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EXTRAORDINARY

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PART II — Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 19th September, 2022/Bhadra 28, 1944 (Saka)

THE LAKSHADWEEP CO-OPERATIVE SOCIETIES REGULATION, 2022

No. 4 OF 2022

Promulgated by the President in the Seventy-third Year of the Republic of India.

A Regulation for registration, incorporation and management of Co-operative Societies in the Union territory of Lakshadweep and to repeal the Laccadive, Minicoy and Amindivi Islands Co-operative Societies Regulation, 1960 and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Lakshadweep Co-operative Societies Regulation, 2022.

(2) It extends to the whole of the Union territory of Lakshadweep.

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

Short title,
extent and
commencement.

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(1) “Administration” means the Administration of the Union territory of Lakshadweep;

(2) “Administrator” means the Administrator of the Union territory of Lakshadweep, appointed by the President under article 239 of the Constitution;

(3) “auditor” means a certified auditor, who is authorised and appointed by the Registrar to audit the accounts of the society.

Explanation.—For the purposes of this clause, the expression “certified auditor” means a person who possesses the prescribed qualifications and is authorised by the Registrar as an auditor under section 84;

(4) “authorised person” means any person duly authorised by the Registrar to take action under the provisions of this Regulation;

(5) “Board” means the Board of Directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted;

(6) “bye-laws” means the registered bye-laws for the time being in force, and includes a registered amendment of such bye-laws;

(7) “central bank” means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies, but does not include the urban co-operative bank;

(8) “Committee” means the Managing Committee or other governing body of a society to which the direction and control of the management of the affairs of a society is entrusted;

(9) “company” means a company as defined in the Companies Act, 2013 and includes a banking company, any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any organisation; 18 of 2013.

(10) “co-operative bank” means a society registered under this Regulation and carrying the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(11) “co-operative election authority” means an authority constituted by the Administrator under section 68;

(12) “co-operative society” means a society registered or deemed to be registered under the regulations and rules or any other law relating to co-operative societies for the time being in force in Union territory of Lakshadweep;

(13) “Deposit Insurance Corporation” means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961; 47 of 1961.

(14) “dividend” means the amount paid, out of the profit of a society, to a member in proportion to the shares held by such member;

(15) “federal society” means a society—

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

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

(16) “firm” means a firm registered under the Indian Partnership Act, 1932; 9 of 1932.

(17) "General Body" means the individuals or institutions obtaining membership of respective societies;

(18) "Islands" means the Islands of the Union territory of Lakshadweep;

(19) "Liquidator" means a person appointed under section 108;

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

(21) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

61 of 1981.

(22) "officer" means a person elected or appointed by a society to any office of such society according to its bye-laws and includes a Chairperson, Vice-Chairperson, President, Vice-President, Managing Director, General Manager, Manager, Secretary, Treasurer, Member of the Committee, and any other person elected or appointed under this Regulation, the rules or the bye-laws, to give directions in regard to the business of such society;

(23) "office bearer" means a President, Vice-President, Secretary or Treasurer of a co-operative society and includes any other person to be elected by the board of any co-operative society;

(24) "official assignee" means a person or body of persons appointed under sub-section (2) of section 22;

(25) "Official Gazette" means the Official Gazette of the Union territory of Lakshadweep;

(26) "prescribed" means prescribed by rules made under this Regulation;

(27) "rebate" means any payment made in cash or kind, out of the profits of a society, to a member or any other person, on the basis of his contribution to the business of the society;

(28) "Registrar" means a person appointed to be the Registrar of co-operative societies under this Regulation and includes an Additional Registrar, Joint Registrar, Deputy Registrar and Assistant Registrar;

(29) "Reserve Bank" means the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934;

2 of 1934.

(30) "rules" means rules made under this Regulation;

(31) "society" means a co-operative society registered, or deemed to be registered, under this Regulation;

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

(33) "Tribunal" means the Union territory Co-operative Tribunal constituted under section 123;

(34) "Union territory" means the Union territory of Lakshadweep.

CHAPTER II

REGISTRAR AND REGISTRATION

3. (1) For carrying out the purposes of this Regulation, the Administrator shall appoint a person to be called the Registrar of co-operative societies for the Union territory.

Registrar and officers and their powers.

(2) To assist the Registrar in his functions under this Regulation, the Administrator may appoint such number of Additional Registrars, Joint Registrars, Deputy Registrars, Assistant Registrars and other persons with such designations as it may think fit.

(3) The Administrator may, by general or special order, confer on a person or persons appointed under sub-section (2) all or any of the powers of the Registrar under this Regulation.

(4) Every person appointed under sub-section (2) shall work under the general guidance, and the superintendence and control of the Registrar.

Societies
which may be
registered.

4. A society established for,—

(i) promotion of the economic interests or general welfare of its members, or of the public, in accordance with the co-operative principles; or

(ii) facilitating the operations of any such society,

may be registered under this Regulation:

Provided that no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect upon any other society, or it is opposed to, or its working is likely to be in contravention of public policy or which may have an adverse effect on development of the co-operative movement, or the registration of which may be contrary to the policy directives which the Union territory Administration may, from time to time, issue.

Registration
with limited or
unlimited
liability.

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

Conditions of
registration.

6. (1) No society, other than a federal society, shall be registered under this Regulation, unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic liability of a society and development of the co-operative movement, determine from time to time for a class of societies (each of such persons being a member of a different family), who are qualified to be members under this Regulation, and who reside in the area of operation of such society:

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

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

Explanation.—For the purposes of this sub-section, the expression “society with unlimited liability” means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society.

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

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

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

Explanation.—For the purposes of this section the expression “member of a family” means a 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.

7. Notwithstanding anything contained in this Regulation, the Administrator may, by special order in each case and for the reasons to be recorded in writing, exempt subject to such conditions, if any, as it may impose, any society from any of the requirements of this Regulation as to registration.

Power to exempt societies from conditions as to registration.

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

Application for registration.

(2) The application shall be signed—

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

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

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

9. (1) On receipt of an application for registration from a society,—

Provisional registration.

(a) if the Registrar is satisfied that the society has complied with the provisions of this Regulation and the rules as to registration and that its bye-laws are not contrary to this Regulation and the rules, he shall register the society and its bye-laws; and

(b) if the Registrar is of the opinion that the application complies with the requirements of section 8, but that its bye-laws are not in conformity with the provisions of this Regulation and the rules made thereunder, he may provisionally register the society and by an order in writing permit the society to perform such functions subject to such conditions as he may specify in the order and may also by an order in writing direct the society to amend, within the period prescribed in this behalf, its bye-laws so as to bring them in conformity with this Regulation and the rules made thereunder.

(2) When a society has been provisionally registered, the Registrar shall, on its compliance with the order made under clause (b) of sub-section (1) finally register it and its bye-laws; and on its failure to comply with the order shall cancel its provisional registration:

Provided that the provisional registration of a society shall not be cancelled unless such society has been given an opportunity of being heard in the matter.

(3) A provisionally registered society shall not be deemed to be a society registered under this Regulation.

(4) On the registration of a society, the Registrar shall issue to it a certificate of registration signed by him within a period of fifteen days from the date of registration.

(5) A certificate of registration issued under sub-section (4) shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration has been cancelled.

(6) If the Registrar refuses to register the society, he shall forthwith communicate his decision with reasons therefor, to the person who has signed first on the application.

10. The Registrar shall maintain a register in the prescribed form of all societies registered or deemed to be registered under this Regulation.

Register of societies.

11. When any question arises whether, for the purpose of the formation or registration or continuance of a society or the admission of a person as a member of a society under this Regulation, a person is an agriculturist or non-agriculturist, or whether any person is a

Power of Registrar to decide certain questions.

resident in an Island or group of Islands, or whether two or more Islands shall be considered to form a group, or whether any person belongs to any particular tribe, class or occupation, the question shall be decided by the Registrar.

Classification of societies.

12. The Registrar may classify all societies in such manner, and into such classes, as he thinks fit; and the classification of a society under any head of classification by the Registrar shall be final and binding on the societies.

Amendment of bye-laws of society.

13. (1) No amendment of the bye-laws of a society shall be valid until registered under this Regulation.

(2) For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that the amendment so forwarded is not contrary to this Regulation or the rules, he may register the amendment:

Provided that no order refusing to register the amendment shall be passed except after giving the society an opportunity of being heard:

Provided further that the application for registration of amendment of bye-laws of a society shall be disposed of within two months from the date of its receipt.

(4) When the Registrar registers an amendment of the bye-laws of a society, he shall issue to the society, the copy of the amendment certified by him within a period of fifteen days from the date of registration of the amendment, which shall be conclusive evidence of its registration.

(5) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with his reasons therefor within a period of fifteen days, to the society.

Power to direct amendment of bye-laws.

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

(2) If the society fails to make the amendment within the time so specified, the Registrar after giving the society an opportunity of being heard and with the prior approval of the Administrator, may register the amendment, and shall thereupon issue to the society a copy thereof certified by him.

(3) With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly and the bye-laws as amended shall be binding on the society and its members.

Change of name.

15. (1) Subject to the provisions of the rules made under this Regulation, a society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society, or of any of its members, or of any of the persons who have ceased to be members; and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name.

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

Change of liability.

16. (1) Subject to the provisions of this Regulation and the rules made thereunder, a society may, by passing a resolution and by amending 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 anything in any bye-laws or contract to the contrary, any member or creditor shall, during a period of thirty days from the date of service of such notice upon him, have the option of withdrawing his investment in its shares, and his deposits and loans, and of demanding the payment of his other dues, if any.

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

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

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

(b) all claims of members and creditors exercising the option, under sub-section (2) have been complied *in toto*.

17. (1) Subject to the provisions of the rules made under this Regulation and the previous sanction of the Registrar, a society may, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—

Amalgamation, transfer, division or conversion of societies.

(a) to amalgamate with another society or a society registered under the Multi-State Co-operative Societies Act 2002;

(b) to transfer its assets and liabilities, in whole or in part, to any other society;

(c) to divide itself into two or more societies;

(d) to convert itself into another class of society; or

(e) to change its objects.

(2) Where the amalgamation, transfer, division or conversion referred to in sub-section (1) involves a transfer of the liabilities of a society to any other society, the Registrar shall not sanction the resolution of the society unless he is satisfied that—

(i) the society, after passing such resolution, has given notice thereof in writing to all its members, creditors and other persons whose interests are likely to be affected (hereafter, in this section referred to as “other interested persons”), giving them the option to exercise within one month from the date of the receipt of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or of withdrawing their investments in its shares, their deposits and loans and demanding payment of their other dues, if any;

(ii) all the members and creditors and other interested persons have assented to the decision, or are deemed to have assented thereto by having failed to exercise the option within the period specified in clause (i); and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been complied *in toto*.

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

(4) The amalgamation, transfer, division or conversion made under this section shall not affect any right or obligation of the societies so amalgamated, or of the society so

divided or converted, or of the transfer, or render defective, any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society, the converted society, the new societies or the transferee, as the case may be.

Power to direct amalgamation and re-organisation of societies in public interest, etc.

18. (1) Where the Registrar is satisfied that it is essential in the public interest or in the interest of co-operative movement, or for the purpose of securing proper management of any society that two or more societies should be amalgamated or that any society should be re-organised, then, notwithstanding anything contained in section 17 but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified in this behalf by the Administrator by order published in the Official Gazette, provide for the amalgamation of these societies into a single society or, as the case may be, for the re-organisation of that society, with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order.

(2) The order referred to in sub-section (1) may also provide for the constitution of the Committee of management or any other Committees of the new amalgamated or re-organised society, the persons who shall be, or continue to be, the officers of such society and the period after which such Committee or Committees may be re-constituted.

