

**THE  
KERALA  
CO-OPERATIVE  
SOCIETIES ACT,  
1969**

# **THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969**

## **(Act 21 of 1969)**

An Act to consolidate, amend and unify the laws relating to Co-operative Societies in the State of Kerala.

### *Preamble*

HEREAS with a view to provide for the orderly development of the Co-operative sector the State, by organizing the Co-operative societies as self governing democratic institutions, to achieve objects of equity, social justice and economic development, as envisaged in the directive principles of State Policy of the Constitution of India, it is expedient to consolidate, amend and unify the law relating to co-operative societies in the State.;"']

BE it enacted in the Nineteenth Year of the republic of India as follows:-

## **CHAPTER I**

### **PRELIMINARY**

#### **1. Short title, extent and commencement**

(1) This Act may be called the Kerala Co-operative Societies Act, 1969.

(1) It extends to the whole of the State of Kerala.

(2) It shall come into force on such date as the Government may by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

#### **2. Definitions**

In this Act, unless the context otherwise requires—

(a) “*apex society*” means a society having the whole of the State as its area of operation and having as its members only other societies with similar objects and declared as such by the Registrar;

(b) “*bye-laws*” means the registered bye-laws of a co-operative society for the time being in force;

(c) “*circle co-operative union*” means a circle co-operative union constituted under section 88;

- (d)<sup>3</sup>. “*central society*” means a society having jurisdiction over one or more Revenue Districts but not the whole of the State as its area of operation; and having as its members only other societies and declared as such by the Registrar or the Government;”]
- (e) “*committee*” means the governing body of a co-operative society by whatever name called, to which the management of the affairs of the society is entrusted;
- (ea) “*Co-operative Arbitration Court*” means a court constituted under
- (eb) “*Consortium Lending Scheme*” means the consortium Lending Scheme framed under section 57C;
- (ec) “*Co-operative Development and Welfare Fund*” means the Co-operative Development Welfare Fund established under section 57A;
- (ed) “*Co-operative Service Examination Board*” means the Co-operative Service Examination Board constituted under section 80B;”;
- (f) “*co-operative society*” or “*society*” means a co-operative society registered or deemed to be registered under this Act;
- (g) “*co-operative society with limited liability*” means a society in which the liability of its members for the debts of the society in the event of its being wound up is limited by its bye-laws-
- (i) to the amount, if any, unpaid on the shares respectively held by them; or
- (ii) to such amount as they may, respectively undertake to contribute to the assets of the society;
- (h) “*co-operative society with unlimited liability*” means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society::
- (ha)<sup>7</sup> “*Deposit Guarantee Scheme*” means the Deposit Guarantee Scheme framed under section 57 B;
- (hb) “*Director of Co-operative Audit*” means the Director of Co-operative Audit appointed under sub section (1) of section 63 and

includes any office on whom all or any of the powers of the Director of Co-operative Audit under this Act are conferred;”;

- (i) “*dispute*” means any matter touching the business, constitution, establishments or management of a society capable of being the subject of litigation and includes a claim in respect of any sum payable to or by a society whether such claim be admitted or not;
  - (ia)<sup>8&9</sup> “*District Co-operative Bank*” means a central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies and Urban Co-operative Banks and the principal object of which is to raise funds to be lent to its members, including nominal or associate members;”]
  - (ib)<sup>10</sup> “*Federal Co-operative Society*” means a society having more than one district as its and operation and having individuals and other co-operative societies as its members;” ]
- (j) “*financing bank*” means a co-operative society having as its members only other co-operative societies and the main object of which is to raise money and lend the same to its members;
- (k) “*general body meeting*” means a meeting of the members who are entitled to vote in the affairs of the society;
- (l) “*member* “ means a person joining in the application for the registration of a Co-operative society or a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal or associate member;
- (m) “*nominal or associate member*” means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the bye-laws;
- (n) “*officer*” means the president, vice-president, chairman, vice chairman, secretary, manager, member of committee or treasurer and includes a liquidator, administrator and any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;
- (o) “*prescribed*” means prescribed by rules made under this Act;
  - (oa)<sup>11</sup> “*Primary Agricultural Credit Society*” means a Service Co-operative Society, a Service Co-operative Bank, a Farmers’ Service Co-operative Bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities and having its

area of operation confined to a Village Panchayat or a Municipality:

Provided that the restriction regarding the area of operation shall not apply to Societies or Banks in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999;”.]

(ob)<sup>12&13</sup> “*primary credit society*” means a society other than an apex or central society which has as its principal object the raising of funds to be lent to its members;”.]

(oc)<sup>14</sup> “*Primary Co-operative Agricultural and Rural Development Bank*” means a society having its area of operation confined to a taluk and the principal object of which is to provide for long term credit for agricultural and rural development activities:

Provided that the societies in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, having more than one taluk as its area of operation shall, restrict such area of operation to the taluk where the headquarter of such society is situated, within a period of six months]

(p) “*Registrar*” means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom all or any of the powers of the Registrar under this Act are conferred;

(q) “*rules*” means the rules made under this Act;

(qa)<sup>15</sup> “*Scheduled Castes*” means the Scheduled Castes in the State of Kerala as specified in the Constitution (Scheduled Castes) Order, 1950;]

(qb)<sup>16</sup> “*Scheduled Tribes*” means the Scheduled Tribes in the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;”].

(r) “*State*” means the State of Kerala;

(ra)<sup>17</sup> “*State Co-operative Agricultural and Rural Development Bank*” means an apex society having only Primary Co-operative Agricultural and Rural Development Banks as its members and functioning in accordance with the provisions contained in the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984);]

- (rb) “*State Co-operative Bank*” means an apex society having only District Co-operative Banks as its members;
- (rc) “*State Co-operative Election Commission*” means the State Co-operative Election commission constituted under section 28B;”;
- (s) “*State Co-operative Union*” means the State Co-operative Union established under section 89;
- (t) “*Tribunal*” means the Tribunal constituted under section 81;
- (ta)<sup>18</sup> “*Urban Co-operative Bank*” means a society registered under this Act having its area of operation in the urban areas and which undertakes banking business;
- (tb) “*Vigilance Officer*” means the Vigilance Officer appointed under section 68A;”.]
- (u) “*year* means the period commencing on the “ first day of April of any year and ending with 30st of March”] of the succeeding year or in the case of any registered society or class of registered societies, the accounts of which are made upto any other date with the previous sanction of the Registrar, the year ending with such date.]

## **CHAPTER II**

### **REGISTRATION OF CO-OPERATIVE SOCIETIES**

#### **3. Registrar**

- (1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State.
- (2) The Government may by general or special order confer any person all or any of the powers of the Registrar under this Act.

#### **4. Societies which may be registered**

Subject to the provisions of this Act a co-operative society which has as its object the promotion of the economic interests of its members or of the interests of the public in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act.

## **5. Registration with limited liability only**

- 1) A co-operative society shall be registered only with limited liability:

Provided that this sub-section will not affect the rights and liabilities of societies with unlimited liability which are in existence at the time of commencement of this Act.

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

## **6. Application for registration of co-operative societies**

- (1) An application for the registration of a co-operative society shall be made to the Registrar in such form as may be prescribed and the applicant shall furnish to him such information about the society as he may require.

- (2) Every such application shall conform to the following requirements, namely:-

- (a) the application shall be accompanied by three copies of the proposed bye-laws of the society;
- (b) where all the applicants are individuals, the number of applicants shall not be less than twenty-five, each of such person being a member of a different family.

*Explanation.*-For the purposes of this clause, the expression "member of a family" means wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother; sister, half-brother, half-sister and wife of brother or half-brother;

- (c) the application shall be signed by every one of the applicants who is an individual and by a person duly authorized on behalf of the Government or any society or other body of person which is an applicant.

## **7. Registration**

- (1) If the Registrar is satisfied—

- (a) that the application complies with the provisions of this Act and the rules;

- (b) that the objects of the proposed society are in accordance with section 4;
  - (c) that the area of operation of the proposed society and the area of operation of another society of similar type do not overlap;
  - (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and
  - (e) that the proposed society complies with the requirements of sound business, he may register the society and its bye-laws <sup>20</sup>“within a period of ninety days of receipt of application”
- (2) Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefore within seven days of such order to such of the applicants as may be prescribed.
- (3) An application for registration of a society shall be disposed of by the Registrar <sup>21</sup>within ninety days] from the date of receipt of the application.
- (4)<sup>22</sup> Where an application for registration of a society is not disposed of within the time specified in sub-section (3), the applicant may make a representation,--
- (a) before the Registrar, if the application for registration is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of section 3; or
  - (b) before the Government, if the application for registration is made before Registrar, and the Registrar or the Government, as the case may be, shall, within sixty days from the date of receipt of such representation, issue directions to the authority concerned to take appropriate decision on the application for registration and the authority concerned shall comply with such directions.”

## **8. Registration certificate**

Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

## **“8A<sup>23</sup>. Affiliation to apex Society**

- (1) Every Primary Co-operative Society or Central Co-operative Society may, within such time and in such manner, as may be prescribed, apply for



affiliation to the concerned apex society or Central society, as the case may be.

- (2) Where the apex society or central society does not, within sixty days from the date of receipt of the application for affiliation, determine whether such affiliation should be given or not such affiliation shall be deemed to have been given to the applicant society from the date on which the said period of sixty days expires.
- (3) When the apex or central society, as the case may be, rejects an application for affiliation under sub-section (1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order of rejection and the Registrar shall dispose of the appeal within sixty days from the date of appeal.”]

## **9. Co-operative societies to be bodies corporate**

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

## **10. Change of name of society**

- (1) A society may, by an amendment of its bye-laws, change its name.
- (2) Where a society changes its name, the Registrar shall enter the new name in the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.
- (3) The change of name of a society shall not affect any rights or obligations of the society or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

## **11. Change of liability**

- (1) Subject to the provisions of this Act and the rules, a society may, by an amendment of its bye-laws, change the form or extent of its liability.
- (2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member or creditor shall, during a period

of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

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

## **12. Amendment of bye-law of society**

- (1) No amendment of any bye-law of a society shall be valid unless such amendment has been registered under this Act.
- (2) The provisions of section 7 specifying the conditions to be satisfied before registration of the bye-laws of a society by the Registrar shall *mutatis mutandis*, apply also to the registration of amendments to bye-laws:

Provided that the Registrar shall before registering an amendment of any bye-law consult-

- (a) the State Co-operative Union if the bye-laws to be amended are that of an apex society or a central society; or
  - (b) the circle co-operative union if the bye-laws that are to be amended are that of any other society; and
  - (c) the financing bank if the society is indebted to the financing bank.
- (3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate of registration signed and sealed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.
  - (4) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with the reasons therefore, within seven days of the order to the society

- (4A)<sup>24</sup> An application to register an amendment of the bye-laws of a society shall be disposed of by the Registrar within ninety days from the date of receipt of the same.
- (4B) Where an application to register an amendment of the bye-laws of a society is not disposed of within the time specified in sub-section (4A), the society may make a representation,-
- (a) before the Registrar of Co-Operative Societies, if the application to register the amendment of the bye-laws is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of section 3; or
  - (b) before the Government if the application for registration of the amendment of the bye-laws is made before the Registrar, and the Registrar or the Government, as the case may be, shall within, sixty days from the date of receipt of such representation, issue directions to the authority concerned, to dispose of the same”
- (5) Notwithstanding anything contained in this Act or the rules or bye-laws, if the Registrar is satisfied that for the purpose of altering the area of operation of a registered society or for the purpose of improving the services rendered by it, an amendment of the bye-laws of a society is necessary or desirable, he may, after consulting the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order in writing, require the society to make the amendment within such time as may be specified in such order or within such further time as he may grant for the purpose.
- (6) If within the time specified under sub-section (5), the society fails to make the amendment, as required by the Registrar or with such further changes as he may agree to, the Registrar may, after giving the society an opportunity for making its representations, register the amendments as required or agreed to by him and issue to the society a copy of such amendments together with a certificate of registration signed and sealed by him and thereupon such amendment shall be binding on the society and its members.
- (7) The provisions of sub-section (4) of section 11 shall not apply when action is taken under sub-sections (5) and (6) of this section.

### **13. When amendments of bye-laws come into force**

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

#### **14. Amalgamation, transfer of assets and liabilities and division of societies**

- (1) A society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of the society,-
  - (a) transfer its assets and liabilities in whole or in part to any other society;
  - (b) divide itself into two or more societies
- (2) Any two or more societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of each such society, amalgamate themselves and form a new society.
- (3) The resolution of a society under sub-section (1) or sub-section (2) all contain all particulars of the transfer, division or amalgamation as the case may be.
- (4) When a society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and notwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member or creditor shall, within a period of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.
- (5) Any member of creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have given his assent to the proposals contained in the resolution.
- (6) A resolution passed by a society under this section shall not take effect until either—
  - (a) the assent thereto of all the members and creditors has been given or deemed to have been given; or
  - (b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.
- (7) Where a resolution passed by a society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

- (8) (i) Where, in the opinion of the Registrar, the amalgamation of two or more societies is necessary or desirable for increasing their strength or usefulness, he may, after consulting, in the manner prescribed, the financing bank to which the societies are affiliated and the circle co-operative union, call upon such societies to amalgamate within such time as may be specified by him into one society in accordance with the provisions of sub-sections (2) to (7).
- (ii) If the societies fail to amalgamate into one society within the time specified by the Registrar, he may, after giving an opportunity to the committee of each of the societies to state its objections, if any direct the amalgamation of the societies into one society.
- (iii) Every society so directed shall, within one month of the receipt of the Registrar's direction, give notice of the direction to all its members and creditors.
- (iv) (a) Any member of any of the societies so directed may not withstanding the provisions of section 24 or any bye-law to the contrary, by notice given to the society of which he is a member, within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of the new society and shall have the option of withdrawing his shares, deposits or loans, as the case may be.
- (b) Any creditor of any of the societies so directed may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor, within a period of two months from the date of receipt by him of the direction, demand a return of the amount due to him.
- (v) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the amalgamation.
- (vi) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clause (iv) by the societies directed to be amalgamated or after a majority of the members and creditors of such societies have given their assent to the amalgamation the Registrar may register the new society. On such registration, the registration of the old societies shall be deemed to have been cancelled. The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

- (9) (i) Where, in the opinion of the Registrar it is desirable for increasing the usefulness of a society by restricting the area of its operation, he may, after consulting, in the manner prescribed, the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order call upon the society to divide itself into two or more societies within such time as may be specified in the order in accordance with the provisions of sub-sections (2) to (7).
- (ii) If the society fails to divide itself within the time specified by the Registrar, he may, after giving an opportunity to the committee of the society to state its objections, if any, by order direct the division of the society to state its objections, if any, by order direct the division of the society into two or more societies. The order of the Registrar shall contain directions for the division of the assets and liabilities of the society among the new society into which it is directed to be divided and may specify the area of operation of, and the members who will constitute, each of the new societies. The proposed bye-laws of the new societies shall be annexed to the order.
- (iii) The society shall, within one month of the receipt of the order of the Registrar, give notice of the direction to all its members and creditors.
- (iv) Any members of the society may, notwithstanding the provisions of section 24 or any bye law to the contrary, by notice given to the society within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of any of the new societies and shall have the option of withdrawing his shares, deposits or loans, as the case may be.
- (v) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the period referred to the clause (iv), demand a return of the amount due to him.
- (vi) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the division in the manner specified in the order of the Registrar under clause (ii).
- (vii) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clauses (iv) and (v) by the society directed to be divided or after a majority of the members and creditors of the society have given their assent to

the division, the Registrar may register the new societies. On such registration the registration of the old society shall be deemed to have been cancelled. The registration of the new societies shall be sufficient conveyance to vest in the new societies all the assets and liabilities of the old society in the manner specified in the order of the Registrar under clause (ii).

**15. Cancellation of registration certificates of societies in certain cases**

- (1) Where the whole of the assets and liabilities of a society are transferred to another society in accordance with the provisions of section 14, the registration of the first mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.
- (2) Where two or more societies are amalgamated into a new society in accordance with the provisions of section 14 the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each amalgamating society shall be deemed to have been dissolved and shall cease to exist as a corporate body.
- (3) Where a society is divided into two or more societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body

### **CHAPTER III**

#### **MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES**

**16. Persons who may become members**

(1) No person shall be admitted as a member of a society except the following, namely:-

- (a) an individual—
  - (i) who has attained the age of eighteen years:

Provided that this sub-clause shall not apply in the case of a society formed exclusively for the benefit of the students of any school or college;

- (ii) who is not of unsound mind;

- (iii) who is a resident within, or is in occupation of land in the area of operation of the society;
- (b) any other society;
- (ba)<sup>25</sup> a local Self government;”];
- (c) the Government; and
- (d) any body of persons, whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order:

Provided that in a society formed for the promotion of the economic interests of members through a specified activity no person other than one who is likely to be benefited directly by such activity may be admitted as a member of such society unless such admission is permitted specifically by rules:

Provided further that where a society is formed exclusively for the benefit of persons engaged in any particular industry, no person who is not an actual worker in the industry shall be admitted in excess of such percentage of the total membership of the society as may be prescribed:

Provided also that the Coffee Board, the Rubber Board and any other statutory or non-statutory Board, Committee or Corporation constituted for the purpose of the development of an industry, may be admitted as a member of a society engaged in marketing and processing of the products of the industry concerned and formed for the workers and growers of such industry, so however that no such Board, Committee or Corporation shall be admitted as a member of a co-operative credit society.

“<sup>26</sup>Provided also that in the case of hospital co-operative societies, industrial and commercial establishments and other organizations registered under any other law may be admitted as members.

*Explanation.*-For the purpose of this sub-section ‘hospital co-operative society’ means a society, the main object of which is to run a hospital or to conduct medical or paramedical courses or to run medical shops.”;

- (2) Membership in any society other than a society formed for the benefit of the Scheduled Castes or the Scheduled Tribes shall not be refused merely on the ground that a person belongs or does not belong to a particular



religion, race, community, caste, sect or denomination. A decision on an application for membership shall be taken within two months from the date of receipt of the application.

(2A<sup>27</sup>) Where an application for membership in a society is not disposed of within the time specified in sub-section (2), the Registrar shall be bound, on the written request of the applicant, to determine whether such membership shall be given or not;

(2B) Where the Registrar does not, within one month of the date of receipt of such written request determine whether such membership should be given or not, the applicant may make a representation,-

(a) before the Registrar, if the request referred to in sub-section (2A) is made to a person on whom, the powers of the Registrar is conferred under sub-section (2) of section 3; or

(b) before the Government, if the request referred to in sub-section (2A) is made to the Registrar and the Registrar or the Government, as the case may be, shall, within thirty days from the date of receipt of such representation, determine whether such membership should be given or not.”.]

(3). Where a person is refused admission as a member in a society, the decision refusing admission together with the reasons therefore shall be communicated by the society to that person within a period of fifteen days from the date of the decision.

## **17. Expulsion of members**

(1) Any member of a society, who has acted adversely to the interests of the society, may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of members present and voting at the meeting.

(2) No member shall be expelled under sub-section (1) without being given an opportunity of making his representation.

(3) A copy of the resolution expelling a member shall be communicated the member within a period of fifteen days from the date of passing of the resolution.

## **18. Nominal or associate members**

- (1) A society may admit any individual as a nominal or associate member

“<sup>28</sup>Provided that a District Co-operative Bank may admit any Co-operative Society registered under the provisions of this Act, other than Primary Agricultural Credit Societies and Urban Co-operative Banks functioning within its area of operation, as nominal or associated member:

Provided further that the members of a District Co-operative Bank other than Primary Agricultural Credit Societies and Urban Co-operative Banks, as on the date of commencement of the Kerala Co-operative Society (Second Amendment) Act, 1997, shall become nominal or associate members of such District Co-operative Bank, at such commencement.”

Provided also<sup>29</sup> that a hospital co-operative society may admit any other society as nominal or associate member.

*Explanation.*-The term ‘hospital co-operative society’ shall have the same meaning as in the Explanation to the fourth proviso to sub-section (1) of section 16.”

- (2) A nominal or associate member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society or to be elected to the committee of a society.
- (3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

## **19. Member not to exercise rights till due payment made**

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

<sup>20</sup>*Vote of numbers.*—Notwithstanding anything contained in any other provision of this Act other law, every active member of a society shall have one vote in the affairs of the society:

Provided that,---

- (a) a member admitted within sixty days immediately prior to the date of election shall not have a right to vote;
- (b) a nominal or associate member shall not have the right to vote;

- (c) Where the Government is a member of a society, each person nominated by the Government the committee of the society shall have one vote each including the right to vote for election of office bearers of the society;
- (d) an ex-officio member of the committee of a society shall have one vote but shall not have right to vote for election of office bearers of the society;
- (e) in the case of an equality of votes, the Chairman shall have and exercise a second or casting vote:  
Provided further that the procedure and manner in which an active member may be identified shall be such as may be prescribed.

*Explanation.*—For the purpose of this section, active member means,-

- (i) in the case of a credit society, a member who has made a deposit or has become a borrower or surety or has attended any general body meeting of the society during the period of five years immediately preceding the date of resolution of the committee for the conduct of election;
- (ii) in the case of any other society, a member who has involved in all or any of the objects of the society specified in the bye-laws thereof during the period of five years immediately preceding the date of resolution of the committee for the conduct of election.”.]

## **21. Manner of exercising vote**

- (1) Every member of a society shall exercise his vote in person
- (2) Notwithstanding anything contained in sub-section (1), a society or corporation or a statutory or non-statutory Board, Committee or other body of persons which is a member of another society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

## **22<sup>31</sup>. Restriction on holding shares**

In any society, no member other than the Government any statutory or non-statutory Board, Committee or Corporation approved by the Government in this behalf any other society, shall hold more than such portion of the total share capital of the society, not exceeding one fifth thereof, as may be prescribed:

Provided that the Government may, by notification in the Gazette, specify in respect of any class of societies a higher maximum than one fifty of the share capital.”.]

**23. Restrictions on transfer of shares or interest**

- (1) The transfer of a share or interest of a member in the capital of a society shall be subject to such conditions and restriction as to the maximum holdings as are specified in section 22.
- (2) No transfer by a member of his share or interest in a society shall be valid unless-
  - (a) the member has held such share or interest for not less than three years; and
  - (b) the transfer is approved by the committee of the society

**24. Restriction on withdrawal of shares**

Subject to the other provisions of this Act, no withdrawal by a member of his share in a society shall be valid unless-

- (a) the member has held such share for not less than three years; and
- (b) such withdrawal is in accordance with the bye-laws of the society.

