

THE NAGALAND CO-OPERATIVE SOCIETIES ACT, 2017

(NAGALAND ACT NO. 6 OF 2017)

Received the assent of the Governor on 9.6.17 and published in the Nagaland Gazette extraordinary dated 17th July 2017.

An
Act

An Act to consolidate and amend the law relating to Co-operative Societies within the territorial limit of the State of Nagaland, to facilitate the voluntary formation and democratic functioning of Co-operative Societies as people's institution based on Self-Help, Mutual-Aid and Sound Business Principles and, to enable its members to promote their economic needs so as to bring about higher standard of living for social betterment.

Preamble: Whereas it is expedient further to consolidate and amend the law relating to Co-operative Societies in the State of Nagaland, to facilitate the formation and working of Co-operative Societies in accordance with the relevant Directive Principles of State policy enunciated in the Constitution of India. It is hereby enacted by the Legislative Assembly of Nagaland as per the power conferred upon it under entry 32 of List-11 of 7th Schedule of the Constitution of India in the year of the Republic of India as follows:

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CHAPTER-1

PRELIMINARY

1. Short title, extent and commencement:

- (1) This Act may be called the Nagaland Co-operative societies Act, 2017.
- (2) It extends to the whole of the territorial limits of the State of Nagaland.
- (3) It shall come into force on such date as the State Government may, by Notification in the Official Gazette, determine and different dates for Enforcement of the different provisions of this Act may be determined by the State Government.

2. Definitions: in this Act, unless the context otherwise requires:

- (1) "Act refers to the Nagaland Co-operative Societies Act, 2017.
- (2) "Administrator(s)" refers to persons or persons appointed by Registrar by virtue of exercise of power conferred upon him/her and for the purpose.
- (3) "Affiliated Society" means the particular society which is a member of the affiliated society.
- (4) "Affiliated Society" means the registered society in which a particular society becomes a member.
- (5) "Area of Operation" means the area from which the membership is drawn and Includes the territorial limit up to which a co-operative can extend its activities as provided under Bye-Law.
- (6) "Auditor" means departmental auditors and auditors other than departmental auditor appointed by the Registrar.
- (7) "Board" or "Managing Committee" means the Government Body of a Co-operative by whatever name be called, to which the direction of the affairs of the Co-operative is entrusted upon by the Bye-Laws of that Co-operative.
- (8) "Bonus" means payment made in cash or kind out of the profits of a co-operative to a member or to a person who is not a member, on the basis of his contribution (including any contribution in the form of labour or service) to the business of the Co-operative.

- (9) "Bye-Laws" means Bye-Laws registered under this Act for the time being in force and includes registered amendments of such Bye-Laws and deemed amendment of Bye-Laws.
- (10) "Charge" means the lawful conferment of preferential right of enjoyment upon an entity over other rival claimants on the same entity.
- (11) "Co-operative Bank" means a society involved/engage in the business of banking as defined in clause(6)of sub-section(1)of section 5 of the Banking Regulation Act 1949 and includes any society which is functioning or is to function as an Agriculture and Rural Development Bank.
- (12) "Co-operative Tribunal" means a tribunal constituted under Nagaland Co-operative Societies Act or to be constituted by the Government in consultation with High court under this Act to decide disputes to be referred to under any of the provision of the Act.
- (13) "Co-operative with limited liability" means a Co-operative having the liability of its members limited to the extent of share capital held or guarantee provided by such member or as provided by its Bye-Laws.
- (14) "Co-operative with unlimited liability" means a Co-operative, the members of which are, in the event of it being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the Co-operative regardless of the value of share capital held or extent of guarantee provided by concerned member.
- (15) "Co-operative Year" means the period beginning and ending on such date as may be fixed by the Registrar for the purpose of drawing up the Balance Sheet of registered societies and for all other purpose under this Act.
- (16) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the high Court and Supreme Court in exercise of its original civil jurisdiction.

- (17) "Decree" means a decision expressed in a suit conclusively determining the rights of the parties to the dispute with regard to all or any of the matters in controversy and such decision is given formal adjudication.
- (18) "Deemed" means the intended act, purpose, requirement, need ,gets its legal status on the expiry of time period or stipulation or condition provided for taking such action or decision ,on such act, purpose ,requirement or need, etc.
- (19) "Deficit" means the excess of expenditure over income arrived at, at the end of a financial year ,after the payment of interests, if any, on share capital.
- (20) "Delegate" means a member nominated or authorized by a Co-operative to represent its interests at the time of promotion of a Federal or Central or Secondary Co-operative, and/or to take part at meetings of such Federal or Central or Secondary Co-operative to which the Co-operative is affiliated.
- (21) "Deregistration" means the act of withdrawing or taking away the legal rights Conferred upon a Co-operative for the purpose.
- (22) "Director" means a member elected, nominated or co-opted in accordance with the Law, Rules and provisions of Bye-Laws to the Board of Management or the Managing Committee
- (23) "Dividend" means the amount paid out of the net profits of Co-operative to a member in proportion to the share capital held by him.
- (24) "Employee" means a person not being an office bearer, employed by the registered Co-operative society on a salary or similar form of remuneration other than advance, patronage, dividend or payment for goods sold to or, through such society.
- (25) "Expulsion" (of members) means the act of keeping away members by force or authority who are found or to be found dishonest by engaging themselves in doing acts which are detrimental or harmful to the

interest of the Co-operative or to its proper working or acts which affect or affected the image/status and good will of Co-operative.

- (26) "General Body" in relation to Co-operative" means a body consisting of all its members.
- (27) "General Meeting" or "General Body Meeting" means a meeting of the General Body called and conducted in accordance with the provision of this Act and the Bye-Laws of the Co-operative.
- (28) "Government" or state Government refers to the Government of Nagaland unless stated otherwise.
- (29) "Managing Committee or Board of Directors" as the case may be means the body to which the management of the affairs of a registered society is directly vested.
- (30) "Member" means a person admitted to membership after registration in accordance with the Bye-Laws and Rules of the Society and includes a promoter.
- (31) "Office" means an employee of a Co-operative society employed by the Managing Committee of the Society/Board of Directors.
- (32) "Office Bearer" means a member duly elected by the appropriate body of a registered society according to its Bye-Laws to any office of such society, including the office of the President, Chairman, Vice President, Vice Chairman, Secretary, Managing Director and Treasurer provided that any officer appointed by Government to hold charge of any office of a registered society shall be deemed to be an Office Bearer unless specifically stated to be contrary.
- (33) "Primary Co-operative" means a Co-operative whose primary members are Primarily individual eligible persons.
- (34) "Promoter" means any eligible person or registered society signing the application for registration of a society.

- (35) "Qualified" means possession of requisite qualification and experience as Provided under Law, Rules, Regulations and Bye-Laws of Co-operative.
- (36) "Registrar" means a person appointed to perform the duties of a Registrar of Cooperative Societies under this Act.
- (37) "Arbitrator" means a person appointed under the provision of this Act to decide any dispute referred to him.
- (38) "Chief Executive" means the individual, in paid or honorary capacity, nominated or elected or appointed by the Board from among members, directors or other, in accordance with the Bye-Laws of the society who shall perform such functions and responsibilities and exercise such powers as specified in the Act, Bye-Laws and assigned by the Board.
- (39) "Representative General Body" in relation to a Co-operative, means all the Member representatives authorized as per Bye-Laws to constitute and discharge Such of the functions of General Body.
- (40) "Representative General Body Meeting" means a meeting of the representatives, Called and conducted in accordance with the provisions of this Act and bye- Laws of the Co-operative.
- (41) "Resolution" means a resolution of the General Body at a meeting called for the Purpose which has the approval of more than half of all the members of the Co- Operative with right to vote at the time of the General Meeting, or of at least Two-thirds of members or any other proportion with right of vote at the time of The General Meeting and present in the General Meeting, whichever is specified.
- (42) "Rules" means Rules made under this Act by the Government.
- (43) "Schedule" means the schedule" appended to his Act.
- (44) "Society" in this Act means a registered Co-operative Society.

- (45) "Supersession" means the Act of removing or unseating or dissolving or replacing the duly and democratically elected management committee from its functions and operations, in the larger interest of members of Co-operative, public or Co-operative movement, for managing the affairs of Co-operative, prejudicial to the interest of members Co-operative or detrimental to the business or general affairs and growth of Co-operative.
- (46) "Surcharge" means the addition or omission done in the preparation and maintenance of accounts for which credit should have been made and involve amounts in official books of accounts not approved by the auditor which amounts are recoverable from such of the persons including officials and employees of Co-operative Society responsible for spending or incurring such expenditure.
- (47) "Surplus" means the excess of income over expenditure, arrived at, at the end of the financial year after making or making provision for the payment of interest on share capital, tax, if any and before the payment of surplus refund, and allocation of reserves and other funds.
- (48) "Working Capital" means fund at the disposal of a Co-operative inclusive of paid-up share capital, funds built out of profits, and money raised by borrowing and by any other source.
- (49) "Winding up or Dissolution" means the act of enabling or allowing an institution activity, subject or thing coming to an end in normal course or bringing or forcing an end to such an institution activity, subject or thing in larger interest of member, public or Co-operative or Co-operative Movement.
- (50) Works and Expressions not defined in this Act but defined in the Rules shall bear the meaning as defined in the Rules.

CHAPTER II

REGISTRAR AND REGISTRATION OF CO-OPERATIVE SOCIETIES

3. The Registrar:

- (1) The State Government may appoint a person from the State Co-operative cadre to be a Registrar of Co-operative Societies for the State or any portion of it for the registration, supervision, assistance, counsel and for the all round development of the Co-operative Movement in the State with such other powers and responsibilities as may be provided under this Act or Rules or Bye-Laws framed there-under.
- (2) The State Government may also appoint any other person or persons to assist the Registrar belonging to State Co-operative cadre and may be general or special order in writing, delegate to any such person or persons or any of the powers and responsibilities of the Registrar under this Act.

4. Co-operative which may be registered:

- (1) A society whose objective is to promote the economic interest or general welfare of its members or of the public in accordance with the Co-operative Principles laid down in Schedule 'A' or a society established with the objective of facilitating the operations of any society may be registered under this Act with limited liability.
 - (2) No society shall be registered if in the opinion of the Registrar, its declared objects are unlikely to be achieved or if it is likely to be economically unsound or if it may have an adverse effect upon any registered society or the Co-operative Movement as a whole.
4. Co-operative Bank to be eligible Co-operative Bank:
A Co-operative Society registered as a Co-operative Bank under this Act shall be eligible to be a Co-operative Bank within the meaning of clause (g) of Section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 and shall be bound by the following-

- a) If so required by the Reserve bank in the public interest or for preventing the affairs of the Co-operative Bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the bank, an order shall be made for the supersession of the committee of management or other managing body (by whatever name called) of the Co-operative Bank and the appointment of an administrator therefore for such period or periods not exceeding five years in the aggregate as may from time to time specified by the Reserve Bank.
- b) An order for the winding up of the Co-operative Bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or an order for the supersession of the committee of management or other managing body (by whatever name called) of the Co-operative Bank and the appointment of an administrator therefore made with the previous sanction in writing or on the requisition of the Reserve Bank shall not be liable to be called in question in any manner.
- c) The Liquidator or the insured Co-operative Bank or the transferee Co-operative Bank, as the case may be, shall be under an obligation to repay the corporation in the circumstances to the extent and in the manner referred to in Section 21 of the Depositor Insurance and Credit Guarantee Corporation Act, 1961.

5. Age, qualification of a member:

No person may be an individual member of a registered society if he is less than eighteen years of age; provided that the Bye-Laws of a society may prescribe a higher minimum age.

6. Conditions of registration:

- (1) A primary Co-operative may be registered with a minimum of 25 eligible persons drawn from or belonging to different families either with limited or unlimited liability.

- (2) A Co-operative, other than Primary, may be registered with a minimum of five members which are already registered Co-operatives.
- (3) The word "Limited" shall be the last word in the name of every society with limited liability registered under this Act.

7. Restriction on acquisition of shares in a society:

- (1) No member of a registered society shall hold more than such portion of the share capital of the society as may be prescribed by the Rules, or the Bye-Laws of the society.
- (2) No member shall be allowed to acquire an additional share until he has paid in full the value of the whole or that portion of his share holding which he is required to pay in accordance with the Bye-Laws of his society.

8. Powers of Registrar to decide certain questions:

All disputes regarding memberships for the purpose of the formation, registration or continuance of a society under this Act shall be decided by the Registrar.

9. Bye-Laws:

- (1) A Co-operative shall frame their own Bye-Laws and the affairs of the Co-operative Society shall be managed in accordance with the terms, conditions and procedure specified in the Bye-Laws.
- (2) Subject to the provisions of this Act the functioning of every Co-operative Society shall be regulated by its Bye-Laws.
- (3) The Bye-Laws may contain such matters as decided by the General Assembly and shall be specific and confined only to the matters provided in Schedule 'B'. However, the Bye-Laws of a society shall in no case supersede the provisions of the Act.

10. Application for registration:

- (1) An application for registration shall be made to the Registrar in the prescribed form.
- (2) The application shall be signed-
 - (a) in the case of society of which no promoter is a registered society, by at least twenty five eligible persons; and
 - (b) in the case of a society of which at least one promoter is a registered society, by a duly authorized person on behalf of such registered society and at least one other individual promoter or one other duly authorized person on behalf of another registered society.
- (3) The application shall be accompanied by three copies of the proposed Bye-Laws of the society signed on behalf of the promoters by the president of the Inaugural General Meeting. Promoters by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require and they shall be liable to the full extent of the share money which they have undertaken to subscribe with effect from the date of registration of the society.

11. Registration:

- (1) The Registrar shall decide all questions as to whether the application complies with the provisions of this Act and Rules there under and whether the objects of the society are in accordance with Section 4.
- (2) When he is satisfied that the application is in order under sub-section (1) and the Society and Bye-Laws are not contrary thereto, he may register the Society and Bye-Laws, provided that the Registrar shall have powers to register the Bye-Laws with such modifications as he thinks are necessary to bring about uniformity in the main with provisions of the Bye-Laws of societies which have similar objects or functions.

- (3) The Registrar shall endorse the Bye-Laws in token of registration. Each Society shall have a copy of its Bye-Laws so endorsed.
- (4) If the Registrar refuses to register a society or an amendment of the Bye-Laws of a registered society he shall record his reasons in writing and communicate these reasons and his decision to the promoters or the Secretary of a registered society by a registered letter to their office. The Registrar may at any time review his orders in this respect.

12. Certificate of registration:

A certificate of registration signed by the Registrar shall be issued to the Society and shall be conclusive evidence that the Co-operative Society therein mentioned is a Co-operative Society duly registered under this Act and that its Bye-Laws are as attached to the certificate, unless it is proved that the registration of the Society has been cancelled or that amended Bye-Laws have been registered or that the society's copy of the Certificate or Bye-Laws has been tampered with.

