

# MADHYA PRADESH ACT

(No. 2 of 2000)

## THE MADHYA PRADESH SWAYATTA SAHAKARITA ADHINIYAM, 1999

[Received the assent of the Governor on the 29th December, 1999; assent first published in the "Madhya Pradesh Gazette(Extra-ordinary)" dated the 4th January, 2000].

**An Act to provide for the formation of cooperative and conversion of a cooperative society into the cooperative as self-reliant, self-help, mutual-aid, autonomous, voluntary, democratic, business enterprises, owned, managed and controlled by members for their economic and social betterment, through the financially gainful provision of services which fulfil a common core need felt by them, and for the matters connected therewith or incidental thereto.**

Be it enacted by the Madhya Pradesh Legislature in the Fiftieth Year of the Republic of India, as follows:-

### CHAPTER 1 - PRELIMINARY

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

- (1) This Act may be called the **Madhya Pradesh Swayatta Sahakarita Adhiniyam, 1999**.
- (2) It extends to the whole of the state of Madhya Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification, appoint.

#### 2. Definitions -

- (1) In this Act, unless the context otherwise requires,-
  - (a) "**arbitration council**" means a group of three individuals constituted by the general body of a cooperative for settlement of disputes under Section 57 in accordance with the provisions of this Act and the bye-laws;
  - (b) "**board**" means the governing body of a cooperative by whatever name called, to which the direction of the affairs of the cooperative is entrusted under the bye-laws;
  - (c) "**bye-laws**" means the bye-laws of a cooperative for the time being in force and includes the amendment made therein from time to time;
  - (d) "**chief executive**" means the individual, in paid or honorary capacity, nominated or elected or appointed by the board from among members, directors or others, in accordance with the bye-laws, who shall perform such functions, have such

responsibilities and exercise such powers as specified in the bye-laws, and assigned by the board;

- (e) **“common need”** means the economic need which is common to all persons who wish to form a cooperative, or have taken membership in a cooperative, and which is consistent with the objective of the cooperative;
- (f) **“cooperative”** where used as a noun, means an autonomous association of persons united voluntarily to meet their common need through a jointly owned and democratically controlled enterprise registered under this Act;
- (g) **“cooperative society”** means a society registered under the Cooperative Societies Act;
- (h) **“cooperative societies act”** means the Madhya Pradesh Cooperative Societies Act, 1960 (No. 17 of 1961);
- (i) **“cooperative business”** means a business which intends to function in accordance with the cooperative principles specified in Schedule A ;
- (j) **“cooperative identity”** means the statement of cooperative identity specified in Schedule A;
- (k) **“cooperative tribunal”** means the Madhya Pradesh State Cooperative constituted under Section 77 of the Cooperative Societies Act;
- (l) **“core services”** means the central services provided to members, through which a cooperative intends to meet the need common to all members for the fulfilment of which the cooperative was formed, and includes value-adding services;
- (m) **“court”** means the Civil Court of competent jurisdiction;
- (n) **“deficit”** means the net excess of expenditure over income arrived at, at the end of a financial year;
- (o) **“deficit charge”** means the amount collected from or debited to the accounts of, members, in proportion to the use or non-use of the services of the cooperative, in accordance with the bye-laws and resolution of the general body to meet deficit, if any, in whole or in part;
- (p) **“delegate”** means a person elected by group o individual members to represent them in the general body of the cooperative in accordance with the bye-laws of the cooperative;
- (q) **“delegate general body”** in relation to a cooperative means all its delegates;
- (r) **“delegate general body meeting”** means a meeting of the delegates, called and conducted in accordance with the provisions of this Act and the bye-laws;
- (s) **“director”** means the direction of the board;
- (t) **“family”** means a person, his spouse, his children dependent on him and his other relative dependent on him and jointly residing with him;
- (u) **“general body”** in relation to a cooperative, means all its members;