**25. Transfer of interest on death of members**

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

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

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

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

- (3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.
- (4) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

**26. Liability of past member or of estate of deceased member**

- (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a society for the debts of the society as they existed--
  - (a) in the case of a past member, on the date on which he ceased to be a member;
  - (b) in the case of a deceased member, on the date of his death shall continue for a period of two years from such date.
- (2) Where a society is ordered to be wound up under section 71, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member, or death, as the case may be.

## **CHAPTER IV**

### **MANAGEMENT OF CO-OPERATIVE SOCIETIES**

**27. Final authority in a society**

- (1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a society shall vest in the general body of its members:

Provided that nothing contained in this sub-section shall affect the exercise by the committee or any officer of a society of any power conferred on such committee or such officer by this Act or the rules or the bye-laws.

- (2) Notwithstanding anything contained in sub-section (1), where the area of operation of a society is not less than such area as may be prescribed, or where the society consists of not less than such number of members as may be prescribed, the society may provide by an amendment of its bye-laws for the constitution of a smaller body consisting of such number of the members of the society as may be prescribed, elected in accordance

with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws except the power to conduct election of members of the committee, and any reference, by whatever form of words, in this Act to the general body or a meeting thereof shall, where a representative general body has been constituted under this sub-section, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be:

Provided that the representative general body shall not alter any provision in the bye-laws relating to its constitution or powers.

- (3) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the bye-laws.

## **28. Appointment of committee**

- (1) The general body of a society shall<sup>32</sup> “constitute a committee, for a period not exceeding [33] [five years]” in accordance with the bye-laws and entrust the management of the affairs of the society to such committee:

Provided that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary; but the committee appointed under this proviso shall cease to function as soon as a committee has been constituted in accordance with the bye-laws:

“Provided<sup>34</sup> further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the first committee including the president or chairman, for a period not exceeding [<sup>35</sup>twelve months]”

Provided<sup>36</sup> also that a Committee constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act 1999, shall be eligible to continue for a period of five years:

Provided also that the above proviso is not applicable to a committee where the committee has passed a resolution before the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, for the conduct of election thereof.”]

(1A<sup>37</sup>) Notwithstanding anything contained in the bye-laws of a society, the maximum number of members of the committee shall not exceed fifteen, in the case of primary co-operative societies., and twenty-five in the case of all other types of co-operative societies.

(1B) Notwithstanding anything contained in the bye-laws of any Federal Co-operative Society, the number of individuals in the society and the Committee thereof shall not exceed twenty five percent of the total number of members in the society or in the Committee, as the case may be.”].

(2) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for appointment as, or for being, a member of a committee—

(a) if he is member of the committee of another society of the same type; or

(b) if he is member of the committees of two or more societies of a different type or different types:

Provided that nothing contained in this sub-section shall be deemed to disqualify a person for election as, or for being, a delegate of a society

(3) Nothing contained in clause (a) of sub-section (2) shall be deemed to disqualify a member of the committee of a society for appointment as, or for being, a member of the committee of the apex or central society of the same type:

Provided that no member of a committee shall be the president or chairman of more than one society of the same type.

(4) The members of a committee may be paid honorarium at such rates as may be prescribed.

(5)<sup>38</sup> The quorum for a meeting of a committee shall be such number of members just above fifty per cent of the total number of members of that committee.”

**28A<sup>39</sup> Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the committee.—**

(1)<sup>40</sup> Notwithstanding anything contained in this Acts the rules or the bye-laws, there shall be reserved in the committee of every society, one seat for a

woman member and one seat for a member belonging to the Scheduled Castes or the Scheduled Tribes.”.]

- (2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee.”.]
- (3)<sup>41</sup> Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes in the committee of any apex or central society at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, the Government or the Registrar, respectively, may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the committee.”]
- (4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be.”]

#### **28B<sup>42</sup>. State Co-operative Election Commission**

- (1) Notwithstanding anything contained in this Act or in the rules the Government shall, by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, directions and control of the conduct of elections to the committees of all credit, apex, central and federal societies in the State. The Government may, by notification in the Gazette, entrust the superintendence, directions and control of the conduct of election to the committee of any other society or any other class of societies to the State Co-operative Election Commission:

Provided that in respect of societies not coming under this sub-section, the provisions contained in this Act and the Rules made thereunder shall be followed for the conduct of elections to the committees thereof.

- (2) The State Co-operative Election Commission shall be an officer not below the rank of Secretary to Government appointed by the Government for a period of five years. The terms and conditions of appointment of the State Co-operative Election Commission shall be such, as may be prescribed.
- (3) The State Co-operative Election Commission shall, in consultation with the Government, designate or nominate officers and employees of the Government to assist the Commission in the conduct of election to the committee of such society.



- (4) Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee of a society.”]

**29. Annual general body meeting**

- (1) A general body meeting of a society shall be held once in a year for the purpose of-
- (a) approval of the budget with reference to the programme of the activities of the society prepared by the committee for the ensuing year;
  - (b) election, if any, in the prescribed manner of the members of the committee other than nominated members;
  - (c) consideration of the audit report and the annual report;
  - (d) disposal of the net profit; and
  - (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.
- (2) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society.

**30. Special general body meetings**

- (1) The committee of a society may, at any time, call a special general body meeting of the society and shall call such meeting within one month after receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed.
- (2) If a special general body meeting of a society is not called in accordance with the requisition referred to in Sub-section (1), the Registrar or any person authorized by him in this behalf shall have power to call such meeting and that meeting shall be deemed to be meeting called by the committee.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Registrar or any person authorized by him in this behalf may at any time, call a special general body meeting of the society in such manner and at such time and place within the area of its operation as he may direct and such meeting shall be deemed to be a meeting called by the committee.

- (4) Notwithstanding anything contained in the bye-laws of a society, the Registrar or any person authorized by him in this behalf may, at any time summon a meeting of the committee of the society and that meeting shall be deemed to be a meeting called in accordance with the bye-laws of the society and shall have power to transact all business which can be transacted at a meeting of the committee under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar or the person authorized.
- (5) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society convened in accordance with the provisions of this section.

**31<sup>43</sup>. Nominees of Government on committee of an apex or a central society.-**

- (1) Where the Government,--
  - (a) have subscribed to the share capital of an apex or a central society; or
  - (b) have assisted indirectly in the formation or augmentation of the share capital of an apex or a central society; or
  - (c) have guaranteed the repayment of principal and payment of interest on debentures issued by an apex or a central society; or
  - (d) have guaranteed the repayment of principal and payment of interest on loans and advances to an apex or a central society, the Government or any authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society whichever is less, to be members of the committee.
- (2) A person nominated to the committee of an apex or a central society under sub-section (1) shall hold office during the pleasure of the Government or the specified authority, as the case may be.
- (3) A person nominated to the committee of an apex or a central society under sub-section (1) shall not take part in the discussion of any no- confidence motion or vote on any such motion.
- (4) Any person who holds office as a nominated member of the committee of a society, other than an apex or a central society, at the commencement of

the Kerala Co-operative Societies (Amendment) Act 1987 shall cease to hold such office at such commencement.”]

### **32. Supersession of committee**

- (1<sup>44</sup>) If the Registrar, after an inquiry by himself or through his subordinates or on a report of the financing bank, or the Vigilance, and Anticorruption Bureau of the Government or the Vigilance Officer or otherwise, is satisfied that the committee of any society,-
- (a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or does anything which is prejudicial to the interests of the society; or
  - (b) wilfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules; or
  - (c) makes any payment contrary to this Act or the rules or the bye-laws or causes any loss or damage to the assets of the society, by breach of trust or wilful negligence; or
  - (d) misappropriates or destroys or tampers with the records or causes the destruction of records to cover up any misconduct or malpractice, he may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee and, appoint a new committee consisting of not more than three members of the society in its place or appoint not more than three administrators who need not be members of the society, to manage the affairs of the society for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed one year.”;
- (2) The Registrar shall consult the financing bank and circle co-operative union or State Co-operative Union, as the case may be, before passing an order under sub-section (1).
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2) it shall not be necessary to give an opportunity to the committee to state its objections and to consult the Unions and financing banks, in cases where the Registrar is of the opinion that it is not reasonably practicable to do so, subject however to the condition that in such cases, the period of supersession shall generally be for six months and in case a new committee cannot be constituted or enter upon office in accordance with the bye-laws of the society within the period of supersession the period may be extended for a further period not exceeding six months—

- (a) in the case of a Co-operative society only after consulting the circle co-operative union concerned; and
  - (b) in the case of an Apex Society or a Central Society only after consulting the State Co-operative Union.
- (4) The committee or administrator or administrators so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give <sup>45</sup>“have power to exercise all or any of the powers and functions”,] of the committee or of any officer of the society and take all such action as may be required in the interests of the society.
- (5) The committee or administrator or administrators shall, before the expiry of its or his or their terms of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.
- (6) Every order made by the Registrar under sub-section (1) shall be communicated to the circle co-operative union.

**33. Appointment of new committee or administrator on failure to constitute committee, etc.**

- (1) Where the term of office of a committee has expired and new committee has not been constituted, or <sup>46</sup>where a no-confidence motion is passed by the general body against the existing committee or where the existing committee resigns en bloc or where vacancies occur in the committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee failed to hold its regular meeting consecutively for six months or where the Registrar is satisfied,]
- (a) that a new committee cannot be constituted before the expiry of the term of office of the existing committee; or
  - (b) that a new committee is prevented from entering upon office, or a new committee fails to enter upon office, on the date on which the terms of office of the existing committee expires, the Registrar may, either *suo motu* or on the application of any member of the society after <sup>47</sup>intimating] the circle co-operative union, appoint—
    - (i) a new committee consisting of not more than three members of the society;
    - (ii) note<sup>48</sup> more than three Administrators who need not be members of the society, to manage the affairs of the society

<sup>49</sup>“for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended, from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier”]

Provided that before making such order, the Registrar shall publish a notice on the notice board of the head office of the society inviting objections to the making of the order within a period specified in the notice and consider such objections.

Provided further that it shall not be necessary to publish such notice in cases where the Registrar is satisfied that it is not reasonably practicable to do so.

Provided<sup>50</sup> also that, where a committee, administrator or administrators, as the case may be, is in office at the commencement of the Kerala Co-operative Societies (Amendment) Act 1992, the Registrar may extend the term of such committee administrator or administrators, as the case may be, for a further period not exceeding one year from the date of such commencement.”]

*Explanation*<sup>51</sup>.-For the purposes of this sub-section a tender or resignation by a member of the committee shall have the effect of terminating his membership from the committee.]

- (1A)<sup>52</sup> Notwithstanding anything contained in sub-section (1), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of the society before the expiry of the term of office of the committee, administrator or administrators, as the case may be, appointed by the Registrar under sub section (1) and that it is necessary in the public interest to manage the affairs of the society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded, permit the Registrar to extend the terms of the said committee, administrator or administrators, as the case may be, for a further period not exceeding one year in the aggregate or till a new committee enters upon office, whichever is earlier.”;]
- (2) The committee or administrator or administrators appointed under sub-section (1)<sup>53</sup> and (1A)] shall, subject to the control of the Registrar and to such instructions as he may from time to time give, <sup>54</sup>have power to

exercise all or any of the powers and functions] of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(3) The committee or administrator or administrators shall arrange for the constitution of a new committee or for the entering upon office of the new committee, as the case may be.

### **34. Securing possession of records, etc.**

- (1) If the committee of a society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 32 or a new committee or administrator or administrators is or are appointed under section 33 or if the society is ordered to be wound up under section 71 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to the new committee or administrator or administrators or the liquidator, as the case may be, or if an outgoing president or secretary who is the custodian of the records and property of a society refuses to hand over charge of the records and property of the society to his successor, the new committee or administrator or administrators or the liquidator, or the president or secretary may with the previous sanction of the Registrar apply to the Magistrate within whose jurisdiction the society functions, for securing the records and properties of the society.
- (2) On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorize any Police Officer, not below the rank of Sub-Inspector, to enter and search any place where the records and the property of the society are kept or are believed to be kept and to seize such records and property, and the records and property so seized shall be handed over to the new committee or administrator or administrators or the liquidator or the president or secretary, as the case may be.
- (3) Where the Registrar or any other officer not below the rank of Assistant Registrar of Co-operative Societies authorized by him in this behalf in the course of audit, inspection, inquiry or supervision is of opinion that there is room to suspect gross negligence of duties, misappropriation or misuse of funds of the society or irregularity in recording proceedings or keeping accounts or books or is satisfied that the records, registers or the account-books of a society are likely to be tampered with or destroyed and the funds and property of a society are likely to be misappropriated or misapplied, he shall have power to take possession of any or all of the books, registers, securities or documents, cash in hand or account-books of the society and remove such seized records and property and to deal with them in any manner as may be directed by the Registrar.

- (4) The Registrar or other officer seizing the records and property of a society under sub-section (3) shall prepare an inventory of the records and property seized in duplicate with his signature and require the officer, employee or member of the society from whose custody the records and property are seized to affix his signature in witness thereof and, if such officer or employee or member refuses to sign, then the Registrar or other officer seizing the records and property shall cause two or more persons to sign the inventory as witnesses to the correctness thereof. A copy of the inventory prepared under this section shall be delivered to the officer, employee or member of the society from whose custody the records and property were seized.

## **CHAPTER V**

### **PRIVILEGES OF CO-OPERATIVE SOCIETIES**

#### **35. First charge of society on certain assets**

- (1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past member or deceased member shall be a first charge-
- (a) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the society by such member; and
  - (b) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture supplied, or purchased in whole or in part out of any loan given, by the society, or on any article manufactured from raw materials so supplied or purchased
- (2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the society which holds the charge.
- (3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.
- (4) The charges created under sub-section (1) shall be available as against any claim of the Government arising from any loan granted by them after the grant of the loan by the society.

**36. Charge on land owned or held by members borrowing loans from certain societies**

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

- (i) a member who makes an application for a loan to a society of which the majority of the members are agriculturists shall, if he owns any land or holds any land as a tenant entitled to fixity of tenure, make a declaration in the prescribed form, which shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein, for the payment of the amount of the loan which the society may make to the member on the application and future loans, if any, that may be made to him, from time to time, by the society together with interest on such loan or loans;
- (ii) a declaration made under clause (i) may be varied or cancelled at any time by the member, with the previous written permission of the society in favour of which such charge has been created;
- (iii) no member shall alienate the whole or any part of the land or his interest in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid to the society in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society:

Provided further that it shall be lawful to a member to mortgage such land or any part thereof in favour of the Government or a Land Mortgage Bank:

Provided also that if a part of the amount borrowed by a member is paid, the society with the approval of the financing bank to which it may be indebted may, on an application from the member, release from the charge created by the declaration made under clause (i) or varied under clause (ii) such part of the land or of the interest in land specified in the declaration as it may deem proper, with due regard to the security of the balance of the amount of loan outstanding from the member;

- (iv) any alienation made in contravention of clause (iii) shall be null and void;
- (v) subject to the claims of the Government in respect of basic tax or any money recoverable as land revenue and to the claims of the Government or the Land Mortgage Bank in respect of any money payable under a mortgage in favour of the Government or the Land Mortgage Bank and to the prior claims of any person in whose favour alienation of the land or



interest in land specified in the declaration made under clause (i) or varied under clause (ii) has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on such land or interest for and to the extent of the dues owing by him on account of the loan;

- (vi) a declaration made under clause
- or any variation or cancellation thereof under clause
  - or any release under the third proviso to clause
  - shall be sent by the society, by registered post, to the sub registrar having jurisdiction over the area in which the land is situate, and the sub registrar shall register such declaration or variation or cancellation or release and issue a copy thereof to the society.
- (vii) Any declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii), which has not been registered under clause (vi) shall be null and void.

*Explanation.*-In this section-

- (a) “basic tax” means the tax imposed under the provisions of the Kerala Land Tax Act, 1961 (13 of 1961);
- (b) “Land Mortgage Bank” means the Kerala Co-operative Central Land Mortgage Bank, Limited, or a primary mortgage bank as defined in the Kerala Co-operative Land Mortgage Banks Act, 1960 (1 of 1960)

### **36A<sup>55</sup>. Charge on movable or immovable property of borrower by creating Gehan**

Notwithstanding anything contained in any other provisions of this Act, charge on movable or immovable property of a borrower in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society may be created by Gehan in respect of which the provisions of sections 10 to 15 (both inclusive) of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words “State Co-operative Bank or District Co-operative Banks”, “Primary Agricultural Credit Society or Primary Housing Society”, “Society” and “said Bank or Society”, respectively, for the words “Agricultural and Rural Development Bank”, “primary bank”, “bank” and “said banks” occurring in the said sections.

*Explanation.*-For the purposes of this section, Gehan means a special charge on movable or immovable property, in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary

Housing Society by a mere declaration in writing by the borrower, for securing the payment of money advanced or to be advanced by way of loan, which will have all the characteristics of a valid mortgage.”.]

**37. Deduction from salary to meet society’s claim in certain cases**

- (1) Notwithstanding anything contained in any law for the time being in force, a member of a society may execute an agreement in favour of the society providing that his employer or the officer disbursing his salary or wages shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.
- (2). On the execution of such an agreement, the employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) shall, if so required by the society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within seven days from the date of the deduction.

**38. Charges and set-off in respect of shares or interest of members in the capital of a society**

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

Provided that no financing bank to which a society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set-off any such sum credited or payable to the society towards any debt due from such society.

**39. Shares or interest or reserve fund not liable to attachment**

- (1) Subject to the provisions of section 38, the share or interest of a member in the capital of a society 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 him and a receiver under any law relating to in-solvency shall not be entitled to, or have any claim on, such share or interest.
- (2) The reserve fund of s society invested by such society in accordance with the provisions of section 57 shall not be liable to attachment under any

decree or order of a court in respect of any debt or liability incurred by the society.

**40. Exemption from certain taxes, fees and duties**

(1) The Government may, by notification in the Gazette, remit in respect of any class of societies.—

- (a) the stamp duty chargeable under the Kerala Stamp Act, 1959 (17 of 1959), in respect of any instrument executed by or on behalf of a society or by an officer or member thereof and relating to the business of such society, or any class of such instruments or in respect of any award or order made under the Act, in cases where, but for such remission the society, officer or member, as the case may be, would be liable to pay such stamp duty;
- (b) any fee payable under any law for the time being in force relating to the registration of documents or court fees.

(2) The Government may, by notification in the Gazette exempt any class of societies from taxes on—

- (a) agricultural income;
- (b) sale or purchase of goods; and
- (c) professions, trades, callings and employments.

**41. Exemption from compulsory registration of instruments**

Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908), or sections 54 and 59 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), shall apply to-

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

## CHAPTER VI

### STATE AID TO CO-OPERATIVE SOCIETIES

#### 42. Direct partnership of Government in societies

- (1) The Government may subscribe directly to the share capital of a society with limited liability
- (2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to a dividend on the shares of any such society at a rate higher than that at which such dividend is payable to any other share-holder of the society.

#### 43. Indirect partnership of Government in societies

The Government may provide moneys to a society for the purchase of shares in other societies with limited liability.

#### 44. Principal State Partnership Fund

- (1) An apex society which is provided with moneys by the Government under section 43 shall, with such moneys, establish a fund to be called the "Principal State Partnership Fund".
- (2) An apex society shall utilize the Principal State Partnership Fund for the purpose of—
  - (a) directly purchasing shares in order societies with limited liability; or
  - (b) providing moneys to a central society to enable that society to purchase shares in order societies with limited liability (hereinafter in this Chapter referred to as primary societies); or
  - (c) making payments to the Government in accordance with the provisions of this Chapter, and for no other purpose

#### 45. Subsidiary State Partnership Fund

- (1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the 'Subsidiary State Partnership Fund'.
- (2) A central society shall utilize the Subsidiary State Partnership Fund for the purpose of—

- (a) purchasing shares in primary societies; or
- (b) making payments to the apex society in accordance with the provisions of this Chapter and for no other purpose.

**46. Approval of Government for purchase of shares**

No shares in a society shall be purchased from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund except with the previous approval in writing of the Government.

**47. Liability to be limited in respect of certain shares**

Where any shares in a society are purchased by—

- (a) the Government; or
- (b) the apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society being wound up, be limited to the amount paid in respect of such shares.

**48. Restrictions on amount of dividend**

An apex society which has purchased shares in other societies from the moneys in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Partnership Fund shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share-holders of that society.

**49. Indemnity of apex and central societies**

- (1) If a society in which shares are purchased from the moneys in the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase; but the Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.
- (2) If a society in which shares are purchased from the money in the Subsidiary State Partnership Fund is wound up or is dissolved neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

**50. Disposal of share capital and dividend, etc.**

- (1) All moneys received by an apex society in respect of shares of other societies purchased from moneys in the Principal State Partnership Fund on redemption of such share or by way of dividends or otherwise shall be credited to that Fund.
- (2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that fund and then transferred to the apex society which shall credit them to the Principal State Partnership Fund..
- (3) All moneys referred to in sub-section (1) or sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or in the central society, as the case may be, be paid to the Government.
- (4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 43.
- (5) Any amount to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund and the investments thereof shall not form part of the assets or liabilities of the apex society or central society, as the case may be. The balance sheet of any such society shall separately show the amounts to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund or the investments thereof, as the case may be.

**51. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society**

- (1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the Government.
- (2) If a central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be credited or paid, as the case may be, to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 44.

**52. Agreement by Government and apex societies**

Subject to the foregoing provisions of this Chapter,-

- (a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 43;
- (b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 44.

**53. Other forms of State aid to societies**

Notwithstanding anything contained in any law for the time being in force, the Government may-

- (a) give loans or make advances to societies;
- (b) guarantee the repayment of principal and payment of interest on debentures issued by a society;
- (c) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government.
- (d) guarantee the repayment of principal and payment of interest on loans and advances to a society;
- (e) guarantee the repayment of deposits received by the society and payment of interest on such deposits; and
- (f) give financial assistance in any other form, including subsidies, to any society.

**54. Provisions of sections 43 to 52 to over-ride other laws**

The provisions of sections 43 to 52 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

## CHAPTER VII

### PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

#### 55. Funds not to be divided

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

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

#### 56. Disposal of net profit

- (1) A society shall, out of its net profits in any year,--
  - (a) transfer an amount not being less than fifteen per cent of the net profits to the reserve fund; and
  - (b) credit such portion of the net profits, not exceeding five per cent, as may be prescribed, to the Co-operative Education Fund referred to in clause (xix) of sub-section (2) of section 109.
  - (c) pay, in the case of a Central Society, including a District Co-operative Bank, dividend to its members, on their paid up share capital such rate not exceeding twenty per cent.”.]
- (2) The balance of the net profits may be utilized for all or any of the following purposes, namely:-
  - (a) payment of dividends to members on their paid-up share capital at such rate [“not exceeding twenty per cent”] as may be prescribed;
  - (b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and the manner specified in the bye-laws;
  - (c) constitution of, or contributions to, such special funds as may be specified in the bye-laws;



- (d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890); and
- (e) payment of bonus to employees of the society to the extent and in the manner specified in the bye-laws or in the Payment of Bonus Act, 1965 (Central Act 21 of 1965, as the case may be).

