their remuneration and allowances as per the existing provisions.

**48. Disputes.** – (1) If any dispute touching the business of a registered co-operative society (other than a dispute regarding disciplinary action taken by the society or its managing committee against a paid servant of the society arises –

(a) amongst members, past members, persons claiming through members, past members or deceased members, and sureties of members, past members or deceased members, whether such sureties are members or non-members; or

(b) between a member, past member, persons claiming through a member, past member or deceased member, or sureties of members, past members or deceased member, whether such sureties are members or non-members and the society, its managing committee or any officer, agent or servant of the society; or

(c) between the society or its managing committee and any past or present officer, agent or servant of the society; or

(d) between the society and any other registered society; or

(e) between a financing bank authorized under the provisions of sub-section (1) of section 16 and a person who is not a member of a registered society;

Such dispute shall be referred to the Registrar in case of co-operative societies and to Co-operative Forum and co-operative Tribunal in self supporting society.

Provided that no claim against a past member or the estate of a deceased member shall be treated as a dispute if the liability of the past member or of the estate of the deceased member has been extinguished by virtue of section 32 or section 63 of the Act.

**Explanation.** – (i) A claim by a registered society for any debt or demand due to it from a member or non-member, past member or the nominee, heir or legal representative of a deceased member or non-member, or from sureties or members, past members or deceased members, whether such sureties are members or non members, shall be a dispute touching the business of the society within the meaning of this sub-section even in case such debt or demand is admitted and the only point at issue is the ability to pay or the manner of enforcement of payment.

**Explanation.** – (ii) The question whether a person is or was a member of a registered society or not shall be a dispute within the meaning of this sub-section.

- (2) The Registrar, Co-operative Forum or the Co-operative Tribunal, as the case may be, may on receipt of such reference –
  - (a) decide the dispute himself; or
  - (b) transfer it for disposal to any person exercising the powers of a Registrar in this behalf; or
  - (c) subject to any Rules refer it for disposal to an arbitrator or arbitrators.
- (3) Subject to any Rules, the Registrar in case of co-operative society may withdraw any reference transferred under clause (b) of sub-section (2) or referred under clause (c) of the said sub-section and deal with it in the manner provided in the said sub-section.
- (4) The appointment of an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrators shall be regulated by the Rules.
- (5) In the case of dispute involving property which is given as collateral security, it shall be competent to the person deciding such dispute to issue mortgage award which shall have the same force as a mortgage decree of a competent Civil Court.
- (6) Any person aggrieved by any decision given in dispute transferred or referred under clause (b) or (c) of sub-section (2) may, within three months from the date of such decision, appeal to the Registrar in case of co-operative societies.
- (7) The Registrar, Co-operative Forum or the Co-operative Tribunal, as the case may be, in the case of dispute under this section, shall have the power of review vested in a Civil Court under section 144 and under Order XL VII, rule 1 of the Code of Civil Procedure, 1908, and shall also have the inherent jurisdiction specified in section 151 of the said Code.
- (8) The Registrar, in case of co-operative societies, may, where it appears to him advisable, either of application or of his own motion, state a case and refer it to the State Co-operative Forum for decision, and the decision of the State Co-operative Tribunal, shall be final.
- (9) Save as expressly provided in this section, a decision of the Registrar under this section, and subject to the orders of the Registrar on appeal or review, a decision given in a dispute transferred or referred under clause (b) or (c) of sub-section (2) shall be final.

Provided further that no dispute shall be referred under this section to the Co-operative Forum or Co-operative Tribunal, unless the disputing parties have exhausted



all remedies that may be available in the bye laws for the settlement of disputes.

Provided further that any appeal against a decision of a Co-operative Forum shall lie before the State Co-operative Tribunal and an appeal against the decision of the State Tribunal shall lie before the High Court within sixty days of the date of the order.

**49. Registrar, liquidators and arbitrators to have certain powers of Civil Court.** - Subject to any Rules, the Registrar, any person authorized to hold an inquiry under section 35 or an inspection under section 36, any liquidator, any person exercising the powers of a Registrar, or any arbitrator or arbitrators appointed under section 48, shall in so far as such powers are necessary for carrying out any of the purposes of this Act, have power to summon and enforce the attendance of witnesses and parties concerned and to examine them upon oath and to compel the production of any books, accounts, documents or property by the same means and, so far as may be, in the same manner as provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908).