- (v) “**general meeting**” means a meeting of the general body called and conducted in accordance with the provisions of this Act and the bye-laws;
  - (w) “**member**” means a person who is admitted as a member of the cooperative in accordance with the provisions of this Act and the bye-laws;
  - (x) “**office-bearer**” means President and Vice-President and director elected by the board to any office of cooperative in accordance with the bye-laws;
  - (y) “**potential member**” means a person who does need the core services being offered by a cooperative, and is eligible to be a member of that cooperative, but has not yet applied for membership
  - (z) “**primary cooperative**” means a cooperative of which no other cooperative is a member;
    - (aa) “**Registrar**” means the Registrar of cooperatives appointed under Section 3 of this Act;
    - (bb) “**Representative**” means a member nominated for the time being by a cooperative to represent its interest at the time of promotion of a secondary cooperative and at a meeting of secondary cooperative to which the cooperative is affiliated;
    - (cc) “**secondary cooperative**” means a cooperative whose members are cooperatives;
    - (dd) “**service**” means such facilities as are organised primarily for being provided by the cooperative to members to meet its objective;
    - (ee) “**special resolution**” means a resolution of the general body which has the approval of more than fifty percent of the members having right to vote and not less than two-third members present and noting at the general meeting;
    - (ff) “**surplus**” means the excess of income over expenditure arrived at, at the end of a financial year, after the payment of interest, if any, on share capital, and before the payment of surplus refund, and allocation of reserves and other funds;
    - (gg) “**surplus refund**” means the refund from the surplus given to or credited to the accounts of, members, in proportion to their use or non use of the services of the cooperative in accordance with the byelaws and resolution of the general body;
- (2) Words and expressions used in this act and not defined herein but defined in the Madhya Pradesh Cooperative Societies Act, 1960 (No. 17 of 1961), and the rules made thereunder, shall have meaning assigned to them in that Act and the rules made thereunder.

## CHAPTER II - INCORPORATION

### 3. Registrar and other officers-

- (1) The State Government shall appoint a person to be the Registrar of cooperatives for the State and may appoint one or more officers of the following categories to assist him, namely:-
  - (a) Additional Registrar of cooperatives;
  - (b) Joint Registrar of cooperatives;
  - (c) Deputy Registrar of cooperatives;
  - (d) Assistant Registrar of cooperatives;
  - (e) such other categories of officers as may be specified by the State Government in this behalf.
- (2) The officers appointed to assist the Registrar shall within such areas as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Registrar by this Act as the State Government may, by special or general order, direct.
- (3) The officers appointed to assist the Registrar shall be subordinate to him and shall work under his general guidance supervision and control.

#### **4. Registration of Cooperative -**

- (1) Subject to the provisions of this Act, a cooperative which intends to be self reliant, autonomous, voluntary, democratic business enterprise constituted in accordance with the cooperative principles specified in Schedule A or a cooperative established with the object of facilitating the operations of such cooperatives, other than the housing cooperative shall be registered under this Act :

Provided that no cooperative which has taken loan, share capital Government guarantee or grant from Government shall be registered as a cooperative under this Act.

- (2) No cooperative, other than a cooperative of which another cooperative is a member, shall be registered under this Act unless it consist of at least twenty persons competent to contract under Section 11 of the Indian Contract Act 1872 (IX of 1872) and belonging to twenty different families.
- (3) For the purpose of registration, an application therefor shall be submitted to the Registrar by hand or by registered post, signed by at least twenty persons qualified under sub-section (2) who wish to form a primary cooperative or by a duly authorised person on behalf of every such registered cooperative which wish to form a secondary cooperative.

- (4) The person by whom or on whose behalf such application is made, shall furnish such information in regard to the proposed cooperative as the Registrar may require.
- (5) Every such application shall be accompanied by-
  - (a) The original declaration signed by applicants expressing commitment to the cooperative principles specified in Schedule A;
  - (b) The original and four copies of the proposed byelaws of the cooperative as adopted by the applicants;
  - (c) a true copy of the resolution passed at a meeting by the applicants adopting the byelaws;
  - (d) a list of names of the applicants with their complete addresses;
  - (e) a copy of a treasury challan in support of payment of registration fee calculated in accordance with the provisions of sub-section (1) of Section 18.
- (6) The Registrar shall register the cooperative and also take on record its byelaws and communicate by registered post a certificate of registration and the original byelaws signed and sealed by him, within sixty days from the date of submission or receipt of application for registration as the case may be, to such person specified in the application for the purpose subject to the fulfilment of the following conditions, namely:-
  - (a) the application is in conformity with the requirements laid down by this Act;
  - (b) the object of the proposed cooperative is the economic and social betterment of its members through the provision of core services to fulfil such common need as specified in the proposed byelaws;
  - (c) the proposed byelaws are not inconsistent with the provisions of this Act and are not against the aims and objects of the cooperative; and
  - (d) the registration fee has been paid.
- (7) If the conditions laid down in sub-sections (4) and (6) are not fulfilled, the Registrar shall communicate by registered post the order of refusal together with the reasons therefor, within sixty days from the date of submission or receipt of application for registration, as the case may be, to the person as specified in the application for the purpose:

Provided that no order of refusal shall be passed without giving an opportunity of being heard to the applicant.
- (8) The certificate of registration signed and sealed by the Registrar shall be conclusive evidence that the cooperative mentioned therein is a cooperative duly registered under this Act, unless it is

proved that the registration of the cooperative has been subsequently cancelled.