**57. Investment of Funds**

A society may invest or deposit its funds—

- (a) in Government Savings Bank; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act 2 of 1882); or
- (c) in the shares or securities of any other society approved for the purpose by the Registrar by general or special order; or
- (d) in any bank approved for the purpose by the Registrar; or
- (e) in any other prescribed manner.

**57A. The Co-operative Development and Welfare Fund**

- (1) The Government may, by notification in the Gazette, frame a scheme to be called the Co-operative Welfare and Development Scheme for the establishment of a Fund under this Act and there shall be established, as soon as may be after the framing of the scheme, a Fund to be called the Co-operative Development and Welfare Fund, in accordance with the provisions of this Act and the scheme.
- (2) A society may contribute to the Fund at such rates, as may be specified in the scheme.
- (3) There shall be credited to the fund,—
  - (a) the contribution to be paid by the society under sub-section (2); and
  - (b) any other amount which, under the provisions of the scheme shall be credited to the Fund.

- (4) Subject to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilized for payment of grant or loans to societies for the following purposes namely:-
- for the purpose of safeguarding the interests of the societies against any loss or damage to their assets and properties, despite reasonable precautions to prevent such loss or damage;
  - for utilizing for the developmental activities of the societies; and
  - for any other purpose, as may be specified in the scheme.
- (5) Subject to the provisions of this Act the scheme may provide for the following matters, namely:-
- (i) the time and manner in which contribution shall be made to the Fund by the societies;
  - (ii) the rate of contribution;
  - (iii) the administration of the Fund;
  - (iv) the purposes for which the Fund may be utilized for developmental activities of the societies;
  - (v) the conditions under which the Fund may be expended for payment of reliefs to the societies;
  - (vi) the manner in which the accounts of the Fund shall be kept; and
  - (vii) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

#### **57B. Deposit Guarantee Scheme**

- (1) The Government may, by notification in the Gazette, frame a scheme to be called “the Deposit Guarantee Scheme” specifying the purpose of the scheme and shall be administered in such manner, as may be specified therein.
- (2) A society may contribute to the Deposit Guarantee Scheme at such rates as may be provided in the said scheme.

### **57C. Consortium Lending Scheme**

- (1) The Government may, by notification in the Gazette, frame a scheme to be called the “Consortium Lending Scheme” for the purpose of providing loans for infrastructure development, to societies, local authorities, development authorities or similar institutions, on government guarantee subject to such terms and conditions, as may be specified in the said scheme.
- (2) A society may contribute to the Consortium Lending Scheme, at such rates, as may be specified in the scheme.”.]

### **58. Restriction on borrowings**

A society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

### **59. Restrictions on loans**

- (1) A society shall not make a loan to any person or a society other than a member:

“Provided that District Co-operative Bank may make loan to its nominal or associate members:

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

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

### **60. Restrictions on other transactions with non-members**

Save as is provided in sections 58 and 59, the transactions of a society with persons other than members shall be subjected to such restrictions, if any, as may be prescribed.

### **61. Provident Fund**

- (1) A society shall establish a contributory provident fund for the benefit of its employees, to which shall be credited all contributions made by the employees and the society in accordance with the rules or the Employees Provident Funds Act, 1952 (Central Act 19 of 1952) whichever is more beneficial

“Provided that the contributory provident fund established under this sub-section shall not apply to the employees of such society to which the provisions of the Self Financing Pension Scheme framed under sub-section (1) of section 80A are made applicable and such society shall establish a Provident Fund in such manner and subject to such conditions or restrictions, as may be prescribed, for the benefit of such employees.”;]

- (2) “A provident fund, whether contributory or not,”] established by a society under sub-section (1)—
- (a) shall not be used in the business of the society;
  - (b) shall not form part of the assets of the society;
  - (c) shall not be liable to attachment or be subject to any other process of any court or other authority;
  - (d) shall be deposited in the financing bank of the area

## **62. Gratuity**

The employees of a society shall be entitled to gratuity at such rates and on such conditions as prescribed.

## **“CHAPTER VIII**

### **PART – A**

#### **AUDIT**

**63. Director of Co-operative Audit.**- (1) the Government shall by notification in the official gazette, appoint a person to be the Director of Co-operative Audit with jurisdiction over the whole of the State.

(2) The qualification and the terms and conditions of the person to be appointed as the Director of Co-operative Audit shall be such, as may be prescribed.

(3) The Government may by general or special order, confer on any officer all or any of the powers of the Director of Co-operative Audit under this Act.

(4) It shall be the duty of the Director of Co-operative Audit to audit or to cause to be audited through persons authorized by him, the accounts of every society, at least once in each year.

**64. Scope of audit, powers of the Director of Co-operative Audit and procedure for audit.**- (1) the audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed.

(2) For the purpose of audit, the Director of Co-operative Audit or the person authorised by him under section 63 shall have the following powers, namely:-

(a) he shall, at all reasonable times, have access to all the books, accounts, documents, papers and all other relevant records, securities, cash and other properties belonging to, or in the custody or control of the society;

(b) he may summon any person in possession of, or responsible for the custody, of any such books, accounts, documents, papers, other records, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof or, where there is no working office for a society, at the office of the Director of Co-operative Audit or at the office of any of his subordinate officers, as maybe specified by him; and

(c) such other powers as may be prescribed.

(3) Every person who is or has been, at any time, an officer or employee of the society and every member and past member of the society, who is in possession of any information and records in regard to the transactions and working of the society, shall furnish such information in regard to the transactions and working of the society, as the Director or the person authorised by the Government under sub-section (3) of section 63 may require.

(4) The financial statement and other details required for the completion of audit shall be prepared by the society, within three months from the date of completion of the year and the fact shall be reported to the Director of Co-operative Audit or to the person authorised by him in this behalf.

(5) The audit shall be commenced within one month from the date of receipt of the report under sub-section (4) by the Director of Co-operative Audit or the person authorised by him, as the case may be, and shall be completed within a period of nine months.

(6) The amount of fee for the audit of accounts of society for each year shall be such, as may be fixed by the Director of Co-operative Audit, in accordance with the rules made in this behalf.

(7) The fee shall be paid by the society concerned within thirty days of intimation thereof and in case of non-payment of the fee within the period it shall be recoverable in the manner specified in section 79.

(8) The procedure for payment of the fee shall be such, as may be prescribed.

(9) If the result of the audit held under section 63 discloses any defects in the working of a society, the Director of Co-operative Audit may bring such defects to the notice of the society and if the society is affiliated to another society, also to the notice of that other society.

(10) If the result of the audit held under section 63 discloses any serious defect in the working of the society, the Director of Co-operative Audit or the person authorized by him shall communicate the same forthwith to the Registrar for immediate further action.

(11) The Director of Co-operative Audit may, by order in writing, direct the society or its officers to take such action, as may be specified in the order, within the time mentioned therein to rectify the defects disclosed in the audit, under intimation to the Registrar.

## **PART – B**

### **INQUIRY, SUSPENSION, INVESTIGATION AND SURCHARGE**

**65. Inquiry by the Registrar.**- (1) The Registrar may,-

(a) on his own motion; or

(b) on an inquiry report of the Vigilance Officer appointed under section 68A; or

(c) on a report of the Director of Co-operative Audit appointed under section 63; or

(d) on an application by the majority of the members of the committee of the society, or by not less than one third of the quorum for the general body meeting, whichever is less; or

(e) on an application by the apex society or financing bank of which such society is a member; or

(f) on an application of a society to which the society concerned is affiliated; hold an enquiry by himself or by a person authorized by order in writing, into the constitution, working and financial condition of the society, if he is satisfied that it is necessary so to do.

(2) The Registrar or the person authorized by him under sub-section (1) shall, for the purpose of an inquiry under this section, have the following powers, namely:-

(a) he 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 of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or at any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society, to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general body meeting of the society, himself call a general body meeting or require the President or Secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof, to determine such matters as may be directed by him;

(ii) any meeting called under sub-clause (i), shall have all the powers of a general body meeting called under the bye-laws of the society.

(3) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated and to the Circle Co-operative Union.

(4) When an inquiry made under this section reveals only minor defects which, in the opinion of the Registrar, can be remedied by the society, he shall communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He shall also direct the society or its officers to take such action within the time specified therein to rectify the defects disclosed in such inquiry.

(5) The inquiry under this section shall be completed within a period of six months.

(6) If the Registrar, on completion of the inquiry finds that there is a major defect in the constitution or working or financial condition of the society, he may initiate action in accordance with the provisions of section 32.

**66. Supervision and Inspection.-** (1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently, as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorized by him, by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,-

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

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

(3) Where the inspection under sub-section (2) is made on the application of a creditor, the Registrar shall communicate the result of such inspection to such creditor.

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or sub-section (2) shall at all reasonable time have free access to the books, records and accounts of the society and may common any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof or where there is no working office for the society, or the office of the Registrar or at the office of any of his subordinate officers. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorized by him under sub-section (1) or sub-section (2) may, by order in writing, direct the society or its officers to take such action, as may be specified in such order, within the time that may be mentioned in such order.

(6) The Circle Co-operative Union shall have the power to direct that a non-official member-thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) Apex Society or Federal Co-operative Society or a financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of an Apex Society or Federal Co-operative Society or a financing bank, inspecting the books of a society shall at all reasonable times have the access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and return, as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties, referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) Apex Society or Federal Co-operative Society or the financing bank may also report to the Registrar about the action to be taken against the society, as a result of the inspection by tits officers.

**66A. Powers of Registrar to give directions.**- Subject to the provision contained in this Act and the rules made thereunder, the Registrar may issue general direction and guidelines to the Co-operative Societies in furtherance of the purpose of this Act.

**66B. Suspension of Officers.-** If the Registrar, in the course of any inquiry under section 65 or on inspection under section 66 or on audit under section 64 of on the report of Vigilance Officer appointed under section, 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society, has done any act, detrimental to the interest of the society or its members and that there is reason to believe that such officer has indulged in misappropriation, manipulation of accounts, forgery, destruction or tampering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.

**67. Cost of inquiry or inspection.-** Where an inquiry is held under section 65, or an inspection is held under section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the member or creditor demanding an inquiry or inspection and the officers or former officers, of the society:

Provided that,-

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

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

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

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

**68A. Vigilance Officer.-** (1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to inquire into and investigate the cases of misappropriation, corruption and any other major irregularity in the societies as may be referred to him by the Registrar.

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Co-operative Societies:

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person.”]



## “ CHAPTER IX

### SETTLEMENT OF DISPUTES

**69. Disputes to be decided by Co-operative Arbitration Court and Registrar.-** (1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises,-

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

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

(c) between the society or its committee and any past committee any officer, agent or employee or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society; or

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

(e) between a society and the members of a society affiliated to it ; or

(f) between the society and a person, other than a member of the society, who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(g) between the society and a surety of a member, past member, deceased member or employee or a person, other than a member, who has been granted a loan by the society, whether such a surety is or is not a member of the society; or

(h) between the society and a creditor of the society, such dispute shall be referred to the Co-operative Arbitration Court constituted under section 70A in the case of non-monetary disputes and to the Registrar, in the case of monetary disputes; and the Arbitration Court or the Registrar, as the case may be, shall decide such dispute and no other court or other authority shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely:-

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor, where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of the Board of management or any officer of the society;

*Explanation:-* A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election, shall be deemed to be a dispute arising in connection with the election;

(d) any dispute arising in connection with employment of officers and servants of the different classes of societies specified in sub-section (1) of section 80, including their promotion and *inter se seniority*.

(3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Co-operative Arbitration Court unless it is referred to it within one month from the date of the election.

**70. Award on disputes.**- (1) The Co-operative Arbitration Court on receipt of reference of a dispute under sub-section (1) of section 69, shall pass an award in accordance with the provisions of this Act and the rules and the bye-laws made thereunder and such award shall, subject to the provisions of section 82, be final.

(2) The Co-operative Arbitration Court may, pending award of dispute referred to it under section 69, make such interlocutory orders as it may deem necessary in the interest of justice.

(3) The Co-operative Arbitration Court shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit in respect of the following matters, namely:-

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) issuing of any commission for the examination of any witness; and

(v) any other matter which may be prescribed.

(4) The Registrar may, on receipt of the reference of a dispute under sub-section (1) of section 69, -

(a) elect to decide the dispute himself; or

(b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or

(c) refer it for disposal to an arbitrator appointed by the Registrar:

Provided that a transfer under clause (b) or a reference under clause (c) shall not be made to a person equal or superior to him in rank.

(5) The Registrar may withdraw any reference transferred under clause (b) of sub-section (4) or referred under clause (c) of that sub-section and he may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (4) or refer it to any other arbitrator under clause (c) of that sub-section.

(6) The Registrar or the person invested with powers in this behalf shall, decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision or award shall, subject to the provisions of section 82, be final. Pending decision or award, the Registrar, such person or the arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interest of justice.

**70A. Co-operative Arbitration Courts.**- (1) The Government shall constitute such number of Co-operative Arbitration Courts as are necessary to exercise the powers and discharge the functions conferred on it under this Act.

(2) The qualifications, term salary and allowances and other conditions of service of the person to be appointed as the Co-operative Arbitration court shall be such as may be decided by the Government from time to time.

(3) The Government shall make rules for regulating the procedure and disposal of business of the Co-operative Arbitration Court.

(4) The Registrar or the Government shall lend the service of such number of officers and employees as may be necessary to assist the Co-operative Arbitration Court.

(5) The officers and employees referred to in sub-section (4) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

**70B. Provisions as to pending proceedings.-** On the constitution of Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, in respect of non-monitory disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it under section 69”.]

## CHAPTER X

### WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

**71. Winding up of societies.-** (1) If the Registrar, after an inquiry has been held under section 65 or an inspection has been made under section 66 or on receipt of an application made by not less than three-fourths of the members of a society, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representation and in consultation with the financing bank to which the society is affiliated and the circle co-operative union, by order in writing, direct it to be wound up.

(2) The Registrar may of his own motion, by order in writing, direct the winding up of a society,-

(a) where it is a condition of the registration of the society that the society shall consist of at least twenty-five members and the number of members has been reduced to less than twenty-five; or

(b) where the society has not commenced working within six months of its registration, unless extension of time is granted by the Registrar, or has ceased to work; or

(c) where the number of actual workers falls below the prescribed limit in the case of a society formed exclusively for the benefit of persons engaged in a particular industry or occupation.

[“(3) If a proposal for revitalisation of a society, in respect of which an order under sub-section (2) has been passed, is received by the Registrar within a period of one year from the date of such order, the Registrar may cancel the same and allow the society to continue to exist;

Provided that this sub-section shall not apply in the case of a society which does not commence functioning within a period of six months from the date of registration”.]

**72. Liquidator.-** (1) Where the Registrar has made an order under section 71 for the winding up of a society, he shall appoint a liquidator for the purpose and may fix his remuneration.

(2) The liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claim.

(3) Where an appeal is preferred under section [83], against an order of winding up of a society made under section 71 such order shall not operate thereafter until it is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and to have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

**73. Powers of liquidator.**- (1) Subject to any rules made in this behalf, the whole of the assets of a society in respect of which an order of winding up has been made shall vest in the liquidator appointed under section 72 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise.

(2) The liquidator shall also have power, subject to the control the Registrar,-

(a) to institute and defend suits and other legal proceedings on behalf of the society by the name of his office;

(b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;

(c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(i) to make any compromise or arrangement with creditor, or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and

(j) to compromise all calls or liabilities to calls and debt and liabilities capable of resulting in debts and all claims present or future, certain or contingent subsisting or supposed to subsist, between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may

be agreed upon and to take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

[“(2A) The liquidator shall complete the winding up proceedings within a period of three years from the date of his appointment under sub-section (1) of section 72.

*Explanation.-* In computing the period of three years, the period during which an appeal, if any, preferred against an order of winding up of a society under section 71 is pending, shall be excluded.”].

(3) When the affairs of a society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

**74. Cancellation of registration of a society.-** Where in respect of a society which has been ordered to be wound up under section 71 no liquidator has been appointed under section 72 after two months from the date of such order, or if an appeal has been filed against the order of winding up, from the date of confirmation of the order in appeal, or where the affairs of a society in respect of which a liquidator has been appointed under section 72 have been wound up or where the Registrar is satisfied that the final winding up of the affairs of the society is not possible on account of the destruction of the records, the Registrar shall, by order in writing, cancel the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

## [“CHAPTER X- A

### **INSURED CO-OPERATIVE BANKS**

**74A. Insured co-operative banks.-** Notwithstanding anything contained in this Act, in the case of an insured co-operative bank,-

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganization) of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13D of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);

(iii) If so required by the Reserve Bank of India in the public interest or for preventing the affairs of the 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 (removal) of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefor for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;

(iv) no appeal, revision or review shall lie or be permissible against an order referred to in clause (i), (ii) or (iii) made with the previous sanction in writing or on the requisition of

the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner;

(v) the liquidator or the insured co-operative bank or transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

*Explanation.*- For the purpose of this section,-

(i) “*co-operative bank*” means a bank as has been defined in the Deposit Insurance Corporation Act, 1961;

(ii) “*insured co-operative bank*” means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961;

(iii) “*transferee bank*” in relation to an insured co-operative bank, means a co-operative bank-

(a)with which such insured co-operative bank is amalgamated; or

(b)to which the assets and liabilities of such insured co-operative bank are transferred; or

(c)into which such insured co-operative bank is divided or converted under the provisions of section 12 of section 14 of the Kerala Co-operative Societies Act, 1969 (21 of 1969)].]

## **"CHAPTER X B**

### **SPECIAL PROVISIONS RELATING TO CO-OPERATIVE SOCIETIES, THEIR OFFICE BEARERS AND EMPLOYEES**

**74B.Opening of Branches.**—(1) The State Co-operative Bank, The State Co-operative Agricultural and Rural Development Bank and District Co-operative Banks may open branches in the area of operation of their member credit societies if such member credit societies are weak and not functioning enough to provide service to the members or to the public.

**74C.Inspection in certain Co-operatives.**—Notwithstanding anything contained in section 66, the Registrar shall inspect or cause to inspect the "affairs" of all apex, federal and central societies every year and the power of inspecting officers shall be as specified under sub-section (4) of section 66.

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*Explanation:*—Inspection conducted under this section shall be in addition to and not in derogation of the inspection conducted under any other law for the time being in force.

**74D.Duty of Chief Executive to supply confirmation certificate.**—It shall be the duty of the chief executive of a society to supply confirmation certificate correctly and within the time limit required by the auditor in respect of any accounts maintained in that society by another society in whose favour the Auditor requires

certificate.

**74E.Manner of acceptance of deposits and lending of money.**—Acceptance of deposits and lending of money by all co-operative societies and banks shall be in such manner, as may be prescribed.

**74F.Write off of loans.**—Notwithstanding anything contained in any Act or Rules, no Authority or Commission, other than the Government or Registrar, shall have the power to write off agricultural or non-agricultural debts of borrowers of any society.

**74G.Library in Co-operative Societies.**—Every co-operative society shall establish a library :  
Provided that nothing contained in this provision shall apply to a society which is working on loss for a continuous period of five years."

## CHAPTER XI

### EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

**75. Enforcement of charge.-** Notwithstanding anything contained in Chapter IX or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may; on the application of a society, by order in writing, direct the payment of any debt or outstanding demand due to the society by any member or past member or deceased member, by sale of the property or any interest therein, which is subject to a charge under sub-section (1) of section 35:

Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within thirty days from the date of such service.

**76. Execution of orders, etc.-** Every order made under sub-section (2) 68 or under section 75, every decision or award made under section 70, every order made by the liquidator under section 73 and every order made by the Tribunal under section 82, section 84, section 85 or section 86 and every order made under section 83, shall , if not carried out,-

(a) on a certificate signed by the Registrar or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(b) where the order is for the recovery of money, be executed according to the law and under this rules for the time being in force for the recovery of arrears of public revenue due on land:

Provided that any application for such recovery shall be made-

(i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorized by him in this behalf;

(ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, within twelve years from the date of the order, decision or award, as the case may be; or

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed.

**77. Registrar or person empowered by him to be a civil court for certain purposes.-**

The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery, to be a civil court for the purpose of Article 136 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

**78. Attachment of property before award or order.-** If the Registrar is satisfied on an application, report, inquiry or otherwise that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act-

(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 jurisdiction of the Registrar, the arbitrator or the liquidator, as the case may be,

he may, unless adequate security is furnished, by order in writing, direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent civil court.

**79. Recovery of sums due to Government.-** (1) All sums due from a society or from an officer or member or past member or deceased member of a society as such to the government, including any costs awarded to the Government under any provision of this Act, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of public revenue due on land.

(2) Sums due from a society to the Government and recoverable under sub-section (1) may be recovered first, from the property of the society and secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability, and in the case of other societies, from the members, past members or the estates of the deceased members;

Provided that the liability of past members and estates of deceased members shall in all cases be subject to the provisions of section 26.

## CHAPTER XII

### ESTABLISHMENT

**80. Officers, etc. of co-operative societies.-** (1) The Government shall classify the societies in the State according to their type and financial position.

(2) the Government shall, in consultation with the State Co-operative Union, fix or alter the number and designation of the officer and servants of the different classes of societies specified in sub-section (1).



(3) The Government shall, in consultation with the State Co-operative Union, make rules [either prospectively or retrospectively] regulating the qualification, remuneration, allowances and other conditions of service of the officers and servants of the different classes of societies specified in sub-section (1).

[“(3A) Notwithstanding anything contained in this Act or the rules made or orders issued thereunder or in the bye-laws of any society relating to the recruitment and conditions of service of officers and servants of societies, all appointments of officers and servants of the societies mentioned in the Scheduled for which direct recruitment is resorted to shall be made from a select list of candidates furnished by the Kerala Public Service Commission.

(3B) All appointments made by direct recruitment to the societies referred to in sub-section (3A) on or after the 25 th day of April, 1995 and before the date of publication of the Kerala Co-operative Societies (Amendment) Ordinance, 1995 (Ordinance No. 10 of 1995) shall be invalid.”]

[“(4) Notwithstanding anything contained in sub-section (1) of sub-section (2), ten per cent of the posts of employees of every society shall be reserved for appointment from persons belonging to the Scheduled Castes and Scheduled Tribes where the method of appointment to such posts is by direct recruitment.”]

[71][“(80A) **Pension Scheme.**- (1) The Government may, by notification in the Gazette, frame a Self Financing Pension Scheme for the establishment of a Pension Fund for payment of pension to the employees of the societies in the manner provided therein and may appoint different dates for the application of the scheme to different classes of societies.