**50. Attachment of Property.** - (1) Where the Registrar, State Co-operative Tribunal, Co-operative Forum, as the case may be, is satisfied on the application of the liquidator or of a society that any person with intent to defeat or delay the execution of any order that may be passed against him under section 44 or 48.

- (a) is about to dispose of the whole or any part of his property, or
- (b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar.

the Registrar, the State Co-operative Tribunal, the Co-operative Forum, as the case may be, may, unless adequate security is furnished to his satisfaction, direct the attachment of the said property or such part thereof, as he thinks, necessary, and any such attachment shall have the same effect as if it had been made by a competent Court.

(2) An order of attachment passed under sub-section (1) shall, on the application of the Registrar, State Co-operative Tribunal, Co-operative Forum, as the case may be, be executed by the Collector in whose jurisdiction the property lies, in the same manner as an order of a Revenue Court.

**51. Enforcement of orders.** - Orders passed under sections 44, 48 and 50 of the Act shall in addition to any other method of enforcement provided under this Act, on application be enforced as follows: -

(a) when passed by the Registrar, the State Co-operative Tribunal, Co-operative Forum, a liquidator or by an arbitrator or arbitrators, by any Civil Court having local jurisdiction in the same manner as a decree of the District Judge made in the suit pending before him.

**52. Recovery of sums due.** - Any sum payable by any person or by any registered society including the Self Supporting Society -

- a. as fees for an audit held under section 33,

- b. in accordance with an order of the Registrar under section 39 apportioning the costs of an inquiry or inspections,
- c. in accordance with an order passed under section 40,
- d. in accordance with an order of the Registrar, the State Co-operative Tribunal, Co-operative Forum or of a liquidator passed under section 44,
- e. in accordance with an order, decision or award passed or made under section 48 or
- f. As an amount due from member, past member or the nominee, heirs, or legal representative of the deceased member of a primary co-operative society, shall be recoverable, as a public demand in any area, in which the Jharkhand Public Demands Recovery Act, 1914 is in force or as an arrear of land revenue throughout the whole of the State and the Registrar or other person authorized by him in this behalf, shall be deemed to be the person to whom such public demand is due or to whom such arrear of land revenue is payable.

**53. Recovery of sums due to the Government.** – All sums due from a registered society or from an officer or member, past or present or from his sureties or from the estate of a deceased member of a registered society or from his sureties as such to the Government including any costs awarded to the Government may be recovered in the same manner as arrears of land-revenue.

**54. Property from which sums due from a society can be recovered.** – All sums due from a registered society to the Government and all sums recoverable from a registered society under section 33, 39, 44 or 48 may be recovered firstly, from the property of the society, secondly, in the case of a society, the liability of the members of which is limited, from the members, past members or estates of deceased members, or their sureties subject to the limit of their liability; and thirdly, in the case of other societies, from the members, past members, or estates of deceased members or their sureties to such extent or in such proportion as may be determined by the Registrar or the State Co-operative Tribunal or the Co-operative Forum.

**55. Liability of past members.** – Notwithstanding anything contained in sections 53 and 54, the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of sections 32 and 63.

**56. Power of revision** –(1) The Registrar may, on application or of his own motion, revise any order passed by a person exercising the powers of a Registrar or by a liquidator under section 44 provided such order has been passed within a period not exceeding six months:

Provided that the Registrar shall have no power to revise any order against which appeal has been provided under provisions of this Act.

(2) In matters of self supporting co-operative societies, the State Tribunal may revise the orders passed by the co-operative forum provided such order has been passed within a period not exceeding six months:

**57. Bar of jurisdiction of Court.** - (1) Save in so far as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of any matter concerned with the winding up or dissolution of the registered society or suspension of the Managing Committee of a registered society under its act, or of any dispute required by section 48 or any other section of this Act to be referred to the Registrar, Tribunal, Forum, as the case may be, or of any proceedings, under Chapter VIIA.