- (9) No cooperative shall commence business unless it has obtained a certificate of Registration under sub-section (7) and every member of such cooperative carrying on business in contravention of this sub-section shall be severally liable for all liabilities incurred in such business.
- (10) Where within sixty days of submission or receipt of the application for registration, as the case may be, an applicant receives neither the certificate of registration nor the order of refusal, the applicant may move the Cooperative Tribunal for redressal.

#### **5. Conversion of cooperative society into cooperative -**

- (1) Notwithstanding anything contained in the Cooperative Societies Act, the cooperative society other than a housing cooperative society registered and functioning under the Cooperative Societies Act, which intends to convert itself into cooperative, may apply for conversion under this Act:

Provided that where the Central Government or state Government have given share capital loan Government guarantee or grant to a cooperative society intending to convert itself into a swayatta cooperative under this Act, the cooperative society shall, before applying for under this Act, return such share capital loan or guarantee to such Government, and such Government shall accept such returned share capital loan or guarantee or grant as the case may be.

- (2) (a) An application for conversion shall be submitted to the Registrar by hand or by registered post, by the elected board of such cooperative society which intends to convert itself into a cooperative under this Act, on the basis of a resolution passed by a majority of members present at a meeting of the general body to the cooperative society making application under sub-section (1) (hereinafter in this section referred to as such general body), called with at least twenty days notice provided that such meeting is attended by atleast twenty-five percent of total members or five hundred members, which ever is less
- (b) The person by whom or on whose behalf such application is made shall furnish such information in regard to the cooperative society applying under sub-section (1) or the proposed cooperative as the Registrar may require.
- (3) Every such application shall be accompanied by-

- (a) a true copy of the resolution of such general body expressing commitment to the cooperative principles specified in Schedule A;
  - (b) evidences to show that the society is not in possession of any share capital, loan or guarantee or has not received grant from the Central or the state Government;
  - (c) the original and four copies of the byelaws of the proposed cooperatives as adopted by such general body;
  - (d) a true copy of the resolution of such general body adopting the byelaws, cooperative society;
  - (e) a true copy of the latest annual report and audited statement of accounts of such;
  - (f) a true copy of the resolution of such general body along with particulars regarding the writing off of accumulated losses, if any from various reserves or by debting to the accounts of members as decided at the meeting of such general body;
  - (g) a list of members who attended such general body meeting;
  - (h) a copy of the treasury challan in support of payment of registration fee calculated in accordance with the provisions of sub-section (1) of Section 18.
- (4) The Registrar shall register the cooperative and also take on record its byelaws and communicate by registered post a certificate of registration and the original byelaws signed and sealed by him, within ninety days from the date of submission or receipt of application for registration, as the case may be, to such person as specified in the application for the purpose subject to the fulfilment of following, namely:-
- (a) the application is in conformity with the requirements laid down by this Act;
  - (b) the object of the proposed cooperative is the economic and social betterment of its members through the provision of core services to fulfil such common need as specified in the proposed byelaws;
  - (c) the proposed byelaws are -
    - (i) not inconsistent with the provision of this Act; or
    - (ii) not against the aims and objects of the cooperative; or
    - (iii) is in conformity with the cooperative principles specified in Schedule A; and
  - (d) the registration fee has been paid.
- (5) If the conditions mentioned in sub-sections (3) and (4) are not fulfilled, the Registrar shall communicate by registered post the order of refusal together with the reasons therefor, within ninety days from the date of submission or receipt of application for registration, as the case may be, to the person as specified in the application for the purpose:

Provided that no order of refusal shall be passed without giving an opportunity of being heard to the applicant.