(2) The Pension Fund established under the Self Financing Pension scheme framed under sub-section (1) shall vest in, and be administered by, such body or authority as may be specified in the said scheme.”]

[72] [“(80B) **Co-operative Service Examination Board.**- (1) Notwithstanding anything contained in this Act or the rules or in the bye-laws of any society relating to the recruitment of officers and servants thereof, the Government shall, by notification in the Gazette, constitute a Co-operative Service Examination Board for the conduct of written examination for all direct recruitment to posts of and above the category of Junior Clerks in the Primary Agricultural Credit Societies Primary Credit Societies, Urban Co-operative Banks and Primary Agricultural and Rural Development banks in the State.

(2) The Examination Board shall consist of not more than three members and the term of the Board shall be five years. The powers and functions and other conditions of appointment of the members of the Board and the procedures to be followed by the Board for the conduct of examination and the preparation of list of candidates to be interviewed for appointment shall be such as may be prescribed.

(3) All appointments shall be made by the committee concerned from the list of candidates after conducting an interview of the candidates and making a select list therefrom in such manner as may be prescribed.

(4) Notwithstanding anything contained in sub-section (3A) of section 80 and in sub-section (1) of this section, the committee of a society may, with the prior approval of the Registrar, appoint persons who are professionally or technically qualified or persons with experience and expertise to posts requiring such technical or professional qualifications

on contract basis or by the method of deputation for such period, but not exceeding five years, as may be specified.”]

## CHAPTER XIII

### APPEALS, REVISION AND REVIEW

[73] [“ **81. Tribunal.-** (1) The Government shall constitute a single member Tribunal to exercise the powers and discharge the functions conferred on the Tribunal under this Act.

(2) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been holding the post of a District Judge in the State.

(3) The term, salary and allowances and other conditions for service of the member shall be such as may be decided by Government from time to time.

(4) The Government shall make rules for regulating the procedure and disposal of the business of the Tribunal.

**81A. Provisions as to certain pending Proceeding.-** Every proceeding pending before the Tribunal immediately before the commencement of this Act shall stand transferred to and will be decided by the Tribunal constituted under this Act:

Provided that all such proceedings relating to orders passed by the Registrar under sections 32 and 33 of the Act, shall be sent to the Government for their decision.

**Explanation.-** ‘Proceeding’ includes any appeal, revision, petition or application for review.”]

**82. Appeals to Tribunal.-** [“(1) Any person aggrieved by.-

(a) an award of the Co-operative Arbitration Court under sub-section (1) of section 70; or  
(b) an order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of sub-section (9) of section 14; or

(c) any decision of the Registrar made under sub-section (6) of section 70; or

(d) any decision under sub-section (6) of section 70 of the person invested with powers in that behalf by the Government; or

(e) any award of the arbitrator under sub-section (6) of section 70,

may, within sixty days from the date of such decision or award, as the case may be, appeal to the Tribunal and the Tribunal may pass such orders on the appeal, as it may deem fit.”]

(2) An order passed by the Tribunal under sub-section (1) shall be final.

**83. Appeals to other authorities.-** (1) An appeal shall lie under this section against-

(a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a society; or

(b) an order of the Registrar made under sub-sections (4) and (6) of section 12 refusing to register an amendment of the bye-laws of a society; or

(c) a decision of a society refusing to admit any person as a member of the society or expelling any member of the society; or

(d) an order made by the Registrar under section 67 apportioning the cost of inquiry held under section 65 or an inspection made under section 66; or

(e) an order of surcharge made by the Registrar under section 68; or

(f) an order made by the Registrar under section 71 directing the winding up of a society; or  
or

(g) any order made by the liquidator of a society in exercise of the powers conferred on him by section 73; or

(h) any order made under section 76; or

(i) an order for attachment of any property made by the Registrar under section 78; or

(j) any order made by any person exercising all or any of the powers of the Registrar.

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

(a) If the order or decision was made by the Registrar, to the Government; and

(b) in order cases, the Registrar, and the Government or the Registrar, as the case may be, may pass such order on the appeal as they or he may think fit.

**84. Revision by Tribunal.-** The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit:

Provided that the Tribunal shall not take any action under this section if

(a) the time for appeal against the decision or order has not expired; or

(b) the decision or order has been made the subject-matter of an appeal;

Provided further that no order shall be made under this section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

**85. Review of orders by Tribunal.-** (1) The Tribunal may, either on the application of the Registrar or on the application of any party interest, review its own order in any case and pass in reference there to such order as it think fit:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record or that there is any other sufficient reason for reviewing its order;

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

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

**86. Interlocutory orders by Tribunal.-** Where an appeals made to the Tribunal under section 82 or where the Tribunal calls for the record of a case under section 84, it may, in order to prevent the ends of justice being defeated, make such interlocutory order pending the decision of the appeal or revision as it may deem fit.

**87. Powers of revision of Registrar and Government.-** (1) The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him not being an officer exercising the powers of the Registrar, and the Government may of their own motion or on application call for and examine the record of the Registrar including any officer exercising the powers of the Registrar, in respect of any proceeding, not being a proceeding in respect of which an appeal to the Tribunal is provided by section 82, to satisfy himself or themselves as to the regularity of such

proceedings, or the correctness, legality of propriety of any decision passed or order made thereon, and if, in any case it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly:

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

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

(3) The Registrar or the Government, as the case may be, may suspend the execution of any decision or order pending the exercise of his or their power under sub-section (1) in respect thereof..

(4) The Registrar or the Government may award costs in proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.

## CHAPTER XIV

### CO-OPERATIVE UNIONS

**[75] [“88. Constitution of Circle co-operative Union.-** (1) The Government may, by notification in the Gazette, constitute a Circle Co-operative Union for each circle in the State with the following members, namely:-

(a) seven members elected, in such manner as may be prescribed, by the members of the committees of the affiliated societies within the circle from among themselves;

(b) one member elected by the Board of Directors of the District Co-operative Bank having jurisdiction over the circle, from among themselves;

(c) two members elected, in such manner as may be prescribed by the employees of the affiliated Co-operative Societies within the circle, from among themselves;

(d) one member elected by the women members of the committee of the affiliated societies referred to in clause (a), from among themselves;

(e) one member belonging to the Scheduled Castes or Scheduled Tribes elected by the Scheduled Caste or Scheduled Tribe members of the committees of the affiliated societies referred to in clause (a), from among themselves.

(f) the Assistant Registrar of Co-operative Societies (Audit), having jurisdiction over the circle , ex-officio;

(g) the Assistant Registrar of Co-operative Societies (General), having jurisdiction over the circle , ex-officio, who shall be the Secretary of the Circle co-operative Union.

(2) Each Circle Co-operative Union shall elect one of the members, other than an ex-officio member, to be its Chairman.

(3) The term of office of an elected member shall be [five years] from the date on which he enters upon office.

(4) The ex-officio members shall have all the powers of an elected member.

(5) The affiliated and functioning societies alone shall have the right to vote and contest in the election to the Circle co-operative Union.

**Explanation.-** For the purpose of this sub-section a society which is carrying on activities in accordance with its principal object shall be a functioning society.

**88A. Appointment of officer on default or negligence of members of a Circle Co-operative Union.-** If the Registrar is satisfied that the members of a Circle Co-operative Union persistently make default or are negligent in the performance of the duties imposed on them as per the provisions of this Act or the rules made thereunder or commit any act which is prejudicial to the interest of that Circle Co-operative Union or wilfully disobey or fail to comply with any lawful order or direction, the Registrar may, after giving the member an opportunity to state their objections, if any, by an order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Assistant Registrar to manage its affairs for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time; so, however, that the aggregate period shall not, in any case, exceed one year or till the said Circle Co-operative Union is reconstituted, whichever is earlier.”].

[77] [“**89. Establishment of State Co-operative Union.-** (1) The Government shall, by notification in the Gazette, establish a State Co-operative Union.

(2) The State Co-operative Union shall consist of-

(a) a general body; and

(b) a managing committee

(3) Each of the Circle Co-operative Unions, Apex Societies, District Co-operative banks and Central Societies other than the District Co-operative banks shall elect a delegate in such manner as may be prescribed, and all such delegates, the employees’ representatives, the representative of the women members, the representative of the members belonging to the Scheduled Castes Scheduled Tribes, the Ex-officio members and the Government nominees and the managing committee of the State Co-operative Union shall constitute the General Body of the State co-operative Union.

(4) The Managing Committee referred to in clause (b) of sub-section (2) shall consist of the following members, namely:-

(a) one member from each Revenue district in the State, elected, in such manner as may be prescribed, by the delegates of the Circle Co-operative Unions, of that district from among themselves;

(b) two members elected, in such manner as may be prescribed, by the delegates of the Apex societies in the State, from among themselves;

(c) one member elected, in such manner as may be prescribed, by the delegates of the district Co-operative Banks, from among themselves;

(d) one member elected, in such manner as may be prescribed by the members of the Circle Co-operative Unions elected under clause (c) of sub-section (1) of section 88, from among themselves;

(e) one member elected, in such manner as may be prescribed, by the members of the Circle Co-operative Union elected under clause (d) of sub-section (1) of section 88, from among themselves;

(f) one member elected, in such manner as may be prescribed, by the members of the Circle Co-operative Unions elected under clause (e) of sub-section (1) of section 88, from among themselves;

(g) two members nominated by the Government;

(h) the Secretary of the State Co-operative Union, *ex-officio*

(5) The managing committee shall elect one of its members, other than the ex-officio member to be the chairman of the State Co-operative Union.

(6) The term of office of the members of the general body and of the managing committee of the State Co-operative Union shall be [five] years from the date on which they enter upon office.

(7) The Registrar or any Officer, not below the rank of Additional Registrar of Co-operative societies, nominated by him shall be the Secretary of the State Co-operative Union.

(8) An ex-officio member and a nominated member shall have all the powers of an elected member of the managing committee.

**89A. Appointment of officer or committee of default on negligence of the managing committee of the State Co-operative Union.-** If the Government are satisfied that the managing committee of the State Co-operative Union persistently makes default or is negligent in the performance of the duties imposed on it by the provision of this Act or the rules made thereunder or commits any act which is prejudicial to the interest of the State Co-operative Union or wilfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules, the Government may, after giving the managing committee an opportunity to state its objections, if any, by order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Additional Registrar or a committee consisting of three members to manage its affairs for a period not exceeding six months, as may be specified in the order, which period, at the discretion of the Government and for reasons to be recorded in writing, be extended, from time to time; so, however, that the aggregate period shall not, in any case, exceed one year or till the State Co-operative Union is reconstituted, whichever is earlier.”.]

**90. Co-operative Societies to affiliate to State Co-operative Union.-** (1) Every co-operative society in the State shall, within a period of six months from the commencement of this Act, or within a period of six months from the date of its registration, whichever period expires later, get itself affiliated to the State Co-operative Union.

(2) The affiliation under sub-section (1) shall be in force for a period of one year from the date of affiliation and shall be renewed on the expiry of that period.

(3) The fees payable by a co-operative society for affiliation to the State Co-operative Union or for the renewal of such affiliation shall be such as may be prescribed.

(4) If any co-operative society fails to affiliate to the State Co-operative Union as required by sub-section (1) or to renew such affiliations as required by sub-section (2), such society shall not be entitled to any of the privileges conferred on a co-operative society [under chapter v of this Act.]

**91. Functions of State Co-operative Union.-** (1) The functions of the State Co-operative Union shall be-

(a) to organize, assist and generally develop co-operative societies;

(b) to carry on co-operative propaganda; and

(c) to spread education on co-operative principles and practices.

[(d) to participate in the developmental activities and decentralized planning of the local authorities;

(e) to organize training programmes for the employees of the societies and for the members of the committee and to ensure their participation in such programmes.”]

(2) The State Co-operative Union shall perform such other functions as may be prescribed.

**92. Assets, liabilities, etc., of Regional Unions.**- (1) Notwithstanding anything contained in this Act or the bye-laws of the Cochin Central Co-operative Institute Ltd., the Malabar Co-operative Institute Ltd., and the South Kerala Co-operative Union Ltd., all properties and all rights of whatever kind used, enjoyed or possessed by and all interest of whatever kind owned by or vested in or held by them and all liabilities legally subsisting against them shall on and from the date of commencement of this Act and subject to such directions as may be issued by the Registrar by general or special order made in this behalf, pass to the Kerala State Co-operative Union Ltd.

(2) The duties performed and the functions discharged by the aforesaid societies shall be performed and discharged by the Kerala State Co-operative Union Ltd., and the employees of the said societies shall become the employees of the Kerala State Co-operative Union Ltd.

(3) The management of the Kerala State Co-operative Union Ltd., shall, notwithstanding anything contrary in the bye-laws thereof, be vested in a committee consisting of all the members of the Board of Directors of the aforesaid societies including the Kerala State Co-operative Union Ltd.

**93. Assts, liabilities etc., of State Union.**- On a date to be notified by the Government after the formation of the State Co-operative Union under section 89, all properties and all rights of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held by and all liabilities legally subsisting against the Kerala State Co-operative Union Ltd., shall subject to such directions as may be issued by the Registrar, vest in the State Co-operative Union so formed and all the employees of the Kerala Co-operative Union. Ltd. Shall become the employees of the State Co-operative Union.

## CHAPTER XV

### OFFENCES AND PENALTIES

**94. Offences.**- (1) No person other than a society shall trade or carry on business under any name or title or which the word ‘co-operative’ or its equivalent in any Indian language is part without the sanction of the Government:

Provided that nothing in this section shall apply in any area to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act 2 of 1912), the Co-operative Societies Act (Travancore Act X of 1089) or the Cochin Co-operative Societies Act, XXVI of 1113, as the case may be, came into operation in that area.

(2) Any person carrying on any trade or business in contravention of sub-section (1) shall be punishable with fine which may extend to [two thousand rupees].

(3) Any member or past member or the nominee, heir or legal representative of a deceased member of a society who contravenes the provisions of section 35 by disposing of any property in respect of which the society is entitled to have a first charge under that

section or does any other act to the prejudice of such claim, shall be punishable with fine which may extend to [two thousand rupees.]

(4) The committee of a society or an officer or member thereof wilfully making a false return or furnishing false information or failing to produce cash balance on demand or failing to make the records available for audit, inquiry or inspection, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this act or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to [five thousand rupees.]

(5) Any employer or officer who, without sufficient cause,-

(a) fails to deduct any amount as required by sub-section (2) of section 37; or

(b) fails to pay to a society the amount deducted by him under that sub-section within a period of seven days from the date on which such deduction is made, shall be punishable with fine which may extend to [five thousand rupees.]

(6) If any person collecting the share money for a society in formation does not deposit the same in the State Co-operative Bank, a Central Co-operative Bank, a Postal Savings bank or in any other bank approved by the Registrar within fourteen days of its receipt, he shall be punishable with fine which may extend to [five thousand rupees.]

(7) If any person collecting the share money for a society in formation makes use of the funds so raised for conducting any trade or business in the name of the society to be registered or otherwise, he shall be punishable with fine which may extend to [five thousand rupees.]

(8) If any officer or member of a society misappropriates or unauthorisedly or illegally keeps any money belonging to that society he shall be punishable with imprisonment for a term which may extend to [three years] or with fine which may extend to [ten thousand rupees], or with both.

(9) The provisions of this section shall be without prejudice to any action that may be taken against the offenders under any other law for the time being in force.

**95. Cognizance of offences.-** No court inferior to that of a Magistrate of the first class shall try any offence under this Act and no prosecution shall be instituted under this Act without the previous sanction of the Registrar:

Provided that no such sanction shall be required in the case of an offence under sub-section (8) of section 94.

## CHAPTER XVI

### MISCELLANEOUS

**96. Address of a society.-** Every society shall have an address registered in accordance with the rules to which all notions and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

**97. Copy of Act, rules and bye-laws to be open to inspection.-** Every society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

**98. Tribunal, Registrar, etc., to have certain powers of civil court.-** (1) In exercising the functions conferred on it or him by or under this Act, the Tribunal, the Registrar, the



Arbitrator or any other person deciding a dispute and the liquidator of a society shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer appointed by the Tribunal, the Registrar, the Arbitrator or any other person deciding a dispute or the liquidator, as the case may be, in this behalf may administer the oath to the deponent.

**99. Orders to be pronounced.-** In cases where parties have been heard, the order, decision or award made or given by the Registrar or any officer or other person or a liquidator under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

**100. Bar of jurisdiction of courts.-** No civil or revenue court shall have any jurisdiction in respect of any matter for which provision is made in this Act.

**101. Power to exempt societies.-** The Government may, if they are satisfied that it is necessary so to do in the public interest, by general or special order for reasons to be recorded, exempt any society or any class of societies from any of the provisions of this Act or direct that such provisions shall apply to such society or class of societies subject to such modifications as may be specified in the order.

**102. Register of members.-** Any register or list of members or shares kept by any society shall be prima facie evidence 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;
- (b) the date on which any such person ceased to be a member.

**103. Proof of entries in society's books.-** (1) Notwithstanding anything contained in the Indian Evidence Act a copy of any entry in a book of a society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A society may grant copies of any documents obtained and kept by it in the course of its business, or of any entries in such documents; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein as the case may be.

(3) No officer of a society and no officer in whose office the books a society are deposited after liquidation shall, in any legal proceedings to of which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents, the contents of which can be proved under this section or to appear as a witness to prove the matters ,transactions and accounts therein recorded except under order of the court, the Tribunal or the arbitrator made for special cause

**104. Service of notice.-** Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business of such person preparing and posting by registered post a letter containing the

notice or order and, unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

**105. Acts of societies not to be invalidated by certain defects.-** No act of a society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of the officer or on the ground that such officer was disqualified for his appointment:

Provided that nothing in this section shall be deemed to apply to an act done by any society or committee or officer in cases where such defect or disqualification was previously declared by a competent authority.

**106. Immunity for acts done or purporting to be done in good faith.-** No suit, prosecution or other legal proceedings shall lie against any officer or the Government for anything which is in good faith done or purporting to be done under the provisions of this Act or the rules or the bye-laws.

**107. Companies Act 1956, not to apply.-** The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to any co-operative society.

**108. Duties of Police Officer.-** (1) It shall be the duty of every police officer to assist the Registrar or any person subordinate to the Registrar reasonably demanding his aid for the lawful exercise of any power vesting in the Registrar or such persons under this Act or any rule, or bye-law made thereunder.

(2) Any Police Officer who omits or refuses to perform any duty imposed on him under sub-section (1) shall be deemed to have committed an offence under clause (d) of section 41 of the Kerala Police Act, 1960 (5 of 1961).

**109. Power to make rules.-** (1) The Government may, for the whole or, any part of the State and for any class of societies, after previous publication by notification in the Gazette, make rules [either prospectively or retrospectively] to carry out the purposes of this Act.

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

(i) the applicant to whom the order refusing the registration of a society may be sent by Registrar;

(ii) the procedure and conditions for change in the form and extent of the liability of a society;

(iii) the matters in respect of which a society shall or may make bye-laws;

(iv) the procedure to be followed for amendment of bye-laws by a society;

(v) the qualifications or disqualifications of individuals who may be admitted as members of societies;

(vi) the payment to be made and the interests to be acquired before the exercise of the right of membership;

(vii) the appointment by a society of one of its members to represent and vote on its behalf at a meeting of another society of which it is a member;

(viii) the maximum number of shares or portion of the share capital of a society which may be held by an individual member;

(ix) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;

(x) the mode in which the value of a deceased member's share shall be ascertained;

- (xi) the election of members of the committee by the general body of a society;
- (xii) the requisitioning of a general body meeting of a society;
- (xiii) the remuneration payable to a new committee or administrator administrators appointed by the Registrar under section 32 or section 33;
- (xiv) the qualifications or disqualifications for membership of the committee of a society;
- (xv) the qualifications of employees of societies;
- (xvi) the prohibition against officers of a society being interested in contracts with the society;
- (xvii) the matters connected with the direct and indirect partnership of the Government in societies;
- (xviii) the rate at which dividend maybe paid by societies;
- (xix) the constitution of the Co-operative Education Fund, the payment to be made to the fund by a society out of its net profit and the mode of its investment;
- (xx) the mode of investment of funds of a society;
- (xxi) the objects of the reserve fund of a society and the mode of its investment;
- (xxii) the mode of disposal of the reserve fund of a society on its winding up;
- (xxiii) the extent to which and the conditions subject to which a society may receive deposits and loans;
- (xxiv) the restrictions on transactions by a society with non members;
- (xxv) the restriction on grant of loans by a society against its shares;
- (xxvi) the form and standards of fluid resources to be maintained by societies accepting deposits and granting cash credits;
- (xxvii) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes;
- (xxviii) the conditions subject to which the assets of a society shall vest in a liquidator and the procedure to be adopted in the winding up a society;
- (xxix) the procedure for the recovery of amounts due or payable to a society;
- (xxx) the mode of making attachment before judgment;
- (xxxi) the manner of registering the address of a society;
- (xxxii) the account books and registers to be kept by a society and power of the Registrar to call for any returns or to direct the accounts and books to be written up;
- (xxxiii) the manner of certification of entries in the books of a society and of copies of documents kept by it in the course of its business;
- (xxxiv) the statements and returns to be furnished by a society to the Registrar;
- (xxxv) the restrictions on persons appearing as legal practitioners;
- (xxxvi) the inspection of documents and the levy of fees for granting certified copies thereof;
- (xxxvii) the procedure to be followed in, and the fees for, audit and arbitration under this Act; and
- (xxxviii) any other matter required or allowed by this Act to be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the 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 Legislative Assembly agrees that the rule should be either modified or annulled, 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.

**110. Repeal and savings.-** The Madras Co-operative Societies Act, 1932 (VI of 1932), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Co-operative Societies Act, 1951 (X of 1952), are hereby repealed.

(2) Notwithstanding the repeal of the Madras Co-operative Societies Act, 1932 and the Travancore-Cochin Co-operative Societies Act, 1951 and without prejudice to the provisions of sections 4 and 23 of the Interpretation and General Clauses Act, 1125 (VII of 1125),-

(i) all appointments, rules and orders made, notifications and notices issued, and suits and other proceedings instituted ,under any of the Acts hereby repealed shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act;

(ii) any society existing in the State on the date of the commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed Acts shall be deemed to be registered under this Act; and the bye-laws of such society shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded.