13. Amendment of the Bye-Laws of registered Society:

- (1) No amendment of the Bye-Laws of a registered Society, whether by way of addition, alteration, omission, recession or change of name shall be valid until Such amendment has been registered under this Act.
- (2) Every proposal for such amendment shall have to be approved by a resolution at a meeting of the General Assembly in accordance with the Bye-Laws of the Society and be forwarded within a month from the date of the resolution to the Registrar and if the provisions Registrar is satisfied that the proposed amendment is not contrary to the provisions of this Act or Rules, he shall, unless for reasons to be recorded in writing he considers fit to refuse, register the amendment.
- (3) When the Registrar registers an amendment of the Bye-Laws of a registered Society, he/she shall issue to the society a copy of the

amendment certified by him/her, which shall be a conclusive evidence that the same has been duly registered, unless it is proved that the registration of the society has been cancelled or that further amendments have been registered or that the society's copy of the amendments have been tampered with, the amendment shall be binding upon the society with effect from the date of registration.

14. Power of Registrar or affiliating society or financing bank to direct amendment of Bye-Laws or adoption of Rules of Procedure:

- (1) (i) When it appears to the Registrar that an amendment of the Bye-Laws of a registered society is necessary in the interest of such society or of the Co-operative Movements as a whole or for the purpose of bringing about uniformity in the main with the provisions of the Bye-Laws of the societies which have similar objects or functions, he/she may, by an order in writing, direct the society to amend its Bye-Laws in accordance with the amendment drafted and forwarded to the society by him/her within such time as he/she may specify in the order.
- (ii) If the society fails to make such amendment within the time specified, the Registrar shall, after giving the society an opportunity of representing its case, make such amendment himself/herself and register the same the Registrar shall then forward a copy thereof to the society together with a certificate signed by him/her which shall be effective as prescribed in Section 13 (3).
- (iii) The Registrar shall not register any amendment of the Bye-Laws of a society, whether under this section or Section 13 of this Act, without the consent of the Government, if the effect of such amendment is to lessen the degree of control of the Government or of the Registrar as already provided for in the Bye-Laws.
- (iv) The Registrar may require any registered society to frame Rules of procedure under its Bye-Laws to govern any parts of its business and to send such Rules to him/her for prior approval.

- (2) (i) When it appears to an affiliating society or a financing bank that an amendment of the Bye-Laws of a registered society which is a member of such society or debtor of financing bank is necessary in the interest of the society it may suggest to the affiliated society or the debtor society, as the case may be, to make such amendment within such time as it may specify. The affiliating society, or the financing bank shall forward to the affiliated society, or the debtor society, as the case may be, a draft of the suggested amendment of the Bye-Laws.
- (ii) If the society fails to make the amendment within the time specified in the affiliating society or the financing bank may forward to the Registrar for amendment; and the Registrar, if satisfied that the amendment is necessary in the interest of the society and not contrary to the provisions of this Act or the Rules may thereupon after giving an opportunity of showing cause to the society concerned against the proposed amendment register the amendment and forward to the society a copy thereof together with a certificate signed by him/her. The certificate shall be conclusive evidence that the amendment has been registered and such amendment shall thereupon be binding upon the society and its members.
- (iii) If the Registrar considers that the amendment referred to in clause (ii) above is not acceptable, he/she shall submit a report to the Government.
- (iv) An affiliating society or a financing bank or the registered society if aggrieved by the decision of the Registrar may make an appeal to the Government. The orders of the Government on such appeal shall be final.
- (v) The State Government may out of its own motion or the Registrar subject to such direction as may be given by the Government, amend Bye-Laws of any society or group of societies in the interest of the public service.

15. Division and Amalgamation of societies:

1. (i) Any registered society may, at a meeting of its General Assembly specially called for the purpose, resolve to divide into two or more societies. At least fifteen clear days' notice of such meeting with the agenda shall be given to its members together with a copy of the proposed resolution.
- (ii) Such a resolution shall contain the proposal as to how to divide the assets and liabilities of the society among the newly proposed societies, their areas of operation and the members who will constitute each of the newly proposed societies with draft of new Bye-Laws.
- (iii) A copy of the resolution shall be sent to the Registrar within thirty days of its adoption and subject to the Registrar's non-interference within thirty days of the dispatch to him/her of the resolution, the resolution shall be circulated among the members and creditors of the society.
- (iv) Notwithstanding any Bye-Laws to the contrary, any member of the society, and notwithstanding any agreement to the contrary, any creditor of the society may, by notice given to the society within thirty days of the receipt of the resolution, intimate in case of a member his/her intention not to become a member of any of the societies, and in case of a creditor his/her intention to demand a return of the amount due to him/her.
- (v) After the expiry of ninety days from the aforesaid resolution, a meeting of the General Assembly shall be convened for finally deciding the resolution. At least fifteen clear days' notice with the agenda of meeting shall be given to all members of the society.
- (vi) If the General Assembly decides by a three-fourth majority finally to divide the society and if the Registrar approves of the decision, the members, who will constitute each of the newly proposed societies subscribing to the new draft Bye-Laws shall apply to the Registrar under Section 10 for registration of the new societies and the Registrar shall register the society under Section 11.

- (vii) The Registrar shall not register the new societies if the application for registration is not accompanied by a certificate of re-payment of share capital to members and certificate of satisfaction of claims to creditors referred to in clause (iv).
 - (viii) From the date on which the new societies are registered under clause (vi) the registration of the old society shall be deemed to have been cancelled.
 - (ix) The registration of the new societies shall be a sufficient conveyance to the vest the assets and liabilities of the original society according to the aforesaid resolution in the new societies.
- (2)
- (i) Two or more registered societies may, at a meeting of their respective General Assemblies specially convened for the purposed, by giving at least fifteen clear days' notice to the respective members of the societies, resolve to amalgamate into one society by adopting common Bye-Laws.
 - (ii) A copy of such resolutions of each society shall be circulated forthwith among all members and creditors thereof.
 - (iii) Notwithstanding any Bye-Laws to the contrary, any members of any such societies and notwithstanding any agreement to the contrary, any creditor of any such societies, may within a period of thirty days from the receipt of the aforesaid resolution, intimate his/her intention not to become a member of the new society, in the case of a member, and to demand a return of the amount due to him/her, in case of a creditor.
 - (iv) After the expiry of ninety days from the date of the aforesaid resolution, a joint meeting of the members of such societies shall be convened to decide finally the aforesaid resolution.
 - (v) At least fifteen clear days' notice shall be given to all the members of the societies. If at such meeting the aforesaid resolution is confirmed by a majority of three-fourths of the members of each society present and the common Bye-Laws are accepted with or without any alterations, the Registrar shall be moved by an application under Section 10 for

registration and he/she shall register the new society under Section 11 if he/she approves.

- (vi) The Registrar shall not register the new society if the application for registration is not accompanied by a certificate of repayment of share capital to members and a certificate of creditors referred to in clause (iii).
 - (vii) From the date on which the new society is registered the registration of the old societies shall be deemed to have been cancelled.
 - (viii) The registration of the new society shall be a sufficient conveyance to vest in all the assets and liabilities of the original societies.
- (3) (a)** Notwithstanding anything contained in sub-sections (1) and (2) of this section if the Registrar is of opinion that, for reasons of ensuring economic liability of any registered society or societies or avoiding overlapping or conflict of jurisdictions of registered societies in any area or in order to secure proper management of any co-operative society or in the public interest or in the interest of the Co-operative Movement in the State as a whole, or in the interest of the depositors and the Co-operative Banking System in the State as a whole, it is necessary to divide, amalgamate or merge fully or partially any such society or societies with any specified society, he/she may, by an order published in the Official Gazette make a scheme for Division, Amalgamation or Merger, with prior approval of the State Government.

16. Location of Head Office:

- (1) Every Co-operative Society shall specify the full address of its head office in its Bye-Laws.
- (2) The Board may subject to approval of the General Assembly change the address of its head at any time and shall make such amendment in its Bye-Laws as per provision laid down in Section 13.

17. Fees etc:

- (1) The registration fees of which the Registrar may prescribe and may be revised from time to time, shall have to be deposited by the purposed society.
- (2) Subject to the provisions of Sub section (3) of Section 76 and sub-section (3) and (6) of Section 82 respectively, the Registrar may by an order prescribe a scale of fees to be paid by a Co-operative Society for various services rendered by him/her under this Act.

**CHAPTER III
MEMBERSHIP**

18. Eligibility of membership in Co-operative Society:

1. Any person who needs the services of a Co-operative Society and expresses his/her willingness to accept the responsibilities of membership, meets such other conditions as may be specified in the Bye-Laws of the Co-operative Society and is in a position to use the service of the Co-operative Society may seek membership and if the Co-operative Society is in a position to extend its service to the applicant, it admit as a member.
2. Every applicant for membership and every member of a Co-operative Society shall keep each Co-operative Society of which the person is a member informed of membership in other Co-operative Society and in case of conflicting membership, the Board may, by resolution, refuse admission under Section 19 or terminate from membership under Section 23, as the case may be.

Provided that no such resolution to refuse admission shall be passed without giving the applicant, as the case may be a reasonable opportunity to make representation to the board as to why he/she should not be refused admission.

19. Disqualification of membership:

No person shall be eligible for admission as a member and a member shall cease to be a member of a Co-operative Society if he/she incurs disqualification of Membership prescribed in the Bye-Laws.

20. Admission on members:

1. The Board may admit a person for membership in accordance with the procedure laid down in the Bye-Laws within sixty days from the date of receipt of application for membership if he/she is eligible for membership under Section 18 or refuse admission to the applicant if he/she is not eligible for membership under Section 19 and communicate the same to the applicant by post or by hand.
2. Where admission for membership is refused under sub-section (1), the decision with the reason thereof shall be communicated to such applicant within ninety days from the date of application. If nothing is communicated within the period of ninety days specified above the admission shall be deemed to have been accepted by the Board.
3. where an application has been refused by the Board the applicant may appeal to the General Assembly within a period of sixty days from the date of receipt of the order of the refusal. The decision of the General Assembly shall be final and binding on all concerned parties.

Provided that no decision of refusal of admission shall be taken by the General Assembly without giving the applicant an opportunity of being heard.

21. Withdrawal of membership:

1. Subject to the provisions of sub-section (2) of Section 67, a member may, at any time after expiry of one year from the date of accepting membership, withdraw from membership in a Co-operative Society in accordance with the procedure laid down in Bye-Laws.

2. The withdrawal from membership shall not require the person to fulfil such obligations as were undertaken or assumed as a member, under the provisions of the Act the Bye-Laws or any Agreement.

22. Cessation of membership:

1. if any person having been admitted as a member of a Co-operative Society dies or Subsequently becomes subject to any of the disqualification specified in the Bye- Laws shall cease to be a member of the Co-operative Society.
2. Every Co-operative Society shall inform in the event of receipt of information of The death of the member, the nominee of the member and in every other instance, The member, about the cessation of membership, for the settlement of accounts.

23. Termination of membership:

1. The Board may, by a resolution passed by the three fourth majority of the Directors present and voting at a meeting held for the purpose, terminate the membership of a member if he/she:-
 - a) Intentionally does any act likely to injure the credit ability of the Co-operative Society or bring it to disrepute, or
 - b) wilfully deceives the Co-operative Society; or
 - c) Has acted adversely to the objects or his/her act is detrimental to the interest of the Co-operative Society; or
 - d) persistently makes default in payment of his/her dues or fails to comply with the provisions of the Bye-Laws; or
 - e) Having been admitted as a member subsequently becomes a member of any other society having common objective Co-operative functioning within the jurisdiction of the Co-operative Society of which he/she is a member; or
 - f) Does not use the service of the Co-operative Society or he/she ceases to be a resident of the Area of Operation of the Society.

Provided that no such resolution shall be passed without giving the member concern a Reasonable opportunity to make representation at the Board Meeting.

2. Any member aggrieved by the resolution passed under sub-section (1) may appeal To the General Assembly within thirty days of the receipt of such resolution.
3. No member of a Co-operative Society whose membership has been terminated Under sub-section (1) shall be eligible for readmission as a member of the Co-Operative Society for a period as may be specified in the resolution but not Exceeding five years, subject to the condition that his/her conduct during the Period of expulsion sufficiently justified his/her fair conduct in the event of his/her enrolling membership again.

24. Register of members:

1. Every Co-operative Society shall maintain a register of members. The name of every person admitted as a member of the Co-operative Society shall be entered in the register along with such particulars as may be deemed necessary by the Board.
2. The name of a person-
 - i) whose admission is refused under sub-section (2) of Section 20; or
 - ii) who has withdrawn from membership under Section 21; or
 - iii) who ceased to be a member under Section 22; or
 - iv) whose membership has been terminated under Section 23 shall be deleted from the register of members.

Provided that the name of the name of the person referred to in clause (i) or clause (iv) shall not be deleted from the register of members till expiry of 30 days from the date of the decisions of the Board or Annual General Meeting, as the case may be, and in case an appeal is preferred under sub-section (2) of Section 23 as the case may be.

The register maintained under sub-section (1) shall be prima facie evidence of the date on which any person was admitted to the Co-operative Society as a member and of the date on which he/she ceased to be a member.

25. Education of member etc:

Every Co-operative Society shall include a certain amount in its budget annually, as provision for expenses on education of member and potential member, education and training of staff and directors for the development of their Co-operative Societies in accordance with the Co-operative Principles specified in Schedule 'A' and practises of co-operation, besides contributing at least 1% of profit or an amount specified by the Registrar in case of societies earning net profit, to State Co-operative Union for Co-operative Education and Training.

26. Rights and liabilities of members of registered societies and exercise of rights thereof:

- 1) Every member of a registered society and every ex-officio member of the Administration Council or Managing Body of such society, unless under some temporary disqualification shall have the right to attend any General Meeting of the society and to exercise vote at such meeting.
- 2) No member of a Co-operative Society shall exercise the right of a member including right to vote unless he/she has made such payment to the Co-operative Society in respect of membership or has acquired and continues to have such interest in the Co-operative Society as may be specified in the Bye-Laws.
- 3) The Chief Executive of every Co-operative Society within twenty days of closure of the previous Co-operative Year, shall prepare a list of members with the right of vote, and a list of members without the right of vote valid for the current financial year. The list shall be affixed on the notice board of the head office of the Co-operative Society for information of all the members and any members not satisfied with specific instances of the inclusion or non-inclusion of members in the

lists, may appeal to the Board within ten days from the date of the affixing of the lists on the notice board for re-examination of the records, and the Board shall within forty days of closure of the previous Co-operative Year, review the lists, finalise it and have it affixed on the notice board of the head office of the Co-operative Society.

Provided that a member who is an employee or member of employees union of such society shall not be entitled to vote-

- i) At the election of a member of the Board of such society,
- ii) In any General Meeting convened for framing the Bye-Laws of such society or any amendments thereto.
- 4) In the case of equality of votes the Chairperson shall have a casting vote.

27. Votes of member and manner of exercising vote:

- 1) In Primary Co-operative Societies, irrespective of the shares held in the society and subject to temporary disqualification, each member shall have equal voting right (one member one vote). Similarly in case of Secondary Co-operative Society shall have same voting rights (one representative one vote). Every member of Co-operative Society or the representative referred herein shall exercise his/her vote in person and in the manner specified in the Bye-Laws and no member or representative shall be permitted to vote by proxy.