(3) No order shall be made under this section unless,—

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

(b) the Registrar has considered suggestions and objections if any received either from the society or from any member or class of members thereof or from any creditor or class of creditors within such period (not being less than one month from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, and has, if necessary, modified the same in the light of such suggestions and objections.

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

(5) Every member of each of the societies so amalgamated, shall be deemed to be a member of the new amalgamated society, and every member of the society so re-organised shall be deemed to be a member of the new re-organised society and all such members shall have all rights, privileges and liabilities of the members of the concerned new societies:

Provided that any member of the new society so amalgamated or re-organised may, within such period and in such manner as may be prescribed, resign his membership of the new society and on such resignation, he shall be entitled to withdraw his share and any other dues and interest in the society.

(6) On the issue of an order under sub-section (1) in respect of any societies or society, notwithstanding anything contained in any law for the time being in force, all the assets, rights and liabilities of the amalgamating societies, or, as the case may be, the original society which is re-organised shall stand transferred to, and vest in, the new amalgamated society, or, as the case may be, the new re-organised society;

(7) The provisions of sub-sections (3) and (4) of section 17 and the provisions of section 19 shall apply in relation to the amalgamation or re-organisation of the societies under this section as if—

(a) the order of amalgamation were a resolution of societies concerned with amalgamation; and

(b) the original society was re-organised under section 17.

19. Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society, as the case may be, shall be cancelled on the date of registration of the new society or societies so formed.

Cancellation of registration of amalgamated, divided or converted societies.

20. Where a compromise or arrangement is proposed—

(a) between a society and its creditors; or

(b) between a society and its members,

Reconstruction of societies.

the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the Liquidator, order reconstruction in the prescribed manner, of the society.

21. (1) The Registrar shall make an order cancelling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies, or if its affairs are wound up or it has not commenced business within a reasonable time of its registration or has ceased to function:

Cancellation of registration.

Provided that the registration of a society shall not be cancelled unless such society has been given an opportunity of being heard in the matter.

(2) An order made under sub-section (1) shall be published in the Official Gazette.

(3) The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

22. (1) If the Registrar is satisfied that any society is registered on mis-representation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, or any primary agricultural co-operative credit society using the word “bank”, “banking”, “banker” or any other derivative of the word “bank” in its name, he may, after giving an opportunity of being heard to the society, de-register the society.

De-registration of societies.

(2) When a society is de-registered under the provisions of sub-section (1), the Registrar may, notwithstanding anything contained in this Regulation or any other law for the time being in force, make such incidental and consequential orders including appointment of official assignee as the circumstances may require.

(3) Subject to the rules made under this Regulation, the official assignee shall realise the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The official assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

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

Partnership of societies.

(2) Nothing in the Indian Partnership Act, 1932 and the Companies Act, 2013 shall apply to such partnership.

Collaboration
by societies.

24. (1) Any society or societies may, with the prior approval of the Administrator and subject to such terms and conditions as the Administrator may impose and in such manner as may be prescribed, enter into collaboration with any undertaking or any undertaking approved by the Administrator for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.

(2) Before approving any such scheme of collaboration by any society or societies under sub-section (1), the Administrator shall have due regard to the following matters, namely:—

(a) that the scheme is economically viable;

(b) that it can be implemented without, in any way, eroding the co-operative character of the society or the societies concerned; and

(c) that the scheme is in furtherance of the interests of the members of the society or societies concerned, or is in the public interest, and in the interest of the co-operative movement in general.

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

Person who
may become
member.

25. (1) Subject to the provisions of section 28, no person shall be admitted as a member of a society unless such person is,—

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

(b) a firm, company or any other body corporate constituted under any law for the time being in force;

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

(d) the Central Government;

(e) the Administrator;

(f) a local authority;

(g) a public trust registered or deemed to have been registered under any law for the time being in force;

(h) the depositor or the financial service user; or

(i) a group of the individuals eligible under clause (a), whether incorporated or not and whether established or not by or under any law:

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

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

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

(2) Every person seeking admission as a member of a society, if duly qualified for membership of such society under the provisions of this Regulation, the rules and the bye-laws of the society may make an application to the society for membership and the society shall take decision on the application and shall communicate the decision within a period of three months from the date of the receipt of the application.

(3) If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been admitted as a member of the society.

(4) If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(5) Notwithstanding anything contained in sub-section (1), the Administrator may, having regard to the fact that the interest of any person or class of persons engaged in or carrying on any profession, business or employment conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order published in the Official Gazette, declare that such person or such class of persons shall be disqualified from being admitted, or for continuing, as member or members or shall be eligible for membership only to a limited extent, of any society or class of societies, so long as such person or persons are engaged in or carry on that profession, business or employment, and the question whether a person is or is not so engaged in or carrying on any profession, business or employment or whether a person belongs or does not belong to such class of persons as declared under this sub-section and has or has not incurred a disqualification under this sub-section shall be decided by the Registrar under section 11.

(6) Where the Registrar has decided under section 11 that a person has incurred a disqualification under section 11, the Registrar may, after conducting enquiry, by order, remove such person from the membership of the society; and such person shall cease to be a member of the society.

26. (1) Where a person becomes a member of any society on his making a declaration as required by the bye-laws of the society or otherwise and such declaration is found to be false, then such person shall be disqualified to continue as a member of the society.

Removal from membership in certain circumstances.

(2) Where a person continues as a member of the society notwithstanding the disqualification incurred by him under sub-section (5) of section 25 or under sub-section (1), he shall be removed from the society by the Registrar:

Provided that the Registrar shall, before making an order of removal give the person an opportunity of being heard.

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

Open membership.

(2) Where a society refuses to issue or accept the application for membership from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any, so paid, to the society concerned within thirty days from the date of receipt of such application and the amount; and thereupon, if the society fails to communicate any decision to the applicant within three months from the date of receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such society.

(3) If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(4) Any person aggrieved by the decision of a society, refusing him admission to its membership, within a period of two months from the date of the decision of the society may appeal to the Registrar and every such appeal, as far as possible, be disposed of by the Registrar within a period of three months from, the date of its receipt.

(5) The decision of the Registrar in appeal shall be final and binding on the parties.

Nominal, associate and sympathiser member.

28. (1) Notwithstanding anything contained in section 25, a society of such class as may be prescribed may admit any person as a nominal, associate or sympathiser member:

Provided that the total number of associate and sympathiser members in a society shall not exceed ten per cent. of the total number of members thereof.

(2) A nominal, associate or sympathiser member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society:

Provided that subject to the provisions of sub-section (7) of section 32 a nominal, associate or sympathiser member shall have such rights and privileges of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

Cessation of membership.

29. A person shall cease to be a member of a society on his resignation from the membership thereof being tendered in writing to the society and accepted by the society or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society:

Provided that the resignation of a person from the membership of a society, if such member is not in debt to the society or is not a surety for an unpaid debt due to the society, shall unless it is accepted earlier be deemed to have been accepted on the expiry of one month from the date of tendering his resignation in writing to the society.

No rights of membership to be exercised till due payments are made.

30. A member shall be entitled to exercise such rights as provided in this Regulation and rules made thereunder and bye-laws:

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

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

Duties of member.

31. It shall be the duty of every member of a society,—

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

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

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

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

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

Provided also that a non-active member who does not attend at least one meeting of the general body and does not utilise minimum level of services as specified in the bye-laws, in next five years from the date of classification as a non-active member, shall have no right to vote:

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

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

32. (1) No member of any society shall have more than one vote in its affairs and every powers of right to vote shall be exercised personally, and not by proxy:

Voting powers
of member.

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

(2) Where a share of a society is held jointly by more than one person, each such person shall have, in the absence of preceding person or persons, a right to vote:

Provided that such person shall be present and not be a minor:

Provided further that where the manner of voting is by ballot, all the joint holders of the share may appoint one of them to vote on their behalf in the affairs of the society.

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

Provided that the first society shall not appoint any of its members who is also its paid employee.

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

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

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

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

(8) The person who has committed a default and remains as such defaulter in making repayment of loan or interest thereon for a period of one year from the due date of repayment of such loan or interest or instalment shall not be entitled to exercise voting rights of a member of a society till all such repayments are made.

(9) No person shall exercise the right to vote at an election of a member of a Committee in a financial year unless he is a member of the society for the whole of the financial year preceding the financial year in which the election is being held:

Provided that no member society of a federal society shall exercise the right to vote at an election of a member of a Committee unless such society has its last accounts audited in class A, B or C.

(10) Nothing in sub-section (9) shall apply to the first election of a Committee to be held immediately after the registration of a society.

(11) The voting rights of individual members of a federal society shall be such as may be regulated by the rules and bye-laws of the society.

33. In any society, no member other than the Administrator or a society, shall hold more than such portion not exceeding one-fifth of the total share capital of the society as may be prescribed:

Restrictions
on holding of
shares.

Provided that the Administrator may, by notification in the Official Gazette, specify in respect of any class of societies a higher maximum than one-fifth of the share capital.

Restrictions
on transfer of
shares or
interest.

34. (1) Subject to the provisions of section 33 and sub-section (2) a transfer of, or charge on, the share or interest of a member in the capital of a society shall be subject to such conditions as may be prescribed.

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

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

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

(c) the Committee has approved such transfer.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Regulation or by the rules made thereunder or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed:

Provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten per cent. of the paid-up share capital of the society on the last day of the financial year immediately preceding.

Explanation.—For the purposes of this section, the expression “financial year” means the year ending on the 31st day of March or, in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day, the year ending on such day.

(4) Where the Administrator is a member of a society, the restrictions contained in this section shall not apply and that Administrator may, notwithstanding anything contained in this Regulation, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

Transfer of
interest on
death of
member.

35. (1) On the death of a member of a society, the society shall subject to the provisions of sub-section (2), transfer his share or interest in the society to a person or persons nominated by such member in accordance with the rules or, in the absence of such nomination to such person as may appear to the Committee to be the heir or legal representative of such member.

(2) No such transfer shall be made unless such nominee, heir or legal representative, as the case may be, is duly admitted as a member of the society.

(3) Notwithstanding anything contained in sub-section (2), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the amount equivalent to the value of the share or interest of the deceased member, in such manner as may be prescribed.

(4) 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.

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

(6) Nothing in the foregoing provisions of this section or section 25 shall be construed to prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member of a society, but his liability in consequence of such acquisition shall be limited to his interest in the shares of the society and the unpaid dividends as also the loan, stock, bonds, if any, and the interest earned on them which is unpaid and he shall not have the right of voting.

(7) A person under any such disability as is referred to in section 6 shall, on his disability ceasing, furnish to the society a declaration of his willingness to become a member and on receipt of such declaration the society, notwithstanding anything contained in this section may, and if it is a co-operative housing society such society shall admit him as a member if he is not otherwise disqualified and a person so admitted shall become entitled to all the rights and privileges of a member and become subject to liabilities like any other member of the society.

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

Share or interest not liable to attachment.

5 of 1920.

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

Rights of members to see books, etc.

(2) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefore, a copy of any of the documents mentioned in sub-section (1).

(3) A society shall authorise any officer or officers as it deems necessary, for the purpose of discharging the functions as provided under sub-sections (1) and (2).

38. (1) Where a person has ceased to be a member of a society under section 29,—

Liability of person who has ceased to be member.

(a) his liability in respect of any debt due by him to the society and in respect of any outstanding demand owing to the society by him shall continue as if he had not ceased to be a member; and

(b) his liability for the debts of the society as they stood immediately before the date of such cessation shall, save as otherwise provided in sub-section (2), continue for a period of three years from such date as if he had not ceased to be a member:

Provided that the liability shall attach to the estate of such person, if such cessation was due to his death or such person dies after his ceasing to be a member.