- (6) The certificate of registration signed and sealed by the Registrar shall be conclusive evidence that the cooperative mentioned therein is a cooperative duly registered under this Act, unless it is proved that the registration of the cooperative has been subsequently cancelled.
- (7) Where within ninety days of submission or receipt of the application for registration, as the case may be, an applicant receives neither the certificate of registration nor the orders of refusal, the applicant may move the cooperative Tribunal for redressal.
- (8) Where a cooperative is registered under sub-section (4), it shall send to the Registrar of Cooperative Societies a copy of the registration certificate under the Cooperative Societies Act and a copy of the registration certificate under this Act and the Registrar of Cooperative Societies shall, within thirty days of the receipt of such information, delete the name of such cooperative society from the register of cooperative societies.
- (9) Where a cooperative is registered under sub-section (4), the assets and liabilities, the rights and obligations, and members of the applicant cooperative society shall become the assets and liabilities, the rights and obligations, and the members of the cooperative registered under this Act, and all transactions of the applicant cooperative society shall be deemed to have been the transactions of the cooperative registered under this Act.

## **6. Cooperative to be body corporate -**

The registration of a cooperative shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal 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 other things necessary for the purpose for which it was constituted.

## **7. Byelaws -**



- (1) A cooperative, shall have a set of byelaws, and the affairs of the cooperative shall be managed in accordance with the terms, conditions and procedure specified in the byelaws.
- (2) Subject to the provisions of this Act, the functioning of every cooperative shall be regulated by its byelaws.
- (3) The byelaws may contain such matters as decided by the general body and shall be specific on all matters listed in Schedule B.

## **SCHEDULE - A**

### The Statement of Cooperative Identity

- 1. Definition** - A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.
- 2. Values** - Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibilities and caring for others.
- 3. Principles** - The cooperative principles are guidelines by which cooperatives put their values into practice.

#### **1st Principle : Voluntary and Open Membership**

Cooperatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

#### **2nd Principle : Democratic Member Control**

Cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to membership. In primary cooperatives members have equal voting rights (one member, one vote) and cooperatives at other levels are also organised in a democratic manner.

#### **3rd Principle : member Economic Participation**

Members contribute to, and democratically control, the capital of their cooperative. At least part of that capital is usually the common property of the

cooperative. Members usually receive limited compensation, if any, on capital subscribed to as a condition of membership. members allocate surpluses for any of the following purposes:

Developing their cooperative, possibly by setting up reserves, part of which at least would be indivisible, benefiting members in proportion to their transactions with the cooperative; and supporting other activities approved by the membership.

#### **4th Principle : Autonomy and Independence**

Cooperatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including Governments or, raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy.

#### **5th Principle : Education, Training and Information**

Cooperatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their cooperatives. They inform the general public-particularly young people and opinion leaders-about the nature and benefits of cooperation.

#### **6th Principle : Cooperation among Cooperatives**

Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional, and international structures.

#### **7th Principle : Concern for Community**

Cooperatives work for the sustainable development of their communities through policies approved by their members.

## **SCHEDULE - B**

### **Subject matter for specific consideration when framing byelaws**

#### **1. Identity of the cooperative:**

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

**2. Aim and services:**

- (a) the aim of the cooperative explicitly stated as a common need of the members which the cooperative aims at fulfilling.
- (b) key service and support services to members to fulfil the common need stated in the aim.
- (c) the conditions under which services may be provided to non-members.

**3. Membership:**

- (a) eligibility, ineligibility for obtaining membership.
- (b) eligibility, ineligibility for continuing membership.
- (c) procedure for obtaining membership.
- (d) procedure for withdrawing membership.
- (e) procedure for termination of membership.
- (f) circumstances under which membership ceases.
- (g) procedure for cessation of membership.

**4. Members' rights and obligations:**

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

**5. General body:**

- (a) the role of the general body, and of the delegate general body, if any, and subjects which must be dealt with by the general body, and by the representative general body, if any.
- (b) the manner and frequency of convening general meetings, the mode of communication of the intimation of these meetings and quorum required.
- (c) the minutes of proceedings of general meetings.

**6. Board of directors:**

- (a) the size and composition of the board of directors.
- (b) eligibility, ineligibility for becoming director.
- (c) eligibility, ineligibility for retaining directorship
- (d) the procedure for election including the appointment of election officer removal of directors, the election of the President, Vice President, and representative and filling of casual vacancy.
- (e) the terms of office of the directors.
- (f) the frequency of board meetings.
- (g) the manner of convening board meetings, and quorum.
- (h) the functions, responsibilities and powers of the board.
- (i) the minutes of proceedings of board meetings.
- (j) the functions, responsibilities and powers of the directors.