(2) while a society is in liquidation, no suit or other legal proceeding shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof on any matter touching the affairs of the society, except by leave of the Registrar and subject to such terms as he may impose.

(3) No order of the State Government, District Judge, Registrar, a person appointed to assist the Registrar, liquidator, State Tribunal or Forum or an arbitrator or arbitrators purporting to be one, which under any provision of this Act is declared to be final shall be liable to be challenged, set aside, modified, revised, or declared void in any Court upon merits or upon any ground whatsoever except want of jurisdiction.

## **CHAPTER VII-A**

### *Distrain*

**57A. Cases in which application for distraint may be made.** – Where any debt or outstanding demand is due to a registered society, , from any member, past member or estate of deceased member or is due to a registered society which is duly authorized by the Registrar under any of the provision of sub-section (1) of section 16 of this Act to grant loans to non-members, from any person who is not a member of a registered society or from the estate of such person if he is dead the society may, in addition to any other remedy to which it is entitled by law, present an application to the Registrar in cases requesting him to recover the debt or outstanding demand by distraining, while in the possession upon the defaulter :-

- (1) any crop or other products of the earth standing or not yet gathered on the holding of the defaulter;
- (2) any crops or other products of the earth which have been grown on the holding of the defaulter and have been reaped or gathered and are deposited on the holding or on a threshing floor or place for trading out grain whether in the fields or within a homestead.

**57B. Form of application.** - (1) Every application under the last foregoing section shall specify –

- (a) the holding of the defaulter and the boundaries thereof or such other particulars as may suffice for its identification;
- (b) the name of the defaulter;
- (c) the detailed account of the dues;

- (d) the nature and approximate value of the produce to be distrained upon.
- (e) The place where it is to be found, or such other particulars as may suffice for its identification; and
- (f) If it is standing or not yet gathered at the time at which it is likely to be harvested or gathered.
- (2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (5 of 1908) , for the signing and verification plaints.

**57C. Procedure on receipt of application.** - (1) The applicant shall at the time of filing an application under the foregoing sections, file before the Registrar such documentary evidence(if any) as he may consider necessary for the purposes of the application.

(2) The Registrar may, after taking such evidence as he thinks, fit, admit the application or reject it.

(3) Where the Registrar cannot forthwith admit or reject an application he may, if he thinks fit make an order prohibiting the removal of the produce specified in the application, pending the execution of an order for distraining upon the same or the rejection of the application.

(4) When an order for distraining upon any produce is made under the section at a considerable time before the produce is likely to be harvested or gathered, the Registrar may suspend the execution of the order for such time as he thinks fit, and may, if he thinks, fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

(5) An order under sub-section (3) or under sub-section (4) shall be served and published in such manner as the State Government may by Rules prescribe.

**57D. Execution of order for distraint.** - (1) If an application is admitted under the last foregoing section and order for distraining upon any produce is made the Registrar shall send a copy of the order containing the prescribed particulars to the Collector for execution.

(2) The Collector shall, upon receipt of the order referred to in sub-section (1), depute an officer to distrain upon the produce specified therein or such portion of that produce as he thinks fit, and the officer shall proceed to the place where the produce is, and distrain upon the produce by taking charge of it in this behalf and publishing a notification of the distraint in accordance with Rules to that effect made by the State Government.

Provided that the produce, which by its nature does not admit of being stored, shall not be distrained upon under this section at any time less than twenty days before the time when it would be fit for reaping or gathering

**57E. Service of demand and account.** - (1) The distraining officer, shall at the time of making the distraint, serve on the defaulter a

written demand for the amount due and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained upon, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable be served personally but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

**57F. Rights to reap etc., produce.** – (1) A distraint under this Chapter shall not prevent any person from reaping, gathering or storing any produce or doing any other act necessary or its due preservation.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained upon to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose or in some other convenient place in the neighborhood or shall towhatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer or of some other person appointed by him in this behalf.