Provided further that the condition of one year membership shall not apply to the members who join at registration or at any time after registration of a Co-operative Society but before the first day of the next Co-operative Year.

- 2) Every member of a Co-operative shall exercise his/her vote in the manner specified in the Bye-Laws.

28. Liabilities of past member and his/her estate:

The liability of a past and of the estate of a deceased member of the debt of a registered society as they existed at the date of his/her ceasing to be a member on his/her death, as the case may be, shall continue for a period of five years from the said date.

CHAPTER-IV MANAGEMENT OF CO-OPERATIVE

29. General Assembly:

- 1) The General Assembly of a Co-operative Society shall consist of all the members of such Co-operative who are eligible to vote at the General Meeting of the society.
- 2) (a) Every member of a Registered Society and every ex-officio member of the Administrative Council or Managing Body of such society, unless under disqualification, shall have the right to attend any General Meeting of the society and to exercise his/her vote at such meeting.

Provided that the Bye-Laws of a registered society may prescribe:

- (i) That a Registered Society affiliated to such society may have more than one representative entitled to vote at General Meeting of the society; and
 - (ii) That only one third of the members of the General Assembly, excluding ex-officio members, may be individual members and the other two thirds being representatives of affiliated societies.
- (b) If the number of individual members exceeds one third of the total membership of the society, the individual members shall elect as a special meeting to be called by Secretary of the society not more than thirty days before the Annual General Meeting in the manner prescribed in the Bye-Laws to represent in the Annual General Meeting, those individual members, who has the representative of the body of

individual members shall form the one third membership of the General Assembly for the purpose of voting at the Annual or other meetings of the General Assembly during the ensuring year. Only such elected representatives shall have the right to attend and vote at such General Assembly.

- 3) If the General Body of Co-operative Society decides that the size, area or types of its membership requires a representative body of delegates for more effective decision making, its Bye-Laws shall provide for a smaller body, called "Delegate General Body" elected from the members in the Annual General Meeting in accordance with the Bye-Laws, to exercise such powers and to discharge such duties of the General Body as may be specified in the Bye-Laws.
- 4) Subjects to the provisions of this Act and the Bye-Laws, the ultimate power of a Co-operative Society shall vest in the General Body. The supreme authority shall however vest with the State Government or the Registrar of Co-operative Societies, as the case may be, during the pendency of any loan or service to the society from the Government.
- 5) Any power, function or responsibility, falling within the Co-operative of the Society as a corporate body, which has not been specifically entrusted by this Act or the Bye-Laws to any authority of the Co-operative of the Society may be dealt with by the General Body or by the State Government during the pendency of any loan or services to the society from the Government.

30. Matters to be dealt with in the Annual General meeting:

- 1) The following matters in addition to others as are considered necessary by the Board shall be dealt with by the Annual General Meeting, namely:
 - a) Election of the Directors or delegates if fallen due;
 - b) Consideration of the long term plan and budget, when required;
 - c) Consideration of the annual operational plan and budget for required;

- d) Consideration of the annual report of activities for the previous financial year including provisional financial statements of accounts if not audited;
 - e) Consideration of the audited financial statement of accounts and the auditors report relating to the previous financial year or years;
 - f) Consideration of the report on deviations, if any, from the approved budget relating to the previous financial year;
 - g) Disposal of surplus, if any, of previous financial year;
 - h) Management of deficit, if any, of previous financial year;
 - i) Creation of specific reserves and other funds;
 - j) Review of actual utilization of reserves and other funds;
 - k) Review of the report on the attendance at meeting by directors;
 - l) Review of the use of the co-operative Societies services by the Directors;
 - m) Appointment of internal auditor, fixation of remuneration paid to any Director or member of any committee internal auditor in connection with his / her duties in that capacity or his/her attendance at concern meetings;
 - n) Review of quantum and percentage of service provided to non members vis-a-vis services provided the members;
 - o) Report of activities and accounts related to education of members and Director and Staff training;
 - p) Consideration of any other matter which may be brought before the meeting of the general Body in accordance with the Bye-Laws;
 - q) Expulsion of members;
 - r) Disposal of appeals;
 - s) Formation of code of conduct for the members of Board of Directors and officers appointed by the Board.
- 2) The following matters among such other matters as considered necessary by the Board or which are specifically assigned to the General

Body under any other provision of this Act may be dealt with by the General Body at its Annual or any General meeting namely:-

- a) Amendments of Bye-Laws;
 - b) Removal of Directors and election of new Director;
 - c) Membership of the co-operative Society in Secondary co-operative Society;
 - d) Partnership with other co-operative Societies;
 - e) Amalgamation, Division, merger, transfer of assets and Liabilities;
 - f) Dissolution of the co-operative Society;
 - g) Consideration of the Registrar's report of inquiry and action taken thereon or reasons for the non-completion of the enquiry.
- 3) If the Bye-Laws of the co-operative Society provides for election of one or more Directors on territorial basis, such Director shall be elected from the areas, in a meeting of the members of that area in accordance with the provision of the Bye-Laws on a date prior to that of annual General meeting. The result thereof shall be affixed on the notice Board of the head office of the co-operative Society and also at the place of the Annual General Meeting prior to the commencement of the proceedings of the Annual General Meeting.
- 4) All Directors shall cease to be Directors on the date of the Annual General Meeting, if the Annual financial statement of accounts and annual report of activities for the previous financial year were wilfully not prepared before 15 days of the Annual General Meeting for inspection of the members or for placing before the Annual General Meeting.

31. Term of the Board:

The term of the Board shall be three co-operative years.

32. General meeting:

The Board may, at any time, call a General Meeting of the members of the Co-operative Society. However, one General Meeting in every Co-operative Year must be convened by the Board.

33. Special General Meeting:

- 1) The Board may call a Special General Meeting and shall be bound to do so within forty five days of the date of receipt of a written requisition.
 - a) Signed by not less than twenty five percent of the members having right to vote; or
 - b) From the Registrar.
- 2) Such requisition shall contain the reasons why the meeting is felt necessary and the proposed agenda and no subject other than the subjects included in the proposed addenda shall be discussed at the special General Meeting.
- 3) If the Board fails to hold a special General Meeting on requisition under sub-section (1) of any of the annual General Meeting under section 32 within the period specified therein all Directors shall cease to be Directors on the date of expiry of the said specified period.
- 4) Any meeting of the General Assembly other than the special General Meeting may, with the consent of the majority of the members present, be adjourned from time to time to a later hour on the same day or to any other date has may be provided in this Bye-Laws, but no business other than that left over at the adjourned meeting shall be transacted at the next meeting.

A notice of such adjournment posted in the notice board of the head office of the co-operative societies on the same day on which the meeting is adjourned shall be deemed sufficient notice of the next adjourned meeting.

34. Quorum of meetings of General Assembly:

- 1) The quorum for a meeting of the General Assembly shall be specified in the Bye-Laws, but shall not be less than fifty percent of the members eligible to vote at the meeting.
- 2) If within one hour from the time fixed for meeting of the General Assembly a quorum is not present, the meeting shall stand adjourned

ordinarily to the same day in the next week at the same time and place. But the Chairman of the meeting may, however, decide to adjourn the meeting to a later date not later than fifteen days or as may be specified in the Bye-Laws of the society.

Provided that a meeting of the Special General Assembly called on the requisition of members under sub-section (1) of section 33 shall not be adjourned but dissolved.

- 3) If at any time in a meeting there is no quorum the presiding authority shall adjourn it to such time or date as it thinks fit and announce the same at once and the business set down for the meeting shall be brought forward at the subsequent meeting whether at such meeting there is a quorum or not.
- 4) No business other than the business fixed for the original meeting shall be transacted at such subsequent meeting.
- 5) A notice of such adjournment posted in the notice board of the head office of the Co-operative Society on the day on which the meeting is adjourned shall be deemed sufficient notice of the next subsequent meeting.
- 6) The quorum for a Delegate General Body Meeting shall not be less than twenty five percent of the delegate eligible to vote at the Delegate General Body Meeting. If at any time in the meeting of delegate General Body Meeting there is no quorum, the procedure laid down in sub-section (1) to (5) shall be followed.
- 7) At the meeting of the General Assembly, the president shall preside. If both the President and the Vice-President are absent from the meeting of the General Assembly, the members present shall choose one of them to preside over the meeting.

35. Board:

- 1) There shall be a Board for the management of every Co-operative Society registered under this Act. The Directors shall be elected in accordance with the provisions of the Bye-Laws. The management of

every Co-operative Society constituted in accordance with the provisions of this Act and the Bye-Laws shall vest in the Board.

Provided that in the case of a Co-operative Society newly registered under this Act, the persons who have signed the application for the registration of the Cooperative Society may appoint a promoter board for a period not exceeding one year from the date of registration to direct the affairs of the Co-operative Society and it shall cease to function as soon as regular Board is constituted in accordance with the provisions of this Act and the Bye-Laws.

- 2) The Promoter board appointed under the proviso to sub-section (1) shall conduct the election of Directors within the period mentioned therein.
- 3) Every Director while exercising the powers and discharging duties shall act honestly and in good faith and in the best interests of the Co-operative Society and exercise such care, diligence and skill as a reasonably prudent person would exercise in similar circumstances.
- 4) A Director who is guilty of misappropriation, breach of trust or dishonest resulting in loss or shortfall in revenue of the Co-operative Society and is found guilty after an inquiry or Inspection under Section 82 and Section 83 or after Audit under Section 76 shall be personally liable to make good that loss or shortfall without prejudice to any criminal action to which the Director may be liable under any law.

36. President and Vice President of Co-operative Society:

- 1) There shall be a President and Vice-President in a Co-operative Society to be elected by the Board from amongst its Directors in accordance with the provisions of the Bye-Laws. The term of President and Vice-President elected by the Board shall be coterminous with the term of the Board.
- 2) Vacancy in the office of the president or Vice-President shall be filled in by the Board in accordance with the provisions of the Bye-Laws and the President or Vice-President so elected shall hold office for the unexpired term of his predecessor.

- 3) The Vice President may resign his/her office at any time by notice in writing to the president and the President may resign his/her office at any time by notice in writing to the vice President. Such resignation shall take effect from the date of its acceptance by the Board.
- 4) The Board may, by a resolution passed any three-fourth majority of the Directors present and voting at a meeting held for the purpose, remove the President or Vice President. Such meeting shall not be presided over by the President or Vice President against whom such resolution is to be considered.
- 5) The President or Vice President as the case may be, if aggrieved by the resolution passed under sub-section (4) may appeal to the Registrar within thirty days from the date of passing of such resolution whose decision thereon shall be final.
- 6) In the event of the occurrence of any vacancy in the office of the President by reason of his/her death, resignation or removal or otherwise, the Vice President shall act as President until the date on which a new President is elected in accordance with the provisions of this Act and the Bye-Laws to fill such vacancy.
- 7) When the President is unable to discharge his/her functions owing to absence, illness or otherwise the Vice President shall discharge the functions of the President until the date on which the President resumes his duties.

37. Disqualification of the members of the Board and Administrative Council:

A member shall not be eligible for being chosen or for being appointed as a member of the board or administrative council of a society or another society to which the society is affiliated if such member-

- a) Is adjudged by a competent court to be insolvent or of unsound mind;
- b) Has been punished with imprisonment for an offence involving moral turpitude or criminal activities;
- c) Is concerned or participates in the profit of any contract with the society;

- d) In a credit society, failed to pay in three consecutive years immediately preceding the election at least an amount equivalent to any instalment fixed for repayment of any loan or advance or credit or become defaulter to any other Co-operative Society;
- e) Has acted in a manner prejudicial to the interest of the Co-operative Society in particular or the Co-operative Movement in general.

38. Powers and functions of the Board:

The powers shall discharge such functions, perform such duties and exercise such powers as may be specified in the Bye-Laws and in accordance with the terms, conditions and procedure laid down therein and in particular, the Board shall have the following powers, functions and duties, namely:-

- 1) To interpret the organizational objectives to set up specific goals towards achieving such objectives and to make periodic appraisal of operations;
- 2) To nominate, elect or appoint and remove the Chief Executive provided he/she is not a Government appointee;
- 3) To make provisions for the matters mentioned in Section 49 in respect of the staff of a Co-operative Society;
- 4) To finalize long term perspective plan, annual plan and budget and to direct the affairs of the Co-operative Society in accordance with the plan and budget approved by the General Body;
- 5) To arrange for funds;
- 6) To authorize acquisition and disposal of immovable property;
- 7) To frame, approve and amend regulations relating to services fund accounts and accountability and information and report systems;
- 8) To elect President and Vice-President in accordance with the provisions of the Bye-Laws;
- 9) To prepare the Annual Financial Statement of Accounts;
- 10) To hold Annual General Meeting in stipulated time; and
- 11) To remove President or Vice President in accordance with sub-section (4) of Section 36.

39. Annual General Meeting:

A General Meeting to be termed as Annual General Meeting of the General Assembly of a registered Co-operative Society shall be held at least once in every Co-operative Year within a period of 120 days from the date of expiry of every Co-operative Year. The Board shall automatically stand dissolved for not holding Annual General Meeting in accordance with the provisions of the Act and Bye-Laws within 120 days from the date of expiry of every Co-operative Year.

40. Eligibility for a Director in Co-operative Society:

Subject to such other conditions as may be specified in the Bye-Laws a member of a Co-operative Society shall be eligible for being chosen as a Director of the Co-operative Society, if-

- 1) Such member has the right to vote in the affairs of the Co-operative Society;
- 2) Such member has patronised the services of the Co-operative Society during the previous financial year to the extent and in the manner specified in the Bye-Laws and has attended at least two Annual General Meetings in the previous five years;
- 3) Such member has no pecuniary interest in any subsisting contract made with, or work being done for the Co-operative Society except as otherwise specified in the Bye-Laws.
- 4) The period of three years has elapsed from the date such member ceased to be a Director for the following reasons:-
 - a) Not conducting or wrongly conducting the Annual General Meeting under Section 39 or Special General Meeting under sub-section (3) of Section 33 and Board meetings under sub-section (3) of Section 43;
 - b) Non submission of Annual Report of activities, Annual Financial Statement of Accounts to the General Body;
 - c) Non conducting the meeting of the Board under sub-section (3) of Section 43 delegates or representative under sub-section (3) of Section 41;

- d) Absence from Board Meetings under sub-section (7) of Section 43;
 - e) Automatic dissolution under sub-section (3) of Section 41;
 - f) For failure to take follow up action on Audit Report as specified in Section 80.
- 5) Such members are free from default of any payment due to the society.

41. Election:

- 1) It shall be the duty of the incumbent Board to prepare the voter's list with eligible members and to conduct elections of Director, Delegates to the Delegate General Body and representative of the society if fallen vacant.
- 2) The elections shall be conducted in the manner specified in the Bye-Laws, before the expiry of the term of office of the outgoing Directors, Delegates or Representatives as the case may be.
- 3) Where a Board fails to conduct elections of the Directors or Delegates as the case may be, before the expiry of the term of their office in accordance with the Act and Bye-Laws, all Directors shall cease to be Directors on the expiry of the period specifies in Section 39.
- 4) The elections of Director and Delegates shall place at the Annual General Meeting.
- 5) Where a board fails to conduct elections before the expiry of term of the board or delegates or where there are no Directors remaining on the Board, the Registrar shall convene a General Meeting by appointing an officer of the Co-operative Department for constitution of Board within ninety days from date of such appointment and to perform all functions of the Board during the said period on ninety days at the cost of the Society.
- 6) The Directors shall hold office for the period for which they were elected and the newly elected Directors shall assume office on the date of expiry of said period.
- 7) The Directors shall not be eligible for re-election, if so specified in the Bye-Laws.