**7. Chief executive and staff:**

- (a) the person to sue or be sued on behalf of the cooperative.
- (b) the manner of appointment and removal of chief executive.
- (c) the functions, responsibilities and powers of the chief executive.

**8. Finances:**

- (a) the financial year which the cooperative wishes to adopt.
- (b) the manner of appointment of auditors and their duties.
- (c) the manner of appointment of internal auditors and their duties.
- (d) the nature and amount of equity capital, if any, of the cooperative.
- (e) the maximum capital which a single member can hold.
- (f) the types and extent of funds to be raised.
- (g) the purpose for which the funds raised by the cooperative may be applied.
- (h) the debt-equity ratio that the cooperative wishes to maintain at all times, and the maximum external debt that a cooperative wishes to permit itself at any point of time.
- (i) the minutes of proceedings of board meeting.
- (j) the functions, responsibilities and powers of the directors.

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- (e) the maximum capital which a single member can hold.
- (f) the types and extent of funds to be raised.

- (g) the purposes for which the funds raised by the cooperative may be applied.
- (h) the debt-equity ratio that the cooperative wishes to maintain at all times, and the maximum external debt that a cooperative wishes to permit itself at any point of time.
- (i) procedure for transfer of shares or interest by a member.
- (j) procedure for redemption of shares by the cooperative.
- (k) procedure for transfer or payment of interest on death of member.
- (l) the nature and extent of the liability of the members for the debts contracted by the cooperative.
- (m) the nature and extent of the liability of the directors for the debts contracted by the cooperative.
- (n) the manner of disposal of funds if under liquidation.

**9. Secondary cooperatives:**

- (a) the rights, if any, which the cooperative wishes to confer on any secondary cooperative of which it is a member, and the circumstances under which these rights may be exercised by such secondary cooperative.
- (b) the procedure for appointing and changing representative to secondary cooperative.

**10. Other matters :**

- (a) the manner of making or amending byelaws.
- (b) the manner of constitution and functioning of arbitration council along with the qualifications of the members for settlement of disputes.
- (c) the manner of dissolution of the cooperative.
- (d) the language in which the affairs of the cooperative are to be conducted.
- (e) refunding of loan, guarantee, share capital, grant or subsidy received from Government.
- (f) other matters which the provisions of this Act requires to be provided by byelaws.

**8. Amendment of byelaws -**

- (1) A cooperative may decide, by a special resolution, to amend the provisions of its byelaws and for that purpose the text of proposed amendment with reasons therefor shall be sent to each member, along with the notice of the general meeting at which the proposed amendment is to be discussed.
- (2) A copy of an amendment of the byelaws shall be forwarded by the cooperative by registered post to the Registrar within a period of thirty days from the date of the general meeting at which the resolution was passed.

(3) A copy of amendment forwarded to the Registrar shall be signed by the President and two directors and shall be accompanied by the following particulars:-

- (a) a copy of the resolution adopting the amendment;
- (b) the date of the general meeting at which the amendment was adopted;
- (c) the date on which the amendment comes into force;
- (d) a list of members who attended such general meeting and a list of members who voted for or against the resolution in such general meeting.

(4) The Registrar shall take on record the amendment of the byelaws received under sub-section (2) subject to the fulfilment of the following conditions, namely:-

- (a) the amendment is not inconsistent with the provisions of this Act or any of its existing byelaws or is not against the aims and objects of the cooperative; and
- (b) the amendment is in conformity with the cooperative principles specified in Schedule A:-

(5) The Registrar shall, by order, refuse to register the amendment if any of the conditions specified in sub-section (4) is not fulfilled :

Provided that no such order of refusal shall be passed without giving a reasonable opportunity to the cooperative to reconsider the amendment within the period specified by him.

(6) The Registrar -

- (i) may after considering the reply received in response to the opportunity given under sub-section (5), refuse amendment; and
- (ii) shall, if no reply is received within the period specified by him under the proviso to sub-section (5), refuse amendment; and he shall communicate such decisions within thirty days of the receipt of such reply or the expiry of the period referred to in clause (ii), as the case may be.

(7) An appeal against the order of refusal shall lie to the Cooperative Tribunal for redressal.