(2) Where a society is ordered to be wound up under any provisions of this Regulation, then the liability under clause (b) of sub-section (1) of a person, who has ceased to be a member thereof within three years immediately preceding the date of winding up, shall continue, until the entire liquidation proceedings are completed.

5 of 1920.

39. Notwithstanding anything contained in the Provincial Insolvency Act, 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to his dues to the Union territory Administration or to a local authority.

Insolvency of members.

40. (1) A society may, by resolution passed by three-fourths majority of all the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society:

Expulsion of members.

Provided that, no resolution shall be,—

(i) valid, unless the member concerned is given an opportunity of representing his case to the general body; and

(ii) effective unless it is submitted to the Registrar for his approval and approved by him:

Provided further that the approval or disapproval of the Registrar shall be communicated to the society within a period of three months from the date of such submission.

(2) No member of a society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of two years from the date of such expulsion:

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

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES

Societies to be
bodies
corporate.

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

Address of
societies.

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

Register of
members.

43. (1) Every society shall keep a register of its members, and enter therein the following particulars, namely:—

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

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

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

Admissibility
of copy of
entry as
evidence.

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

(2) In the case of such societies, as the Administrator may by general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded, except by order of the court or a Judge made for special cause.

- 16 of 1908.
- 45.** Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 shall, apply—
- (a) to any instrument relating to shares in a society not being a housing society notwithstanding that the assets of the society consist in whole or in part of immovable property; or
- (b) to any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property, or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
- (c) to any endorsement upon, or transfer of, any debenture issued by any society.
- 46.** The Administrator may, in the case of any society or class of societies, by notification in the Official Gazette, exempt—
- (a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar or his nominee or board of nominees under this Regulation, are respectively chargeable;
- (b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees, for the time being in force; and
- (c) any other tax or fee or duty (or any portion thereof) payable by or on behalf of a society under any law for the time being in force, which the Administrator is competent to levy.
- 47.** (1) A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the bye-laws of the society.
- (2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and bye-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent up to which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.
- 48.** (1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member:
- Provided that subject to such rules as may be determined, 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.
- (3) Notwithstanding anything contained in this Regulation, no person or group of persons other than a member or members shall be eligible to borrow from or make deposit in a Primary Agricultural Credit Co-operative Society.
- (4) If in the opinion of the Administrator, it is necessary or expedient in the interest of the society or societies concerned to do so, the Administrator may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property:

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

Power to exempt from taxation.

Restrictions on borrowing.

Restrictions on making loans.

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

Restrictions on other transactions with non-members.

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

Charge and set off in respect of share or interest of member.

50. In respect of any debt due to a society by any member thereof, the society shall have a charge upon the share or interest of such member in the capital of the society, upon the deposits of such member with the society and upon any dividend, rebate or profits payable to such member; and the society may set off any sum credited or payable to such member in or towards the payment of any such debt:

Provided that no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund referred to in section 62, and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

Prior claim of society.

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

5 of 1908.

(a) any debt or outstanding demand, owing to a society by any member or a person who has ceased to be a member shall be a first charge upon—

(i) the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by him;

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

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

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

Provided that the prior claim of the Union territory Administration in respect of dues other than land revenue, shall be restricted for the purpose of this sub-section to the assets created by a member out of the funds in respect of which the Union territory Administration has a claim.

(2) No property or interest in property, which is subject to a charge under sub-section (1) shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may determine.

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

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

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

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

52. (1) Notwithstanding anything contained in this Regulation or in any other law for the time being in force,—

Charge on immovable property of members borrowing from certain societies.

(a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form, such declaration shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances, if any, required by him which the society may make to him as such member, subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances;

(b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Regulation, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a); and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

(c) a declaration made under clause (a) or clause (b) may be varied at any time by a member, with the consent of the society in favour of which such charge is created;

(d) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (a) or clause (b) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that it shall be lawful for a member to execute a mortgage bond in favour of the Union territory Administration in respect of such land or any part thereof, under the law for the time being in force, for the supply of water from a canal to such land:

Provided further that if a part of the amount borrowed by a member is paid, the society may, on an application from the member, release from the charge created under the declaration made under clause (a) or clause (b) such part of the movable or immovable property specified in the declaration as it may deem proper, with due regard to the adequacy, of the security for the balance of the amount remaining due from or outstanding against the member;

(e) any alienation made in contravention of the provisions of clause (d) shall be void;

(f) subject to the prior claims of the Union territory Administration in respect of land revenue or any money recoverable as land revenue, and to the charge, if any, created under an award made under the law for the time being in force in any part of the Union territory:

Provided that notwithstanding anything contained in the Land Revenue Code or any law for the time being in force, the Record of Rights maintained thereunder shall also include the particulars of every charge on land or interest created under a declaration under clause (a) or clause (b).

(2) For the purposes of this section, the expression “society” means—

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

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

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

53. (1) A member of a society may execute an agreement in favour of the society, providing that his employer 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 to the society the amount so deducted in satisfaction of any debt or other demand of the society against the member.

(2) On the execution of such agreement, the employer shall, if by a requisition in writing so required by the society and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement notwithstanding anything to the contrary contained in the Payment of Wages Act, 1936 or any corresponding law for the time being in force and pay the amount so deducted to the society, within a period of fourteen days from the date on which such deduction is made as if it were a part of the wages payable by him as required under the said Act on the day on which he makes payment and in making such deduction and payment, it shall not be open to the employer to question the validity or otherwise of such debt or demand.

4 of 1936.

(3) If after receipt of a requisition made under sub-section (2), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof; and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue on a certificate being issued by the Registrar after holding such inquiry as he deems fit, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears and a certificate so issued by the Registrar shall not be questioned in any court.

(4) Nothing contained in this section shall apply to persons employed in any railway within the meaning of the Constitution, and in mines and oil fields.

CHAPTER V

AID TO SOCIETIES

Direct partnership of Union territory Administration in societies.

54. (1) The Union territory Administration may subscribe directly to the share capital of a society with limited liability.

(2) The share capital subscribed by the Union territory Administration under sub-section (1) shall not be returned to the Union territory Administration by a society except with the previous approval of the Union territory Administration.

Other forms of aid to societies.

55. Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Union territory Administration may, by general or special order, specify in this behalf, it may,—

(a) give loans to a society;

(b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both, or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the Union territory Administration;

(c) guarantee the repayment of the principal of and the payment of interest on, means given by a co-operative bank to a society;

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

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

CHAPTER VI

PROPERTY AND FUNDS OF SOCIETIES

56. (1) No part of the funds or assets of a society, other than the dividend equalisation fund, if any, and the net profits thereof, shall be paid by way of rebate or dividend or otherwise distributed, to its members: Fund not to be divided.

Provided that in the case of a member, who is also a salaried employee of the society payment on such scale as may be laid down by the bye-laws may be made to him for work done as such employee.

(2) No honorarium shall be paid out of the funds and assets of a society other than the net profits and such honorarium shall not exceed the prescribed limit.

57. (1) A society earning profit, shall calculate its annual net profits by deducting from the gross profits for the year, all accrued interest which is overdue for more than three months, establishment charges, contributions, if any, towards the provident fund and gratuity fund of its employees, interest payable on loan and deposits, audit fees, working expenses including repairs, rents, taxes and depreciation, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profits. Appropriation of profits.

(2) A society may, however, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year and the net profits thus arrived at together with the amount of profits brought forwarded from the previous year shall be available for appropriation.

(3) A society may appropriate its profits to its reserve fund or any other fund created by it to payment of dividends to members on their shares, to contribution to the educational fund as the Administrator may, by notification in the Official Gazette, specify to the payment of rebate on the basis of support received from members and persons who are not members to its business and subject to the prescribed conditions to payment of honorarium, and to any other purpose which may be specified in the rules or bye-laws:

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

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

(2) At least one-fourth of the net profits of the society each year, shall be carried to, the reserve fund; and such reserve fund may be used in the business of the society or may, subject to the provisions of section 63, be invested, as the Administrator may by general or special order direct, or may, with the previous sanction of the Administrator, be used in part for some public purpose likely to promote the objects of this Regulation, or for some such purpose of the Union territory or of local interest:

Provided that if the Registrar is satisfied that financial condition of the society is such that it is unable to carry to its reserve fund an amount up to the aforesaid limit of one-fourth of its net profits, he may by order in writing, for such period as he may specify in the order, fix for the society a limit lower than the aforesaid limit but not lower than one-tenth of its net profits.

(3) Where the reserve fund of a society exceeds its authorised share capital, then, notwithstanding anything contained in sub-section (1), the society may, with the previous permission of the Registrar carry to its reserve fund each year an amount which may be less than one-fourth but not less than one-tenth of its net profit.

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

60. (1) Every society which declares, out of the current year's profit, a dividend to its members, shall contribute towards the education fund at such rate as may be prescribed. Contribution to education fund.

(2) No society, liable to contribute towards the education fund, shall pay a dividend to its members, unless the said contribution is made to the Registrar within two months from the date on which its accounts are adopted by the general body of members at its annual general meeting.

(3) An officer who wilfully fails to comply with the requirements of this section, shall be personally liable for making good the amount to the Registrar.

Contribution to public purpose.

61. After providing for the reserve fund as provided in section 58, for the educational fund as provided in section 60, a society may set aside a sum not exceeding twenty per cent. of its net profits, and utilise from time to time, with the approval of the Registrar, whole or part of such sum in contributing to any prescribed co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose. 6 of 1890.

Investments of funds.

62. A society may invest, or deposit its fund,—

(a) in a Central Bank, or the State Co-operative Bank;

(b) in the State Bank of India or in any nationalised bank;

(c) in the Postal Savings Bank;

(d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; 2 of 1882.

(e) in shares, or security bonds, or debentures, issued by any other society with limited liability;

(f) in any land or building;

(g) in Employee's provident fund; or

(h) in any corporation owned or controlled by the Union territory Administration,

with the prior approval of the Administrator subject to such terms and conditions as may be prescribed in this behalf.

Explanation.—For the purposes of this section, the expression “nationalised bank” means a corresponding new bank constituted under sub-section (1) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. 5 of 1970. 40 of 1980.

Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities.

63. (1) No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under any section of this Regulation.

(2) If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

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

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

CHAPTER VII

MANAGEMENT OF SOCIETIES

Final authority of society.

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

Provided that, where the bye-laws of a society provide for the election of delegates of such members, the final authority may vest in the delegates of such members elected in the prescribed manner, and assembled in the general meeting.

65. (1) The management of every society shall vest in a Committee, constituted in accordance with this Regulation, the rules and bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed on it respectively by this Regulation, the rules and the bye-laws.

Committee, qualifications, dis-qualifications to become member of Committee, powers and functions of Committee.

(2) Except as otherwise provided herein, the Managing Committee of a society, which is not an apex society, shall consist of, among others, such number of elected members not exceeding twenty-one.

Explanation.—For the purposes of this sub-section, the expression “apex society” means a society,—

(a) the area of operation of which extends to the whole of the Union territory of Lakshadweep;

(b) the main object of which is to promote the principal objects of the societies affiliated to it as members and to provide for the facilities and services to them; and

(c) which has been classified as an apex society by the Registrar.

(3) There shall be reserved two seats for women in the Managing Committee of every society consisting of individuals as members and having members from such class or category of persons as may be prescribed:

Provided that one seat shall be reserved for the persons who are small farmers and marginal farmers.