- 8) Where there are vacancies in the office of the Directors and where there are no sufficient number of Directors to constitute a quorum for Board Meeting, the remaining Directors shall notwithstanding anything contained in this Act or the Bye-Laws, call a General Meeting for the purpose of electing Directors to fill the vacancies for the unexpired term of the Board. However, the Board may co-opt maximum three eligible members for constituting quorum.
- 9) Notwithstanding anything contained in this Act, no person shall be eligible to hold at the same time, office of a Chairperson or President, Vice chairperson or Vice President in the Board of more than two Co-operative Societies.

42. Terms of Directors:

- 1) The term of office of the Directors shall be three Co-operative Years.
- 2) The term of representative of an Affiliated Society shall be co-terminus with the term of Board of such Co-operative Society;

Provided that the said representative shall cease to be a representative if the Board of the Society which he/she represents is dissolved,

Provided further that a Director representing a Credit Society or a finance society to a higher tier of such society shall be disqualified to continue in the Board in the event of the society which he/she represents commits default in repayment for a period exceeding 90 days.

- 3) Any casual vacancy in the Office of the Director shall be filled in accordance with the provisions of the Bye-Laws and the Director so elected shall hold office for the unexpired term of his/her predecessor.

43. Board meetings:

- 1) A meeting of the Board may be called at any time by the President or Chairman as the case may be, and in the event of his/her being incapable of acting, then by the Vice President or Vice Chairman but at least four meetings of the Board shall be held in a financial year and the period between two consecutive meetings shall not exceed one hundred and twenty days.

- 2) The President or Chairman and in the event of his/her being physically incapable of acting, the Vice President or Vice Chairman may, whenever he/she thinks fit, called as Special Meeting of the Board and shall be bound to do so within fifteen days of the date of receipt of a written requisition-
 - a) Signed by not less than one third of the Directors of the Board; or
 - b) From the Registrar; or
 - c) From the Auditor.

Such requisition shall contain the reasons as to why the meeting is felt necessary and the purpose agenda and no subject other than the subjects included in the purposed agenda shall be discussed at the Special Meeting of the Board.

- 3) If the President or Chairman, Vice President or Vice Chairman, as the case may be, fails to hold the meeting of the Board under sub-section (1) or the Special Meeting of the Board under sub-section (2) within the period specified therein, he/she shall cease to be President or Chairman, Vice President or Vice Chairman as the case may be, on the date of expiry of the said specified period. In which the case the remaining board members shall elect a new President or Chairman, Vice President or Vice Chairman as the case may be, from among themselves.
- 4) A person who ceases to be the President or Chairman, Vice President or Vice Chairman as the case may be, under sub-section (3) shall not be eligible to hold the office of President or Chairman, Vice President or Vice Chairman as the case may be, for a period of three years from the date of such cessation.
- 5) The quorum for a meeting of a Board shall be such as may be specified in the Bye-Laws but shall not be less than fifty percent of the total number of the Directors of the Board.
- 6) Subject to this provision of this Act, the procedure to convene and conduct the meeting of the Board shall be such as may be specified in the Bye-Laws.

- 7) If a Director fails to attend three consecutive meetings of the Board without the permission of the President or Chairman he/she shall cease to be a Director from the date of the fourth meeting.
- 8) The State Government and Registrar may appoint nominee to the Board or any sub-committee of a Co-operative Society on its own motion when the Government has subscribed more than 50% of the paid-up share capital or when there is provision of Government nominee in its Bye-Laws.
- 9) The financial institution may also appoint its nominee when participates in its capital by way of share or other financial assistance as per the Bye-Laws of the Co-operative Society.

44. Decision by majority of votes:

Except as otherwise provided under this Act, or the Bye-Laws, all questions brought before any meeting under this Act shall be decided by the majority of the votes of the members present and in the case of any equality of votes the presiding authority of the meeting shall have a second or casting vote. Provided that in case of equality of votes at the election of the President or Chairman, Vice President or Vice Chairman, Directors or Delegates, the Presiding Authority shall not exercise his/her casting vote and the result shall be decided by lot.

45. Minutes of proceedings of meetings:

- 1) Every Co-operative Society shall record in the minutes books, in the official language of its station or in English or in any other language prescribed in the Bye-Laws, proceedings of every General Meeting, Delegate General Body Meeting and Board meeting and the names of the members or delegates present there at and shall be confirmed at the same or the next meeting. The proceedings of all General Meetings and Special General Meeting of every Co-operative Society complete in all respects as provided in the Act and Bye-Laws shall be sent to the Registrar within fifteen days from the date of completion of such meeting with due acknowledgement. The Registrar shall give his/her approval on the resolutions within fifteen days of receipt of the proceedings shall be deemed to have been approved.

- 2) The minutes so recorded shall be signed-
 - a) In the case of a General Meeting or Delegate General Body Meeting, by the person who president the said meeting or in the event of his/her death, unwillingness or incapacity to sign the minutes within the time required by the Chief Executive of the Co-operative Society for the purpose of submission of proceedings for approval and which shall be confirmed in the following meeting;
 - b) In the case of a Board Meeting by the person who presided the said meeting or by the person who presides the following meeting, wherein the minutes are confirmed.
 - 3) In the matter of inclusion of any matter in the minutes of General Meeting or Board Meeting, which in the opinion of the Chairman of the meeting-
 - a) Is or could reasonably be regarded as defamatory of any person;
 - b) Is irrelevant or immaterial to the proceedings; or
 - c) Is detrimental to the interest of the society, the Chairperson shall exercise discretion in regards to inclusion or deletion in the minutes on the grounds specified above.

46. Vacancies etc., not to invalidate proceeding:

No act proceeding of the Co-operative Society, Board of any office constituted or Appointed under this Act shall be questioned on accounts of any vacancy in the Membership or any defect in the election or qualification of the president or Chairman, Vice President or Vice chairman, Director, Delegated or Representative or Any defect or irregularity in such act or proceeding not affecting the merit of the case.

47. Proceeding of meeting to be deemed to be good and valid:

Unless contrary is proved every meeting of the General Body or the Board shall be Deemed to have duly convened and held and all members of the meeting shall be deemed to have been duly qualified when the minutes of the meeting have been Signed in accordance with the provisions of this Act. However, the proceedings of the Annual General Meeting and all General Meetings shall require approval of the Registrar as provided under Section 45.

48. Power to depute Government servant to manage the affairs of a Co-Operative Society:

The State Government may depute department officials to the service of the Co- Operative Society for the purpose of managing the affairs of the Co-operative Society Who shall exercise such powers and such duties as may be determined by the State Government.

49. Chief Executive, his/her powers and functions and staff:

- 1) (a) there shall be a Chief Executive, by whatever designation called of every Co-operative Society to be appointed by the board or by the State Government and shall be a full time employee of such Society;
 - (b) The Chief Executive shall be the ex-officio member of the Board;
 - (c) Where the State Government stands guarantee for repayment of any loan secured from any financial institution the Chief Executive may be appointed by the State Government and salary and allowances payable to and other terms and conditions of service including pension, gratuity and other benefits of the Chief Executive shall be prescribed by the Government;
 - (d) Notwithstanding anything contained in any law in-force or Bye-Laws of the society, the chief executive appointed by the Government shall have full administrative control over the employees of the society in all matters including transfer, posting and disciplinary action. However, in case of dismissal of employees approval of the Board shall be necessary.
- 2) The Chief Executive shall be under the general superintendence, direction and control of the Board and exercise the following powers and the functions, namely:
 - a) Day to day management of the business of the Co-operative Society;
 - b) Operating the accounts of the Co-operative Society and be responsible for making arrangements for safe custody of cash;
 - c) Signing on the documents for and on behalf of the Co-operative Society;

- d) Making arrangements for the proper maintenance of various books and records of the Co-operative Society and for the correct preparation, timely submission of periodical statements and returns in accordance with the provisions of this Act, the rules and the Bye-Laws;
 - e) Convening meetings of the General Body of the Co-operative Society, the Board and the Executive Committee and other committee or sub-committee constituted under provisions of this Act and Bye-Laws and maintaining proper records for such meetings;
 - f) Making appointments to the post in the Co-operative Society in accordance with the Bye-Laws
 - g) Assisting the Board in the formulation of policies, objectives and planning;
 - h) Furnishing to the Board periodical information necessary for appraising the operations and functions of the Co-operative Society;
 - i) To sue or be sued on behalf of the Co-operative Society;
 - J) Present the draft annual report and financial statements for the approval of the board within thirty days of closure of the Co-operative Year;
 - k) Performing such other duties and exercising such powers as may be specified in the Bye-Laws of the Co-operative Society;
 - l) In case of dispute between the Chief Executive and the Board in any matter, the decision of the Registrar shall be binding on the both.
3. Subject to other Laws regulating employer/employee relations all employees of a Co-operative Society shall be appointed, regulated and removed by and be accountable to authorities within the Co-operative Society in accordance with the service conditions approved by the board. Provided that in case of Co-operative Societies where State Government holds more than fifty percent of Share Capital or guarantees repayment of loan secured from any financial institution, any upward revision of pay and allowances of staff, shall require prior approval of the State Government. The controlling authority of all staff shall be the Chief Executive of the society.

50. Votes of members:

- 1) Irrespective of the shares he/she holds in the society and subject to any temporary disqualification from voting which may be prescribed in Bye-Laws and to the provision of Section 27 relating to voting by representatives, a member of a registered society shall have one vote only in the affairs of the society.

Provided that in the case of an equality of votes the President or Chairman at any meeting shall have a second or casting vote subject to the provision as laid down in Section 44.

Provided further that the Bye-Laws of a Society may provide for more than one vote in the case of an affiliated society.

- 2) Either the President or Chairman or the Chief Executive of a registered Society which is a member of another registered Society, as may be decided by Board shall represent the Society in the affairs of such other society as its representative.

Provided that the Annual General Meeting of the Society may nominate any other member other than President or Chairman or Chief Executive to represent the Society.

- 3) Voting by proxy shall not be allowed.
- 4) Notwithstanding anything contained in this Act, a Registered Society may by specified provisions made in its Bye-Laws, admit certain class of members without any voting right.

51. Loan to be utilised for the purpose for which advanced:

The loan advanced by a Registered Society to a member thereof shall be utilised by him/her for the purpose for which it was advanced and for no other purpose. The Society shall have power to recover the advance as prescribed if the member does not so utilise it.

52. Restriction on transfer of share or interest:

The transfer or change of the share or interest of a members in the capital of a Registered Society shall be subject to such conditions as to maximum holding as may be prescribed.

53. Validity of transfer or charge of share or interest:

Except otherwise provided in this Act, no transfer or charge of his/her share or interest by a member of a Society with unlimited liability shall be valid unless-

- a) He/she has held such share or interest for not less than one year; and
- b) The transferer or mortgager is either a member of such society or a person where application for membership has been accepted.

54. Share or interest not liable to attachment:

Notwithstanding anything contained in any other law for the time being in force and subject to the provision of Section 56, the share or interest of a member in the capital of a registered society or in any fund shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member nor be subject to any claim by a receiver.

55. Nomination of transferee:

If the Bye-Laws of a registered society so permit, any member of the society may, in accordance therewith, nominate a person in whose favour the society shall dispose off the shares or interest of such member on his/her death.

56. Transfer of interest on death of member:

When a member of a Registered Society dies, his/her shares and interest in the society shall, subject to the provisions of this Act, be transferred:-

- a) To the person, if any nominated in accordance with the provision of Section 55; or
- b) If there is no such nominee or if the nominee is not available, or is difficult to be ascertained by the Managing Body or if for any other cause such transfer cannot be made without unreasonable delay, the transfer of interest on death of a member shall be made to the person as may appear to the Managing Body to be the legal heir or legal representative of the deceased member, provided that ninety days have elapsed from the date of the member's death and no new claim shall be entertained after the said period of ninety days.

57. Disposal of shares or interest of ceased member:

When a member of a registered society is expelled or withdraws or otherwise ceases to be a member under this Act, Rules or Bye-Laws, his/her share or interest shall be transferred to his/her nominee or to another eligible person and the value thereon, determined in accordance with rules, shall be paid to such ceased members if his/her share or interest is not forfeited under the provisions of this Act, Rules or Bye-Laws or he/she is insane to any person appointed to manage his/her properties under the Indian Lunacy Act, 1912, provided that if there is no eligible transferee and if the Bye-Laws of the society so provide, the value of his/her share or interest determined in accordance with the Bye-Laws shall be paid to him/her or, if he/she is insane to any person appointed to manage his/her properties under the Indian Lunacy Act, 1912.

58. Liability of member on winding up of society:

The members of a registered society shall, in the winding up of the society, jointly and severally liable to contribute towards any deficiency in the assets of the society-

- a) In the case of a society with unlimited liability, without limit; and
- b) In the case of a society with limited liability, subject to such limitation of amount as may be provided in the Bye-Laws.

59. Restriction on transfer of possession of land held under a society:

- 1) Notwithstanding anything in any other law for the time being in force, a member of a registered society the object of which is to develop Co-operative or collective farming, shall not be entitled to transfer his possession or interest in any land held by him/her under the society except to the society or with the previous approval of the managing body and in accordance with its Bye-Laws, to a member thereof or to a person who will be admitted as a member of the society.
- 2) On the death of such a member his/her possession of an interest in any such land held by him/her under the society shall come to his/her nominee in accordance with the provisions of Section 56 or to the first eligible heir according to seniority in age willing to become of the society.

- 3) If no nominee or heir becomes a member the possession of an interest in any such land of the deceased shall vest in the society which shall pay to the nominee or the heir a sum equivalent to the value of the share and interest of the deceased member and any other sum due from the society as determined in accordance with this Act or Rules framed there under, after deducting all dues of the deceased member owing to the society.
- 4) If there is no person qualified to succeed to the share or interest of the deceased member, the society shall pay to his/her heir, executor or the legal representative, as the case may be, a sum equivalent to the value of the share and interest of the deceased member as determined in accordance with the Rules, after deducting the dues of the deceased to the society.
- 5) When in any other case, a member ceases to be a member of such society under this Act, Rules or Bye-Laws his/her possession of and interest in any such land held by him/her under the society shall come to the society. If the Bye-Laws allow and if the share and interest of the members is not fortified under this Act or Rules framed there under the society shall pay to the ceased member a sum equivalent to the value of the share and interest of such member and other sum due to him/her from the society after deducting his/her debts to the society, if any.
- 6) No land under a registered society specified in sub-section (1) by a member thereof, or vested under sub-section (2) in the heir nominee of such member shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof.
- 7) No land shall vest in such a society by reason of the provisions of this section unless it is owned by the society or has been leased to the society and if the society holds the land by lease or contract the land shall vest in the society only during the pendency of lease or contract.