[“ THE SCHEDULE  
[See section 80 (3A)]

- 1.The Kerala State Co-operative Bank Ltd., Thiruvananthapuram.
- 2.The Kerala State Co-operative Agricultural and Rural Development Bank Ltd., Thiruvananthapuram.
- 3.The Kerala State Federation of Scheduled Castes/Scheduled Tribes Development Co-operatives, Thiruvananthapuram
- 4.The Kerala State Co-operative Housing Federation Ltd., No. 4330, Ernakulam.
- 5.The Kerala Co-operative Milk Marketing Federation Ltd., Thiruvananthapuram.
- 6.The Kerala State Co-operative Marketing Federation Ltd., Ernakulam.
- 7.The Kerala State Co-operative Rubber Marketing Federation Ltd., Ernakulam.
- 8.The Kerala Kera Karhska Sahakarana Federation Ltd., No. 4370, (Kerafed), Thiruvananthapuram.
- 9.The Kerala State Co-operative Federation for Fisheries Development Ltd., (Matsyafed), Thiruvananthapuram.
- 10.The Kerala State Co-operative Consumers Federation Ltd., Ernakulam.
- 11.The Kerala State Cashew Workers Apex Industrial Co-operative Society Ltd., [ IND (ST)] 12, Kollam.
- 12.The Kerala State Handloom Weaver’s Co-operative Society Ltd. No. H232, Thiruvananthapuram.
- 13.The Kerala State Handicraft Apex Co-operative Society Ltd., No. H 231, Ernakulam.
- 14.The Kerala State Co-operative Coil Marketing Federation Ltd., Alapuzhza.
- 15.The Kerala State Co-operative Textile Federation Ltd., IND MT (ST) I (TEXFED), Trichur.
- 16.The Thiruvananthapuram District Co-operative Bank Ltd. No. 4312.
- 17.Kollam District Co-operative Bank Ltd. No. 4311.

- 18.The Pathanamthitta District Co-operative bank Ltd. No. 4365.
- 19.The Alapuzha District Co-operative Bank Ltd No. 4310.
- 20.Kottayam District Co-operative Bank Ltd. No. 4309.
- 21.Idukki District Co-operative Bank Ltd. No. 4334.
- 22.Ernakulam District Co-operative Bank Ltd. No. 4325.
- 23.Thrissur District Co-operative Bank Ltd. No. 60.
- 24.Palakkad District Co-operative Bank Ltd. No. P. 521.
- 25.Malappuram District Co-operative Bank Ltd. No. 4329.
- 26.Kozhikode District Co-operative Bank Ltd. No. F. 1635.
- 27.Waynad District Co-operative Bank Ltd No. 4357.
- 28.Kannur District Co-operative Bank Ltd. No. C.266.
- 29.Kasargod District Co-operative Bank Ltd. No. 4367.”].

**CHAPTER VI**  
**THE KERALA CO-OPERATIVE SOCIETIES**  
**(AMENDMENT) ACT, 1971**  
**Act 38 of 1971**

**An Act to amend the Kerala Co-operative Societies Act, 1969**

*Preamble*

Whereas it is expedient to amend the Kerala Co-operative Societies Act, 1969 (21 of 1969), for the purposes hereinafter appearing;

Be it enacted in the Twenty-second Year of the Republic of India as follows: —

**1. Short title and commencement**

- (1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1971.
- (2) It shall come into force at once.

**2. Amendment of section 33**

In section 33 of the Kerala Co-operative Societies Act, 1969 (21 of 1969), (hereinafter referred to as the principal Act), in sub-section (1), —

- (i) for the words “where the Registrar is satisfied”, the words “where a no confidence motion is passed by the general body against the existing committee or where the existing committee resigns en bloc or where vacancies occur in the committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied” shall be substituted;
- (ii) in clause (b), for the word “consulting”, the word “intimating” shall be substituted;
- (iii) after the second proviso, the following shall be inserted, namely: —

“Explanation.— For the purposes of this sub-section a tender of resignation by a member of the committee shall have the effect of terminating his membership from the committee.”

### **3. Amendment of section 72**

In section 72 of the principal Act, in sub-section (3), for the figures “82”, the figures “83” shall be substituted.

### **4. Substitution of new sections for section 81**

For section 81 of the principal Act, the following sections shall be substituted, namely: —

#### **“81. Tribunal**

- (1) The Government shall constitute a single member Tribunal to exercise the powers and discharge the functions conferred on the Tribunal under this Act.
- (2) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been holding the post of a District Judge in the State.
- (3) The term, salary and allowances and other conditions for service of the member shall be such as may be decided by Government from time to time.
- (4) The Government shall make rules for regulating the procedure and disposal of the business of the Tribunal.

#### **81.A. Provisions as to certain pending Proceedings**

Every proceeding pending before the Tribunal immediately before the commencement of this Act shall stand transferred to and will be decided by the Tribunal constituted under this Act:

Provided that all such proceedings relating to orders passed by the Registrar under sections 32 and 33 of the Act, shall be sent to the Government for their decision.

Explanation.— 'Proceeding' includes any appeal, revision petition or application for review.”

### **5. Amendment of Section 82**

In section 82 of the principal Act, in sub-section (1), clauses (b) and (c) shall be omitted.

**6. Amendment of section 89**

In section 89 of the principal Act, in sub-section (4), in clause (a) for the words “nine members, one from each Revenue District in the State”, the words “one member from each Revenue District in the State” shall be substituted.

**7. Repeal and saving**

- (1) The Kerala Co-operative Societies (Amendment) Ordinance, 1971 (19 of 1971), is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken, under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) ACT, 1974<sup>1</sup>  
(Act 8 of 1974)**

*An Act further to amend the Kerala Co-operative Societies Act, 1969*

*Preamble*

Whereas it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purpose hereinafter appearing;

Be it enacted in the Twenty-fifth Year of the Republic of India as follows:-

**1. Short title**

This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1974.

**2. Insertion of new Chapter X-A.-**

In the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), after Chapter X, the following Chapter shall be inserted, namely:-



## “CHAPTER X-A

### INSURED CO-OPERATIVE BANKS.

#### 74A. *Insured co-operative banks*

Notwithstanding anything is contained in this Act, in the case of an insured co-operative bank

- (i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganization), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;
- (ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13 D of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);
- (iii) If so required by the Reserve Bank of India in the public interest or for preventing the affairs of the 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 (removal) of the committee of management or other managing body (by whatever name called) of the bank appointment of an administrator therefore for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;
- (iv) no appeal, revision or review shall lie or be permissible against an order referred to in clause (i), (ii) or (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner;
- (v) the liquidator or the insured co-operative bank of transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

**Explanation.-** For the purposes of this section,-

- (i) “*co-operative bank*” means a bank as has been defined in the Deposit Insurance Corporation Act, 1961;

- (ii) “*insured co-operative bank*” means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961;
- (iii) “*transferee bank*”, in relation to an insured co-operative bank, means a co-operative bank-
  - (a) with which such insured co-operative bank is amalgamated;or
  - (b) to which the assets and liabilities of such insured co-operative bank are transferred; or
  - (c) into which such insured co-operative bank is divided or converted under this provisions of section 12 or section 14 of the Kerala Co-operative Societies Act, 1969 (21 of 1969)”.

### **3. Repeal and saving**

- (1) The Kerala Co-operative Societies (Amendment) Ordinance, 1973 (13 of 1973), is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 20 th day of November, 1973.

**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) ACT, 1986  
Act 29 of 1986**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble*

Whereas it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;

Be it enacted in the Thirty-seventh Year of the Republic of India as follows:-

**1. Short title and commencement**

(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1986.

(2) Sections 2, 3 and 6 shall be deemed to have come into force on the 25 th day of February, 1985, sections 4 and 5 shall be deemed to have come into force on the 15 th day of May, 1969, sections 7 and 8 shall be deemed to have come into force on the 14 th day of February, 1986 and the remaining provisions of this Act shall come into force at once.

**2. Amendment of section 2**

In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act),-

(1) after clause (o), the following clause shall be inserted, namely:-

“(oa) “*primary credit society*” means a society other than apex or central society which has as its principal object the raising of funds to be lend to its members;”;

(2) after clause (q), the following clauses shall be inserted, namely:-

“(qa) “*Scheduled Castes*” means the Scheduled Castes in relation to the State of Kerala as specified in the Constitution (Scheduled Castes) Order 1950;

“(qb) “*Scheduled Tribes*” means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;”;

### **3. Insertion of new section 28A**

After section 28 of the principal Act, the following section shall be inserted, namely:-

#### **“28A. Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the committee**

- (1) Notwithstanding anything contained in sub-section (1) of section 28, there shall be reserved in the committee of every primary credit society, one seat for a woman member and one seat for a member belonging to the Scheduled Castes or Scheduled Tribes and for that purpose, the society may, if they consider it necessary so to do, increase the total number of members of the committee by two more members.
- (2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee.”.

### **4. Amendment of section 69**

In section 69 of the principal Act to sub-section (1), the following *Explanation* shall be added namely:-

*“Explanation.-* In this section and in section 70, the term “Registrar” means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom the powers of the Registrar under this section and section 70 are conferred.”.

### **5. Amendment of section 70**

In section 70 of the principal Act, to sub-section (1), the following proviso shall be added namely:-

“Provided that a transfer under clause (b) or a reference under clause (c) shall not be made to a person equal or superior to him in rank.”.

### **6. Amendment of section 80**

In section 80 of the principal Act, after sub-section (3) the following sub-section shall be added namely:-

- (4) Notwithstanding anything contained in sub-section (1) or sub-section (2), ten per cent of the posts of employees of every society shall be reserved for

appointment from persons belonging to the Scheduled Castes and Scheduled Tribes where the method of appointment to such posts is by direct recruitment.

**7. Amendment of section 88**

In sub-section (5) of sections 88 of the principal Act, for the words “three years”, the words “five years” shall be substituted.

**8. Amendment of section 89**

In sub-section (6) of section 89 of the principal Act, for the words “three years”, the words “five years” shall be substituted.

**9. Validation**

Notwithstanding anything contained in any law for the time being in force, or in any judgement, decree or order of any court or the authority, any transfer or reference of a dispute under clause (b) or clause (c), as the case may be, of sub-section (1) of section 70 of the principal Act, made before the date of publication of this Act in the Gazette by any person on whom the powers of the Registrar under sections 69 and 70 of the said Act have been conferred shall be, and shall be deemed always to have been valid and in accordance with law, and accordingly, any decision taken or award passed by any person in pursuance of any such transfer or reference, as the case may be, shall not be deemed to be invalid or ever to have been invalid merely on the ground that such transfer or reference was made by any person other than the Registrar appointed under sub-section (10) of section 3 of the principal Act and any such decision or award shall not be called in question in any court on the said ground.

**10. Repeal and saving**

(1) The Kerala Co-operative Societies (Amendment) Ordinance, 1986 (55 of 1986) and the Kerala Co-operative Societies (Second Amendment) Ordinance, 1986 (59 of 1986), are hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) ACT, 1987 <sup>[1]</sup>  
(ACT 19 OF 1987)**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble*

Whereas it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;

BE it enacted in the Thirty-eighth Year of the Republic of India as follows: —

**1. Short title and commencement**

(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1987.

(2) It shall come into force at once.

**2. Amendment of section 2**

In section 2 of the Kerala Co-operative societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), for clause (d), the following clause shall be substituted, namely:—

"(d) *central society*" means a society having jurisdiction over one more Revenue Districts but not the whole of the State as its area of operation, and having as its members only other societies and declared as such by the Registrar or the Government:".

**3. Amendment of section 28**

In section 28 of the principal Act,—

(1) for the second proviso to sub-section (1), the following provisos shall be substituted, namely: —

"Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the first committee, including the president or chairman, for a period not exceeding six months:

Provided also that any member nominated to the committee of a society and holding office at the commencement of the Kerala Co-operative societies (Amendment) Act, 1987, shall, —

- (a) if that committee is not the first committee, cease to hold such office at such commencement; and
  - (b) if that committee is the first committee wherein
    - (i) such member has, either before or at such commencement, completed six months or more from the date of the nomination, cease to hold such office at such commencement; or
    - (ii) such member has not, at such commencement, completed six months from the date of the nomination, cease to hold such office on the expiration of six months from the date the nomination.";
- (2) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The quorum for a meeting of a committee shall be such number of members just above fifty per cent of the total number of members of that committee.".

#### **4. Substitution of new section for section 31**

or section 31 of the principal Act, the following section shall be substituted, namely:—

#### **81. Nominees of Government on committee of on apex or a central society**

- (1) Where the Government,—
- (a) have subscribed to the share capital of an apex or a central society;
- or
- (b) have assisted indirectly in the formation or augmentation of the share capital of an apex or a central society; or
  - (c) have guaranteed the repayment of principal and payment of interest on debentures issued by an apex or a central society; or
  - (d) have guaranteed the repayment of principal and payment of interest on loans and advances to an apex or a central society, the Government or any authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third

of the total number of members of the committee of such apex or central society, whichever is less, to be members of the committee.

- (2) A person nominated to the committee of an apex or a central society under sub-section (1) shall hold office during the pleasure of the Government or the specified authority, as the case may be.
- (3) A person nominated to the committee of an apex or a central society under sub-section (1) shall not take part in the discussion of any non-confidence motion or vote on any such motion.
- (4) Any person who holds office as a nominated member of the committee of a society, other than an apex or a central society, at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1987 shall cease to hold such office at such commencement.” .



**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) ACT, 1988 [1]  
(ACT 7 OF 1988)**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble.* — whereas it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;  
be it enacted in the Thirty-ninth Year of the Republic of India as follows: —

**1. Short title and commencement.** — (1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1988.

(2) It shall be deemed to have come into force on the 15th day of February 1988.

**2. Amendment of sections 80 and 109.** —In sub-section (3) of section 80 and in sub-section (1) of section 109 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), after the words "make rules", occurring in two places, the words, "either prospectively or retrospectively," shall be inserted.

**3. Repeal and saving.** —(1) The Kerala Co-operative Societies (Amendment) Ordinance, 1988 (8 of 1988), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) ACT, 1992 [1]  
(ACT 5 OF 1992)**

**An Act further to amend the Kerala Co-operative Societies Act, 1969**

*Preamble.-* WHEREAS it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;  
BE it enacted in the Forty-third Year of the Republic of India as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1992.

(2) It shall be deemed to have come into force on the 7 th days of February, 1992.

**2. Amendment of section 28.-** In section 28 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act),-

(1)in sub-section (1),-

(i) for the words “constitute a committee”, the words “constitute a committee, for a period not exceeding three years,” shall be substituted;

(ii) in the second proviso, for the words “six months”, the words “twelve months” shall be substituted;

(iii) for the third proviso, the following proviso shall be substituted, namely:-

“Provided also that the committee of a society, already constituted and in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992, shall,-

(a) if that committee has completed three years or more, cease to be in existence at such commencement; and

(b) if that committee has not completed three years or the term as provided in the bye-laws, cease to be in existence on the expiry of three years or the term as provided in the bye-laws, whichever is earlier;”;

(2) after sub-section (1), the following sub-sections shall be inserted namely:-

“(1A) Where the committee of a society has ceased to be in existence as provided in the third proviso to sub-section (1), the Registrar shall appoint-

(i) a new committee consisting of not more than three members of the society; or

(ii) one or more administrator or administrators, who need not be a member or members of the society,

to manage the affairs of the society for a period no exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till the new committee enters upon office, whichever is earlier.

(1B) The committee or administrator or administrators appointed under sub-section (1A) shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee of the society under sub-section (1) or of any officer of the society and take all such action as may be required in the interests of the society and shall arrange for the constitution of a new committee.”

**3. Amendment of section 28A.-** In section 28A of the principal Act,-

(1) in sub-section (1),-

(i) for the words “in the committee of every primary credit society”, the words “in the committee of every primary credit society, every District Co-operative Bank, the Kerala State Co-operative Bank Ltd., and the Kerala State Co-operative Agricultural and Rural Development bank Ltd.,” shall be substituted;

(ii) for the words “the society”, the words “the society or the Bank, as the case may be,” shall be substituted;

(2) after sub-section (2), the following sub-sections shall be inserted, namely:-

“(3) Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes to the committee of a society or a Bank referred to in sub-section (1) at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992 or thereafter,-

(i) in the case of the Kerala State Co-operative Bank Ltd, and the Kerala State Co-operative Agricultural and rural Development Bank Ltd., the Government, and

(ii) in the case of a primary credit society or a District Co-operative Bank, the Registrar, may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the committee of such Bank or Society, if necessary, by increasing the total number of members of such committee by two more members.

(4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be.”.

**4. Amendment of section 33.-** In sub-section (1) of section 33 of the principal Act,-  
(1) in sub-clause (ii) of clause (b), for the words “till a new committee enters upon office”, the words “for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended, from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier” shall be substituted;

(2) after the second proviso, the following proviso shall be added, namely:-

“Provided also that, where a committee, administrator or administrators, as the case may be, is in office at the commencement of the Kerala Co-operative Societies (Amendment) Act 1992, the Registrar may extend the term of such committee administrator or administrators, as the case may be, for a further period not exceeding one year from the date of such commencement.”.

**5. Amendment of section 89.-** In section 89 of the principal Act,-

(1) in sub-section (4),-

(i) in clause (d), the word “and ” at the end shall be omitted;

(ii) in clause (e), the word “and” shall be inserted at the end;

(iii) after clause (e), the following clause shall be inserted, namely:-

“(f) The Secretary of the State Co-operative Union, *ex-officio*.”;

(2) in sub-section (5), for the words, “its members”, the words “its members, other than *ex-officio* member,” shall be substituted.

(3) after sub-section (7), the following sub-section shall be inserted, namely:-

“(8) The *ex-officio* member, shall have all the powers of an elected member of the managing committee.”.

**6. Repeal and saving.-** (1) The Kerala Co-operative societies (Amendment) Ordinance, 1992 (3 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

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**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT)  
ACT, 1993 [1]  
(ACT 16 OF 1993)**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble* .— whereas it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;

be it enacted in the Forty- fourth Year of the Republic of India as follows:—

**1. Short title and commencement.** —(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1993.

(2) Sections 2 and 3 shall be deemed to have come into force on the 6 th day of February, 1993 and the remaining provisions of this Act shall be deemed to have come

into force on the 3rd day of June, 1993, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**2. Amendment of section 28.** —In section 28 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), —

(i) after sub-section (1A), the following sub-section shall be inserted, namely;

"(1AA) Notwithstanding anything contained in sub-section (1A), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of a society before the expiry of the term of office of the committee, administrator or administrators, as the case may be, appointed by him under sub-section (1A) and that it is necessary in the public interest to manage the affairs of the society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded, permit the Registrar to extend the term of office of such committee, administrator or administrators for a further period not exceeding three months in aggregate or till a new committee enters upon office, whichever is earlier.";

(ii) in sub-section (1B), for the word, figure, letter and brackets "sub-section (1A)", the words, figures, letters and brackets "sub-sections (1A) and (1AA)" shall be substituted.

**3. Amendment of section 33.** —In section 33 of the principal Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of a society before the expiry of the term of office of the committee, administrator or administrators, as the case may be, appointed by the Registrar under sub-section (1) and that it is necessary in the public interest to manage the affairs of the society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded permit the Registrar to extend the term of the said committee, administrator or administrators, as the case may be, for a further period not exceeding one year in the aggregate or till a new committee enters upon office, whichever is earlier.";

(ii) in sub-section (2) for the word, figure and brackets "sub-section (1)", the words, figures, letter and brackets "sub-sections (1) and (1A)" shall be substituted.

**4. Amendment of section 56.** —In section 56 of the principal Act, in clause (a) of sub-section (2), for the words "not exceeding ten per cent", the word "not exceeding twenty per cent" shall be substituted.

**5. Amendment of section 61.** —In section 61 of the principal Act,—1 (i) to sub-section (1), the following proviso shall be added, namely:—

"Provided that the contributory provident fund established under this sub-section shall not apply to the employees of such society to which the provisions of the Self Financing Pension Scheme framed under 'sub-section (1) of section 80A are made applicable and such society shall establish a Provident Fund in such manner and subject to such conditions or restrictions, as may be prescribed, for the benefit of such employees.";

(ii) in sub-section (2), for the words "A contributory provident fund" the words "A provident fund, whether contributory or not," shall be substituted;

**6. Insertion of new section 80 A.** —After section 80 of the principal Act, the following new section shall be inserted, namely:—

**"80A. Pension Scheme.** —(1) The Government may, by notification in the Gazette, frame a Self Financing Pension Scheme for the establishment of a Pension Fund for payment of pension to the employees of the societies in the manner provided therein and may appoint different dates for the application of the scheme to different classes of societies.

(2) The Pension Fund established under the Self Financing Pension Scheme framed under sub-section (1) shall vest in, and be administered by, such body or authority as may be specified in the said scheme".

**7. Substitution of new section for section 88.** —For section 88 of the principal Act, the following section shall be substituted, namely:—

**"88. Establishment of circle co-operative unions.** —(1) The Government shall, by notification in the Gazette, establish a circle co-operative union for each circle in the State.

(2) Each circle co-operative union shall consist of—

(a) eight members elected, in such manner as may be prescribed, by the members of the committees of the societies within the circle, namely:—

(i) two members from among the members of the committees of the primary credit societies under the control of the Registrar of Co-operative Societies appointed under sub-section (1) of section 3;

(ii) one member from among the members of the committees of the societies, other than the primary credit societies, under the control of the Registrar of Co-operative Societies appointed under sub-section (1) of section 3;

(iii) one member from among the members of the committees of the Dairy Co-operative Societies;

(iv) one member from among the members of the committees of the Fishery Co-operative Societies;

(v) one member from among the member of the committees of the Industrial Co-operative Societies;

(vi) one member from among the woman members of the committees of the societies referred to in items (i) to (v);

(vii) one member belonging to the Scheduled Castes or Scheduled Tribes from among the members of the committees of the societies referred to in items (i) to (v);

**Explanation.** —For the purposes of this clause, Dairy Co-operative Society shall be a society under the control of the Dairy Department, Fishery Co-operative Society shall be a society under the control of the Fisheries Department and an Industrial Co-operative Society shall be a society other than a society specified in items (i) to (iv);

(b) two representatives, elected in such manner as may be prescribed by the employees of the societies within the circle from among themselves, of whom—

(i) one shall be by the employees of the societies under the control of the Registrar appointed under sub-section (1) of section 3 ; and

(ii) the other shall be by the employees of the societies other than. those under the control of the Registrar appointed under sub- section (1) of section 3;

- one member elected from among themselves by the members of the Board of Directors of the District Co-operative Bank having jurisdiction over the circle;

- the Taluk level officer of the Industries Department in charge the Industrial Co-operative Societies within the circle, ex-officio;

- the Taluk level officer of the Dairy Development Department in charge of the Dairy Co-operative societies within the circle, ex-officio;
- The Taluk level officer of the Fisheries Department in charge of the Fisheries Co-operative societies within the circle, ex-officio; and
- The Assistant Registrar of Co-operative Societies (General) having jurisdiction over the circle, ex-officio.
- The Assistant Registrar of Co-operative Societies (General) member ex-officio, shall be the Secretary of the circle co-operative union.
- Each circle co-operative union shall elect one of the members other than an ex-officio member, to be its Chairman.
- The term of office of the members, other than the ex-officio members, of the circle co-operative union shall be for a period of three years from the date on which they enter upon office.
- The ex-officio members shall have all the powers of the elected members."