(4) Every member of a society who is entitled to vote shall be eligible for appointment as a member of a Committee thereof if—

(a) he is continuously a member of the society for a period not less than three years and continues to be such member and not in default in respect of any loan taken by him from any co-operative society, co-operative bank or any other financial institution;

(b) he has any interest directly or indirectly in any subsisting contract made with the society or in any property sold or purchased by the society or any other transaction of the society except in any investment made in or any loan taken from the society;

(c) he is not otherwise disqualified for appointment as such member;

(d) he is not held responsible under section 80;

(e) no order for recovery of costs is made against him by a magistrate under section 90;

(f) no order is made against him under section 92;

(g) he is not found guilty of any of the offences under section 120 of this Regulation or any offence section 403 of the Indian Penal Code in respect of the property of any society.

45 of 1860.

(5) A member of the Committee who incurs any of the disqualifications specified above shall vacate the office and if he does not vacate such office, he shall be removed by the Registrar as such member:

Provided that the Registrar shall before making such order of removal, give the person concerned an opportunity of being heard.

(6) Notwithstanding anything contained in sub-section (4),—

(a) in case of societies dispensing with credit, no person who does money lending business shall be eligible for appointment as a member of the Managing Committee of the society; and

(b) a member of a society, who carries on business of the kind carried on by the societies of which he is the member, shall not be eligible to be the member of any Committee of that society without the sanction of the Registrar.

(7) Where any person becomes a member of a Committee of a society in contravention of sub-section (6) he shall be removed from office as a member of such Committee by the Registrar:

Provided that the Registrar shall, before making order of removal, give the person concerned an opportunity of being heard.

(8) The term of the elected members of the Managing Committee and its office bearers shall be five years from the date of election:

Provided that the term of office bearers shall be two and a half years from the date of election of Managing Committee for the co-operative banks and federal societies:

Provided further that the Managing Committee shall fill up a casual vacancy in the Committee by nomination out of the same class or categories of members in respect of which the casual vacancy has arisen within sixty days from the date of such vacancy, if the remaining term of office of the Managing Committee is less than half of its original term.

(9) The elected members of the Managing Committee and its office bearers shall cease to hold the office on the date of expiry of their term.

(10) The office bearers of the Managing Committee of the co-operative banks and federal societies shall be eligible for re-election.

(11) The society shall co-opt persons having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the society as the members of the Managing Committee:

Provided that the number of such co-opted members shall not exceed two in addition to the twenty-one members as specified in sub-section (2).

(12) The co-opted members as aforesaid shall not have the right to vote in any election of the society in their capacity as such members or to be eligible to be elected as office bearers of the Managing Committee.

(13) In case, where there are functional directors of a society, they shall also be members of the Managing Committee and such members shall be excluded for the purpose of counting the total number of members of such Managing Committee.

Explanation.—For the purposes of this sub-section, the expression “functional director” means and includes a Managing Director or a Chief Executive Officer, by whatever designation called, or any *ex officio* member or any of the Head of the Department of the concerned society, nominated by the Committee.

66. (1) Where in respect of any society—

(i) a new Committee of Management is, for any reason whatsoever, not elected before the expiry of the term of office of members of a Committee of Management of such society;

(ii) a new Committee has been elected and not functioning within a period of fifteen days (not being a Committee referred to in section 79);

(iii) there is a stalemate in the constitution of the Committee and if such Committee has ceased to function and a vacuum is created in the Management;

Appointment
of custodian in
certain
circumstances.

(iv) any Committee is prevented from entering upon office;

(v) a new Committee has failed to enter upon office on the date on which the term of office of the existing Committee expired; or

(vi) where more than one group of persons in a society is claiming to be elected as the Committee members and proceedings in respect thereof have been filed,

the Registrar shall, by an order in writing, appoint a person or a Committee of persons to be the custodian of the society to manage the affairs of the society for a period of one year or until a new Committee of Management is elected or, as the case may be, starts functioning:

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

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

(2) The custodian shall arrange to hold election of such society within a period of one year and the Committee shall be constituted before the expiration of that period.

(3) The custodian so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have powers to exercise all or any of the functions of the Committee and take all such action as may be required in the interest of the society.

(4) All acts done or purported to be done by the custodian during the period when the affairs of the society are carried on by such custodian, shall be binding on the new Committee of Management.

67. (1) A President, Vice-President, Chairperson, Vice-Chairperson, Secretary, Treasurer or any other officer by whatever designation called, who holds office by virtue of his election to that office, shall cease to be the President, Vice-President, Chairperson, Vice-Chairperson, Secretary, Treasurer or such officer, as the case may be, if a motion of no-confidence is carried at a meeting of the Committee by the majority of not less than two-thirds of the total number of members present at the meeting and voting, and such office shall thereupon be deemed to be vacant.

Motion of
no-confidence.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the Committee who are entitled to vote, shall be delivered to the Registrar in respect of a Committee of a society which has the Registrar as its member and also in any other cases to the Registrar:

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

(3) The Registrar upon whom the requisition has been made under sub-section (2) shall convene a special meeting of the Committee within a period of thirty days from the date of receipt of such requisition.

(4) The meeting shall be presided over by such officer as authorised by the Registrar and the officer shall, when presiding over such meeting, have the same powers as the President or Chairperson when presiding over such meeting, but shall not have the right to vote:

Provided that the voting shall be by secret ballot of votes.

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

(6) If such motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought within a period of six months from the date of such rejection of the motion.

Co-operative
Election
Authority.

68. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society shall vest in the authority called as the “Co-operative Election Authority”, as may be constituted by the Administrator in that behalf.

(2) Every general election of the members of the Committee and election of the office-bearers of a society including any casual vacancy, to the extent applicable, shall be held as per the procedure prescribed.

(3) The Co-operative Election Authority shall consist of a Co-operative Election Officer, appointed by the Administrator from officers of the Union territory who fulfills such qualification and experience as may be prescribed.

(4) The Administrator may appoint any employee of the Union territory, as a Secretary to the Co-operative Election Authority.

(5) The Administrator, after consultation with the Co-operative Election Officer, may provide the officers and employees for his office, to assist him in performing his functions under this Regulation.

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

(7) Notwithstanding anything contained in any law for the time being in force, the election of the Committee of each society shall be conducted by the Co-operative Election Authority one month before the expiry of the term of the existing Committee so as to ensure that the newly elected members of the Committee assume office immediately on the expiry of the office of the members of the outgoing Committee.

(8) The Co-operative Election Authority shall hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed:

Provided that the Administrator may, considering the objects of the society, class of societies, area of operation and norms of business and for proper management and interest of members, may by general or special order, classify the societies in such manner as may be prescribed.

(9) The Co-operative Election Authority shall conduct elections to the Committee and also to the office of President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected as per the bye-laws of the society, within fifteen days from the date of constitution of the Committee after a general election.

(10) There shall be an Election Fund maintained at level of the Co-operative Election Authority and every society shall deposit in advance, the estimated amount of expenditure on its election, as may be prescribed and required by the Co-operative Election Authority towards the Election Fund. The Co-operative Election Authority shall incur the necessary expenses, for the conduct of the elections of the societies, including the election of the office bearers, from the said Fund contributed by the concerned society.

(11) The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be incurred from the said Fund and the expenditure shall be made in the manner prescribed and the Registrar, on requisition by the Co-operative Election Authority, shall recover expenses of holding election from any such society or class of societies as may be prescribed in the rules:

Provided that if any society fails to pay the election expenses, the Registrar may issue the recovery certificate for recovery of the amount due and such amount shall be recovered as arrears of land revenue.

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

(a) inform the Registrar of co-operative societies about the expiry of its term of office at least six months before the date of expiry of such term;

(b) inform any casual vacancy occurred in the Committee or its office bearers, within fifteen days of the occurrence of such vacancy;

(c) furnish such books, records and information as the Co-operative Election Authority may require as per the calendar specified by it; and

(d) provide all necessary help, assistance and co-operation for the smooth preparation of electoral rolls for the conduct of elections.

69. Where due to scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme, of the Council or House of the People or a local authority, coinciding with the election programme of any society or class of societies, in the opinion of the Administrator, it is not in the public interest to hold elections to any society or class of societies, the Administrator may, notwithstanding anything contained in this Regulation or the rules or bye-laws made thereunder, or any other law for the time being in force, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time, which period may further be extended so, however, that, the total period shall not exceed one year in the aggregate.

Power of Administrator to postpone election.

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

Election to more than one seat on Committee of society.

71. (1) It shall be the duty of the Committee to intimate to the Co-operative Election Authority, for holding of its election, before expiry of its term.

Responsibility of Committee or Special Officer or Custodian to intimate and assist to arrange for election, before expiry of term.

(2) Where there is a wilful failure on the part of the Committee to intimate to the Co-operative Election Authority as required under sub-section (1) for holding of its election, and for any reason whatsoever, election of the members of the Committee could not be held before the expiry of its term then the members thereof shall cease to hold their office and in such a situation the Registrar shall take action as contemplated under section 66.

(3) On taking such action under sub-section (2), the custodian so appointed shall intimate to the Co-operative Election Authority for holding of the election with immediate effect and assist to make necessary arrangement for holding such election within the period specified.

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

Handing over records and property to new Chairperson on election.

(2) If the retiring Chairperson fails or refuses to hand over charge or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property and the Registrar may, on the retiring Chairperson's failure to comply with such

direction, make order for seizing the records and property and handing them over to the new Chairperson, in the manner provided in section 83.

Restriction on rates of sitting fees and travelling and daily allowances of members of Committee.

73. Notwithstanding anything contained in the bye-laws of a society—

(1) no society shall prescribe nor a member of a Committee thereof shall be entitled to sitting fees, and travelling and daily allowances while touring on public business, at rates exceeding such rates as may be prescribed, and

(2) a member of a Committee of a society shall, in relation to touring on public business be subject to such conditions and limitations as may be prescribed and different rates, conditions and limitations may be prescribed in relation to members of Committees of different societies or class of societies.

Explanation.—For the purposes of this section, the expression “touring on public business” includes—

(a) a journey for attending any meeting of the Committee;

(b) a journey in connection with the performance of any other functions of the Committee;

(c) a journey for attending any conference sponsored by—

(i) the Central Government;

(ii) the State Government;

(iii) the Union territory Administration;

(iv) any co-operative institution; or

(v) such other institutions recognised by the Union territory Administration in this behalf.

Removal of officer.

74. (1) If, in the opinion of the Registrar, any officer makes persistent default or is negligent in performance of the duties imposed on him by this Regulation or the rules or the bye-laws made thereunder or does anything which is prejudicial to the interests of the society or where he stands disqualified by or under this Regulation, the Registrar may, after giving the officer an opportunity of being heard, by order remove such officer and direct the society to elect or appoint a person or a qualified member in the vacancy caused by such removal and the officer so elected or appointed shall hold office so long only as the officer in whose place he is elected or appointed would have held if the vacancy had not occurred.

(2) The Registrar may, by order, direct that the officer so removed shall be disqualified to hold or to contest election for any office in the society from which he is removed and in any other society for a period not exceeding six years from the date of the order and such officer shall stand disqualified accordingly.

Annual general meeting.

75. (1) Every society shall convene the general meeting of its members within a period of six months of closure of the financial year to transact the business as provided under this Regulation:

Provided that if such meeting is not called by the society within such period, the Registrar or any person authorised by him in that behalf may in the prescribed manner, call such meeting which shall be deemed to be a general meeting duly called by the society.

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

Explanation.—For the purposes of this section, it is hereby clarified that in the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account;

and all references to profit and loss account, and to “profit” or loss in this Regulation, shall be construed in relation to such society as references respectively to the “excess of income over expenditure” and “excess of expenditure over income”.

(3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its Committee, with respect to—

(a) the state of the society’s affairs;

(b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and

(c) the amounts, if any, which it recommends for payment by way of dividend, bonus, or honoraria to honorary workers.

(4) The Committee’s report shall also deal in any changes in the nature of the society’s business which have occurred during the year for which the accounts are drawn up and such report shall be signed by its Chairperson, or any other member authorised to sign on behalf of the Committee.