60. Right of a registered Society to pay prior debts of a mortgagor:

- 1) Where a mortgage is executed in favour of a registered society for

payment of prior debts or part thereof, the mortgagor secured on the mortgaged property, the registered society may notwithstanding under the provisions of Section 83 and 84 of the Transfer of Property Act 1882 by notice in writing and served by registered post with acknowledgement due, require any person to whom any such debt is due to receive payment of such debt or part thereof from the society at its registered office within such period as may be specified in the notice.

- 2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the society but where there is disagreement or dispute between the mortgagor and such person as regard to the amount of the debt or where the society tenders less than the agreed amount of debt such person from enforcing his/her right to recover the balance amount claimed by him/her.
- 3) If any such refused to receive such notice or such payment, such debt or part thereof, as the case may be, shall cause to carry interest from the expiry of the period specified the notice and the property mortgaged under sub-section (1) shall be deemed to have been freed from the encumbrance of such prior mortgage.

61. Restriction on mortgaged property:

- 1) Where land is mortgaged to a registered society, the mortgagor shall not be entitled without the approval of the society to transfer or mortgage as equity of redemption or to create a charge upon or lease out such property during the pendency of the mortgage.
- 2) If the mortgaged property at any time is wholly or partially destroyed or the security rendered becomes insufficient due to fall in value or for any other reason and the mortgagor having been given a reasonable opportunity by the society for providing further sufficient security to cover the loan for repaying the loan with interest or such portion of the loan as may be determined by the supervisory, managing or controlling body and the mortgagor having failed to provide such security or repay such portion of the loan, the whole of the loan or such uncovered portion shall be deemed to fall due at once and recoverable through a Co-operative Demand Certificate.

- 3) Notwithstanding anything contained in the transfer of Property Act, 1882, the mortgaged property, in case of default of payment of mortgaged money of any part thereof, may be sold by the society as prescribed by Rules in addition to any other remedy available without the intervention of court if expressly conferred by the mortgaged deed.

Provided that the society serves a notice in writing by registered post demanding payment of the mortgage money with interest or part thereof upon the mortgagor or, any person having an interest in or charge upon the mortgaged property of the equity of redemption who has previously notified the society of such interest or charge in writing or any surety, and if default has been made in payment of the loan or part thereof for three months after such service of notice.

Provided further that any party aggrieved by an action taken by a registered society under this section may make an appeal to Registrar within thirty days from the date of the sale and his/her decision shall be final.

62. Bar to certain claim:

All payment and transfer made by a registered society under this Chapter shall be valid and effectual against any demand made upon the society by any other person.

CHAPTER-V

MANAGEMENT OF PROPERTY AND FUNDS

63. Mobilization of funds:

1. A Co-operative may raise funds in the shape of equity, capital, deposits, debentures, loans and other contributions from its members to such extent and under such conditions as may be specified in the Bye-Laws.
2. A Co-operative society may borrow funds from non-members: individuals and institutions including Government to such extent and such conditions as may be specified in the Bye-Laws.

64. Restriction on borrowings:

A registered society may receive deposits and may borrow from its members and from persons who are not members to such extent and on such conditions as may be provided in the Act and Bye-Laws.

Provided that no Co-operative Society shall, by accepting deposits or loans or in any other way, incur liabilities exceeding 25 times the sum of the paid up share capital and the accumulated reserved fund during any financial year.

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

65. Restrictions on holding of equality:

A member of a Co-operatives hall at no time hold more than one tenth of the paid up equity capital of the Co-operative or as prescribed in the registered Bye-Laws.

66. Disposal of Surplus:

- (1) In any financial, accounting or Co-operative Year a Co-operative shall, out of the surplus arising from transactions held with members in that year, make deferred payment to members as patronage rebate at an amount more than twenty percent but less than fifty percent of such surplus and make interest payment on share capital at a rate not exceeding the prevailing rate of interest available to depositors in the concerned Co-operative Bank.
- 2) The balance surplus accruing from members and the entire surplus accruing from transactions held or entered with others, shall be utilised in the following manner:
 - a. not less than twenty five percent shall be transferred to a statutory reserve fund;
 - b. not less than twenty percent shall be transferred to a separate reserve for meeting unforeseen losses;
 - c. where the Co-operative is a member of the State Co-operative Union, not exceeding three percent may be transferred in the manner

- prescribed to a Co-operative Education Fund' maintained by the Co-operative Union;
- d. bonus shall be paid to employees in accordance with the decision of the General Body;
 - e. not less than twenty percent shall be transferred to an equity redemption fund by such Co-operative who already have Government equity participation;
 - f. not less than five percent may be transferred towards a common good fund whose purpose is approved by the General Body;
 - g. Not more than five percent may be paid contribution for any purpose connected with the development of the Co-operative Movement;
 - h. the balance shall be transferred to such other funds and reserves as created by the General Body;
 - i. surplus accruing as a result of servicing persons other than members shall not be divisible amongst members and may be utilized in the case of other than Credit Co-operative towards equity participation of potential members and towards 'Credit Equalization Fund' in the case of Credit Co-operatives
- (3) No Dividend, Bonus, Patronage Dividend or Rebate shall be paid without the previous sanction of the Registrar and on the Certificate Statutory Audit Report approved in the Bye-Law.

67. Management of Deficit;

- (1) Where a Co-operative has an operational deficit in any given year, the Board of Directors shall play before the General body the amount of deficit along with reason for incurring such deficit.
- (2) No member shall be permitted to withdraw from the membership of a Co-operative Societies without paying his share towards clearing the deficit, if any.

68. Reserves and other funds;

- (1) A Co-operative may create statutory and non statutory reserve and other funds for the promotion of objects of the Co-operative.
- (2) Reserve and other fund shall be used for the purpose for which they were created whenever found necessary but otherwise may be use in the business of the Co-operative.

69. Investment of funds outside the business:

The funds that are not needed for use by a Co-operative may be invested or deposited outside its business:

- (a) in any Federal Co-operative of which it is a member;
- (b) in any District Central or State Co-operative Bank and in the absence of both the Banks, in any Urban Co-operative Bank; or
- (c) in a local Co-operative or Nationalise Bank;
- (d) in the equities of any other Co-operative; or
- (e) in any of the securities specified in section 20 of the Indian Trust Act, 1882; or
- (f) in the local Postal Savings Bank.

70. Restriction on contribution to political parties or religious institution:

No Co-operative shall make any contribution either in money or kind, either directly or indirectly to any organisation that has an object in furtherance of interests of any political party or of any religious faith.

71. Contribution to Co-operative Education Fund of the State Federal Co-operative Union:

- (1) Every Co-operative shall contribute annually towards the Co-operative Education fund maintained by the State or Federal Co-operative Union by whatever description be called, by virtue of power conferred upon the Co-operative under Section 66(2) (c) as per the rate prescribed by the State Government and different rates may be prescribed for different types and classes of Co-operatives depending upon their financial conditions, strengths, status or position.
- (2) The rate, so levied, in any case shall not be less than one percent and more than three percent of the total net profit earned by the Co-operative as provided under Section 66(2) (c).
- (3) In the event of any Co-operative intending to pay more than three percent may do so, but only with the prior approval of Registrar.

- (4) Every Co-operative shall pay its contribution to the above said Education Fund within ninety days after the closure of the financial year.
- (5) Where any Co-operative which failed to pay the contribution to the Education Fund as specified in sub-section (4), the amount of such contribution due shall be recoverable as arrears of land revenue.
- (6) The Federal Co-operative or Co-operative Union as the case may be, in such cases, may submit a report containing the details and particulars of the defaulting Co-operatives to the Registrar and the Registrar in turn after making an enquiry in this regard shall grant a certificate for recovery of the said amount due as arrears of land revenue.

72. Restrictions on grant of loan:

- (1) A Co-operative, other than a Co-operative Bank, shall not grant loans to members on the security of their share or on the security of a non-member.
- (2) A Co-operative may, however, grant loans to depositors on the security of their deposits.

73. Restriction on transaction with non-member:

The transaction of a Co-operative held or to be held with a non-member shall be subject to such conditions, prohibitions and restrictions, if any, as may be specified in its Bye-Laws.

74. Contributory Provident Fund:

- (1) A Co-operative having members or class of employees more than the limit prescribed under the Employees Provident Fund and Miscellaneous Provisions Act 1952, for the purpose shall maintain the Employees Contributory Provident Fund for the benefit of its employees and all contributions made by employees and Co-operative shall be credited to a separate account.
- (2) The quantum of money standing in the credit of any contributory provident fund established by a co-operative under sub-section (1) shall not

- (a) be used in the business of Co-operative;
- (b) form part of assets of Co-operative;
- (c) be liable to attachment or be subject to any other process of any court or other authority.

75. Power of Government to give financial assistance:

Notwithstanding anything contained in any other law for the time being in force, the State Government may on the request of the Co-operative Society, supported by a resolution passed by the General Assembly of the Co-operative Society, grant loans to take shares or guarantee the principal or the interest or both in respect of debentures issued by any co-operative society or give financial assistance in any other form to any registered society which puts forward a satisfactory scheme for the utilization of the funds so raised, the State Government may recover from any society out of its net profit in any year all or any or any part of such financial assistance.

CHAPTER-VI:

REGULATION OF CO-OPERATIVES

(Audit, inquiry, inspection and surcharge)

76. Audit and powers of Auditors:

- (1) The Registrar shall audit or cause to be audited by some person authorized by him/her by general or special order in writing in this behalf, the accounts or every Registered Society and Society under liquidation at least once in every year.
- (2) The Registrar or the person authorized by him/her in this behalf shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same and furnish such information in regard to the transactions and working of the society at any convenient place or at the Headquarters of the Society or any Branch thereof by the same means and, so far as may be, in the same manner as provided in the Code of Civil Procedure 1908 (v of 1908)

- (3) In respect of every audit of the accounts, a Registered Society shall pay such Audit Fee as may be prescribed and such fee shall deemed to be outstanding dues from the society.
- (4) The Registrar may also appoint a Qualified Auditor other than Department Auditor and the remuneration for which shall be fixed by the Registrar.
- (5) The Registrar may in such Co-operatives which are substantially funded by the Government or Government undertakings or financial institutions in public interest, if found necessary and appropriate may order to direct for the conduct of Internal Audit or Cost Audit or performance Audit or Special Audit or TEST Audit or any other Audit for such Co-operative.

77. Power of the Registrar to have the accounts written up:

If at the time of the audit the account of a registered society are not complete, the Registrar or with his/her sanction, the audit officer may cause the accounts to be written up at the expense of the society. Such expenses shall, at the first instance be met from the grant under the head "Contingencies" by the Registrar and shall be reimbursed later on from the society concerned along with audit fee.

78. Nature of Audit:

- 1) The Audit shall include among others:
 - a) A verification of the cash balance and securities;
 - b) A verification of the balance at the credit of the depositors and creditors and the amounts due from the debtors of the society;
 - c) An examination of overdue debts, if any;
 - d) The valuation of the Assets including Stock Verifications and Liabilities of the Society;
 - e) An examination of the statement of accounts and balance sheets to be prepared by the managing body of the society in such forms as may be prescribed;
 - f) A certificate of the realised profits; and

- g) Any other relevant matter.
- 2) The auditors' report among others shall include:-
 - a) Statement whether the auditor has obtained all the information and explanations which to the best of his/her knowledge and belief were necessary for the purpose of the audit;
 - b) State whether the Balance Sheet of the co-operative society and the Income and Expenditure Accounts dealt with by the report are in agreement with the books of accounts;
 - c) Statement indicating the basis on which assets and liability was valued and mentioned specifically and change in the manner in which such valuation was done in the financial year under examination and its effect On surplus and deficit;
 - d) Statement indicating the amount of surplus earned or deficit incurred from provision of services to non-members as distinct from surplus earned or deficit incurred because of service to members in normal course of business;
 - e) Statement indicating every deviation in actual expenses and income from the estimated expenses and income in the approved budget;
 - f) Statement whether or not any of the directors had at any time during the financial year under review become ineligible under this Act to continue in Office as a Director; and
 - g) Statement whether the decision on disposal of surplus or assessment of deficit of the General Body at its previous Annual General Meeting were implemented correctly and completely or not.

79. Audit Report:

The Audit Officer shall within a fortnight from the date of completion of Audit, submit to the registered society and to the Registrar together with the Statement of Accounts Audited, Audit report including a statement of-

- a) Every transaction, which appears to him/her to be contrary to Law or to the Rules or Bye-Laws;

- b) Every sum which ought to have been brought but has not been brought into account;
- c) Amount of deficiency or loss which appears to have resulted from any negligence or misconduct that requires further investigation;
- d) Any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person;
- e) Any of the assets which appears to him/her to be a bad or doubtful;
- f) Any irregularity in maintaining the account; and
- g) Any other relevant matter under section 78.

80. Rectification of defects in accounts:

- 1) If the result, finding or outcome of the audit held or conducted, discloses defects in the constitution, financial conditions and working of any co-operative, such co-operative shall explain the defects or irregularities identified, observed or pointed by the auditor to the Registrar within a period of sixty days and take appropriate steps to rectify such defects and remedy the irregularities pointed out by Registrar and shall submit an action taken report to the Registrar within the time stipulated therein or 90 days whichever is earlier.
- 2) The Registrar may inter-alia, direct or order the co-operative or its Officers to take such other actions as may be specified in the order or direction to remedy the defects within the time specified therein or thirty days or whichever is earlier.

The non-compliance of the above shall disqualify the Board in office after expiry of three months period.

81. Re-audit/Recasting of Audit Report:

If the Registrar on appeal or on inquiry and details checking of accounts satisfies himself/herself that the audited accounts need recasting or re-audit, he/she shall give an order for such re-casting or re-audit, provided that no such recasting or re-audit shall be taken up after three years from the date of acceptance of Balance Sheet by the General Assembly and their Annual

General Meeting. If re-casting or re-audit is re-audit to be undertaken due to non-compliance of the procedure of audit, the cost of re-casting or re-audit shall be recovered from the auditor auditing the accounts in addition to facing disciplinary action under the Nagaland Government Services and Conduct Rules or action under the appropriate law as the case may be. If the same has to be undertaken due to non-furnishing of adequate records, reports, etc. The cost of such re-casting or re-audit shall be recovered from the respective Office Bearer or officer of the society. He/she will also be liable to disciplinary action under appropriate Law, Rules applicable for the purpose. The cost of the re-audit or re-casting of Audit Report shall be determined by the Registrar.

82. Inquiry:

- (1) The Registrar either suo-moto (or based on an application made by a co-operative, or not less than one third members of the management committee or not less than one tenth of total number of members of co-operative, or creditors or debtors or depositors) may hold an enquiry himself/herself or order or direct, some other person, to hold an inquiry on his/her behalf into the constitution, working financial condition and status of a co-operative.
- (2) The Registrar before directing or ordering the conduct of an inquiry in a co-operative, shall provide an adequate opportunity to such Co-operative for making representation on the subject matter and if not satisfied with the reply given by the co-operative, may order or direct the conduct of inquiry on aspects identified by Registrar on issues raised in the application, as the case may be.
- (3) In the event of an inquiry demanded by persons or authorities specified under sub-section (1), the Registrar may order or direct the conduct of an inquiry only after the receipt of required fee (as prescribe by the registrar) deemed sufficient enough to conduct and complete the inquiry from person or authorities who demanded conduct of such an inquiry.
- (4) The inquiry ordered or directed shall be completed within a period specified in the order and in any case, such period shall not exceed ninety days from the date of the order or direction of inquiry.