**57G. Sale proclamation to be issued unless demand is satisfied.** - (1) Unless the demand with all costs of distraint, be immediately satisfied that distraining officer shall issue a proclamation specifying the particulars of the property distrained upon and the demand for which distrained order was passed, and notifying that he will, at a place and on a day specified not being less than three or more than seven days after the time making the distraint, sell the distraint property by public auction:

Provided that when the crops or products distrained upon from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land of the defaulter is situate.

**57H. Place of sale.** – The sale shall be held at the place where the distrained property is situated, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

**57I. When produce may be sold standing.** – (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf and do all that is necessary for the purposes of tending and reaping or gathering them.

**57J. Manner of sale.** – The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable, and if the demand with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the order of distraint shall not be executed with respect to the remainder.

**57K. Postponement of sale.** – If, on the property being put for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day or (if a market is held at the place of sale) the next market day, the sale shall be postponed until that day and shall be then completed, whatever price may be offered for the property.

**57L. Payment of purchase money.** – The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale direct, and in default of such payment the property shall be put up again and sold.

**57M. Certificate to be given to purchaser.** – When the purchase money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

**57N. Proceeds of sale how to be applied.** – (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by Rules to be made, from time to time, by the State Government in this behalf.

(2) The remainder shall be applied to discharge of the amount due for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

**57O. Certain Persons may not purchase.** – Officers holding sales of property under this Chapter and all persons employed by, or subordinate to such officers and all officers and members of the staff of the registered societies are prohibited from purchasing either directly or indirectly, any property sold by such officers.

**57P. Procedure where demand is paid before the sale.** – (1) If at any time after a distraint order has been made under this Chapter, and before the sale of the distrained property, the defaulter, or any person making a bonafide claim as the owner of the distrained property, where he is not the defaulter deposits with the Collector executing the order of distraint or in the hands of the distraining officer, the amount specified in the demand served under section 57E, with all costs which may have

been incurred after the service of the demand, the Collector, or officer, as the case may be, shall grant a receipt for the same, and the order of distraint shall not be executed.

(2) When the distraining officer receives the deposit, he shall forthwith pay it to the Collector.

(3) After the expiration of one month from the date of a deposit being made under this section, the Collector shall pay therefrom to the applicant for distraint the amount due to him, unless in the mean while the person making a bona fide claim as the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

**57Q. Distraint of property which is under attachment.** – When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 57N, to the owner of the property without the sanction of the Court to which the order of attachment of sale was issued.

**57R. Suit for compensation for wrongful distraint and appeals.** – No appeal shall lie from any order passed by the Registrar or a Collector under the Chapter, but any person whose property is distrained on an application made under section 57A, in any case in which such an application is not permitted by that section, may institute a suit against the application for the recovery of compensation :

Provided that, if such an order is passed by an Assistant Registrar or Deputy Registrar exercising the power of a Registrar, an appeal shall lie to the Registrar and his decision on such appeal shall be final.

**57S. Power to make Rules.** – The State Government may from time to time, make Rules for regulating the procedure in all cases under the foregoing provisions of this Chapter.

**57T. Interpretation.** – In this Chapter, unless there is anything repugnant in the subject or context-

- (a) ‘Collector’ includes an officer appointed by the State Government to discharge any of the functions of a Collector under this Chapter;
- (b) “defaulter” means a person (including his legal representative if he is dead) from whom any such debt or outstanding demand as is referred to in section 57A, is recoverable; and
- (c) “holding” means any land used for agricultural or horticultural purposes,

## CHAPTER VIII

### *Miscellaneous*

**58. Registrar and other officers to be public servants:-** The Registrar, Chairman and other members of the Tribunal, Co-operative Forum, State Co-operative Election Authority, person exercising the powers of a Registrar, a person authorized to make an inspection under section 34 or 36 or to hold an inquiry under section 35, a liquidator and arbitrator or arbitrators to whom any dispute is referred under section 48, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**59. Proof of entries in societies book.** – (1) A copy of an entry in a book, register or list of a registered society regularly kept in the course of business, shall if certified in such manner as may be prescribed by the Rules, be admissible in evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry would, if produced, have been admissible to prove such matters, transactions and accounts.