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

(6) Where any officer of the society, whose duty was to call a general meeting within the period specified in sub-section (1) or to comply with sub-section (2), (3) or (4) fails without reasonable excuse to call such meeting or to comply with such sub-sections, then—

(i) if such officer is a servant of the society, the Registrar may by an order in writing impose on him a penalty of an amount not exceeding ten thousand rupees; and

(ii) if such officer is not a servant of the society, the Registrar may by an order in writing declare such officer to be disqualified for being an officer or a member of the Committee of the society or for being elected or appointed to any office of the society, for such period not exceeding six years as he may specify in the order:

Provided that before making an order under this sub-section, the Registrar shall give or cause to be given, a reasonable opportunity to the officer to show cause against the act proposed to be taken in regard to him.

76. (1) A special general meeting may be called at any time by a majority of the Committee, and shall be called by the Committee within one month—

Special general meeting.

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

(ii) on a requisition from the Registrar; or

(iii) in the case of a society, which is a member of a federal society, on a requisition from the Committee of such federal society.

(2) Where any officer or a member of the Committee, whose duty was to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the Committee for such period not exceeding six years, as he may specify in such order and if the officer is an employee of the society, he may impose on him a penalty not exceeding ten thousand rupees:

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

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

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

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

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

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

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

Power to appoint nominee of Union territory Administration.

78. (1) Where the Union territory Administration has subscribed to the share capital of a society, directly or through another society, or has guaranteed the repayment of the principal and payment of interest on, debentures issued or loans raised by a society, the Union territory Administration shall, notwithstanding anything contained in the bye-laws of such society, have the right to nominate three representatives on the Committee of such society, in such manner as may be determined by the Union territory Administration from time to time.

(2) The members so nominated shall hold office during the pleasure of the Union territory Administration, or for such period as may be specified in the order by which they are appointed, and any such member on assuming office shall have all rights, duties, responsibilities and liabilities as if he were a member of the Committee duly elected.

Explanation.— For the purposes of this clause, it is hereby clarified that a nomination of the Registrar or his nominee on the Committee of a society under the bye-laws of such society shall not be construed as nomination of the representative on that Committee in exercise of the right of the Union territory Administration under this sub-section.

(3) Where the Union territory Administration is of the opinion that having regard to the public interest involved in the operation of a society it is necessary or expedient so to do, it may nominate its representatives on the Committee of such society as if the Union territory Administration had subscribed to the share capital of the society and the provisions of sub-sections (1) and (2) shall, so far as may be apply to such nomination.

Extension of term of nominated Committee or appointment of custodian.

79. (1) Where on the expiry of the term of office of the members of any Committee of Management nominated by the Administrator, or the Registrar, the Administrator or, as the case may be, the Registrar is of the opinion that it is necessary or expedient so to do, it or he may, by an order published in the Official Gazette,—

(a) extend the term of office of the members of the said Committee of the Management; or

(b) appoint a person or a Committee of persons to be the custodian of the society for such period not exceeding two years in the aggregate or until a new Committee of Management is elected, whichever is earlier.

(2) The custodian so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have powers to exercise all or any of the

functions of the Committee, and take all such actions as may be required in the interests of the society.

(3) All acts done or purported to be done by the custodian during the period when the affairs of the society are carried on by the custodian appointed under sub-section (1) shall be binding on the new Committee of Management.

80. (1) If, in respect of a Committee of a society having the Registrar as its member, the Administrator and in respect of a Committee of a society which does not have the Registrar as its member, the Registrar, is of the opinion that—

(i) the Committee persistently makes default;

(ii) the Committee is negligent in the performance of its duties imposed on it by or under this Regulation or the rules made thereunder or bye-laws; or

(iii) the Committee has committed any act prejudicial to the interest of the society or its members,

the Administrator or, as the case may be, the Registrar, after giving the Committee an opportunity of being heard, within fifteen days from the date of issue of notice, by an order in writing, supersede the Committee and appoint—

(a) a Committee, consisting of one or more members of the society, not being the members of the Committee superseded under this sub-section; or

(b) a special officer from amongst the officers of the Union territory Administration,

to manage the affairs of the society for a period not exceeding one year as may be specified in the order, which period may, at the discretion of the Administrator or the Registrar, as the case may be, be extended from time to time, so, however, the term of the Committee or the special officer shall be, two years in aggregate.

(2) Before passing an order under sub-section (1), the Administrator or the Registrar, as the case may be, shall consult the co-operative financing institution if such society is indebted to it.

(3) The Committee or special officer so appointed shall, subject to such instructions and control of the Administrator or the Registrar, as the case may be, have power to exercise all or any of the 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.

(4) The Committee or special officer appointed under sub-section (1) shall arrange to hold the election of the Committee of the society at such time as directed by the Administrator or the Registrar, as the case may be, but not later than the period as specified in sub-section (1).

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

(6) The remuneration of members of the Committee or special officer appointed under sub-section (1) shall be such as may be prescribed and the same shall be paid from the fund of the society.

(7) The members of the Committee which has been superseded under sub-section (1), shall not be eligible to become a member of the Committee of any society for a period of six years from the date of supersession of such Committee.

81. (1) It shall be the duty of every society to keep the prescribed books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and

Supersession of a Committee and appointment of a Committee or special officer.

Registrar's power to enforce performance of obligation.

returns and such records to the Registrar as the Registrar may by order direct from time to time and the officer or officers of the society shall be bound to comply with the order within the period specified therein.

(2) Where any society is required to take any action under this Regulation, the rules or the bye-laws made thereunder, or in compliance with an order made under sub-section (1) and such action is not taken—

(a) within the time provided in this Regulation, the rules or the bye-laws, or the order, as the case may be; or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society and such expense shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (2), he may call upon any officer of the society whom he considers to be responsible for not complying with the provisions of this Regulation, the rules or the bye-laws made thereunder, or the order made under sub-section (1), and, after giving him an opportunity of being heard, may require him to pay to the society the expenses paid or payable by it to the Union territory Administration as a result of his failure to take action, and to pay to the assets of the society such sum not exceeding one hundred rupees for each day until the directions of the Registrar are carried out.

Union
territory
Administration's
power to give
directions in
public interest,
etc.

82. (1) If the Union territory Administration, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Union territory Administration or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the Union territory Administration may issue directions to them from time to time, and all societies or the society concerned, as the case may be, shall be bound to comply with such directions.

(2) The Union territory Administration may modify or cancel any directions issued under sub-section (1), and in modifying or cancelling such directions, it may impose such conditions as it may deem fit.

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

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

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

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated:

Provided further that, such federal society shall communicate its opinion to the Registrar within a period of forty-five days from the date of receipt of communication, failing which it

shall be presumed that such federal society has no objection to take action under this section and the Registrar shall be at liberty to proceed further to take action accordingly.

(4) Any order made by the Registrar under this section shall be final and binding on the parties.

83. (1) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed or the funds and property of a society are likely to be mis-appropriated or mis-applied or the officer or the person in possession unreasonably refuses to give possession of the books, records, funds and property, the Registrar may issue an order directing the person duly authorised by him in writing to seize and take possession of such books, records, funds and property of the society, and the officer of the society responsible for the custody of such books, records, funds and property or person in possession of the same shall give delivery thereof forthwith to the person so authorised.

Registrar's
power to seize
records, etc.

(2) If the officer of the society or person in possession does not so give the delivery, then, without prejudice to any other action that may be taken against such officer, person or society under the provisions of this Regulation, the Registrar or the person authorised by him may apply to the Executive Magistrate within whose jurisdiction the society is functioning for seizing and taking the possession of such books, records, funds and property of the society.

(3) On receipt of an application under sub-section (2), the Magistrate may authorise any police officer not below the rank of a Sub-Inspector to enter and search any place where the books, records, funds and property are kept or likely to be kept and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

84. (1) The Registrar shall audit, or cause to be audited by a person possessing prescribed qualifications and authorised by the Registrar by general or special order in writing in this behalf, the accounts of every society at least once in each year and the person so authorised shall be an auditor for the purposes of this Regulation.

Audit.

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

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

(4) The Registrar shall, by an order, provide for a special audit of any society on its own or on the basis of the recommendation of the Reserve Bank of India or, as the case may be, the National Bank and the provisions relating to audit of accounts of the society made under this section shall also apply to such special audit.

(5) For auditing the accounts of a society under this section, every society shall be liable to pay to the auditor such amount as audit fee as may be prescribed for different categories or class of societies.

(6) The Registrar may, in consultation with the National Bank determine prudential norms including capital to risk weighted assets ratio for Primary Agricultural Credit Co-operative Societies.

(7) The Administrator may by rules, provide for the form and manner in which and the period within which the accounts of the society or the class of society shall be prepared and submitted for the purpose of online audit.

(8) The auditor's report shall contain,—

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

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

(c) the manner of functioning of the Committee and Sub-Committees of the societies be checked and if any irregularities or violations are observed or reported, duly fixing the responsibilities for such irregularities or violations.

(9) If it is brought to the notice of the Registrar that the audit report submitted by the auditor does not disclose the true and correct picture of the accounts, the Registrar or the authorised person may carry out or cause to be carried out a test audit of accounts of such society and the test audit shall include the examination of such items as may be prescribed and specified by the Registrar in such order.

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

(11) The auditor shall submit his audit report within a period of one week from its completion to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him by the society the said accounts give all information required by or under this Regulation and present the true and fair view of the financial transaction of the society:

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

Provided further that when it is brought to the notice of the Registrar that, the auditor has failed to initiate action, the Registrar shall cause a First Information Report to be filed by a person authorised by him in that behalf:

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

85. If the result of the audit held under section 84 and inspection held under, section 87 and section 88 discloses any defects in the working of the society, the society shall within a period of two months from the date of the audit and inspection report, clarify to the Registrar as regards the defects or the irregularities so pointed out in audit and inspection report, and if clarification in respect of any defect or irregularity is not accepted, take steps to rectify the defects and remedy irregularities within such period as may be specified by the Registrar and shall report to the Registrar, failing which the Registrar shall have power to impose a penalty of such amount not exceeding rupees ten thousand and where society concerned is a member of a federal society, such order shall be made after consulting the federal society.

Rectification of defects or irregularities in accounts and inspection report of society.

86. (1) The Registrar may of his own motion or,—

Inquiry by Registrar.

(a) on the requisition of a society duly authorised by rules made in this behalf to make such requisition, in respect of any of its members, such member being itself a society;

(b) on the application of a majority of the Committee of a society; or

(c) on the application of one-third of the members of a society,

shall hold such an inquiry himself, or by a person duly authorised by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

(2) Every officer, member and past member of the society in respect of which an inquiry is held, and any other person who is in possession of information, books and papers relating to the society, shall on being so required furnish such information as is in his possession, and produce all books and papers relating to the society which are in his custody or power, and otherwise give to the officer holding the inquiry all assistance in connection with the inquiry which he can reasonably give.

(3) If any such person refuses to produce to the Registrar or any person authorised by him under sub-section (1), any book or paper which it is his duty under sub-section (2) to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-section (2) the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar may impose on the defaulter a penalty of an amount not exceeding five thousand rupees and before imposing such penalty, the Registrar shall give, or cause to be given a reasonable opportunity to the defaulter, of showing cause against the action proposed to be taken in regard to him.

(4) If at any stage of the inquiry under this section, the Registrar is satisfied that in the interest of the members of the society it is necessary to take over all books and papers relating to the society during the period of inquiry, he may make an order in writing to that effect and directing the society to hand over all books and papers relating to the society to such officer as may be specified in the order and the Registrar may also issue a direction to the society to refrain from doing such acts or engaging in such activities as may be specified in the direction.

(5) The society shall be bound to comply with any direction issued to it under sub-section (4).