- (5) The Registrar while holding an inquiry or persons authorized by Registrar to hold such an inquiry shall have;
 - (a) free access to the books of accounts, documents, securities, cash or other properties of Co-operative;
 - (b) power to summon persons in possession or responsible for the custody of documents specified under sub-section 5(a)
- (6) The Registrar, within a period of thirty days from the date of completion of inquiry, shall communicate the result or findings of such inquiry report to:
 - (a) the applicants or persons who demanded such an inquiry;
 - (b) the Co-operative;
 - (c) the persons or authorities, if any, named therein in the application for the conduct of Inquiry;
 - (d) the financial institution or funding agency or authority;
 - (e) any member or person on payment of fee prescribed by the Registrar.
- (7) The Registrar shall power to withdraw any inquiry from the authorised persons or authorities to whom it has entrusted and hold the inquiry either himself/herself or entrust the task to any other persons or authorities as he/she deems fit.
- (8) The Co-operative Society concerned shall, on receipt of the report, place it before the next Generation Meeting or in a Special General Meeting to take such action thereon as the General Body may think fit, which may include removal of all or any directors and election of new directors or any other action on any employees as required.
- (9) A copy of the report shall be supplied to any other member of the Co-operative Society, on payment of such fee as determined by the Registrar.

83. Inspection of a Co-operative:

- (1) The Registrar either suo-moto (or based on an application made by a Co-operative, or not less than one third members of the management committee or not less than one tenth of total number of members of

co-operative, or a creditor or debtor or depositors) may hold an inspection him/her or order or direct, sum other person to hold an inspection in to the constitution, working financial condition and status of a Co-operative.

- (2) The Registrar, before directing or ordering the conduct of an inspection in a Co-operative, shall provide an adequate opportunity to such co-operative for making representation on the subject matter and if not satisfied with the reply given by Co-operative may order or direct for the conduct of inspection on aspects identified by the Registrar or on the issues raised in the application, as the case may be.
- (3) In the event of an inspection demanded by persons or authorities specified under sub-section (1), the Registrar may order or direct the conduct of inspection only after the receipt of required fee deemed sufficient enough to conduct and complete the inspection from persons or authorities who demanded conduct of such an inquiry.
- (4) The inspection ordered or directed shall be completed within a period specified in the order or direction and in any case such period shall not exceed ninety days from the date of the order or direction of such inspection.
- (5) The Registrar while holding an inspection or persons authorised by Registrar to hold such an inspection shall have:
 - (a) free access to the books of accounts, documents, securities, cash or other properties of the Co-operative;
 - (b) power to summon persons in possession or responsibility for the custody of documents specified under sub-section 5(a).
- (6) The Registrar, within a period of thirty days from the date of completion of inspection, shall communicate the result or findings of such inspection report to:
 - (a) the applicants or persons who demanded such an inspection;
 - (b) the Co-operative;
 - (c) the persons or authorities, if any, named therein in the application for conduct of inspection;

- (d) the financial institution or funding agency or authority;
 - (e) any member or persons, on payment of fee prescribed by the Registrar.
- (7) The Registrar shall have power to withdraw any inspection from authorised persons or authorities to whom it was entrusted and hold the inspection either himself/herself or entrust the task to any other persons or authorities as he/she deems fit.
- (8) The Co-operative Society concerned shall on receipt of the report, place it before the next Annual General Meeting or Special Annual General Meeting with action taken report and to take such action thereon as the General Body may think fit, which may include removal of all or any directors or any other action on employee as required.
- (9) A copy of the report shall be supplied to any member on requisition and on payment of fees to be determined by the Registrar.

84. Cost of Inquiry and Inspection:

- (1) Whereas an Inquiry is held under Section 82 or an Inspection is carried out under Section 83, the Registrar may apportion the cost of Inquiry or Inspection as the case may be between the Co-operative, Members, Creditors or Debtors or Depositors demanding such an Inquiry or Inspection and Officers of Co-operative. The members and officers, for purposes of this section shall not only include present members and officers but also former officers and past members.
- (2) The Registrar, before apportioning cost of Inquiry or Inspection as the case may be, as referred under sub-section (1) shall provide a reasonable opportunity of hearing to the co-operative or other persons such as Creditors, Debtors or Depositors liable to pay such costs.
- (3) While apportioning the cost of Inquiry or Inspection, the Registrar shall record in writing the reasons, grounds or basis on which the cost were apportioned either proportionately or disproportionately.
- (4) Any sum awarded by way of cost under this section shall be recoverable as the fees for Inquiry or Inspection in the manner of realization of Audit Fees or through a Co-operative Demand Certificate.

85. Recovery of cost:

The cost awarded under Section 84 may be recovered on an application made by the Registrar to the Magistrate having jurisdiction over the place where the persons against whom the cost recoverable resides or carries on business or trade or property of such person is situated and such Magistrate shall recover the same as if it were a fine imposed by himself/herself.

86. Initiation of Surcharge proceeding against delinquent officers or members by Registrar:

- (1) Whereas the Registrar is satisfied either on the basis or as a result of Audit Report made under section 76 or an Inquiry Report made under Section 82 or an Inspection Report made under Section 83 or winding up of Co-operative under section 93, that any person who has been entrusted with or taken part in the organization or management of a Co-operative or who is or has at any time been an Officer or Employee of a Co-operative, has made payment contrary to the provisions of this Act, Rules or Bye-Laws or caused any loss, damage to or deficiency in the assets of co-operative by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to the Co-operative, the Registrar may on his/her own motion or on the application made by Management Committee, Auditor, Liquidator, or any Creditor, may frame charge against such persons and inquire himself/herself, or direct any authorized person in writing, to inquire into the conduct of such persons and after providing a reasonable opportunity to reply or answer the charges framed to the concerned persons, may make an order directing him/her or them to repay or return the money or restore property with interest as determined by Registrar or to pay compensation with regard to the misappropriation, misapplication, retention, misfeasance or breach of trust as the Registrar may determine.
- (2) The person or such persons or concerned persons referred under sub-section (1), shall not only include present members or officers or employees or board members, etc. but also include past, or deceased, legal heirs or representatives, members or employees or board members respectively.

- (3) The act of framing charges, conduct and completion of proceedings referred under sub-section (1) shall be completed within three years from the date of submission of reports of audit, inquiry, inspection or date of the order of winding up of co-operative.
- (4) The Registrar or persons authorized by hi/her in this regard may also provide for the payment of total cost or part thereof and direct that such costs shall be recovered as arrears of land revenue from such persons against whom such orders have been passed.

87. Prohibition of use of word Co-operative and Penalty.

- 1) No person other than a Co-operative Society registered under this Act shall, without the permission of the State Government function, trade or carry on business under any name or title of which the word 'Co-operative' or its equivalent in any Indian languages from a part.
- (2) Every person who is a member of a Co-operative Society formed in contravention of Section 4 and section 6 of this Act and every person contravening the provisions of sub-section (1) shall be punishable with a fine of not less than five thousand rupees or as the Registrar deem fits for and in the case of a continuing offence with further fine of five hundred rupees for each month on which the offence is continued after conviction thereof.

88. Offence:

- 1) A person who makes or assists in making a report, return notice or other documents required under this Act to be punished or sent to the Registrar or to any other person that-
 - a) Contains an untrue statement of a material; or
 - b) Omits to state a material fact required in the report or makes a statement contained in the report misleading in the light of the circumstances in which it was made; shall be guilty of an offence and shall on summary conviction, be punishable-
 - i) In case of an individual, with imprisonment for a term which may extend to ninety days or with a fine not less than ten thousand rupees or both;

- ii) In the case of juristic person other than an individual, with a fine not less than ten thousand rupees or as the Registrar may deem fit.
- 2) (a) If the person committing an offence under sub-section (1) in a co-operative society which is a body corporate, the Co-operative Society as well as every person in charge of and responsible to the Co-operative Society for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(b) notwithstanding anything contained in clause (a) where an offence has been committed by a Co-operative Society and it is proved that the offence has been committed with the consent of and connivance of or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other Officer shall also be deemed to be guilty of that offence and shall be punishable with imprisonment for a term which may extend to ninety days or with fine of three thousand rupees or with both.
- 3) No person shall be guilty of an offence under sub-section (1) or sub-section (2) where the untrue statement or omission-
 - (a) Was not known to him/her; and
 - (b) After exercising reasonable diligence fact could not have been known to him/her.
- 4) Every person who-
 - (a) Without reasonable cause, contravenes a provision of this Act for which no penalty is otherwise provided; or
 - (b) Fails to file or furnish return or give any notice or to send any document required by the provisions of this Act shall be guilty of an offence and shall, on summary conviction, be punishable with a fine not less than five thousand rupees or as the Registrar may deem fit.
- 5) Where a person is convicted of an offence under this Act, the court may in addition to any punishment imposed, order the person to comply with the provisions of this Act for the contravention of which he/she has been convicted.

- 6) No prosecution for an offence under this Act shall be commenced after years from the date from when the subject matter of the complaint arose.
- 7) No civil remedy for an act or omission under this Act is suspended or affected by reason that the act or omission is an offence under this Act.

89. Power to enforce attendance:

The Registrar or persons authorised by him/her while conducting an Inquiry Section 82, an Inspection under Section 83 or surcharge proceedings under Section 86, shall have the power to summon and enforce attendance of any person or to compel the production of documents or other materials objects in the same manner and procedure as provided under the Code of Civil Procedure 1908.

CHAPTER VII

SETTLEMENT OF DISPUTES

90. Reference of dispute:

Any dispute touching the business of a registered society other than a dispute regarding disciplinary action taken by a society against the employee society, or of the Liquidator of a society shall be referred to the Registrar for decision, if the parties thereto are among the following:-

- a) The society, its past or present controlling or managing body any past or present officers, agent or employee or the liquidator of the society; or
- b) Member, past member or persons claiming through a member past member or deceased member of the society; or
- c) A surety of a member, a past member or deceased member of the society; or
- d) Any other registered society or the Liquidator of the society;
- e) A registered society and financing Bank.

91. Settlements of dispute:

- 1) The Registrar shall on receipt of a reference under Section 90-
 - a) Decide the dispute himself/herself or authorities any other Government Officer to decide the dispute; or
 - b) Refer it for disposal to an Arbitrator appointed by the Registrar or to three Arbitrators, one to be nominated by each of the parties to the dispute and the third who shall be nominated by the Registrar to act as Chairman. Where any party to the dispute fails to nominate an arbitrator within fifteen days after the communication of this notice, the Registrar may himself/herself make the nomination. No legal practitioner may be nominated as an Arbitrator by any party to a dispute or by the Registrar;
 - c) An Arbitrator appointed under the previous sub-clause shall be governed by the Indian Arbitration Act, 1940, with such statutory re-enactment or modification thereof as shall from time to time be made.
- 2) The Registrar may withdraw any reference of such dispute referred to under sub-section (1) and may deal with it himself/herself under the said sub-section.
- 3) Where the Registrar is satisfied that a party to any reference made to him under Sec 90 with intent to defeat or delay the execution of any decision that may be passed thereon-
 - 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 may direct the conditional attachment of the said property or such part thereof as he/she deems necessary and such attachment shall have the same effects as if it had been made by a competent Civil Court.

CHAPTER- VIII

DISSOLUTION OF A SOCIETY

92. Cancellation of registration:

- (1) If the Registrar, on receipt of an application made upon resolution adopted in a meeting of the General Assembly by a three-fourth majority of the members present in the meeting, provided that the notice of dissolution was included in the circulated agenda or the meeting, is of opinion that the society ought to be dissolved, he/she may by an order in writing, cancel the registration of the society.
- (2) The Registrar, after an inquiry has been held under Section 82 or after the inspection has been made under Section 83 may cancel the registration of a Society which:-
 - (i) has not commenced working; or
 - (ii) has ceased working; or
 - (iii) has ceased to comply materially with any condition as to registration in this Act, Rules or Bye-Laws; and
 - (iv) In his/her opinion ought to be dissolved.
- (3) A copy of the order cancelling the registration of a society shall forthwith be published in the Official Gazette by a notice, which shall be communicated to the society and to the affiliating society concerned by registered post. The notice shall contain the name of the Liquidator appointed under Section 90 who shall take full charge of the society forthwith and shall require all claims against the said society to be made to the liquidator within two months of the publication of the notice. All liabilities recorded in the account books of the society be deemed ipso facto to have been so claimed.
- (4) When the cancellation of the registration of the society takes effect, the society shall cease to exist as a corporate body, but shall vest in the liquidator.

- (5) Any member of the society may, within two months from the date of publication of the order of cancellation, appeal to the State Government from such order.
- (6) Where no appeal is presented within two months from the publication of an order for cancelling of the society, the order shall take effect on the expiry of the period.
- (7) When an appeal is presented within two months of an order of cancellation, the order shall not take effect until it is confirmed by the State Government and such confirmation is communicated to the society by registered post.

93. Winding up, appointment of Liquidator and his powers and function:

- (1) When an order of cancellation of the registration of a society is made by the Registrar under Section 92, he/she may appoint any person to be the Liquidator of the society and may remove such person and appoint another in his/her place.
- (2) The Liquidator appointed under Sub-section (1) shall have power from the date of appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and all books, records, cash and other documents pertaining to the business of the society and in the interest of the society shall hold charge of the society notwithstanding the provisions of Section 92 provided that no steps shall be taken for the winding up of the society during the pendency of any stay order.
- (3) The Liquidator shall, under the general control of the Registrar, have power, so far as is necessary for the winding of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to search winding up, and in particular shall exercise the following powers:

- (a) To institute, compromise and defend suits and other legal proceedings on behalf of the society;
 - (B) To make any compromise or arrangement with any person between whom and the society there exists any dispute;
 - (c) To determine the debts to the society by a member, past member or estate nominees, heirs or legal representatives of deceased members;
 - (d) To determine from time to time the contribution to be made or remaining to be made by the members, past members or by the estate or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society and to determine the debt due from such members or person and the cost of liquidation;
 - (e) To calculate the cost of liquidation and determine by what persons and in what proportion they are to borne;
 - (f) To investigate all claims against the society band subject to the provisions of this Act to decide questions of priority arising between claimants;
 - (g) To pay claims against the society including interest up to date of cancellation of registration according to their respective priorities, if any, in full or rateably as the assets including the reserve fund of the society, permit; the surplus, if any, remaining after payment of claims being applied in payment of interest from the date of such cancellation at the rate fixed by him but not exceeding the contract rate in any case;
 - (h) To take steps to recover dues according to the provisions of Section 100, if necessary; and
 - (i) To dispose of the surplus, if any, remaining after paying the claims against the society in accordance with Section 94.
- (4) Subject to the provisions of this Act and Rules made thereunder, a Liquidator appointed under Section 93 (1) shall, in so far as such powers are necessary for carrying out the purpose of this section, have the power to summon and enforce the attendance of witnesses and to

compel the production of any Books, Accounts, Documents, Securities, Cash or other properties belonging to or in the custody of the society by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure, 1908.