8. Substitution of new section for section 89. —For section 89 of the principal Act, the following section shall be substituted, namely:—

**"89. Establishment of State Co-operative Union.** —(1) The Government shall, by notification in the Gazette, establish a State Co-operative Union.

(2) The State Co-operative Union shall consist of—

- a general body; and
- a managing committee.
- Each of the circle co-operative unions, apex societies, District Co-operative Banks and central societies other than the District Co-operative Banks shall elect a delegate, in such manner as may be prescribed, and all such delegates, the employees' representatives, the ex-officio members and the Government nominee in the managing committee of the State Co-operative Union shall constitute the general body of the State Co-operative Union.
- The managing committee referred to in clause (b) of sub-section (2) shall consist of the following members, namely:—
  - one member from each Revenue District in the State elected, in such manner as may be prescribed, by the members of the circle co-operative unions in that District from among their delegates to the general body of the State Co-operative Union;
  - one member elected, in such manner as may be prescribed, by the delegates of the apex societies other than the State Co-operative Bank from among themselves;
  - two members elected, in such manner as may be prescribed, by the delegates of the District Co-operative Banks from among themselves;
  - one member elected, in such manner as may be prescribed, by the woman members under item (vi) of clause (a) of sub-section (2) of section 88 of the circle co-operative unions, from among themselves;
  - one member, belonging to the Scheduled Castes or Scheduled Tribes, elected in such manner as may be prescribed, by the members under item (vii) of clause (a) of sub-section (2) of section 88 of the circle co-operative unions from among themselves;
  - one member elected in such manner as may be prescribed, by the representatives of the employees under item (i) of clause (b) of sub-section (2) of section 88, from among themselves;

- one member elected, in such manner as may be prescribed, by the representatives of the employees under item (ii) of clause (b) of sub-section (2) of section 88 from among themselves;
- the Registrar of Co-operative Societies, ex-officio;
- (i) the Director, Industries and Commerce Department, ex-officio;
- (j) the Director, Dairy Development Department, ex-officio;
- (k) the Director, Fisheries Department, ex-officio;
- (l) the President, Kerala State Co-operative Bank, Thiruvananthapuram, ex-officio;
- (m) the Secretary, State Co-operative Union, ex-officio; and
- (n) one member to be nominated by the Government.
- The managing committee shall elect one of its members, other than an ex-officio member, to be the Chairman of the State Co-operative Union.
- The term of the office of the members, other than the ex-officio members and the nominated member, of the general body, and of the managing committee of the State Co-operative Union shall be for a period of three years from the date on which they enter upon office. The nominated member shall hold office during the pleasure of the Government.
- The Registrar of Co-operative Societies appointed under sub-section (i) of section 3 or any other officer, not below the rank of an Additional Registrar of Co-operative Societies, nominated by him shall be the Secretary of the State Co-operative Union.
- The ex-officio members and the nominated member shall have all the powers of the elected members of the managing committee."

**9. Amendment of section 90.**—In section 90 of the principal Act, in sub-section (4), for the words "by or under this Act", the words and figure "under Chapter V of this Act" shall be substituted.

**10 Transitory Provision.**—Notwithstanding anything contained in the Principal Act or in any judgement, decree or order of any court—

- (i) every circle co-operative union in existence at the commencement of this Act shall continue for a period of six months from such commencement or till a new circle co-operative union in accordance with the provisions of the principal Act as amended by this Act is constituted whichever is earlier; and
- (ii) the State Co-operative Union in existence at the commencement of this Act shall continue for a period of nine months from such commencement or till a new State Co-operative Union in accordance with the provisions of the principal Act as amended by this Act if constituted whichever is earlier.

**11. Validation.**—Notwithstanding anything contained in the principal Act or in any judgement, decree or order of any court, any order or notification issued by the Government before the commencement of this Act enabling or purporting to enable the Registrar to extend the period for which he may appoint a committee, administrator or administrators under sections 28 or 33 of the principal Act beyond a total period of one year shall be and shall be deemed always to have been issued by the Government permitting the Registrar to extend the term of office of the committee, administrator or administrators appointed by him under the said provisions beyond a total period of one year in accordance with the provisions of the principal Act, as amended by this Act, as if such provisions were in force at the relevant time and all notifications or orders issued or purported to have been issued by the Registrar before the commencement of this Act

extending the term of office of such committee, administrator or administrators beyond a total period of one year shall be and shall be deemed always to have been issued by him in accordance with the provisions of the principal Act as amended by this Act, and the continuance in office of such committee, administrator or administrators for the period as so extended by the Registrar shall be and shall be deemed always to have been in accordance with law and accordingly, all acts, proceedings or things done or taken or purported to have been done or taken by the committee, administrator or administrators in exercise of powers or discharge of duties shall, for all purposes be deemed to be and deemed always to have been done or taken in accordance with the provisions of the principal Act as amended by this Act.

**12. Repeal and saving.**—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 1993 (6 of 1993) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

## **THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1995 [1] (ACT 6 OF 1995)**

### **An Act further to amend the Kerala Co-operative Societies Act, 1969**

Preamble.—WHEREAS it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purpose hereinafter appearing:

BE it enacted in the Forty-sixth Year of the Republic of India as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1995.

(2) It shall be deemed to have come into force on the 25th day of April, 1995.

**2. Amendment of section 80.**—In section 80 of the Kerala Co-operative Societies Act, 1969 (21 of 1969), (hereinafter referred to as the principal Act), after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) Notwithstanding anything contained in this Act or the rules made or orders issued thereunder or in the bye-laws of any society relating to the recruitment and conditions of service of officers and servants of societies, all appointments of officers and servants of societies mentioned in the Schedule for which direct recruitment is resorted to shall be made from a select list of candidates furnished by the Kerala Public Service Commission.

(3B) All appointments made by direct recruitment to the societies referred to in sub-section (3A) on or after the 25th day of April, 1995 and before the date of publication of the Kerala Co-operative Societies (Amendment) Ordinance, 1995 (Ordinance No. 10 of 1995) shall be invalid."

**3. Insertion of Schedule.**—In the principal Act, the following Schedule shall be inserted in the end, namely:—

"THE SCHEDULE

{ See section 80 (3A) }

The Kerala State Co-operative Bank Ltd.,



## Thiruvananthapuram

The Kerala State Co-operative Agricultural and Rural Development Bank Ltd., Thiruvananthapuram.

The Kerala State Federation of Scheduled Castes/Scheduled Tribes Development Co-operatives, Thiruvananthapuram.

The Kerala State Co-operative Housing Federation Ltd., No. 4330, Ernakulam.

The Kerala Co-operative Milk Marketing Federation Ltd., Thiruvananthapuram.

The Kerala State Co-operative Marketing Federation Ltd., Ernakulam.

The Kerala State Co-operative Rubber Marketing Federation Ltd., Ernakulam.

The Kerala Kera Karshaka Sahakarana Federation Ltd., No. 4370, (Kerafed), Thiruvananthapuram.

The Kerala State Co-operative Federation for Fisheries Development Ltd., (Matsyafed), Thiruvananthapuram.

The Kerala State Co-operative Consumers Federation Ltd., Ernakulam.

The Kerala State Cashew Workers Apex Industrial Co-operative Society Ltd., {IND (ST)}12, Kollam.

The Kerala State Handloom Weaver's Co-operative Society Ltd. No. H. 232, Thiruvananthapuram.

The Kerala State Handicraft Apex Co-operative Society Ltd. No. H. 231, Ernakulam.

The Kerala State Co-operative Coir Marketing Federation Ltd., Alappuzha.

The Kerala State Co-operative Textile Federation Ltd., IND MT (ST) I (TEXFED), Trichur.

The Thiruvananthapuram District Co-operative Bank Ltd, No. 4312.

Kollam District Co-operative Bank Ltd. No 4311.

The Pathanamthitta District Co-operative Bank Ltd. No. 4365.

The Alappuzha District Co-operative Bank Ltd., No. 4310

Kottayam District Co-operative Bank Ltd..No. 4309

Idukki District Co-operative Bank Ltd.. No. 4334

Ernakulam District Co-operative Bank Ltd...No.4325.

Thrissur District Co-operative Bank Ltd. No. 60.

Palakkad District Co-operative Bank Ltd. No. P. 521.

Malappuram District Co-operative Bank Ltd.

No. 4329.

Kozhikode District Co-operative Bank Ltd.

No. F. 1635.

Wayanad District Co-operative Bank Ltd.

No. 4357.

Kannur District Co-operative Bank Ltd. No.  
C. 266.  
Kasaragod District Co-operative Bank Ltd.  
No. 4367."

**4. Repeal and saving.**—(1)The Kerala Co-operative Societies (Amendment) Ordinance, 1995 (10 of 1995), is hereby repealed.  
(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

## **THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1997<sup>[1]</sup>**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble.*— *whereas* it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purpose hereinafter appearing;

be it enacted in the Forty-eighth Year of the Republic of India as follows: —

**1 . Short title and commencement.** —(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1997.

(2) It shall come into force at once.

**2. Amendment of section 2.**— In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969), in clause (u), for the words and figures "first day of July of any year and ending with 30th of June", the words and figures "first day of April of any year and ending with 31st of March" shall be substituted.

## **THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1999 <sup>[1]</sup> (Act 1 of 2000)**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble.*—WHEREAS it is expedient further to amend the Kerala Co-operative Societies Act, 1969 for the purposes hereinafter appearing;

BE it enacted in the Fiftieth Year of the Republic of India as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 1999.

(2) Sections 13, 16, 17, 18 and 21 of this Act shall come into force on such dates as the Government may by notification in the Gazette appoint; and different dates may be appointed for different provisions of this Act, and the other provisions of this Act shall come into force at once.

**2. Amendment of the preamble.**—In the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), for the existing preamble, the following preamble shall be substituted, namely:—

*"Preamble.*—WHEREAS with a view to provide for the orderly development of the co-operative sector in the State, by organising the co-operative societies as self governing democratic institutions, to achieve the objects of equity, social justice and economic development, as envisaged in the directive principles of State Policy of the Constitution of India, it is expedient to consolidate, amend and unify the law relating to Co-operative societies in the State;"

**3. Amendment of section 2.**—In section 2 of the principal Act,—

(i) Clause (ee) shall be re-lettered as clause (ea) and after clause (ea) as so re-lettered, the following clauses shall be inserted, namely:—

"(eb) *"Consortium Lending Scheme"* means the Consortium Lending Scheme framed under section 57C;

(ec) *"Co-operative Development and Welfare Fund"* means the Co-operative Development and Welfare Fund established under section 57A;

(ed) *"Co-operative Service Examination Board"* means the Co-operative Service Examination Board constituted under section 80B;";

(ii) after clause (h), the following clauses shall be inserted, namely:—

"(ha) *"Deposit Guarantee Scheme"* means the Deposit Guarantee Scheme framed under section 57B;

(hb) *"Director of Co-operative Audit"* means the Director of Co-operative Audit appointed under sub-section (1) of section 63 and includes any office on whom all or any of the powers of the Director of Co-operative Audit under this Act are conferred;";

(iii) clause (ii) shall be re-lettered as clause (ia) and after clause (ia), as so re-lettered, the following clause shall be inserted, namely:—

"(ib) *"Federal Co-operative Society"* means a society having more than one district as its area of operation and having individuals and other co-operative societies as its members;";

(iv) for clause (oa), the following shall be substituted, namely:—

"(oa) *"Primary Agricultural Credit Society"* means a Service Co-operative Society, a Service Co-operative Bank, a Farmers' Service Co-operative Bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities and having its area of operation confined to a Village Panchayat or a Municipality:

Provided that the restriction regarding the area of operation shall not apply to Societies or Banks in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999;";

(v) after clause (ob) the following clause shall be inserted, namely:—

"(oc) *"Primary Co-operative Agricultural and Rural Development Bank"* means a society having its area of operation confined to a taluk and the principal object of which is to provide for long term credit for agricultural and rural development activities:

Provided that the societies in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, having more than one taluk as its area of operation shall, restrict such area of operation to the taluk where the headquarters of such society is situated, within a period of six months;";

(vi) after clause (r) the following clauses shall be inserted, namely:—

"(ra) *"State Co-operative Agricultural and Rural Development Bank"* means an apex society having only Primary Co-operative Agricultural and Rural Development Banks as its members and functioning in accordance with the provisions contained in the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984);

(rb) *"State Co-operative Bank"* means an apex society having only District Go-operative Banks as its members;

(rc) *"State Co-operative Election Commission"* means the State Co-operative Election Commission constituted under section 28B;";

(vii) for clause (tt), the following shall be substituted, namely:—

"(ta) *"Urban Co-operative Bank"* means a society registered under this Act having its area of operation in the urban areas and which undertakes banking business;

(tb) *"Vigilance Officer"* means the Vigilance Officer appointed under section 68A;".

**4. Amendment of section 7.**—In section 7 of the principal Act,—

(i) in sub-section (1), the words "within a period of ninety days from the date of receipt of the application" shall be added at the end;

(ii) in sub-section (3), for the words "within three months", the words "within ninety days" shall be substituted;

(iii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Where an application for registration of a society is not disposed of within the time specified in sub-section (3), the applicant may make a representation,—

(a) before the Registrar, if the application for registration is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of section 3; or

(b) before the Government, if the application for registration is made before Registrar, and the Registrar or the Government, as the case may be, shall, within sixty days from the date of receipt of such representation, issue directions to the authority concerned to take appropriate decision on the application for registration and the authority concerned shall comply with such directions."

**5. Insertion of new section 8A.**—In the principal Act, after section-8, the following section shall be inserted, namely:—

**"8A. Affiliation to apex Society.**— (1) Every Primary Co-operative Society or Central Co-operative Society may, within such time and in such manner, as may be prescribed, apply for affiliation to the concerned apex society or Central Society, as the case may be.

(2) Where the apex society or central society does not, within sixty days from the date of receipt of the application for affiliation, determine whether such affiliation should be given or not, such affiliation shall be deemed to have been given to the applicant society from the date on which the said period of sixty days expires.

(3) When the apex or central society, as the case may be, rejects an application for affiliation under sub-section (1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order of rejection and the Registrar shall dispose of the appeal within sixty days from the date of appeal."

**6. Amendment of section 12.**—In section 12 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

"(4A) An application to register an amendment of the bye-laws of a society shall be disposed of by the Registrar within ninety days from the date of receipt of the same.

(4B) Where an application to register an amendment of the bye-laws of a society is not disposed of within the time specified in sub-section (4A), the society may make a representation,—

(a) before the Registrar of Co-operative Societies, if the application to register the amendment of the bye-laws is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of section 3 ; or

(b) before the Government if the application for registration of the amendment of the bye-laws is made before the Registrar, and the Registrar or the Government, as the case may be, shall within, sixty days from the date of receipt of such representation, issue directions to the authority concerned, to dispose of the same."

**7. Amendment of section 16.**—In section 16 of the principal Act, in sub-section (1),—

(i) after clause (b), the following clause shall be inserted, namely:—

" (ba) a local Self government;" ;

(ii) after the third proviso, the following proviso shall be added, namely:—

"Provided also that in the case of hospital co-operative societies, industrial and commercial establishments and other organisations registered under any other law may be admitted as members.

*Explanation.*—For the purpose of this sub-section 'hospital co-operative society' means a society, the main object of which is to run a hospital or to conduct medical or paramedical courses or to run medical shops.";

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2A) Where an application for membership in a society is not disposed of within the time specified in sub-section (2), the Registrar shall be bound, on the written request of the applicant, to determine whether such membership shall be given or not;

(2B) Where the Registrar does not, within one month of the date of receipt of such written request, determine whether such membership should be given or not, the applicant may make a representation,—

(a) before the Registrar, if the request referred to in sub-section (2A) is made to a person on whom, the powers of the Registrar is conferred under sub-section (2) of section 3; or

(b) before the Government, if the request referred to in sub-section (2A) is made to the Registrar, and the Registrar or the Government, as the case may be, shall, within thirty days from the date of receipt of such representation, determine whether such membership should be given or not."

**8. Amendment of section 18.**—In section 18 of the principal Act, after the existing provisos, the following proviso shall be inserted, namely:—

"Provided also that a hospital co-operative society may admit any other society as nominal or associate member.

*Explanation.*—The term 'hospital co-operative society' shall have the same meaning as in the Explanation to the fourth proviso to sub-section (1) of section 16."

**9. Substitution of section 20.**—For section 20 of the principal Act the following shall be substituted namely:—

**"20. Vote of numbers.**—Notwithstanding anything contained in any other provision of this Act or any other law, every active member of a society shall have one vote in the affairs of the society:

Provided that,—

- (a) a member admitted within sixty days immediately prior to the date of election shall not have the right to vote;
- (b) a nominal or associate member shall not have the right to vote;
- (c) Where the Government is a member of a society, each person nominated by the Government on the committee of the society shall have one vote each including the right to vote for election of office bearers of the society;
- (d) an ex-officio member of the committee of a society shall have one vote but shall not have right to vote for election of office bearers of the society;
- (e) in the case of an equality of votes, the Chairman shall have and exercise a second or casting vote:

Provided further that the procedure and manner in which an active member may be identified shall be such as may be prescribed.

**Explanation.**—For the purpose of this section, active member means,—

- (i) in the case of a credit society, a member who has made a deposit or has become a borrower or surety or has attended any general body meeting of the society during the period of five years immediately preceding the date of resolution of the committee for the conduct of election;
- (ii) in the case of any other society, a member who has involved in all or any of the objects of the society specified in the bye-laws thereof during the period of five years immediately preceding the date of resolution of the committee for the conduct of election."

**10. Amendment of section 22.**—For section 22 of principal Act the following section shall be substituted, namely:—

**"22. Restriction on holding shares.**—In any society, no member other than the Government, any statutory or non-statutory Board, Committee or Corporation approved by the Government in this behalf or any other society, shall hold more than such portion of the total share capital of the society, not exceeding one fifth thereof, as may be prescribed:

Provided that the Government may, by notification in the Gazette, specify in respect of any class of societies a higher maximum than one fifth of the share capital."

**11. Amendment of section 28.**— In section 28 of the principal Act, —

- (i) in sub-section (1), for the words "three years", the words "five years" shall be substituted; and for the third proviso thereunder, the following provisos shall be substituted, namely:—

"Provided also that a Committee constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, shall be eligible to continue for a period of five years:

Provided also that the above proviso is not applicable to a committee where the committee has passed a resolution before the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, for the conduct of election thereof."

- (ii) for sub-sections (1A), (1AA) and (1B) the following sub-sections shall be substituted, namely:—

(1A) Notwithstanding anything contained in the bye-laws of a society, the maximum number of members of the committee shall not exceed fifteen, in the case of primary co-operative societies, and twenty-five in the case of all other types of co-operative societies.

(1B) Notwithstanding anything contained in the bye-laws of any Federal Co-operative Society, the number of individuals in the society and the Committee thereof shall not exceed twenty five per cent of the total number of members in the society or in the Committee, as the case may be."

**12. Amendment of section 28A.**—In section 28A of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in this Acts the rules or the bye-laws, there shall be reserved in the committee of every society, one seat for a woman member and one seat for a member belonging to the Scheduled Castes or the Scheduled Tribes."

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes in the committee of any apex or central society at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, the Government or the Registrar, respectively, may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the Committee."

**13. Insertion of new section 28 B.**—In the principal Act, after section 28 A, the following section shall be inserted, namely:—

**"28B. State Co-operative Election Commission.**—(1) Notwithstanding anything contained in this Act or in the rules the Government shall, by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, directions and control of the conduct of elections to the committees of all credit, apex, central and federal societies in the State. The Government may, by notification in the Gazette, entrust the superintendence, directions and control of the conduct of election to the committee of any other society or any other class of societies to the State Co-operative Election Commission:

Provided that in respect of societies not coming under this subsection, the provisions contained in this Act and the Rules made thereunder shall be followed for the conduct of elections to the committees thereof.

(2) The State Co-operative Election Commission shall be an officer not below the rank of Secretary to Government appointed by the Government for a period of five years. The terms and conditions of appointment of the State Go-operative Election Commission shall be such, as may be prescribed.

(3) The State Co-operative Election Commission shall, in consultation with the Government, designate or nominate officers and employees of the Government to assist the Commission in the conduct of election, to the committee of such society.

(4) Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee of a society."

**14. Amendment of Section 32.**—In section 32 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If the Registrar, after an inquiry by himself or through his subordinates or on a report of the financing bank, or the Vigilance and Anticorruption Bureau of the Government or the Vigilance Officer or otherwise, is satisfied that the committee of any society,—

(a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or does anything which is prejudicial to the interests of the society; or

(b) wilfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules; or

(c) makes any payment contrary to this Act or the rules or the bye-laws or causes any loss or damage to the assets of the society, by breach of trust or wilful negligence; or

(d) misappropriates or destroys or tampers with the records or causes the destruction of records to cover up any misconduct or malpractice,

he may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee and, appoint a new committee consisting of not more than three members of the society in its place or appoint not more than three administrators, who need not be members of the society, to manage the affairs of the society for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed one year.";

(ii) in sub-section (4), for the words "have power to exercise all or any of the functions", the words "have power to exercise all or any of the powers and functions", shall be substituted.

**15. Amendment of Section 33.**—In section 33 of the principal Act,—

(i) in sub-clause (ii) of clause (b) of sub-section (1), for the words "one or more administrator or administrators who need not be a member or" the words "not more than three Administrators who need not be", shall be substituted.

(ii) in sub-section (2), for the words "have power to exercise all or any of the functions", the words "have power to exercise all or any of the powers and functions" shall be substituted.

**16. Insertion of new sections 57A, 57B and 57C.**—In the principal Act, after section 57, the following sections shall be inserted, namely:—

**"57A. The Co-operative Development and Welfare Fund.**—(1) The Government may, by notification in the Gazette, frame a scheme to be called the Co-operative Welfare and Development Scheme for the establishment of a Fund under this Act and there shall be established, as soon as may be after the framing of the scheme, a Fund to be called the Co-operative Development and Welfare Fund, in accordance with the provisions of this Act and the scheme.

(2) A society may contribute to the Fund at such rates, as may be specified in the scheme.

(3) There shall be credited to the Fund,—

(a) the contribution to be paid by the society under sub section (2); and

(b) any other amount which, under the provisions of the scheme shall be credited to the Fund.