(6) The books and papers taken over under sub-section (4) shall be returned to the society on the completion of the inquiry.

(7) When an inquiry is held under this section the Registrar shall communicate the result of the inquiry—

(a) in case the Union territory Administration have subscribed directly to the share capital of the society to the Union territory Administration or to any officer appointed by it in this behalf;

(b) to the federal co-operative society concerned; and

(c) to the society concerned.

(8) The Registrar may withdraw the responsibility of inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.

Inspection of books of indebted society.

87. (1) On the application of a creditor of a society who,—

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

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

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

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

(3) The Registrar may withdraw any inspection from the officer to whom it is entrusted, and to carry out the inspection himself or entrust it to any other person as he deems fit.

Inspection of books by Registrar or financing bank or federal society.

88. (1) The Registrar or the person authorised by him in this behalf shall have the right to inspect the books of any society and shall have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society.

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

(3) Where a society is indebted to any co-operative financing bank, such bank shall have the right to inspect the books of that society and the inspection may be made either by an officer of the bank authorised by the Committee of such bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection.

(4) The officer or member so inspecting 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 also call for such information, statements and returns, as may be necessary, to ascertain the financial condition of the society and the safety of the sums lent to it by the bank.

(5) Where a society is a member of a federal society recognised by the Union territory Administration under section 95 such federal society shall have the right to inspect the books of that society and the inspection may be made either by an officer or endorsee of the federal society authorised by the Committee of such federal society or by a paid employee of such federal society certified by the Registrar as competent to undertake such inspection.

(6) The officer or employee referred to in sub-section (5) 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 also call for such information, statements and returns, as may be necessary.

Suspension of officer or servant of society.

89. (1) Where in the course of an audit under section 84 or an inquiry under section 86 or an inspection under section 87 or section 88, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion, there is *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interest of the society, direct the Committee of the society pending the investigation and disposal of the matter, to

place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (1), the Committee of the society shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the Committee to extend from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

(4) If the Committee fails to comply with the direction issued under sub-section (1), the Registrar may make an order placing such paid officer or servant under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

90. (1) Where an inquiry is held under section 86 or an inspection is made under section 88, the Registrar may apportion the costs, or such part of the costs, as he may think just, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society and pass such order within a period of six months from the date of submission of inquiry report:

Cost of inquiry and inspection.

Provided that,—

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

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

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

91. Any sum imposed as penalty under section 68, 75, 76, 81, 85 or 86 or awarded by way of costs under section 90 may, on an application by the Registrar or a person authorised by him in that behalf to a Judicial Magistrate having jurisdiction in the place where the person from whom the penalty or costs are recoverable resides or carries his business, be recovered by the Judicial Magistrate as if it were a fine imposed by himself and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Mode of recovery of sums imposed as penalty or awarded as costs.

92. (1) If the result of any inquiry held under section 86 or inspection made under section 87 or section 88, discloses any defects in the constitution, working or financial condition or the books of a society, the Registrar may bring such defects to the notice of the society and the Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.

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

(2) The society concerned may make an appeal against an order made by the Registrar under sub-section (1) to the Administrator within two months from the date of the communication of the order to the society.

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

(4) Where the society fails to rectify the defects as directed by the Registrar and where no appeal has been made to the Administrator under sub-section (2) or where on the appeal so made the Administrator has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the cost from the officers of the society who, in his opinion, have failed to rectify the defects.

Power of Registrar to assess damages against delinquent, promoter, etc.

93. (1) Where, in the course of or as a result of an audit under section 84, or an inquiry under section 86 or an inspection under section 87 or section 88, or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 84, or the person authorised to inspect the books under section 87 or section 88 or the Liquidator under section 110, that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of such audit or date of order for inquiry, inspection or winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may investigate the conduct of such person or persons and after framing charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine:

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

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

Provided also that, the Administrator may, on the report of the Registrar or *suo motu*, for the reasons to be recorded in writing, extend the said period as may be required, from time to time, to complete the proceedings under this sub-section.

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

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

Power to enforce attendance, etc.

94. The Registrar or the person authorised by him, when acting under section 86, 87, 88 or section 93 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908.

5 of 1908.

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

95. (1) The Union territory Administration may constitute Committees or recognise one or more co-operative federal societies in such manner as may be prescribed and subject to such conditions as the Union territory Administration may determine, for the supervision of a society or a class of societies and may frame rules for making grants to any such Committee or federal society.

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

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

CHAPTER IX

PROCEDURE FOR DECIDING DISPUTES.

96. (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management, business, election of the Committee or its officers or conduct of general meetings of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to the Registrar if the parties thereto are amongst the following, namely:—

(a) a society, its Committee, any past Committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the liquidator of the society;

(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society;

(c) a person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 49, and any person claiming through such a person;

(d) a surety of a member, past member or a deceased member, or a person other than a member who has been granted a loan by the society under section 49, whether such a surety is or is not a member of the society; and

(e) any other society, official assignee or the Liquidator of such a society.

(2) When any question arises whether for the purposes of sub-section (1) a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

Explanation.—For the purposes of this sub-section,—

(a) a dispute shall include—

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

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

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

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

(b) the expression “agent” includes, in the case of a housing society, an architect, engineer or contractor engaged by the society.

36 of 1963.

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

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

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

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 107, or in respect of which a nominated Committee or special officer has been appointed under section 81, be six years from the date of the order issued under section 107, or section 81, as the case may be; and

(d) when the dispute is in respect of an election of any office-bearer of a society, be two months from the date of the declaration of the result of such election.

(2) The period of limitation in the case of any dispute other than those mentioned in sub-section (1) which are required to be referred to the Registrar under section 96 shall be regulated by the provisions of the Indian Limitation Act, 1963, as if the dispute were a suit, and the Registrar were a civil court. 36 of 1963.

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

Settlement of disputes.

98. (1) If the Registrar is satisfied that any matter, referred to him is a dispute, within the meaning of section 96 the Registrar shall, subject to the rules to be made in this behalf, decide the dispute himself, or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar:

Provided that no person who is connected with a dispute or with the society at any stage or has previously inspected the society or audited its accounts shall be appointed as a nominee or as member of the board of nominees to settle the dispute.

(2) Where any dispute is referred under sub-section (1) for decision to the Registrar's nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing withdraw such dispute from his nominee, or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee, or board of nominees, appointed by him.

(3) Notwithstanding anything contained in section 96, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated question of law or fact, until the question has been tried by a regular suit instituted by one of the parties or by the society and if any such suit is not instituted within two months from the Registrar's order suspending proceedings, the Registrar shall take action as is provided in sub-section (1).

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

99. (1) The Registrar or his nominee or board of nominees, hearing a dispute under section 96 shall hear the dispute in the manner prescribed and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as provided in the case of a civil court by the Code of Civil Procedure, 1908.

5 of 1908.

(2) Except where a dispute involves complicated question of law or fact, no legal practitioner in his capacity as a legal practitioner or as a person holding a power of attorney shall be permitted to appear on behalf of any party at the hearing of a dispute.

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

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

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

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

(7) Notwithstanding anything contained in sub-sections (1) to (6), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely:—

(a) any dispute for recovery of debt upon promissory note, *hundi*, bill of exchange or bond, with or without interest, whether agreed upon under such instrument or under bye-laws;

(b) any dispute for recovery of a fixed sum of money or, the nature of debt in with or without interest, arising on a written contract;

(c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing; or

(d) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under bye-laws.

(8) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar or his nominee or board of nominees, as the case may be, in such manner as may be prescribed.

(9) The Registrar or his nominee or board of nominees may grant the leave under sub-section (8) on such conditions, as he or it thinks fit.

(10) The Registrar or his nominee or board of nominees shall not refuse the leave to defend the dispute unless he or it satisfies that the facts disclosed by the defendant do not indicate that he has substantial defense to raise or that the defense intended to be put up by him is frivolous or vexatious.

(11) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant:

Provided that the Registrar or his nominee or board of nominees in his or its discretion may require any fact so admitted to be proved otherwise than by such admission.

(12) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar or his nominee or board of nominees, as the case may be, may pass an award against him, as if he has not been granted such leave.

(13) The Registrar or his nominee or as the case may be, board of nominees may under special circumstances set aside the award, passed by him or it and if necessary, stay or set aside the execution, and may grant leave to the defendant to appear and defend the disputes, if it seems reasonable so to do and on such terms as he or it thinks fit.

Attachment
before award.

100. (1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 98 or section 110, or whereas the Registrar or the person authorised under section 93 hears a person against whom charges are framed under that section, the Registrar or his nominee or board of nominees, or as the case may be, the person so authorised under section 93 if satisfied on inquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 93 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,—

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, may, unless adequate security is furnished, direct conditional attachment of the said property and such attachment shall have the same effect as if made by a competent civil court.

(2) Where a direction to attach property is issued under sub-section (1), the Registrar or his nominee or board of nominees or the person authorised under section 93 shall issue a notice calling upon the person whose property is so attached to furnish such security within such period as may be specified in the notice and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees or, as the case may be, the person authorised under section 93 may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in sub-section (1) may direct the disposal of the property so attached towards the claim if awarded.

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

Decision of
Registrar or
his nominee
or board of
nominees.

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

(2) The Registrar, his nominee or the board of nominees, as the case may be, may before hearing the parties, require any party or parties to such dispute to deposit such sum as may, in his or its opinion, be considered reasonable to meet the expenses including the payment of fees, that may be payable to the Registrar, his nominee or the board of nominees as the case may be, in pursuance of the award to be made under sub-section (1).

(3) The Registrar may, having regard to the nature of the cause of action or subject matter of dispute, the nature of relief that may be claimed in a dispute and such other matters, specify by a general or special order, the scale of fees and expenses that may be made payable to him or his nominee or the board of nominees, as the case may be, by or under an award made under sub-section (1).

102. Any party aggrieved by any decision of the Registrar or his nominee or board of nominees, as the case may be, under section 101 or in an order passed under section 100 may, within sixty days from the date of the decision or order, appeal to the Tribunal:

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

Provided that the Appellate Tribunal may entertain any appeal after the expiry of sixty days, if it is satisfied that there was a sufficient cause for not filing it within that period.

103. Every order passed by the Registrar or a person authorised by him under section 93, or by the Registrar, his nominee or board of nominees under section 100 or 101, every order passed by a Liquidator under section 110, every order passed by the Administrator in appeal against orders passed under section 110, and every order passed in revision under section 128, shall, if not carried out,—

Money how recovered.

(a) on a certificate signed by the Registrar or a Liquidator, be deemed to be a decree of a civil court, as defined in clause (2) of section 2 of the Code of Civil Procedure, 1908 and shall be executed in the same manner as a decree of such court; or

(b) be executed according to the provisions of the Land Revenue Code or any corresponding law in force and the rules made thereunder for the time being in force for the recovery of arrears of land revenue:

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

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

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

105. (1) When in execution of an order sought to be executed under section 103 any property cannot be sold for want of buyers, if such property is in property occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or clause (b) of section 103, the court or the Collector or the Registrar, as the case may be, may direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.

Transfer of property which cannot be sold.

(2) Where property is transferred to the society under sub-section (1), or is sold under the provisions of section 103, the court, the Collector or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

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

or an Assistant Registrar powers exercisable by the Collector or the Registrar under this section.

Recovery of
crop loans.

106. (1) Notwithstanding anything contained in sections 96, 98 and 103, on an application made by a society undertaking the financing of crops and seasonal finance as defined under any law for the time being in force, or undertaking medium term finance for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops, seasonal finance or medium term finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

Explanation.—For the purposes of this sub-section, the expression “medium term finance” means advancing of loans for any purpose of production relating to agriculture, fishery, animal husbandry, poultry, dairy and industry such loans being repayable otherwise than in the manner specified in the definitions of the expressions “financing of crops” and “seasonal finance” under any law for the time being in force.