- (5) Notwithstanding anything contained in any law for the time being enforce, if any landed property is held by a Liquidator as such the title over the land shall be completed as soon as the mutation of the name of his office is effected and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

94. Distribution of fund of a dissolved society:

On dissolution of a society the reserved fund and any undisbursed cash in hand shall be applied to discharging liabilities of the society and the repayment of the share capital. Any sum that may remain may be applied to such object of local and public utility as may be selected by the members of the dissolved society and approved by the Registrar. If, within three months of the notice published in the Official Gazette under Section 95, notifying the closing of the liquidation proceedings of the society, the members fail to select any object as aforesaid, the Registrar shall, with the approval of the Government, applying the fund to such local public utility as may be determine by him/her or credit the remaining some to the reserve fund of a society to be formed to replace the dissolved the society or if there be no such society to any other disserving society existing within the same area of operation and having objectives similar to those of the dissolved society or if there be no such society to any other registered society in Nagaland as may be determined by the Registrar.

95. Liquidator to deposit the books and submit a final report:

When the affairs of a registered society has been wound up, the Liquidator shall make a report to the Registrar, who, when satisfied shall order the liquidation proceeding to be closed and direct the Liquidator to

deposit the records whatsoever the Registrar thinks fit and the Registrar shall issue a notice in the Official Gazette, notifying the closing of the liquidation proceedings of the society.

96. Disposal of surplus assets of liquidation Co-operative Societies.

After all the liabilities including the paid up share capital of a wound up Co-operative Society have been met, the surplus assets shall not be divided among its members but they shall be applied to any object described in the Bye-Laws, to the Co-operative Development Fund.

97. Bar of suits or legal proceeding:

When an order to wind up the Co-operative Society has been made or the Liquidator has been appointed as suit or other legal proceeding relating to business of such Co-operative Society shall be proceeded with or insisted against the Liquidator as such or against the Cooperative Society or any member thereof except with the leave of the Registrar and subject to such conditions as he/she may impose.

98. Final Accounts:

- (1) A Liquidator shall pay the costs of liquidation out of the property of the Co-operative Society and shall pay or make adequate provision for all claims against the Co-operative Society.
- (2) Subject to the provision of Section 60 after paying or making adequate provision for all claims against the Co-operative Society, the Liquidator shall apply to the Registrar for approval of his/her final accounts and for permission to distribute in cash or in kind the remaining property of the Co-operative Society in accordance with the Bye-Laws.
- (3) Where the Registrar approves the final accounts rendered by a Liquidator under sub-section (2), he/she shall
 - (a) Issue direction with respect to the custody or disposal of the documents and records of the Co-operative Society; and
 - (b) Discharge the Liquidator.

- (4) Where the Registrar discharges a Liquidator under sub-section (3) the Registrar shall dissolve the Co-operative Society, issue a certificate of dissolution and delete its name from the Registrar of Co-operative Societies.
- (5) The Co-operatives Society ceases to exist on the date shown in the certificate of Dissolution, which shall not be later than eight years after the appointment of the Liquidator.

99. Bar of Suit:

Save in so far as is expressly provided in this Act, no Civil Court shall take cognizance of any matter concerned with the winding up or dissolution of a society under this Act and when a Liquidator has been appointed no suit, order or legal proceedings shall lie or be proceeded with against him except by leave of the Registrar and subject to such terms as he may impose.

CHAPTER-IX

RECOVERY OF SUMS DUE

100. Recovery of sums due and enforcement of obligations:

- (1) Notwithstanding anything contained in this Act, the Registrar or such other persons as may be authorized in this behalf, may, on his/her own motion when the interest of the Government is involved or on the written requisition of a registered society, an affiliating society or finance bank for the recovery of any loan or any other sum due by a defaulting member after due inquiry as he/she may deem fit and after a reasonable opportunity of being heard, grant a Co-operative Demand Certificate for recovery of any amount found to be due.
- (2) (a) If any instalment of loan or interest payable by a member of a Co-operative Society or any part of such instalment has remained unpaid for more than 30 days from the date on which it fell due, the Board may, in attention to any other person authorize for the recovery of such instalment or part thereof, recover the instalment or such part thereof by distrain and sale of the produce of the charged land including the standing crop;

- (b) On receipt of such application the Registrar or the person authorized by him/her may, notwithstanding anything contained in the Transfer of property Act, 1882, take action in the manner has prescribed for the purpose of distraining and selling such produce.

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

- (c) The value of the property distrained shall be, as nearly as possible equal to the amount due and the expenses of the distrained and the costs of the sale.

101. Charge and Surcharge:

- (1) Where, as the result of an audit under Section 76 or an inquiry under Section 82 or an inspection under Section 83 or a report made in the course of the Winding up of a registered society, it appears to the Registrar that any member, officer or employee past or present, of the society has at any time within a period of four years prior to the date of such Audit, Inspection, Inquiry or report, as the case may be,
 - (a) Intentionally, whether individually or as an assenting members of any managing or others controlling body made or authorized any payment or granted any loan which is contrary to the provision of the Act or to the Rules or Bye-Laws or failed to take timely steps to recover any loan at the due date or it was being improperly utilized; or
 - (b) was grossly negligent in respect of any loss or deficiency;
 - (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; or
 - (e) Committed breach of trust in relation to the society, the Registrar may inquire into the conduct of such officer or members of the managing or other controlling body.

- (2) The Registrar may similarly inquire into the conduct relating to the affairs of the society or of any member, officer or employees, past or present, of a registered society on the application of the present controlling or managing body of the society or liquidator, or any creditor is affiliated or any contributory.
- (3) Upon such inquiry given such member, officer or employee an opportunity of being heard and in the case of payment made contrary to the provision of this Act or Rules or Bye-Laws after affording such member, officer or employee time to recover the amount of such payment from the payee and credit it to the funds of the society, if such member, officer or employee fails to recover the amount then the Registrar may by an order in writing require such member, officer or employee to pay such sum with interest at such rate as the Registrar may direct the society by way of compensation in respect of such payment or loss or to restore such property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceeding under this section.
- (4) Any award made by the Registrar under sub-section(3) shall be reduced to the form of a Co-operative Demand Certificate by the officer authorized to issue such certificates.
- (5) This section shall apply notwithstanding that such member, officer or employee may be his act or omission have incurred in addition to criminal liability under this Act or any other law for the time being in force.

CHAPTER-X

PENALTY

102. Punishment for false information, disobeying summons, order etc.:

If a registered society or an officer or member thereof or any Liquidator:-

- (a) wilfully make a false return or furnishes false information or wilfully neglects or refuses to do any act required by this Act or any Rules or Bye-Laws or does anything contrary to this Act or any Rules, or Bye-Laws or fails to submit returns, or
- (b) Any person wilfully or without reasonable excuse disobeys any summons, requisition or lawfully written order issued under the provisions of this Act or does not produce documents or cash balance of society or does not furnish any information lawfully required from him by a person authorized in this behalf under the provisions of this Act or fail to maintain up-to-date account, record and other documents of the society required to be maintained by him under this Act or Rules or Bye-Laws, he shall be punishable with a fine of not less than five thousand rupees or any higher amount fixed by the Registrar and in case of a continuing offence a further fine of fifty rupees for each day on which the offence are continued after conviction thereof.

103. Punishment for disposing property in contravention of Section 61:

Any member, past member or the nominee, heir or legal representative of a deceased member removing or otherwise disposing of any property on which a registered society holds a charge under Section 61 with intent to defraud the society or with such intents doing any other act to the prejudice of the society's charge shall be punishable with a fine not less than five thousand rupees or as the Registrar may deem fit.

104. Penalty for certain misdemeanours:

Where it appears to the Registrar, that any person has contravened the provisions of this Act or Rules or Bye-Laws.

- (a) By sitting or voting or exercising his right as members, or as a member of any managing or controlling body, or voting in the affairs of a registered society as a representative of another society which is a member of such society, when such person was not entitled so to sit, vote or exercise such rights, as the case may be; or
- (b) By utilizing a loan for a purpose different from that for which it was granted; the Registrar may, after affording such person an opportunity to be heard by an order in writing, direct him to pay to the assets of the

society by way of penalty such sum not less than five thousand rupees or as the Registrar may deem fit.

105. Power to enforce performance of obligation:

Notwithstanding anything contained in this Act, where any registered society is required to take any action under the Act, the Rules or Bye-Laws and such action is not taken within the time provided in this Act, the Rules or Bye-Laws or within such times as the Registrar may specify by a notice in writing where no time is so provided, the Registrar may call upon any officer of the society whom he/she considers to be responsible for carrying out the directions, and after giving such officer an opportunity to be heard may require him to pay to the assets of the society such sum not less than rupees five thousand or as the Registrar may deem fit for each day until the Registrar's directions are carried out.

106. Cognizance of Offence:

- (1) No court inferior to that of a Magistrate of the first class shall try any offence under this Act.
- (2) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar.
- (3) Offence under this Act may be tried summarily.

CHAPTER XI JURISDICTION

107. Indemnity:

No suit, proceeding or prosecution whatsoever shall lie against the Registrar or any person acting on his/her authority, or against any Liquidator in respect of anything done or purporting to be done in good faith under this Act.

108. Bar to jurisdiction- Civil:

- (1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of-
 - (a) Registration of a society or its bye-laws or amendments of Bye-Laws; or

- (b) The dissolution of a managing or controlling body and the management of the affairs of the society on dissolution thereof; or
 - (c) Any dispute referred to the Registered; or
 - (d) Any matter in relation to the winding up and dissolution of a registered society.
- (2) Save as provided in this act, no order, decision or award under this Act, or working of the affairs of a registered society shall be liable to be challenged, set aside, modified, revised declared void in any court on any ground whatsoever.

109. Appeal of review:

- (1) Except where otherwise expressly provided to the contrary an appeal shall lie to the Registrar from the decisions made under this Act or Rules framed there under by any Government Officer, Liquidator appointed under Section 93.
- (2) The Registrar may review any order passed by him/her at any time within sixty days from the communication of such order.
- (3) Save as otherwise provided in this Act all Rules, no appeal shall lie to the State Government against any order of the Registrar, except on a question of law, and provided such appeal is preferred within sixty days of the communication of such order.
- (4) Any appellate authority and the Registrar in case or review may pass any stay order pending any appeal or review before such an authority and may award costs against any party appealing or petitioning for review if such appeal are reviewed petition is considered false, vexatious or frivolous by the authority concerned.
- (5) Notwithstanding anything contained in this Act where, with the previous sanction in writing or in requisition by the Reserve Bank of India, a Corporative Bank-
 - (a) is being wound up; or

- (b) in respect of which a scheme of amalgamation or reorganisation is given effect, no appeal thereof shall lie or be permissible without the sanction or requisition of the Reserve Bank and that shall not be liable to be called in question.

110. Power of attachment of property:

Where the Registrar of such Gazetted Officer as may have powers delegated to him/her under section 100 is satisfied that any person holding property within its jurisdiction with intent to defeat or delay the execution of any order, under a Co-operative Demand Certificate for recovery of dues, or with intent to avoid payment of dues from such person under this Act, Rules or Bye-Laws-

- (a) Is about to dispose of the whole or any part of such property; or
- (b) Is about to remove the whole or any part of such property from the local limits of the jurisdictions of the Registrar or of such Gazetted Officer, may unless adequate security is furnished, as he/she may require, direct the conditional attachment of the said property or such part thereof as he/she thinks necessary, notwithstanding that the claimant or owner of the property may reside elsewhere, and such attachment shall have the same force and effect as it had been made by a competent Civil Court and shall continue in force until withdrawn or cancelled.

111. Registrar to be Civil Court for certain purpose:

The Registrar or any person empowered by him/her in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by attachment or sale without attachment of any property or when passing any orders on any implication made to him/her for such recovery or to take any step in aid of such recovery, to be a Civil Court for the purpose of Article 182 of the First Schedule to the Indian Limitation Act, 1908.

112. Recovery of Sums due:

- (1) All dues recoverable under this Act or Rules framed there under shall be reduced to the form of a Co-operative Demand Certificate as in

Schedule 'c' over the signature of the Registrar or of such Gazetted Officers as may have powers delegated to them by the Registrar in this behalf and shall be recovered as an arrear of land revenue and shall be paid to the certificate holder or his/her authorised nominee. Such certificate shall be in the name of the claimant and shall be delivered to him/her.

- (2) Notwithstanding anything contained in subsection (1), all the said dues shall also be recoverable as public demand on a written requisition send to the certificate officer in the prescribed form over the signature of the Registrar or of such Gazetted Officer or Officer of a Co-operative Society as may have powers delegated to him by the Registrar in this behalf.
- (3) For the purpose of this section a member of an Affiliated Society shall be deemed to be a member of the Affiliated Society and loans due to the affiliated society shall be deemed also to be loan due to Affiliating Society to the extent that loans from the Affiliating Society to the affiliated society are outstanding and cannot be recovered from the affiliated society provided that not more than one demand certificate may be executed against a single loan.
- (4) A copy of the Co-operative Demand Certificate prepared under this section shall be served in the manner prescribed upon the person from whom the amount is due.
- (5) On receipt of a copy of the Co-operative Demand Certificate, the person from whom the amount is due shall pay the same within a period of thirty days from the date of service of the certificate.

Provided that the period during which the payment is to be made may be extended by the Registrar for a period not exceeding thirty days for reasons to be recorded in writing.

- (6) Any person violating the provisions of sub-section (5) above shall, on conviction be punished with imprisonment of either description which may extend to six months or with a fine not less than five thousand rupees or as the Registrar may deem fit for or with both.

113. Registrar may order a Meeting of Creditors:

- (1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a registered society and its creditor or creditors or any class of them the Registrar, upon an application made by a registered society or by Liquidator, in case of a society in respect of which an order has been passed for the winding up thereof, or by a creditor or creditors or any class of creditors may order a meeting of the creditors.
- (2) If a majority number of creditors or the class of creditors, as the case may be representing claims to three-fourths of the debts due by the society to the creditor or class of creditors, at a meeting agree to any compromise or arrangement and if the Registrar agrees to such compromise or arrangement and gives his/her sanction then the compromise or the arrangement shall be binding on all the creditors or class of creditors and also on the order has been passed for the winding up thereof, and on all persons who may be required by the Liquidator to contribute to the assets of the society.

CHAPTER XII MISCELLANEOUS

114. Previous sanction of Reserve Bank of India or NABARD in certain matters:

Notwithstanding anything contained in Sections 12, 13, 14, and 15, in the case of a Co-operative Bank or an Urban Co-operative Bank, no conversion, transfer, division, amalgamation merger dissolution shall take place save with the previous sanction in writing of the Reserve Bank of India, the National Bank of Agriculture and Rural Development Bank, as the case may be. Once a banking license is cancelled by the concerned authority, it is mandatory on the part of Registrar of Co-operative Societies to send it into liquidation.