(4) Subject to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilised for payment of grant or loans to societies for the following purposes, namely:—

(i) for the purpose of safeguarding the interests of the societies against any loss or damage to their assets and properties, despite reasonable precautions to prevent such loss or damage;

(ii) for utilising for the developmental activities of the societies; and

(iii) for any other purpose, as may be specified in the scheme.

(5) Subject to the provisions of this Act the scheme may provide for the following matters, namely:—



- (i) the time and manner in which contribution shall be made to the Fund by the societies;
- (ii) the rate of contribution;
- (iii) the administration of the Fund;
- (iv) the purposes for which the Fund may be utilised for developmental activities of the societies;
- (v) the conditions under which the Fund may be expended for payment of relief to the societies;
- (vi) the manner in which the accounts of the Fund shall be kept; and
- (vii) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

**57B. Deposit Guarantee Scheme.**—(1) The Government may, by notification in the Gazette, frame a scheme to be called "the Deposit Guarantee Scheme" specifying the purpose of the scheme and shall be administered in such manner, as may be specified therein.

(2) A society may contribute to the Deposit Guarantee Scheme at such rates as may be provided in the said scheme.

**57C. Consortium Lending Scheme.**—(1) The Government may, by notification in the Gazette, frame a scheme to be called the "Consortium Lending Scheme" for the purpose of providing loans for infrastructure development, to societies, local authorities, development authorities or similar institutions, on government guarantee subject to such terms and conditions, as may be specified in the said scheme.

(2) A society may contribute to the Consortium Lending Scheme, at such rates, as may be specified in the scheme."

**17. Substitution of Chapter VIII.**—In the principal Act, for Chapter VIII, the following Chapter shall be substituted, namely:—

## **"CHAPTER VIII**

### **PART-A**

#### **AUDIT**

**63. Director of Co-operative Audit.**—(1) The Government shall by notification in the official gazette, appoint a person to be the Director of Co-operative Audit with jurisdiction over the whole of the State.

(2) The qualification and the terms and conditions of the person to be appointed as the Director of Co-operative Audit shall be such, as may be prescribed.

(3) The Government may by general or special order, confer on any officer all or any of the powers of the Director of Co-operative Audit under this Act.

(4) It shall be the duty of the Director of Co-operative Audit to audit or to cause to be audited through persons authorised by him, the accounts of every society, at least once in each year.

**64. Scope of audit, powers of the Director of Co-operative Audit and procedure for audit.**—(1) The audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed.

(2) For the purpose of audit, the Director of Co-operative Audit or the person authorised by him under section 63 shall have the following powers, namely:—

(a) he shall, at all reasonable times, have access to all the books, accounts, documents, papers and all other relevant records, securities, cash and other properties belonging to, or in the custody or control of the society;

(b) he may summon any person in possession of, or responsible for the custody, of any such books, accounts, documents, papers, other records, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof or, where there is no working office for a society, at the office of the Director of Co-operative Audit or at the office of any of his subordinate officers, as may be specified by him; and

(c) such other powers as may be prescribed.

(3) Every person who is or has been, at any time, an officer or employee of the society and every member and past member of the society, who is in possession of any information and records in regard to the transactions and working of the society, shall furnish such information in regard to the transactions and working of the society, as the Director or the person authorised by the Government under sub-section (3) of section 63 may require.

(4) The financial statement and other details required for the completion of audit shall be prepared by the society, within three months from the date of completion of the year and the fact shall be reported to the Director of Co-operative Audit or to the person authorised by him in this behalf.

(5) The audit shall be commenced within one month from the date of receipt of the report under sub-section (4) by the Director of Co-operative Audit or the person authorised by him, as the case may be, and shall be completed within a period of nine months.

(6) The amount of fee for the audit of accounts of society for each year shall be such, as may be fixed by the Director of Co-operative Audit, in accordance with the rules made in this behalf.

(7) The fee shall be paid by the society concerned within thirty days of intimation thereof and, in case of non-payment of the fee within the period it shall be recoverable in the manner specified in section 79.

(8) The procedure for payment of the fee shall be such, as may be prescribed.

(9) If the result of the audit held under section 63 discloses any defects in the working of a society, the Director of Co-operative Audit may bring such defects to the notice of the society and if the society is affiliated to another society, also to the notice of that other society.

(10) If the result of the audit held under section 63 discloses any serious defect in the working of the society, the Director of Co-operative Audit or the person authorised by him shall communicate the same forthwith to the Registrar for immediate further action.

(11) The Director of Co-operative Audit may, by order in writing, direct the society or its officers to take such action, as may be specified in the order, within the time mentioned therein to rectify the defects disclosed in the audit, under intimation to the Registrar.

## **PART-B**

### **INQUIRY, SUSPENSION, INVESTIGATION AND SURCHARGE**

**65. Inquiry by the Registrar.**—(1) The Registrar may,—

(a) on his own motion; or

(b) on an inquiry report of the Vigilance Officer appointed under section 68A; or

(c) on a report of the Director of Co-operative Audit appointed under section 63; or  
(d) on an application by the majority of the members of the committee of the society, or by not less than one third of the quorum for the general body meeting, whichever is less;  
or

(e) on an application by the apex society or financing bank of which such society is a member; or

(f) on an application of a society to which the society concerned is affiliated;  
hold an enquiry by himself or by a person authorised by order in writing, into the constitution, working and financial condition of the society, if he is satisfied that it is necessary so to do.

(2) The Registrar or the person authorised by him under sub-section (1) shall, for the purpose of an inquiry under this section, have the following powers, namely:—

(a) he 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 of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or at any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society, to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general body meeting of the society, himself call a general body meeting or require the President or Secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof, to determine such matters as may be directed by him;

(ii) any meeting called under sub-clause (i), shall have all the powers of a general body meeting called under the bye-laws of the society.

(3) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated and to the Circle Co-operative Union.

(4) When an inquiry made under this section reveals only minor defects which, in the opinion of the Registrar, can be remedied by the society, he shall communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He shall also direct the society or its officers to take such action within the time specified therein to rectify the defects disclosed in such inquiry.

(5) The inquiry under this section shall be completed within a period of six months.

(6) If the Registrar, on completion of the inquiry finds that there is a major defect in the constitution or working or financial condition of the society, he may initiate action in accordance with the provisions of section 32.

**66. Supervision and Inspection.**—(1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently, as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorised by him, by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,—

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

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

(3) Where the inspection under sub-section (2) is made on the application of a creditor, the Registrar shall communicate the result of such inspection to such creditor.

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or sub-section (2) shall at all reasonable time have free access to the books, records and accounts of the society and may summon any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorised by him under sub-section (1) or sub-section (2) may, by order in writing, direct the society or its officers to take such action, as may be specified in such order, within the time that may be mentioned in such order.

(6) The Circle Co-operative Union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) Apex Society or Federal Co-operative Society or a financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of an Apex Society or Federal Co-operative Society or a financing bank, inspecting the books of a society shall at all reasonable times have the access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and return, as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties, referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) Apex Society or Federal Co-operative Society or the financing bank may also report to the Registrar about the action to be taken against the society, as a result of the inspection by its officers.

**66A. Powers of Registrar to give directions.**—Subject to the provisions contained in this Act and the rules made thereunder, the Registrar may issue general directions and guidelines to the Co-operative Societies in furtherance of the purposes of this Act.

**66B. Suspension of Officers.**—If the Registrar, in the course of any inquiry under section 65 or on inspection under section 66 or on audit under section 64 or on the report of Vigilance Officer appointed under section 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society, has done any act detrimental to the interest of the society or its members and that there is reason to believe that such officer has indulged in misappropriation, manipulation of accounts, forgery, destruction or tampering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.

**67. Cost of inquiry or inspection.**—Where an inquiry is held under section 65, or an inspection is held under section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the member or creditor demanding an inquiry or inspection and the officers or former officers, of the society:

Provided that,—

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

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

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

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

**68A. Vigilance Officer.**—(1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to inquire into and investigate the cases of misappropriation, corruption and any other major irregularity in the societies as may be referred to him by the Registrar.

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Co-operative Societies:

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person."

**18. Substitution of Chapter IX.**—In the principal Act, for the existing Chapter IX, the following chapter shall be substituted, namely:—

## "CHAPTER IX

### SETTLEMENT OF DISPUTES

**69. Disputes to be decided by Co-operative Arbitration Court and Registrar.**—(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises,—

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

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

(c) between the society or its committee and any past committee any officer, agent or employee or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society; or

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

(e) between a society and the members of a society affiliated to it; or

(f) between the society and a person, other than a member of the society, who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(g) between the society and a surety of a member, past member, deceased member or employee or a person, other than a member, who has been granted a loan by the society, whether such a surety is or is not a member of the society; or

(h) between the society and a creditor of the society, such dispute shall be referred to the Co-operative Arbitration Court constituted under section 70A in the case of non-monetary disputes and to the Registrar, in the case of monetary disputes; and the Arbitration Court or the Registrar, as the case may be, shall decide such dispute and no other court or other authority shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely:—

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor, where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of the Board of Management or any officer of the society;

*Explanation:*—A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election, shall be deemed to be a dispute arising in connection with the election;

(d) any dispute arising in connection with employment of officers and servants of the different classes of societies specified in sub-section (1) of section 80, including their promotion and inter se seniority.

(3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Co-operative Arbitration Court unless it is referred to it within one month from the date of the election.

**70. Award on disputes.**—(1) The Co-operative Arbitration Court on receipt of reference of a dispute under sub-section (1) of section 69, shall pass an award in accordance with the provisions of this Act and the rules and the bye-laws made thereunder and such award shall, subject to the provisions of section 82, be final.

(2) The Co-operative Arbitration Court may, pending award of a dispute referred to it under section 69, make such interlocutory orders as it may deem necessary in the interests of justice.

(3) The Co-operative Arbitration Court shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit in respect of the following matters, namely:—

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) issuing of any commission for the examination of any witness; and

(v) any other matter-which may be prescribed.

(4) The Registrar may, on receipt of the reference of a dispute under sub-section (1) of section 69,—

(a) elect to decide the dispute himself; or

(b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or

(c) refer it for disposal to an arbitrator appointed by the Registrar:

Provided that a transfer under clause (b) or a reference under clause (c) shall not be made to a person equal or superior to him in rank.

(5) The Registrar may withdraw any reference transferred under clause (b) of sub-section (4) or referred under clause (c) of that sub-section and he may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (4) or refer it to any other arbitrator under clause (c) of that sub-section.

(6) The Registrar or the person invested with powers in this behalf shall, decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision or award shall, subject to the provisions of section 82, be final. Pending decision or award, the Registrar, such person or the arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interests of justice.

**70A. Co-operative Arbitration Courts.**—(1) The Government shall constitute such number of Co-operative Arbitration Courts as are necessary to exercise the powers and discharge the functions conferred on it under this Act.

(2) The qualifications, term salary and allowances and other conditions of service of the person to be appointed as the Co-operative Arbitration court shall be such as may be decided by the Government from time to time.

(3) The Government shall make rules for regulating the procedure and disposal of business of the Co-operative Arbitration Court.

(4) The Registrar or the Government shall lend the services of such number of officers and employees as may be necessary to assist the Co-operative Arbitration Court.

(5) The officers and employees referred to in sub-section (4) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

**70B. Provisions as to pending proceedings.**—*On the constitution of Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, in respect of non-monitory disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it under section 69".*

**19. Amendment of Section 71.**—In section 71 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) If a proposal for revitalisation of a society, in respect of which an order under sub-section (2) has been passed, is received by the Registrar within a period of one year from the date of such order, the Registrar may cancel the same and allow the society to continue to exist:

Provided that this sub-section shall not apply in the case of a society which does not commence functioning within a period of six months from the date of registration".

**20. Amendment of Section 73.**—In section 73 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The liquidator shall complete the winding up proceedings within a period of three years from the date of his appointment under sub-section (1) of section 72.

*Explanation:*—In computing the period of three years, the period during which an appeal, if any, preferred against an order of winding up of a society under section 71 is pending, shall be excluded."

**21. Insertion of new section 80B.**—In the principal Act, after section 80 A, the following section shall be inserted, namely:—

**"80B Co-operative Service Examination Board.**—(1) Notwithstanding anything contained in this Act or the rules or in the bye-laws of any society relating to the recruitment of officers and servants thereof, the Government shall, by notification in the Gazette, constitute a Co-operative Service Examination Board for the conduct of written examination for all direct recruitment to posts of and above the category of Junior Clerks in the Primary Agricultural Credit Societies, Primary Credit Societies, Urban Co-operative Banks and Primary Agricultural and Rural Development Banks in the State.

(2) The Examination Board shall consist of not more than three members and the term of the Board shall be five years. The powers and functions and other conditions of appointment of the members of the Board and the procedures to be followed by the Board for the conduct of examination and the preparation of list of candidates to be interviewed for appointment shall be such as may be prescribed.



(3) All appointments shall be made by the committee concerned from the list of candidates after conducting an interview of the candidates and making a select list therefrom in such manner as may be prescribed.

(4) Notwithstanding anything contained in sub-section (3A) of section 80 and in sub-section (1) of this section, the committee of a society may, with the prior approval of the Registrar, appoint persons who are professionally or technically qualified or persons with experience and expertise to posts requiring such technical or professional qualifications on contract basis or by the method of deputation for such period, but not exceeding five years, as may be specified."

**22. Amendment of Section 82.**—In the principal Act, in section 82, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any person aggrieved by,—

(a) an award of the Co-operative Arbitration Court under sub-section (1) of section 70; or

(b) an order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of sub-

section (9) of section 14; or

(c) any decision of the Registrar made under sub-section (6) of section 70; or

(d) any decision under sub-section (6) of section 70 of the person invested with powers in that

behalf by the Government ; or

(e) any award of the arbitrator under sub-section (6) of section 70,

may within sixty days from the date of such decision or award, as the case may be, appeal to the Tribunal and the Tribunal may pass such orders on the appeal, as it may deem fit."

**23. Amendment of section 88.**—In section 88 of the principal Act, in sub-section (3), for the word "three", the word "five" shall be substituted.

**24. Amendment of Section 89.**—In section 89 of the principal Act, in sub-section (6), for the word "three", the word "five" shall be substituted.

**25. Amendment of section 91.**—In section 91 of the principal Act, in sub-section {1), after clause (c), the following clauses shall be inserted, namely:—

"(d) to participate in the developmental activities and decentralised planning of the local authorities;

(e) to organise training programmes for the employees of the societies and for the members of the committee and to ensure their participation in such programmes."

**26. Amendment of section 94.**—In section 94 of the principal Act,—

(i) in sub-section (2), for the words "two hundred rupees" the words "two thousand rupees" shall be substituted;

(ii) in sub-section (3), for the words "two hundred rupees" the words "two thousand rupees" shall be substituted;

(iii) in sub-section (4), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(iv) in sub-section (5), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(v) in sub-section (6), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(vi) in sub-section (7), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(vii) in sub-section (8), for the words "one year" the words, "three years" and for the words "one thousand rupees" the words, "ten thousand rupees" shall, respectively, be substituted.

**27. Repeal of section 7 and 'Section 8 of the Kerala Co-operative Societies (Second Amendment) Act, 1997.**—Section 7 and section 8 of the Kerala -Co-operative Societies (Second Amendment) Act, 1997 (15 of 1997), are hereby repealed

## **THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2002 [1] ACT 3 OF 2002**

**An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble.*— WHEREAS it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;

BE it enacted in the Fifty-third year of the Republic of India, as follows:—

**1. Short title and commencement.**— (1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 2002.

(2) It shall be deemed to have come into force on the 4<sup>th</sup> day of May, 2002.

**2. Amendment of section 2.** – In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act) for clause (ia), the following clause shall be substituted, namely:—

“(ia) “District Co-operative Bank” means a Central Society, the principal object of which is to raise funds to be lent to its members, with jurisdiction over one revenue district and having as its members any type of primary societies and Federal and Central Societies having headquarters in such district;”.

**3. Amendment of section 18.** – In section 18 of the principal Act, in sub-section (1),--

(a) the first and second provisos shall be omitted;

(b) in the third proviso, the word “also” shall be omitted.

**4. Amendment of section 20.** – In section 20 of the principal Act, --

(a) In the opening paragraph, for the words “every active member”, the words every member” shall be substituted;

(b) the second proviso shall be omitted;

(c) the *Explanation* shall be omitted.

**5. Insertion of new section 28AA.** -- In the principal Act, after section 28A, the following section shall be inserted, namely:--

**“28AA. Election and Removal of President, Vice President, etc.**—(1) A committee constituted under sub-section (1) of section 28 shall elect from themselves a President, a Vice-

President, a Treasurer or any other officer, by whatever name he is designated, in the manner as may be prescribed.

(2) A committee shall remove from office the President, Vice-President or the Treasurer or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.”.

**6. Amendment of section 80A.-** In section 80A of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:-

“(IA) The Self Financing Pension Scheme framed under sub-section (1) may also provide for payment of pension from the pension fund, at such rates and subject to such conditions and restrictions as may be specified therein, to persons retired from service of any society during the period between 1<sup>st</sup> January, 1974 and 3<sup>rd</sup> June, 1993 and are alive.”.

**7. Special provision in respect of the existing District Co-operative Banks.-** (1) Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court, tribunal or other authority, on the commencement of this Act,--

(a) any primary society which had ceased to be a member of any District Co-operative Bank on the commencement of the Kerala Co-operative Societies (Second Amendment) Act, 1997 (15 of 1997), shall be deemed to have become a member of such District Co-operative Bank and the share amount, if any, of such society transferred to suspense account shall be deemed to be the share amount in respect of the said society;

(b) any primary society enrolled as a nominal or associate member of the District Co-operative Bank after the commencement of the Kerala Co-operative Societies (Second Amendment) Act, 1997 (15 of 1997), shall cease to be such nominal or associate member and such society may apply for membership in the District Co-operative Bank afresh;

(c) the Committee in office of a District Co-operative Bank at such commencement shall cease to exist and the Registrar shall be competent to appoint a new committee or one or more administrator or administrators, who need not be members of the society, to manage the affairs of the society for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed one year.

(2) The committee or administrator or administrators appointed under sub-section (1) shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise the powers and perform the functions of the committee or of any officer of the society and take such action as may be required in the interests of the society.

(3) The committee or administrator or administrators shall, before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the provisions contained in the principal Act and the bye-laws of the society.

**8. Repeal and saving.--**(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2002 (6 of 2002), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

1. Received the assent of the Governor on 04-07-2002 and published in the Kerala Gazette Extraordinary No.967 dated 05-07-2002.

**THE KERALA CO-OPERATIVE LAWS (AMENDMENT)  
ACT, 2003 [1]  
(ACT 16 OF 2004)**

**An Act further to amend the Kerala Co-operative Societies Act, 1969 and the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984.**

*Preamble.-* WHEREAS it is expedient further to amend the Kerala Co-operative Societies Act, 1969 and the Kerala state Co-operative Agricultural and Rural Development Banks Act, 1984, for the purposes hereinafter appearing;

BE it enacted in the Fifty-fourth year of the Republic of India as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Kerala Co-operative Laws (Amendment) Act, 2003.

(2) It shall come into force at once.

**2. Amendment of Act 21 of 1969.-** In the Kerala Co-operative Societies Act, 1969 (21 of 1969), after section 36, the following section shall be inserted, namely:-

**“36A. Charge on movable or immovable property of borrower by creating Gehan.-** Notwithstanding anything contained in any other provisions of this Act, charge on movable or immovable property of a borrower in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society may be created by Gehan in respect of which the provisions of sections 10 to 15 (both inclusive of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words “State Co-operative Bank or District Co-operative banks”, “Primary Agricultural Credit Society or Primary Housing Society”, “Society” and “said Bank or Society”, respectively, for the words “Agricultural and Rural Development bank”, “primary bank”, “bank” and “said banks” occurring in the said sections.

*Explanation.-* For the purposes of this section, Gehan means a special charge on movable or immovable property, in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or a Primary Housing Society by a mere declaration in writing by the borrower, for securing the payment of money advanced or to be advanced by way of loan, which will have all the characteristics of a valid mortgage.”.

**3. Amendment of Act 20 of 1984.-** In the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984) in section 10, for sub-sections (4) and (5) the following sub-sections shall be substituted, namely:-

“(4) Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), or in any other law for the time being in force, it shall not be necessary to register any Gehan or mortgage or hypothecation created or executed in favour of the Agricultural and Rural Development Bank or a primary bank and the release deeds thereof executed by the said banks, provided the Agricultural and Rural Development Bank or the primary bank, as the case may be, sends, within such time and in such manner as may be prescribed, a copy of the declaration or instrument whereby the Gehan or mortgage or hypothecation has been created or executed for the purpose of securing

repayment of the loan or, as the case may be, the release deed thereof, to the registering officer within the local limit of whose jurisdiction the whole or any part of the property to which the Gehan or mortgage or hypothecation; or, as the case may be, the release, relates is situated.

(5) On receipt of the copy of the declaration or instrument or the release deed sent under sub-section (4), the registering officer shall file a copy or copies thereof, as the case may be, in Book No.1, referred to in, section 51 of the Registration Act, 1908 (Central Act 16 of 1908), and thereupon such Gehan or mortgage or hypothecation or release deed shall be deemed, as the case may be, to create an interest or to extinguish the interest created, in the property to which the declaration, instrument or release deed relates and shall constitute notice thereof to any one dealing with the said property.”.

#### NOTIFICATION

No. 14953/LegB2/09/Law Dated, Thiruvananthapuram, 28th April, 2010  
8th Vaisakha, 1932

The following Act of the Kerala State Legislature is hereby published for general information. The

Bill as passed by the Legislative Assembly received the assent of the Governor on the 26th day of April, 2010.

By order of the Governor  
K. MADHUSUDANAN NAIR  
Special Secretary (Law).

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## **THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2010 ACT 7 OF 2010**

### **An Act further to amend the Kerala Co-operative Societies Act, 1969.**

*Preamble.*—Whereas, it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;

Be it enacted in the Sixty First Year of the Republic of India, as follows:—

**1.Short title and commencement.**—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 2010.

(2) It shall come into force at once.

**2.Amendment of the Preamble.**—In the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), in the Preamble,—

(i) for the words "by organising the Co-operative Societies as self governing" the words "it is

essential to organise the Co-operative Societies in accordance with Co-operative principles as self

governing" shall be substituted;

(ii) after the words "Constitution of India" the words "and to promote scientific and technological development, health care, market intervention and management excellence in the Co-operative Sector" shall be inserted.