(2) If a society referred to in sub-section (1) fails to make an application under that sub-section, then, if such society is a member of any co-operative financing bank such co-operative financing bank may direct such society to take such action and if the society fails to take action in pursuance of such direction, the co-operative financing bank may itself make an application under sub-section (1) on behalf of the society.

(3) Where the Registrar is satisfied that a society or the co-operative financing bank to which such society is affiliated has failed to make an application under sub-section (1) or, as the case may be, under sub-section (2) in respect of such arrears the Registrar may, of his own motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as such arrears, and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(4) A certificate granted by the Registrar under sub-section (1) or sub-section (3) shall be final and a conclusive proof of the arrears stated to be due therein, which shall be recoverable according to the provisions of the Land Revenue Code or any other law for the time being in force and of the rules made thereunder for the recovery of land revenue.

(5) It shall be lawful for the Collector and the Registrar to take precautionary measures specified under Land Revenue Code or any other law for the time being in force, until the arrears due to the society together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar.

CHAPTER X

LIQUIDATION

Winding up.

107. (1) Except as otherwise provided in sub-section (2), if the Registrar,—

(a) after an inquiry has been held under section 86, or an inspection has been made under the provisions of section 87 or section 88 or on the report of the auditor auditing the accounts of the society;

(b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special general meeting called for the purpose; or

(c) of his own motion, in the case of a society which—

(i) has not commenced working;

(ii) has ceased working;

(iii) possesses shares or member's deposits not exceeding five thousand rupees; or

(iv) has ceased to comply with any conditions as to registration and management in this Regulation or the rules or the bye-laws,

he may, after giving the society an opportunity of making a representation, by order, direct it to be wound up.

(2) Notwithstanding anything contained in sub-section (1), in case where the members of the society, after having discharged liabilities towards the debt and assets of the society, upon a resolution carried by three-fourths majority of the members of the society present at a special general meeting called for the purpose, *suo motu* resolves to wind up the society and conveys such resolution to the Registrar and the Registrar shall, after disposing of the surplus assets in accordance with the provisions of section 115, cancel the registration of such society under section 21.

(3) Where an interim order is made on a ground specified in clause (a) or sub-clause (iv) of clause (c) of sub-section (1), a copy thereof shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a period of one month from the date of issue of such order.

(4) The Registrar, after giving an opportunity to the society of being heard, shall make a final order, vacating or confirming the interim order.

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

Appointment
of Liquidator.

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

(3) When a final order is made confirming the interim order, the officers of the society—

(a) shall hand over to the Liquidator the custody and control of any property, effects and actionable claims and any books, records, and other documents pertaining to the business of the societies which for any reason are not handed over to the liquidator under sub-section (2) at the time when an interim order was made; and

(b) shall vacate their offices and while winding up order remains in force, the General Body of the society shall not exercise any powers.

(4) The Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 110 and the Registrar may remove him from his office and appoint another in his place, without assigning any reason.

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

(6) In the event of the interim order being vacated, the Liquidator shall hand over the property, effects, actionable claims, books, records and other documents of the society to the officers who had delivered the same to him and the acts done, and the proceedings taken by the Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been vacated under section 107 be continued by the officers of the society.

109. (1) The Committee, or any member, of the society ordered to be wound up, may within two months from the date of the communication to the society of the order made under section 107 appeal, if the order is made by the Registrar, Additional Registrar or Joint Registrar to the Administrator, or if the order is made by any other person on whom the powers of the Registrar are conferred, to the Registrar:

Appeal against
order of
winding up.

Provided that no appeal shall lie against an order issued under sub-clauses (i), (ii) or (iii) of clause (c) of sub-section (I) of section 107:

Provided further that, no appeal shall lie against an order passed by the Registrar on appeal.

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

Powers of
Liquidators.

110. The Liquidator appointed under section 108 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,—

(a) to institute and defend suits and other legal proceedings, civil or criminal, on behalf of the society, in the name of his office;

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

(c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels;

(d) to raise on the security of the assets of the society, any money required;

(e) to investigate all claims against the society and, subject to the provisions of this Regulation, to decide questions of priority arising out of such claims, and to pay any class or classes of creditor in full or rateable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates;

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

(g) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and 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, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;

(h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs or legal representatives of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;

(i) to make applications under section 103;

(j) to get disputes referred to the Registrar for decision by himself or his nominee or board of nominees;

(k) to determine by what persons and in what proportion the costs of the liquidation shall be borne;

(l) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefits of any distribution made before those debts or claims are proved;

(m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties

5 of 1908.

belonging to or in the custody of the society by the same means and in the same manner as provided in the case of a civil court under the Code of Civil Procedure, 1908;

(n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up; and

(o) to take such action as may be necessary under section 20, with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

111. (1) After the expiry of the period for appeal under section 109 against the order made under sub-section (3) of section 107, or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all creditors and of all the contributories of the society as if it has been made on the joint petition of creditors and contributories.

Effect of order of winding up.

(2) When a winding up order becomes effective, the Liquidator shall proceed to realise the assets of the society, by sale or otherwise, and no dispute shall be commenced, or if pending at the date of the winding up order, be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose and the Registrar may of his own motion, however, entertain or dispose of any dispute by or against the society.

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

Bar of suit in winding up and dissolution matters.

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

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

Audit of Liquidator's accounts.

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

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

(4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions subsequent to his taking charge of the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 93:

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

114. (1) The winding up proceedings of a society shall be closed within five years from the date of the order of the winding up, unless the period is extended by the Registrar:

Termination of liquidation proceedings.

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

Explanation.—For the purposes of this sub-section, it is hereby clarified that in the case of a society which is under liquidation at the date of the commencement of this Regulation, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the said date.

(2) Notwithstanding anything contained in sub-section (1), the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator and the final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and also state how the winding up has been conducted and the property and claims of the society have been disposed of, and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount, if any, standing to the credit of the society, after paying off its liabilities including the share or interest of members, and shall suggest how the surplus should be utilised.

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

Disposal of surplus assets.

115. Any surplus assets, as shown in the final report of the Liquidator of a society which has been wound up, shall not be divided, amongst its members but shall be devoted to any object or objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose and where the society has no such bye-laws the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged was serving:

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

(a) an object of public utility and of local interest as may be recommended by the members in general meeting held under section 114 or where the society has ceased to function and its record is not available or none of its members is forthcoming, as the Registrar thinks proper;

(b) a federal society with similar objects to which the cancelled society was eligible for affiliation; and

(c) any charitable purpose under the Charitable Endowments Act, 1890 or any other law for time being in force. 6 of 1890.

CHAPTER XI

INSURED CO-OPERATIVE BANK

Order for winding up, reconstruction, supersession of Committee, etc., of insured co-operative bank not to be made without sanction or requisition of Reserve Bank.

116. Notwithstanding anything contained in this Regulation, in the case of an insured co-operative bank,—

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

(b) an order for winding up the bank shall be made by the Registrar if so required by the Reserve Bank in the circumstances referred to in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force; 47 of 1961.

(c) the Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank including supersession and winding up of the co-operative bank and shall appoint a special officer or a Liquidator as the case may be within a period of one month of being so advised by the Reserve Bank;

(d) if so required by the Reserve Bank in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made by the Registrar for supersession of the Committee and the appointment of a special officer in place thereof for such period or periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank, and the special officer 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 of such bank;

(e) an order for winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation) or an order for the supersession of the Committee of the bank and the appointment of a special officer in place thereof made with the previous sanction in writing or on the requisition of the Reserve Bank shall be final and shall not be liable to be called in question in any manner in any court; and

47 of 1961.

(f) the Liquidator or such bank or the transferee bank, as the case may be, shall be under an obligation to pay the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for time being in force, 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, the expression—

47 of 1961.

(a) “insured co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force;

(b) “transferee bank” in relation to an insured co-operative bank means a co-operative bank—

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

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

(iii) into which such insured co-operative bank is divided or converted under sub-section (1) of section 17.

117. (1) In case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, as amended from time to time, shall also apply in relation to banking activities.

Application of provisions of Act No. 10 of 1949 and its overriding effect.

(2) In case of any conflict between the provisions of this Regulation and the provisions of the Banking Regulation Act, 1949, the provisions of the latter along with the rules, regulations, directions or instruction issued thereunder by the Reserve Bank from time to time shall apply.

118. A Committee of co-operative bank shall ensure that—

(a) information is furnished every month to the Registrar in such form as may be prescribed, regarding the loans taken from the bank by each Committee member, members of the family and companies with which he is associated, in any manner;

Ensurance of certain things by Committee of co-operative bank.

47 of 1961.

(b) the bank is registered as an insured bank under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force;

(c) defects in the working of the bank are rectified and financial irregularities disclosed in the course of audit of the bank or otherwise are remedied;

(d) action to recover loans given by the bank is taken within one year from the date when repayment of the same has become due;

(e) no financial loss is caused to the bank and any debt due to the bank which is not recovered within a period of one year from the date when it has become due shall be recovered;

(f) civil and criminal proceedings against a person who, in the opinion of the Committee, has misappropriated any fund of the bank are initiated; and

(g) the provisions of sections 18 and 24 of the Banking Regulation Act, 1949 as applicable to co-operative societies and of section 63 of this Regulation are complied with and if in its opinion any of the said provisions is contravened, such contravention is forthwith reported to the Registrar. 10 of 1949.

Prohibition of use of word "Co-operative".

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

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

Offences.

120. (1) It shall be an offence under this Regulation, if—

(a) any person makes a declaration referred to in section 26 which he knows or has reason to believe to be false;

(b) if the officer or officers authorised under sub-section (3) of section 37 fail to discharge the functions as provided in the said section;

(c) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 51 or any person knowingly acquires, or abets the acquisition of, such property;

(d) any employer or any director, manager, secretary or other officer or agent acting on behalf of such employer without sufficient cause, fails to comply with sub-section (2) of section 53;

(e) a Committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 62;

(f) any person, collecting the share money for a society or information, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or in any Nationalised Bank, or a postal savings bank;

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

(h) any person before, during or after the election of members of the Managing Committee or office bearers, adopts corrupt practice;

(i) a retiring Chairperson to whom a direction has been issued under sub-section (2) of section 72 fails to comply with such direction;

(j) a Committee of a society or a member thereof fails to comply with the provisions of section 73;

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

(l) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give

assistance to a person appointed or authorised by the Administrator of Union territory or the Registrar under sections 22, 66, 68, 78, 81, 84, 86, 87, 88, 99 or 108;

(*m*) any officer of a society fails to handover the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under sections 22, 66, 78, 81 or 108;

(*n*) a Committee of a society or any officer or a member thereof fails without any reasonable excuse to comply with orders made under section 81 or to give any notice, or to send any return or document, do or allow to be done anything, which the Committee, officer or member is by this Regulation required to give, send, do or allow to be done;

(*o*) a Committee of a society or an officer or member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Regulation by the Registrar or other person duly authorised by him in writing in this behalf;

(*p*) a Committee of a society, or any officer or member thereof, wilfully makes a false return, or furnishes, false information, or fails to maintain proper accounts;

(*q*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under provisions of this Regulation;

(*r*) an officer or a society fails to comply with the order made by the Registrar under section 83;

(*s*) an officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 84;

(*t*) an officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 98;

(*u*) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society;

(*v*) an officer of a society wilfully recommends or sanctions for his own personal use or benefit or for use or benefit of a person in whom he is interested, a loan in the name of any other person;

(*w*) an officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society;

(*x*) if a Committee of co-operative bank fails to comply with the provisions of any of the clauses (a) to (g) of section 118;

(*y*) if a Committee fails to ensure that the information under clause (a) of section 118 is true; and

(*z*) if a Committee fails to ensure that a report under clause (g) of section 118 is true.