115. Society to be a Body Corporate:

Every registered Co-operative Society shall be deemed to be body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter

into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it was constituted.

116. Register of members:

Any register or list of members or share kept by any registered society shall be prima facie evidence of any of the following particulars entered therein-

- (a) The date on which the name of any person was entered in such register or list as a member and
- (b) The date of which any such member ceased to be a member.

117. Entries in books of registered society shall be received as prima facie evidence:

- 1) A copy of any entry in a book of a registered society, regularly kept in the course of business shall, if certified by the Chairman or Secretary of the society, be received in any suit or legal proceedings as prima facie evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as the original entry itself is admissible.
- 2) No Officer or Liquidator of a registered society and no Officer in whose office the books of a registered society are deposited after liquidation shall in any legal proceedings to which the society or the Liquidator 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 a witness to prove the matters; transaction and accounts therein recorded unless specially so directed by an order of the court of the Arbitrator.

118. Savings of existing societies:

- 1) Every society existing at the commencement of the Act which has been registered under the Assam Co-operative Society Act, 1949, law shall be deemed to be registered under this Act, and its Bye-Law shall, in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

- 2) All appointment, Rules and orders made, notification and notices issued, all transaction entered into and all suits and other proceedings instituted under the said Act shall continue and shall, so far as may be deemed to have been respectively made, issued entered into or instituted under this Act.

119. Acts of societies etc. Not to be invalidated by certain defects:

- 1) No Act of a Registered Society or of a Managing or Controlling body or of any Officer or Liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society or in the constitution of any such body or in the appointment or election of the Officer or Liquidator or on the ground that such officer or Liquidator was disqualified for appointment.
- 2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason on the fact that his appointment has been cancelled or in consequence of any order subsequently passed under this Act.
- 3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

120. Power to order recoupment of expenditure:

Notwithstanding anything contained in any other law for the time being in force the State Government may, by a general or special order, require every registered society or a class of registered societies to make contribution of such sum annually to be fixed by the Registrar towards the recoupment of administrative expenditure incurred by the Government in respect of Inspection, Supervision and Guidance of a society or class of societies or of any service to such society or class of societies.

121. Super-session of Board by Registrar:

If in the opinion of the Registrar the Board of a Co-operative Society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the Rules or the Bye-Laws or has committed any

act which is prejudicial to the interest of the society or its members, or has omitted or failed to comply with any directions given to it or that there is stalemate in the constitution or functions of the Board, the Registrar shall cause an Inquiry under Section 82 or an Inspection under Section 83 and after giving the society an opportunity to state its objections, if any and after considering the objections, if received forward the Inquiry/Inspection report to the society for placing the report before the Annual General Meeting if due within 60 days from the date of receipt of the report by the society, or at a Special General Meeting to be convened specially for considering to take actions as suggested in the report under sub-section (5) of Section 82 and sub-section (4) of Section 83. If no action as stated above is taken by the society within the stipulated period the Registrar shall by an order in writing supersede the Board and appoint one or more administrators or an ad-hoc committee from the department to manage the affairs of the society for such period not exceeding three months as may be specified in the order which period may at the discretion of the State Government be extended from time to time.

Provided that the total period of extension in any case shall not exceed six months, such appointed person shall call a special General Meeting and shall elect a new Board within the above period.

122. Power to seize records of society:

- 1) If the Registrar or any person authorised by him/her in this behalf while making Audit, Inspection, Inquiry or Supervision as the case may be believe or has reason to believe that the registered society is not keeping or maintaining the accounts, books and records of the society properly or finds or reasonably suspects gross negligence of duties misappropriate or misuse of fund of the society irregularity in recording

Proceeding or keeping accounts or books he/she shall have power to take possession of any or all books, registers or documents, cash in hand or accounts books of the society and remove such seized property as may be directed by the Registrar.

- 2) The person seizing the property of the society under sub-section (1) shall prepare an inventory of the properties seized in duplicate with his

signature and require the officer or member of the society from whose possession or custody the property is

Seized to put his signature in witness thereof and if such officer or member refuses to sign, then the person seizing the property shall call upon two or more persons to sign the seizure list. A copy of the list prepared under this section signed by the witnesses shall be delivered to the officer of the society.

- 3) The Registrar shall take immediate steps in such case for Audit and Inspection and pass such orders as he/she may deem think fit.
- 4) The administrative head of a civil sub-division or administrative area shall give police help to all Officers mentioned in sub-section (1) to this section when sought for.

123. Powers of the Managing Body of an Affiliating Society to enquire into the affairs of a member society:

When a registered society takes a loan from an affiliating society and defaults payment of the debt on any instalment thereof, any member of the Managing Body of the Affiliating Society may examine and look into the accounts and workings of such borrowing society and report the result of his inquiry or examination particularly with reference to the said loan to the Affiliating Society and may recommend any suggestion in his report. The borrowing society shall furnish such information and produce such documents, books and accounts as the member of the Managing Body may require.

124. Limitation:

- 1) Notwithstanding any of the provisions of the Indian Limitation Act, 1908 the period of limitation for the institution of a claim to recover any sum, including the interest thereon, 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 a society.

- 2) The Indian Limitation Act, 1908 shall not apply to any debts or liability due by any member, past member or deceased member to any society in respect of which an order of dissolution has been passed under this Act.

125. Information and returns to be filed with the Registrar:

- 1) Every year within thirty days of holding of the Annual General Meeting, the Board shall file the following information with the Registrar-
 - a) Annual Report of activities;
 - b) Annual financial statements of accounts as audited with auditor's report thereon;
 - c) Statistical statement indicating name of the Co-operative Society, services offered by the Co-operative Society to the members, total number of members as on the last day of the financial year;
 - d) Total liabilities expressed as-
 - (i) Funds from members and surplus;
 - (ii) Funds from other external sources as on the last day of the financial year;
 - (iii) Quantum or rupees or services provided to members and non members and surplus or deficit at the end of the financial year; and
- 2) Along with the returns specified in sub-section (1) every Co-operative Society shall furnish the following information to the Registrar-
 - a) The date of Annual General Meeting at which the returns to be filed with the Registrar were considered or approved;
 - b) The total number of members on the rolls of the Co-operative Society who were eligible to vote on the date of such Annual General Meeting;
 - c) The number of eligible members present at such Annual General Meeting;

- d) List of names or Directors with addresses and terms of office;
 - e) Name and address of the internal auditor appointed for internal audit of the society for the current financial year accounts;
 - f) Any other relevant and special information required by the Registrar to enable him/her to decide whether the Co-operative Society has conducted its affairs in accordance with the Co-operative Principles mentioned in Schedule 'A' and the provision of this Act and the Bye-Laws.
- 3) If the return and information as specified under sub-section (1) and (2) are not filed or furnished to the Registrar within the period specified under sub-section (1) shall be treated as an offence under this Act and the Board shall be penalised in accordance with provisions of this Act.

126. Power to make Rules:

- 1) The State Government may, after previous publication, make Rules for carrying out the purpose and objects of this Act, and such Rules may provide a penalty not exceeding five thousand rupees for a breach thereof;
- 2) Every Rule made under this section shall be laid as soon as may be after it is made before the Nagaland Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following the Nagaland Legislative Assembly in making any notification in the rule or the Nagaland Legislative Assembly agree that the Rules should not be made, the Rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

127. Repeal:

The Assam Co-operative Societies Act, 1949 (Assam Act 1 of 1950) as enforced in Nagaland is hereby repealed.

SCHEDULE-'A'
(See Section 4 (1), 25)
CO-OPERATIVE PRINCIPLES

The Co-operative Principles are guidelines by which co-operative societies put their values into practice:

1st Principle: Voluntary and open Membership:

Co-operatives are voluntary organizations, open to all persons able to use the services of such co-operatives and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.

2nd Principle: Democratic Member Control:

Co-operatives are democratic organizations controlled by their members, who actively participate in deciding their policies and making decisions. The elected representatives of co-operatives of co-operatives are responsible and accountable to their members.

3rd Principle: Member Economic Participation:

Members of co-operative contribute equitably and democratically control the capital of their co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership.

4th Principle: Autonomy and Independence:

Co-operatives are autonomous, self-help and self-governing organisations controlled by their members. If co-operatives enter into agreement with other organizations, including government, or raise capital from external sources, they do so on terms that ensure their democratic control by members by retaining its autonomous character.

5th Principle: Education, Training and Information:

Co-operatives provide education and training in their members, elected representatives, managers and employees so that they can contribute effectively to the development of their co-operatives. They inform the general public particularly young people and opinion leaders about the nature and benefits of co-operation.

6th Principle:Co-operation among Co-operatives:

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through available local, national, regional and international structures.

7th Principle:Concern for Community:

While focusing on their member needs and wishes, co-operatives work for the sustainable development of communities, through policies approved by their members.

SCHEDULE-'B'
(See Section 9)

Subject matter for specific consideration when framing Bye-Laws

1. Identity of the Co-operative Society:

- a) The name of the Co-operative;
- b) The village/town/city where the head office of the Co-operative Society is to be located.
- c) The custody and the use of the common seal;
- d) The area of operation from where the membership is to be drawn.

2. Aim and services:

- a) The aim of the Co-operative Society explicitly stated as a common need of the members which the Co-operative Society aims at fulfilling;
- b) Key service and support services to members to fulfil the common need stated in the aim;
- c) The conditions under which services may be provided to non-membership.

3. Membership:

- a) Eligibility, ineligibility for obtaining membership;
- b) Eligibility, ineligibility for continuing membership;
- c) Procedure for obtaining membership;
- d) Procedure for withdrawing membership;

- e) Procedure for termination of membership;
- g) Circumstances under which membership ceases;
- h) Procedure for cessation membership.

4. Member rights and obligations:

- a) The rights of members;
- b) Manner of fixation of minimum performance expected annually of each member vis-a'-vis use of services, financial commitment, participation in meetings and adherence to bye-laws, in order to be eligible to exercise the rights of membership including the right vote;
- c) The consequences of performing below the minimum level fixed;
- d) The consequences of default in payment of any sum due by a member.

5. General Body:

- a) The role of the General Body and of the Delegates General Body, if any, and subjects which must be dealt with by the General Body and by the Representative General Body, if any;
- b) The manner and frequency of convening General Meetings, the mode of communication of the intimation of these meetings and quorum required;
- c) The minutes of proceedings of General Meetings.

6. Board of Directors:

- a) The size and composition of the Board of Directors;
- b) Eligibility, ineligibility for becoming Director;
- c) Eligibility, ineligibility for retaining Directorship;
- d) The procedure for election including the appointment of election officer, removal of directors, the election of the President, Vice President and representative and filling of casual vacancy;
- e) The terms of officer of the Directors;

- f) The frequency of Board Meetings;
- g) The manner of convening Board Meetings and quorum;
- h) The functions, responsibilities and powers of the Board;
- i) The minutes of proceedings of Boards Meetings;
- j) The function, responsibilities and powers of Directors.

7. Chief Executive and Staff:

- a) The person to sue or be sued on behalf of the Co-operative Society;
- b) The manner of appointment and removal of Chief Executive;
- c) The function, responsibilities and powers of the Chief Executive.

8. Finances:

- a) The financial year which the Co-operative Society wishes to adopt;
- b) The manner of appointment of Auditors and their duties;
- c) The manner of appointment of Internal Auditors and their duties;
- d) The nature and amount of equity capital if any, of the Co-operative Society;
- e) The maximum capital which a single member can hold;
- f) The types and extent to funds to be raised;
- G) The purposes for which the funds raised by the Co-operative Society may be applied;
- h) The debt-equity ratio that the Co-operative Society wishes to maintain at all times, and the maximum external debt that a Co-operative Society wishes to permit itself at any point of time;
- i) Procedure for transfer of shares or interest by a member;
- j) Procedure for redemption of shares by the Co-operative;

- k) Procedure for transfer or repayment of interest on death of member;
- l) The nature and extent of the liability of the members for the debts contracted by the Co-operative Society;
- m) The nature and extent of the liability of the Directors for the debts contracted by the Co-operative Society;
- n) The manner of disposal of funds if under liquidation.

9. Secondary Co-operative Societies:

- a) The right, if any, which the Co-operative Society wishes to confer on any Secondary Co-operative Society of which it is a member, and the circumstances under which these rights may be exercised by such Secondary Co-operative Society;
- b) The procedure of appointing and changing representative to Secondary Co-operative Society.

10. Other matters:

- a) The manner of making or amending Bye-Laws;
- b) The manner of constitution and functioning of arbitration council along with the qualification of the members for settlement of disputes;
- c) The manner and dissolution of the Co-operative Society;
- d) The language in which the affairs of the Co-operative Society are to be conducted;
- e) Refunding of loan, guarantee, share capital, grant or subsidy received from Government;
- f) Other matters which the provision of this Act requires to be provided by the Bye-Laws.

SCHEDULE- 'C'
FORM (See Section 112)

Co-operative Demand Certificate granted under Section. 112(1) of the
Nagaland Co-operative Societies Act 2017.

Case No.....of 20.....

District/Sub-division.....

In the matter of.....

Versus.....

Whereas' as a result of my enquiry I decide that a sum of Rs.....

(Rupees.....)

By way of.....under Section 100 (1) of the Nagaland
Co-operative Societies Act, 2017, and a sum of Rs.....

(Rupees.....)

By way of interest is/are due from you and you have not paid.

Or

Whereas.....has made a reference in writing to
me complaining/determining that a sum of Rs.....

(Rupees.....)

by way of.....under section.....of
The Nagaland Co-operative Societies Act, 2017 and a sum of Rs.....

(Rupees.....)

by way of interest is/are due from you and you have evaded payment of the same.

2. And whereas a notice of demand calling on you to pay the dues within the specified time was served with notice to show cause.
3. And whereas you have not paid up your dues specified in the notice.
4. And whereas you have not submitted explanation/ your explanation is unsatisfactory.
5. Now, therefore I, under authority of Section 100 (1) of the Nagaland Co-operative Societies Act, 2017 sub-section (1) of Section 112 of the Nagaland Co-operative Societies Act, 2017 do hereby order that the above mentioned sum of Rs.....

(Rupees.....)
Is due to the above named from you and that you will pay the amount with
further interest

On the principal sum at the rate.....Percent per annum from.....
together with all cost till the date of realization of the above mentioned sum.

6. I further order that right, title and interest of.....
in the properties set out and described in the schedule below be sold as an
arrear of land revenue under the provisions of the Assam Land Revenue
Regulations, 1886 (Regulation I of 1886) and that, if the sale proceeds should
be found insufficient to discharge the dues with subsequent interest at all
above rate till the date of realization and costs in full, the balance be realized
by attachment and sale of other movable and immovable property of
judgement-debtor as an arrear of land revenue.
7. Further take notice that if you fail to pay the amount as ordered above within
a period of thirty days from the date of service of Certificate you shall also
liable to prosecution under sub Section (6) of Section 112 of the Nagaland
Co-operative Society Act, 2017 in addition to other measures for recovery of
the amount payable by you.

Schedule

.....
.....
.....
Dated.....
The.....

Date.....

The.....

Registrar Co-operative Societies
Nagaland Kohima

N.B The irrelevant words/portions may be struck off and relevant entries may be
made where necessary.