(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 proceeding 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 sub-section(1), or to appear as witness to prove the matters, transactions and accounts therein recorded unless called by order of the Courts or a Judge made for special cause.

**60. Delegation of power to hear appeals.** – The State Government may, by general or special order, delegate its power of hearing appeals under the provisions of this Act., to any authority specified in such order.

**61. Compulsory affiliation of registered societies** - (1) The registered society, shall be affiliated to Unions and Federations including Jharkhand Co-operative Federation in such manner and on such conditions as has been prescribed under the Rules for the purpose.

(2) The organization and activities of Jharkhand Co-operative Federation shall be regulated as per the Rules framed under this Act, and for which affiliation under sub-section (1) is compulsory.

**62. Exemption from requirements as to registration.** – (1) Notwithstanding anything contained in this Act, the State Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

(2) The State Government may by general or special order exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in order.

**63. Limitation.** – Notwithstanding any of the provisions of the , Indian Limitation Act 1908 (9 of 1908) , the period of limitation for debt including interest due to a registered society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of the society.



**64. Power to exempt from income tax, stamp duty and registration fees.** – (1) The Central Government, by notification in the official Gazette, may in the case of any registered society or class of registered societies, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the member of the society on account of profits.

(2) The Collecting Government may by notification remit, in the case of any registered society or class of registered societies –

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

(b) any fee payable under the law of registration for the time being in force.

In this sub-section “collecting Government” has the same meaning as in the Indian Stamp Act, 1899.

**65. Exemption from compulsory registration of instrument relating to shares and debentures of a registered society.** – Nothing in clauses (b) and (c) of sub-section(1) of section 17 of the Indian Registration Act, 1908 shall apply to –

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

(2) any debenture by any such society and not creating, declaring, assigning or extinguishing any, right, title or interest to or in immovable property except in so far as it entitles the holders to the security afforded by a registered instrument where by 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

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

**65A. Removal of difficulty.** – If any difficulty arises in giving effect to the provisions of this Act the State Government may, as occasion may require, by order published in official Gazette, do anything not inconsistent with the provisions of this Act for purpose of removing the difficulty.

**66. Power to make Rules.** – (1) The State Government may for the whole or any part of the State and for any registered society or a class of registered societies, make Rules to carry out all or any of the purpose of this Act.

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

(i) prescribe the forms to be used and the conditions to be complied with in the making of application for the registration of a society and the procedure in the matter of such applications;

- (ii) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and the admission of member and the payment to be made and the interests to be acquired before the exercise of the right of membership
- (iii) prescribe the extent to which a society may limit the number of its members and, subject to the provision of section 29 , prescribe the maximum number of shares or portion of the capital of society, which may be held by a member;
- (iv) prescribe the conditions of acceptance of registration of members and prescribe for the expulsion of member and for the payments, if any, to be made to members who withdraw or are expelled;
- (v) provide for the general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meeting;
- (vi) prescribe the matters in respect of which a society may or shall make bye-laws, and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation.
- (vii) prescribe the manner in which managing committees and sub-committees thereof shall be constituted, and provide for the appointment, suspension and removal of the members of managing committees and other officers, and for the procedure at meetings of managing committees and for the powers to be exercised and the duties to be performed by the managing committees and other officers.
- (viii) prescribe the conditions under which a society may be prohibited from appointing a defaulting member of any society to its managing committee or to the managing committee of any other society and from allowing him to exercise his right of membership in the society or to represent it in on other society:
- (ix) prescribe the procedure to be followed when societies change the forum or extent of their liability, and provide for the amalgamation and division of societies and prescribe the conditions of such amalgamation and division;
- (x) prescribe the conditions and terms under which and regulate the manner in which funds may be raised by means of shares deposits or debentures or otherwise;
- (xi) prescribe the conditions to be complied with by members applying for loans , the period for which loans may be made, the amount which may be lent and the manner of re payment;
- (xii) provide for the deposit or investment of any funds under control of a society;
- (xiii) prescribe the conditions , prohibitions and restrictions under which the societies may