(2) Where an offence under this Regulation has been committed by a Committee of a society, every person who at the time the offence was committed, was a member of such Committee 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 as provided in this Regulation, if he proves that the offence was

committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Punishments
for offences
under sections
118 and 120.

121. (1) Every employer or officer, member, agent or servant of a society, or any other person, who commits an offence under section 118 shall, on conviction, be punished,—

(a) if it is an offence under clause (a) of that section, with fine which may extend to fifty thousand rupees;

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

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

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

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

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

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

(2) Every employer or officer, member, agent or servant of a society, or any other person, who commits an offence under section 120 shall, on conviction, be punished,—

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

(b) if it is an offence under clause (b) of that section, with fine which may extend to twenty-five thousand rupees;

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

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

(e) if it is an offence under clause (e) of that section, with fine which may extend to fifty thousand rupees;

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

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

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

(i) if it is an offence under clause (i) of that section, with imprisonment which may extend to one month or with fine which may extend to twenty-five thousand rupees or with both;

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

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

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

(m) if it is an offence under clause (m) of that section, with fine which may extend to twenty-five thousand rupees;

(n) if it is an offence under clause (n) of that section, with fine which may extend to twenty-five thousand rupees;

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

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

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

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

(s) if it is an offence under clause (s) of that section, with fine which may extend to twenty-five thousand rupees;

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

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

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

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

(x) if it is an offence under clauses (x), (y) and (z) of that section, with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both.

(3) No prosecution for an offence under section 120 shall be instituted in respect of the same facts on which a penalty has been imposed by the Registrar under any provisions of this Regulation.

122. (1) No court inferior to that of a Judicial Magistrate of first class shall try any offence punishable under this Regulation.

Cognizance of offences.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for a Judicial Magistrate of first class to pass a sentence or fine on any person

convicted of an offence under section 120 as provided under section 121, in excess of his powers under section 32 of that Code.

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

CHAPTER XII

APPEALS, REVIEW AND REVISION

Constitution
of Co-
operative
Tribunal.

123. (1) The Administrator shall constitute a Tribunal called the Co-operative Tribunal to exercise the functions conferred on the Tribunal by or under this Regulation.

(2) The Tribunal shall consist of a President and such number of other members not exceeding four.

(3) The qualifications, experience, the terms and conditions for appointment of the President and other members shall be such as may be prescribed.

(4) The Administrator may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member—

(a) is adjudged as an insolvent;

(b) engages during his term of office in any paid employment outside the duties of his office unless such employment is authorised by the Administrator;

(c) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Union territory Administration or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member;

(d) has become physically or mentally incapable of acting as a member:

Provided that the member shall not be removed from his office on the grounds specified under clause (b) or clause (c) of this sub-section except by an order made by the Administrator after an inquiry made by the Judge of the concerned High Court having jurisdiction in such manner as may be prescribed; or

(e) is convicted of an offence involving moral turpitude.

(5) Any vacancy in the membership of the Tribunal shall be filled by the Administrator.

(6) The powers and functions of the Tribunal may be exercised and discharged by the Benches constituted by the President from amongst the members of the Tribunal including himself.

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

(8) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority and where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members, the opinion of the President shall prevail and in other cases the matter shall be referred for hearing to the President and shall be decided in accordance with his decision:

Provided that any interlocutory application may be heard by one or more members who may be present.

(9) Subject to the previous sanction of the Administrator, the Tribunal shall frame such regulations consistent with the provisions of this Regulation and rules made thereunder, for regulating its procedure and the disposal of its business and they shall be published in the Official Gazette.

(10) The Tribunal may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any

decision or order passed and if in any case, it appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem just.

(11) Where an appeal is made to the Tribunal under section 102, it may, in order to prevent the ends of justice being defeated, make such interlocutory order spending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(12) An order passed, in appeal, or in revision under sub-section (10), or in review under section 124, by the Tribunal, shall be final and conclusive, and shall not be called in question in any civil court or revenue court.

(13) The Tribunal hearing an appeal under this Regulation shall exercise all the powers conferred upon an appellate court by section 97 and Order 41 in the First Schedule of the Code of Civil Procedure, 1908.

5 of 1908.

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

Review of orders of Tribunal.

Provided that no such application made by the party interested shall be entertained, unless the Tribunal is satisfied that there has been discovery of new and important matter of 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 for any other sufficient reasons:

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

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

125. (1) In exercising the functions conferred on it by or under this Regulation, the Tribunal shall have the same powers as are vested in a civil court in respect of—

Tribunal to have power of civil court.

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person and examining him on oath;

(c) compelling the production of documents;

(d) issuing commissions for the examination of witnesses; and

(e) any other matter which may be prescribed.

(2) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

126. (1) An appeal against an order or decision under sections 4, 9, 11, 13, 17, 20, 22, 40, and 81 shall lie,—

Appeals.

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

(b) if made or sanctioned by any person other than the Registrar or a Deputy Registrar or Assistant Registrar on whom the powers of the Registrar are conferred, to the Registrar.

(2) An appeal against an order of a Liquidator under section 110 shall lie—

(a) to the Administrator if the order was made with the sanction or approval of the Registrar; and

(b) to the Registrar in any other case.

(3) An appeal against an order or decision under sections 81, 90, 93 and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the Tribunal has been provided under this Regulation, shall lie to the Tribunal.

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

(5) The procedure to be followed in presenting and disposing of appeals under this section or under any other provisions of this Regulation shall be such as may be prescribed.

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

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

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

Power of Administrator and Registrar to call for proceedings of subordinate officers to pass orders thereon.

128. The Administrator and the Registrar may call for and examine the record of any inquiry or the proceedings of any other matter of any officer subordinate to them, except those referred to in sub-section (10) of section 123, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer and if in any case, it appears to the Administrator, or the Registrar, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Administrator or the Registrar, as the case may be, may after giving persons affected thereby an opportunity of being heard pass such order thereon as it or he may deem just.

CHAPTER XIII

MISCELLANEOUS

Power of Administrator to give directions for e-tender process.

129. The Administrator may, by general or special order to be published in the Official Gazette, direct any society or any class of society not to render contract in relation to such matters concerning such society or the class of any society and to make purchases for such amount by following the e-tender process.

Recovery of sums due to Union territory Administration.

130. (1) Unless otherwise provided by this Regulation, all sums due from a society or from an officer or member or past member or a deceased member of a society as such to the Union territory Administration, may be recovered as arrears of land revenue.

(2) Sums due from a society to the Union territory Administration and recoverable under sub-section (1) may be recovered—

(i) from the property of the society;

(ii) in the case of a society of which the liability of the members is limited, from the members or past members or from their estate if they have died, subject to the limit of their liability; and

(iii) in the case of societies with unlimited liability from the members or past members or their estate, if they have died.

(3) The liability under this section shall in all cases be subject to the provisions of section 38.

4 of 1882.
16 of 1908.

131. Notwithstanding anything contained in the Transfer of Property Act, 1882 and the Indian Registration Act 1908, it shall be lawful for a member of a Co-operative Farming Society to transfer to the society any land held by him or the whole or part of his interest in any land by an agreement and in such manner as may be prescribed.

Competency of a member to transfer land or interest therein to society.

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

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

(a) any amount due under a decree or order of a civil court, obtained by a society;

(b) any amount due under a decision, award or order of the Registrar, his nominee or the board of nominees or Liquidator or Tribunal;

(c) any sum awarded by way of costs under this Regulation; or

(d) any sum ordered to be paid under this Regulation as a contribution to the assets of the society,

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

(2) The Registrar or the officer empowered by him shall be deemed when exercising the powers under sub-section (1) or when passing any order on any application made to him for such recovery, to be a civil court for the purposes of the Code of Civil Procedure, 1908.

5 of 1908.

133. The Administrator may, by general or special order, to be published in the Official Gazette, and for the reasons to be recorded in writing, exempt any society or class of societies from any of the provisions of this Regulation, or may direct that such provisions shall apply to such societies with such modifications not affecting the substance thereof as may be specified in the order:

Power to exempt societies from provisions of Regulation.

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

134. The Administrator may, by notification in the Official Gazette, and subject to such conditions, as it may think fit to impose, delegate—

Delegation of powers of Administrator and of Registrar.

(a) any power exercisable by it under this Regulation except the power under sub-section (1) of section 126, and section 139 thereof to the Registrar; and

(b) all of any of the powers of the Registrar under this Regulation to any Committee constituted or to any co-operative federal society recognised under section 95 or to an officer of such society or to any panchayat constituted under any law relating to panchayats for the time being in force.

135. (1) No society shall open a branch or a place of business outside the Union territory, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the Union territory without the permission of the Registrar.

Branches, etc., of societies outside Union territory.

(2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the Union territory under sub-section (1) or which has a branch or a place of business in the Union territory before the commencement of this Regulation, shall, within three months from the date of the opening of such branch or place of business or from the date of the commencement of this Regulation, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these be not in English a certified translation thereof in English or Hindi and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this

Regulation in addition to those which may be submitted to the Registrar of that State where such society is registered.

(3) The provisions of sub-sections (1) and (2) shall not apply to co-operative societies to which the provisions of the Multi-State Co-operative Societies Act, 2002 applies. 39 of 2002.

(4) Nothing in sub-section (1) shall affect a society which has a branch or a place of business outside the Union territory at the commencement of this Regulation.

Registrar and other officers to be public servants.

136. The Registrar, a person exercising the powers of the Registrar, an official assignee under section 22, a custodian under section 66, co-operative election officer under section 68, a person authorised to audit the accounts of a society under section 84, or to hold an inquiry under section 86, or to make an inspection under section 87 or section 88, and a person appointed as a special officer under section 81 or section 116, or as a nominee or board of nominees under section 98, or as a Liquidator under section 108, and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

137. No suit, prosecution or other legal proceeding shall lie against the Registrar or any officer of society or any member or officer of Appellate Tribunal for anything which is in good faith done or intended to be done under this Regulation or rules made thereunder.

Bar of jurisdiction of courts.

138. (1) Save as expressly provided in this Regulation, no civil court or revenue court shall have any jurisdiction in respect of—

(a) the registration of a society or its bye-laws, or the amendment of its bye-laws, or the dissolution of the Committee of a society, or the management of the society on dissolution thereof;

(b) any dispute required to be referred to the Registrar, or his nominee, or board of nominees, for decision; or

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

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

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

Power to make rules and its laying before Parliament.

139. (1) The Administrator may, by notification in the Official Gazette and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Regulation to carry out the provisions and purposes of this Regulation.

(2) Every rule made by the Administrator under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Act no. 18 of 2013 not to apply.

140. The provisions of the Companies Act, 2013, shall not apply to societies registered, or deemed to be registered under this Regulation.

141. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette make such provisions not inconsistent with the provisions of this Regulation as may appear to him to be necessary or expedient for the removal of that difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made under this section after the expiry of one year from the date of commencement of this Regulation.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Reg. 5 of
1960.

142. (1) The Laccadive, Minicoy and Amindivi Islands Cooperative Societies Regulation, 1960 (hereafter in this section referred to as the said Regulation) is hereby repealed:

Repeal and
savings.

Provided that such repeal shall not affect—

(i) the previous operation of the said Regulation so repealed, or anything duly done or suffered thereunder;

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the said Regulation so repealed;

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Regulation so repealed; or

(iv) any investigation, proceedings, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, proceedings, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Regulation had not been promulgated.

10 of 1897.

(2) The mention of particular matters referred to in sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

DROUPADI MURMU,
President.

K. BISWAL,
Additional Secretary to the Govt. of India.