**3.Amendment of section 2.**—In section 2 of the principal Act,—

(i) after clause (ec), the following clause shall be inserted, namely:— "(ecc) `Co-operative Ombudsman' means the person or persons appointed under sub-section (2) of section 69A ;";

(ii) for clause (hb), the following clause shall be substituted, namely:—

"(hb) `Director of Co-operative Audit' means the Director of Co-operative Audit appointed under sub-section (1) of section 63 and any officer to whom all or any of the powers of the Director of Co-operative Audit may be delegated by the Government by general or special order under subsection (3) of section 63;"

(iii) in clause (ib), after the words "and having" and before the word "individuals", the words "the Government," shall be inserted;

(iv) after clause (1), the following clause shall be inserted, namely:—

"(1a) `Miscellaneous Societies' means such societies as may be prescribed and which accept deposits from their members only and undertake business activities for the welfare of their members, as per their approved bye-laws except providing of agricultural and schematic loans and 3 which do not deal with negotiable instruments under the Negotiable Instruments Act, 1881 (Central Act 26 of 1881);";

(v) for clause (oa), the following clause shall be substituted, namely:—

"(oa) `*Primary Agricultural Credit Society*' means a Service Co-operative Society, a Service Cooperative Bank, a Farmers Service Co-operative Bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities and to provide loans and advances for agricultural purposes, the rate of interest on such loans and advances shall be the rate fixed by the Registrar and having its area of operation confined to a Village, Panchayath or a Municipality:

Provided that the restriction regarding the area of operation shall not apply to societies or banks in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999 (1 of 2000) :

Provided further that if the above principal object is not fulfilled, such societies shall lose all characteristics of a Primary Agricultural Credit Society as specified in the Act, Rules and Byelaws except the existing staff strength.";

(vi) after clause (ta), the following clause shall be inserted, namely:—

"(taa) `*Urban Co-operative Society*' means a co-operative society the principal object of which is to undertake non-agricultural credit activities and to raise funds to be lent to its members with its area of operation confined to a municipality or a corporation :

Provided that the restriction regarding the area of operation shall not be applicable to the existing urban co-operative societies."

**4.Amendment of section 6.**—In section 6 of the principal Act, in clause (c) of sub-section (2), after the words "who is an individual" and before the words "and by a person duly authorized", the words "as specified under clause (a) of sub-section (1) of section 16" shall be inserted.

**5. Amendment of section 9.**—After section 9 of the principal Act, the following proviso shall be added, namely:—

"Provided that the Government and the Registrar shall have power to regulate and control the working of a society for the economic and social betterment of its members and the general public."

**6. Amendment of section 28.**—In section 28 of the principal Act,—

(i) in sub-section (1), the third and fourth provisos shall be omitted;

(ii) for sub-section (1A), the following shall be substituted, namely:—

"(1 A) Notwithstanding anything contained in the bye-laws of the Society, the number of the members of the committee shall not be less than seven and shall not exceed thirteen in the case of 4 primary Co-operative Societies and twenty five in the case of all other types of co-operative societies".

(iii) after sub-section (1A), the following proviso shall be inserted, namely:—

"Provided that in the case of committees of Primary Co-operative Societies constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2010 the maximum number of members shall be fifteen.";

(iv) after sub-section (1B) the following sub-section shall be inserted, namely:—

"(1C) Notwithstanding anything contained in the bye-laws of a Primary Credit Society or an Urban Co-operative Bank, one seat in the committee of each such society shall be reserved for the members having a deposit of ten thousand rupees and above.";

(v) in clause (a) of sub-section (2), for the words "another society of the same type; or", the words "more than one society of the same type; or" shall be substituted;

(vi) in clause (b) of sub-section (2), for the words "two or more societies of a different type or different types;" the words "more than two societies of different types;" shall be substituted.

**7. Amendment of section 28A.**—In section 28A of the principal Act,—

(i) in sub-section (1), for the words "one seat for a woman member", the words "three of the total seats for women members" shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) Where there is no representation of women or members belonging to Scheduled Castes or Scheduled Tribes in the committee of a Society including those of the societies formed exclusively for the benefit of women and for persons belonging to Scheduled Castes or Scheduled Tribes, the Government or the Registrar shall nominate women and persons belonging to Scheduled Castes or Scheduled Tribes to the elected committee from among the members of such societies."

**8. Insertion of new section 28AA.**—In the principal Act, the existing section 28AA shall be renumbered as 28AB and before section 28AB so renumbered, the following section shall be inserted, namely:—

**"28AA. Reservation for persons with banking experience or professional qualification in the committees of Urban Co-operative Banks.**—Notwithstanding anything contained in the bye-laws of any Urban Co-operative Bank, there shall be reserved not less than two seats in the committees of such banks for members who possess experience in banking or professional qualifications:

Provided that this section shall not be applicable to the committees of Urban Co-operative Banks constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2010.

*Explanation:*—For the purpose of this section,— 5

(i) "members who possess experience in banking" means members who are or were in paid service of a Commercial Bank, State Co-operative Bank, District Co-operative Bank, an Urban Cooperative Bank or a Service Co-operative Bank in the managerial cadre.

(ii) "professional qualifications" means membership in the Institute of Chartered Accountants of India or Masters Degree in Business Administration or Membership in the Institute of Cost and Works Accountants of India or Masters Degree in Commerce with experience in banking or experience in the inspection or audit of banks, including Co-operative Bank."

**9. Amendment of section 28B.**—In section 28B of the principal Act,—

(i) in sub-section (1), after the words "the conduct of elections to the committees", the words "and Representative General Bodies" and after the words "the conduct of election to the committee" the words "and Representative General Body" shall be added.

(ii) in the proviso to sub-section (1), after the words "the conduct of elections to the committees", the words "and Representative General Bodies" shall be inserted.

(iii) in sub-section (3), after the words "in consultation with the Government", the words "and the Registrar" shall be inserted; and after the words "conduct of election to the committee", the words "and Representative General Body" shall be inserted.

(iv) in sub-section (4), after the words "elections to the committee" the words "and Representative General Body" shall be inserted.

**10. Amendment of section 32.**—In section 32 of the principal Act,—

(i) for clause (d) of sub-section (1), the following clause shall be substituted, namely:—  
"(d) misappropriates or destroys or tampers with the records or causes the destruction of records to cover up any misconduct or malpractice, he may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee and appoint in its place, one administrator or an administrative committee consisting of not more than three individuals, one among them as convener, who need not be members of the society, to manage the affairs of the society for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed one year.

*Explanation:*—A notice and an order given as per this clause to the President, in his absence to the Vice President or any committee member who is holding charge of President or Vice President or to the Chief Executive of a society shall be treated as an order given to the committee of the society.";

(ii) after clause (d) of sub-section (1), the following clause shall be added, namely:—  
"(e) Every member of the committee superseded under this section shall from the date of order of such supersession stand disqualified to contest in the election to or to be nominated to the 6 committee of any Society or to be appointed as an administrator in any society for two consecutive terms."

**11. Amendment of section 33.**—In section 33 of the principal Act, for clause(b) of sub-section(1),the following clause shall be substituted, namely:—



"(b) that a new committee is prevented from entering upon office or a new committee fails to enter upon office, on the date on which the term of office of the existing committee expires, the Registrar may, either *suo motu* or on the application of any member of the society, after intimating the Circle Co-operative Union, appoint one administrator or an administrative committee consisting of not more than three individuals, one among them as convener, who need not be member of the society to manage the affairs of the society, for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended, from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier."

**12.Amendment of section 36A.**—In section 36A of the principal Act:—

(i) after the words "in favour of the State Co-operative Bank or a District Co-operative Bank or a Primary Agricultural Credit Society or Primary Housing Society" the words "or an Urban Cooperative Bank or any Primary Co-operative Societies dealing with credit activities" shall be inserted;

(ii) after the words "substituting the words "State Co-operative Bank or District Co-operative Banks", "Primary Agricultural Credit Society or Primary Housing Society", " the words, "or an Urban Co-operative Bank or any Primary Co-operative Societies dealing with credit activities" shall be inserted;

(iii) in the Explanation, after the words "in favour of the StateCo-operative Bank or a District Cooperative Bank, or a Primary Agricultural Credit Society or a Primary Housing Society", the words "or an Urban Co-operative Bank or any Primary Co-operative Societies dealing with credit activities", shall be inserted.

**13.Amendment of section 37.**—In section 37 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that this sub-section shall not apply if the employees, whose salary is to be deducted, are not informed at least thirty days in advance, by notice duly acknowledged, about the dues on loan or award amount."

**14.Amendment of section 53.**—In section 53 of the principal Act, after clause (f), the following clause shall be inserted, namely:—

"(g) set off any amount due to Government out of the financial assistances given under this section, in which case the gross amount of assistance before set off shall be treated as the original amount of assistance: 7 Provided that the Government may exempt any society, in eligible cases considering its financial position, from setting off Government dues."

**15.Amendment of section 56.**—In section 56 of the principal Act,—

(i) clause (c) of sub-section (1) shall be omitted;

(ii) in clause (a) of sub-section (2) for the words "twenty" the words "twenty five" shall be substituted;

(iii) for clause (c) of sub-section (2), the following shall be substituted, namely:—

"(c) seven percent of the net profit to Agricultural Credit Stabilization Fund";

"(cc), five percent of the net profit to the professional education fund maintained by the Registrar";

(iv) for clause (e), the following shall be substituted, namely:—

"(e) balance of net profit may be utilised for any or all of the purposes specified in the bye-laws of the societies except for payment of bonus to employees."

(v) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Notwithstanding anything contained in section 18 of this Act, in the case of District Cooperative Banks the term 'member' shall include nominal and associate members, for the purpose of clause (a) of sub-section (2)."

**16.Amendment of section 57A.**—In section 57A of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A society shall contribute to the Fund at such rates as may be specified in the scheme."

**17.Insertion of new section 57D.**—In the principal Act, after section 57C, the following section shall be inserted, namely:—

**"57D. Co-operative Risk Fund Scheme.**—(1) The Government may, by notification in the Gazette, frame a scheme to be called the "Co-operative Risk Fund Scheme" for the establishment of a Fund for meeting the loan liability of those members who have availed loans from the co-operative societies and died within the repayment period of such loans.

(2) The types of societies and the types of loans covered by the scheme, the rate and manner of contribution towards the fund by the societies, the manner of administration and utilization of the fund and the maintenance of books of accounts in respect of the fund and its audit shall be such as may be specified in the scheme."

**18.Amendment of section 59.**—In section 59 of the principal Act, after sub-section (2), the following subsection shall be added, namely:— 8

"(3) Granting of loans to members or to non-members under sub-section (2) and recovery thereof shall be in the manner as may be specified by the Registrar."

**19.Amendment of section 63.**—In section 63 of the principal Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Government may by general or special order, delegate all or any of the powers of the Director of Co-operative Audit, in the Act to his subordinate officers.";

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) The Director of Co-operative Audit shall be under the control of the Registrar of Co-operative Societies."

**20.Amendment of section 64.**—In section 64 of the principal Act,—

(i) in sub-section (6), after the words "The amount of fee", the words "or cost" shall be inserted;

(ii) in sub-section (7), after the words "The fee" and after the words "non-payment of the fee", the words "or cost" shall respectively be inserted;

(iii) in sub-section (8), after the words "the procedure for payment of the fee", the words "or cost" shall be inserted;

(iv) after sub-section (11), the following sub-section, shall be inserted, namely:—

"(12) Notwithstanding anything contained in this Act it shall be the duty of the committee of a society,—

(a) to request the Director of Co-operative Audit to get its accounts audited every year by remitting the required fee or cost for audit in advance or as determined by the Director of Co-operative Audit and to get its books, accounts, financial statements and all other

statements required by the auditor for audit, written up and completed and to submit them for audit through its Chief Executive, to the Director of Co-operative Audit or officer authorised by him for the purpose of audit within the time limit stipulated in sub-section (4), before a request for audit is made to the Director of Cooperative Audit;

(b) to place the audit certificate in full before the general body or the representative general body and to read over to the general body or Representative General body of the defects mentioned in it and also to place the rectification reports of each defects before the general body or the Representative General body.

(c) to rectify all the defects mentioned in the audit certificate and to submit the rectification reports on the defects mentioned in the audit certificate, to the Director of Co-operative Audit and to the Registrar within two months of the receipt of the audit certificate." . 9

**21. Amendment of section 66.**—In section 66 of the principal Act,—

(i) for sub-section (4), the following sub-sections shall be substituted, namely:—

"(4) The Registrar or any person authorised by him under sub-section (1) or sub-section (2) shall at all reasonable time have free access to and have power to inspect the books, records, accounts, documents, securities, cash balance and other properties belonging to the society and may summon any person in possession of or responsible for the custody of such books, records, accounts, documents, securities, cash balance and other properties, to produce the same for inspection at any place at the Headquarters of the society or any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers.

(4A) It shall be the duty of every officer and employee of the society to co-operate with and assist in such supervision or inspection, to furnish any information that may be required for the purpose and to produce the books, records, cash balance etc. referred to in sub-section (4), on demand by such officer, failing which it shall be treated as an offence under sub-section (4) of section 94."

(ii) after sub-section (10), the following sub-section and explanations shall be added, namely:—

"(11) Notwithstanding anything contained in sub-sections (1) and (2) above, the Registrar or his subordinate officers authorized by him under sub-section (1), shall have power to hold an enquiry with necessary records of a society, on any petition received, and to inspect the affairs of a society periodically, in such cases, the inspecting officers shall have the same powers as specified in subsection (4).

*Explanation 1:*—The "affairs of a society" for the purpose of this subsection includes, among other things, matters relating to administration, management and the business of a society.

*Explanation 2:*—The duty of the officers and chief executive of a society and the nature of offences and penalties mentioned in sub-section (4) shall be applicable to this sub-section also."

**22. Amendment of section 66A.**—For section 66A of the principal Act, the following section shall be substituted, namely:—

**"66A. Powers of Registrar to give directions.**—Subject to the provisions of the Act and the Rules made thereunder the Registrar may issue general directions and guidelines to any or all of the cooperative societies in furtherance of the purposes of the Act or for

implementing Government policies for the benefit of the members and the general public."

**23. Amendment of section 68.**—In section 68 of the principal Act after sub-section (2), the following subsection shall be added, namely:—

"(3) Where the money, property, interest, cost or compensation is not repaid or restored as per subsection

(2), the Registrar shall take urgent steps to recover such amounts from the concerned persons as arrears of public revenue due on land as specified in section 79 of the Act."

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**24. Insertion of new section 69A.**—In the principal Act, after section 69, the following section shall be inserted, namely:—

**"69A. Co-operative Ombudsman.**—(1) The Government may, by notification in the official Gazette, frame a scheme to be called the "Kerala Co-operative Ombudsman Scheme" with the object of enabling redressal of complaints relating to deficiency in banking or other services rendered by co-operative societies dealing with banking business.

(2) The Government may appoint one or more persons as Ombudsman or Ombudsmen to carry out the functions entrusted to them by or under the scheme.

(3) The term of office of the Ombudsman or Ombudsmen, as the case may be, shall be three years from the date of their entering office or sixty five years, whichever is earlier.

(4) The Ombudsman or Ombudsmen so appointed under sub-section (2) shall be a person or persons having experience and expertise in banking or co-operative field and shall have a degree in management or law.

(5) The functions, powers, duties etc. of the Ombudsman shall be such, as may be specified in the scheme.

(6) The Ombudsman shall be under the control of the Government."

**25. Amendment of section 70A.**—In section 70A of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The Government or Registrar shall appoint as many officers and employees as may be necessary, to assist the Co-operative Arbitration Court."

**26. Insertion of new Chapter XB.**—In the principal Act, after chapter XA, the following chapter shall be inserted, namely:—

## "CHAPTER X B

### **SPECIAL PROVISIONS RELATING TO CO-OPERATIVE SOCIETIES, THEIR OFFICE BEARERS AND EMPLOYEES**

**74B. Opening of Branches.**—(1) The State Co-operative Bank, The State Co-operative Agricultural and Rural Development Bank and District Co-operative Banks may open branches in the area of operation of their member credit societies if such member credit societies are weak and not functioning enough to provide service to the members or to the public.

**74C. Inspection in certain Co-operatives.**—Notwithstanding anything contained in section 66, the Registrar shall inspect or cause to inspect the "affairs" of all apex, federal

and central societies every year and the power of inspecting officers shall be as specified under sub-section (4) of section 66. 11

*Explanation:*—Inspection conducted under this section shall be in addition to and not in derogation of the inspection conducted under any other law for the time being in force.

**74D. Duty of Chief Executive to supply confirmation certificate.**—It shall be the duty of the chief executive of a society to supply confirmation certificate correctly and within the time limit required by the auditor in respect of any accounts maintained in that society by another society in whose favour the Auditor requires certificate.

**74E. Manner of acceptance of deposits and lending of money.**—Acceptance of deposits and lending of money by all co-operative societies and banks shall be in such manner, as may be prescribed.

**74F. Write off of loans.**—Notwithstanding anything contained in any Act or Rules, no Authority or Commission, other than the Government or Registrar, shall have the power to write off agricultural or non-agricultural debts of borrowers of any society.

**74G. Library in Co-operative Societies.**—Every co-operative society shall establish a library :

Provided that nothing contained in this provision shall apply to a society which is working on loss for a continuous period of five years."

**27. Amendment of section 80.**—In section 80 of the principal Act,—

(i) in sub-section (3A), after the words "the Kerala Public Service Commission", the following words shall be added, namely:—

"and in making such recruitment the reservation principles under rule 14 to 17 of the Kerala State and Subordinate Service Rules, 1958 shall be followed.";

(ii) after sub-section (3A), the following sub-section shall be inserted, namely:—

"(3AA) Notwithstanding anything contained in this Act or any other law, or judgment or order of any court, all appointments already made on the advice by the Kerala Public Service Commission following the reservation principles under rule 14 to 17 of the Kerala State and Subordinate Service Rules, 1958 to the societies mentioned in the schedule for which direct recruitment shall be resorted to shall be deemed to have been validly done as if such provisions were in force at that time.";

(iii) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (1) or (2), three per cent of the total posts of employees of every society shall be reserved for physically handicapped persons having disability of forty per cent or above, as certified by the medical board and the procedure of appointment shall be such as may be prescribed:

Provided that in societies where there are more than ten and less than thirty three employees including cadre and sanctioned posts, there shall be reserved a minimum of one employee belonging to physically handicapped persons. 12

(6) Government shall have power to fix the pay, allowances and other benefits of employees of cooperative societies :

Provided that the Government may direct the Registrar to fix the pay and allowances of employees of co-operative societies, whose pay and allowances are not fixed by Government as per this subsection.

(7) Notwithstanding anything contained in the bye-laws, a society shall not pay bonus to its employees exceeding the amount and the rate fixed by the Government or the Registrar from time to time.

(8) Government shall, by order, frame uniform Service Rules and Conduct Rules for the employees of any or all classes of the co-operative societies.

(9) Suspension and disciplinary action in relation to an officer, employee or servant of a cooperative society shall be such, as may be prescribed."

**28. Amendment of section 80B.**—In section 80 B of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Co-operative Service Examination Board shall also conduct competitive or qualifying examinations if any for promotion of employees in the societies, in such manner as may be prescribed."

**29. Amendment of section 82.**—In section 82 of the principal Act, after subsection (1), the following subsection shall be inserted, namely:—

"(1A) The Tribunal shall pass an order under sub-section (1) within six months with direction to communicate the copies thereof within fifteen days to the parties thereof."

**30. Amendment of section 94.**—In section 94 of the principal Act,—

(i) for sub-section (8), the following sub-section shall be substituted, namely:—

"(8) If any officer, employee, agent, servant of a society or any other person dealing with the society misappropriates or unauthorisedly or illegally keeps any money belonging to that society, he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twice the amount of money involved in the offence.";

(ii) after sub-section (8) so substituted, the following sub-sections shall be inserted, namely:—

"(8A) If any person dishonestly or fraudulently makes or executes or cause to make or execute, any false or improper document or valuation certificate or project report or register or cause to register any fictitious company or firm or society in order to support any application for loan and thereby induces any society to deliver any loan to him or to any other person which causes loss to the society, he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twice the amount of money involved in the offence.<sup>13</sup>

(8B) If any officer, employee, member, agent or servant of a society or any other person abets, connives or conspires the commission of an offence punishable under sub-section (8A), he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twice the amount of money involved in the offence.";

(iii) after sub-section (9), the following sub-sections shall be inserted, namely:—

"(10) The Vigilance Officer appointed under section 68A shall have power of litigation and power to make complaints before a court of law in respect of offences mentioned in sub-sections (2), (3), (4), (5), (6) and (7) of this section subject to section 95.

(11) Amount of fine mentioned in sub-sections (4), (5), (6), (7), (8), (8A) and (8B) of this section shall not be met from the funds of the society."

**31. Amendment of section 95.**—For section 95 of the principal Act, the following section shall be substituted, namely:—

**"95. Cognizance of offences.**—(1) The offences punishable under sub-sections (8), (8A) and (8B) of section 94 shall be cognizable.

(2) Where a sentence of fine is imposed under sub-section (8), (8A) or (8B) of section 94, the court

in fixing the amount of the fine shall take into consideration the amount involved in the offence, the amount or value of the property, if any, which the accused person has obtained by committing the offence and the loss caused to the society.

(3) When a court imposes a sentence of which fine forms a part, the court may, when passing judgment, order the whole or any part of the fine recovered to be applied in the payment to the society as compensation for any loss caused by the offence.

(4) No prosecution shall be instituted under sub-sections (2), (3), (4), (5), (6) and (7) of section 94 without the previous sanction of the Registrar."

**32.Insertion of new section 95A.**—In the principal Act, after section 95, the following section shall be inserted, namely:—

**"95A. Offences by Companies.**—(1) If the person committing any offence under this Act is a company, the Company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offences shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributed to any neglect on the part of any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or other Officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation:**—For the purpose of this section,—

(a) '*Company*' means any body corporate and includes a firm or other association of individuals or

a society or a co-operative society;

(b) '*Director*' in relation to firm, means partner in the firm."

**33.Substitution of section 99.**—For section 99 of the principal Act, the following section shall be substituted, namely:—

**"99. Orders to be pronounced.**—In cases where parties have been heard, the order, decision or award made or given by the Registrar, the Tribunal, the Co-operative Arbitration Court, the Arbitrator, the liquidator or any officer or other person under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties or the date shall be pronounced openly on the day of final hearing."

**34.Amendment of section 108.**—For sub-section (1) of section 108 of the principal Act, the following subsection shall be substituted, namely:—

"(1) It shall be the duty of every police officer, as defined in the Kerala Police Act, 1960 (5 of 1961), to assist and protect the Registrar, the Director of Co-operative Audit, and the Vigilance Officer appointed under this Act or any Officer subordinate to them in

exercising the powers, duties and function conferred on them under the Act, if any such officer demands the assistance and protection of a police officer as above."