## **9. Name of cooperative -**

(1) The full name of every cooperative shall contain the word "cooperative" or its equivalent in any Indian language.

(2) A cooperative shall not be registered with the same name as another cooperative business already registered under this Act or the Cooperative Societies Act :

Provided that where the byelaws of a secondary cooperative require that all its members which are cooperatives to use a common name, the name of each such member-cooperative shall have its location or other distinguishing feature included in the name at the beginning or end of the common name.

- (3) Every cooperative shall display its full name in legible characters in a conspicuous position :-
  - (a) at every office or place at which it carries on business;
  - (b) in all notices and other official publications;
  - (c) on all its contracts, business letters, orders for goods, invoices, statements of accounts, receipts and letters of credit; and
  - (d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money signed on its behalf.
- (4) Every cooperative shall display its full name in legible characters on its common seal.
- (5) A cooperative registered with limited liability under this Act shall have as a suffix to, its name the word "limited" or its equivalent in any Indian language.
- (6) Nothing in sub-section (2) shall prevent a cooperative displaying more conspicuously than the full name, any shorter name by which it is popularly known and which, too, is included in the byelaws.
- (7) A cooperative may, by an amendment of its byelaws, change its name; Before changing the name the cooperative shall send notice of its intention to change its name to the Registrar under this Act and the Registrar under the Cooperative Societies Act, along with the proposed name, and the Registrar shall, within fifteen days of receiving such notice inform the cooperative if such name is already in use by another cooperative or cooperative society, as the case may be.
- (8) Where a cooperative changes its name, the Registrar shall enter the new name of the cooperative in the register of cooperatives in place of the former name on receipt of a copy of amendment of byelaws under sub-section (2) of Section 8 and issue a certificate to that effect.
- (9) The change of name of a cooperative shall not affect any rights obligations of the cooperative or any of its members or past members or deceased members or render defective any legal proceedings by or against it, and any legal proceedings which might have been continued or commenced by or against the cooperative by its former name shall be so continued or commenced by its new name.

- (10) A prominent cooperative which changes its name shall publicise such change in name in a prominent newspapers in the district in which its head office is located.

**10. Location of head office -**

- (1) Every cooperative shall notify to the Registrar the full address of its head office, within sixty days from the date of its registration under this Act.
- (2) Every cooperative shall display the full address of its head office in legible characters in a conspicuous position :-
- (a) at every office or place at which it carries on business;
  - (b) in all notices and other official publications;
  - (c) on all its contracts, business letters, orders for goods, invoices, statements of accounts, receipts and letters of credit; and
  - (d) on all bills of exchange, promissory notes, endorsement, cheques and order for money signed on its behalf.
- (3) The board may, by resolution, change the address of its head office it shall give notice of such change to its members, creditors, the Registrar and to any secondary cooperative to which it is affiliated, within fifteen days of the passing of such resolution.
- (4) The Registrar shall, within fifteen days of receiving notice of change of address from a cooperative take on record, in the registrar of cooperatives, the changed address of the head office of a cooperative.

**11. Transfer of assets and liabilities -**

- (1) A cooperative may, by special resolution, decide to transfer its assets and liabilities, in whole, to any other cooperative which, by special resolution, agrees to receive such assets and liabilities.
- (2) Where special resolutions are passed sub-section (1), each cooperative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and any member other than those who voted in favour of the proposed transfer of assets and liabilities, or the proposed agreement to receive such assets and liabilities, as the case may be, and any creditor shall, during a period of thirty days from the date of service of notice upon him, have the option of withdrawing his shares, deposits or loans from the cooperative, as the case may be, subject to the discharge of his obligations to the cooperative.
- (3) Any member or creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have



assented to the transfer or receipt of assets and liabilities as the case may be.

- (4) The special resolution passed under sub-section (1) shall not take effect until:-
  - (a) all claim of the members and creditors of each cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied; and
  - (b) information of the intended transfer of assets and liabilities and settlement of claims of members and creditors of cooperatives concerned is sent to the Registrar and his acknowledgment is obtained.
- (5) When a cooperative transfers the whole of its assets and liabilities to any other cooperative under this section, the registration of the cooperative transferring the assets and liabilities shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body, and the Registrar shall delete the name of such cooperative from the register of cooperatives.