- (a) transact business with persons who are not members;  
or
- (b) make advances against movable property;
- (xiv) prescribe the method of calculating the working capital and the net profits and the conditions under which such profits may be distributed , and the maximum rate of dividend which may be paid by any society or class of societies;
- (xv) provide for the formation and maintenance of the reserve funds and objects to which such funds may be applied and for the writing off of bad debts.
- (xvi) Prescribe the condition for refund of share money and transfer of shares;
- (xvii) Provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the manner of nomination of a person to whom such interest may be paid or transferred;
- (xviii) Provide for the information and maintenance of a register of members and where the liability of members is limited by shares, of a register of shares and share-holders;
- (xix) Prescribe the forms to be used and the accounts and registers to be kept and the reports and returns to be submitted by a society and provide for the persons by whom such reports and returns shall be submitted, and in case of failure to submit any such reports or returns, for the levy of the expenses of preparing them;
- (xx) Prescribe Rules for audit under section 33 and for the periodical publication of balance-sheets showing the assets and liabilities of the society;
- (xxi) Provide for the persons by whom and the form in which copies of entries in records and registers of societies may be certified and charge be levied for the supply of such copies;
- (xxii) Provide for the custody and destruction of records and registers ;
- (xxiii) Provide for the procedure to be followed in the matters of appointment or removal of and for the payment of remuneration to , a liquidator;
- (xxiv) Prescribe the procedure to be followed by a liquidator and provide for the manner of disposal of the surplus, if any, of the society;
- (xxv) Prescribe the procedure to be followed in presenting and disposing of appeals under this Act;
- (xxvi) Prescribe the procedure to be followed in the appointment of an arbitrator or arbitrators and in proceedings before the Registrar any person exercising the powers of a Registrar

and an arbitrator or arbitrators including the transfer, reference and withdrawal of cases;

(xxvii) Prescribe the procedure and condition for exercise of the powers conferred by section 49;

(xxviii) Prescribe the procedure for calling holding and conducting meetings of creditors under section 24A ; and

(xxix) Provides for all 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 to the Rules being made after previous publication.

(4) All Rules made under this Section shall be published in the official Gazette and on such publication, shall have effect as if enacted in this Act.

**66 A:- `Fixation of proportion of Co-operative Loans for scheduled caste, scheduled tribe, small farmers and other weaker sections of the community:-** Subject to such conditions as may be issued by the Reserve Bank of India, the primary agricultural co-operative societies shall, during a co-operative year, disburse to the members of the scheduled caste/ scheduled tribes, small and marginal farmers and members of the other weaker sections of the community, such proportion of their total lending as may be laid down by the Registrar , Co-operative Societies from time to time having regard to the class of societies, the strength of membership of persons belonging to the above classes.

The said societies shall maintain separate account in respect of their lending to the aforesaid classes in a manner to be prescribed by the Registrar.

**66 B (1):-** Notwithstanding anything contained in this Act or the Rules and bye laws made there under, the State Government may from time to time, by special or general order determine the nature and posts to be created and the mode of recruitment of personnel by the co-operative societies and prescribe in respect of them among other things:-

1. The qualification, age and experience
2. The pay scale and other emoluments;
3. The method of recruitment
4. The conditions of service and
5. The disciplinary proceedings to be followed.

(2) Any appointment made in contravention of the order of the State Government under sub section (1) shall be void as if no such appointment ever existed and salary and other allowances paid, if any, shall be recoverable under section 40.

(3) In exercise of powers conferred on the State Government under sub section (1) of this section the State Government shall constitute a selection authority for the recruitment of all grades of employees of all the State level and district level co-operative societies.

(4) (i) The selection authority shall prepare a panel of persons to be appointed in the different grades of the state level and district level societies.

(ii) Notwithstanding anything contained in the bye laws of any state level and district level society or Rules made there under, no appointment in any grade from outside the panel shall be valid.

**67. Repeals:-** The enactments specified in this schedule are hereby repealed in so far as they apply to the extent specified in the fourth column of the said schedule.

Year	Short Title	Extent of repeal
1	3.	4.
1935	The Jharkhand Co-operative Societies Act, 1935	The Whole
1996	The Jharkhand Self Supporting Societies Act, 1996	The whole