## **12. Division of cooperative -**

- (1) A cooperative may, by special resolution, decide to divide itself into two or more cooperatives.
- (2) Where special resolution is passed under sub-section (1), the cooperative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors and any member other than those who voted in favour of the proposed division and any creditor shall, during a period of thirty days from the date of service of notice upon him have the option of withdrawing his shares, deposits or loans, from the cooperative as the case may be, subject to the discharge of his obligations to the cooperative.
- (3) Any member or creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have assented to the division.
- (4) The special resolution passed under sub-section (1) shall not take effect until :-
  - (a) all claims of the members and creditors of the cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied;
  - (b) information of the intended division and settlement of claims of members and creditors is sent to the Registrar and his acknowledgment of receipt of the information is obtained; and

- (c) the certificates of registration and the original byelaws of the resultant cooperatives, signed and sealed by the Registrar, are issued under sub-section (6) of Section 4.
- (5) When a cooperative divides itself into two or more cooperatives under this section, the registration of such cooperative shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body and the Registrar shall delete the name of such cooperative from the register of cooperatives.
- (6) When a cooperative divides itself into two or more cooperatives, each member who has assented or deemed to have assented to the division shall be deemed to have become a member of that newly formed cooperative to which his interests were transferred, in accordance with the scheme of division approved by the general body of such cooperative notwithstanding anything contained in this Act.

### **13. Amalgamation of cooperatives -**

- (1) Any two or more cooperatives may, by special resolutions, decide to amalgamate themselves and form a new cooperative.
- (2) Where special resolutions are passed under sub-section (1), each cooperative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditor and any member other than those who voted in favour of the proposed amalgamation. Any creditor shall, during a period of thirty days from the date of service of notice upon him, have the option of withdrawing his shares, deposits or loans from the cooperative, as the case may be, subject to the discharge of his obligations to the cooperative concerned.
- (3) Any member or creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have assented to the amalgamation.
- (4) The special resolutions passed under sub-section (1) shall not take effect until:-
  - (a) all claims of the members and creditors of each cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied;
  - (b) information of the intended amalgamation and settlement of claims of members and creditors is sent to the Registrar and his acknowledgment is obtained; and
  - (c) the certificate of registration and the original byelaws of the cooperative which is formed as a result of amalgamation, signed and sealed by the Registrar, is issued under sub-section (6) of Section 4.

- (5) When two or more cooperatives amalgamate themselves into a new cooperative under this section, the registration, of the cooperatives so amalgamated, shall stand cancelled and they shall be deemed to have been dissolved and shall cease to exist at corporate bodies, and the Registrar shall delete the names of the cooperative so amalgamated from the register of cooperatives.
- (6) When two or more cooperatives amalgamate themselves into a new cooperative under this section, all the members of the cooperatives who have assented or deemed to have assented to the amalgamation shall be deemed to have become members of the new cooperative notwithstanding anything contained in this Act.

#### **14. Merger of cooperatives -**

- (1) A cooperative may, by special resolution, decide to merge itself into any other cooperative which, by special resolution, agrees to such merger.
- (2) Where special resolutions are passed under sub-section (1), each cooperative shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and any member other than those who voted in favour of the proposed merger and any creditor shall, during a period of thirty days from the date of service of notice upon him, have the option of withdrawing his shares, deposits or loans from the cooperative, as the case may be, subject to the discharge of his obligations to the cooperative concerned.
- (3) Any member or creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have assented to the merger.
- (4) The special resolutions passed under sub-section (1) shall not take effect until:-
  - (a) all claims of the members and creditors of each cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied; and
  - (b) information of the intended merger and settlement of claims of members and creditors is sent to the Registrar and his acknowledgment is obtained.
- (5) When a cooperative merges itself into any other cooperative under this section, the registration of the merged cooperative shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body, and the Registrar shall delete the name of such cooperative from the register of cooperatives.

- (6) When a cooperative merges itself into any other cooperative under this section, the members of the first cooperative who assented or deemed to have assented to the merger, shall be deemed to have become the members of the second cooperative notwithstanding anything contained in this Act.

**15. Vesting of assets and liabilities in resulting cooperative -**

A resolution passed under sub-section (1) of Section 11 or sub-section (1) of Section 12 or sub-section (1) of Section 13 or sub-section (1) Section 14 shall be sufficient conveyance to vest the assets and liabilities of each affected cooperative in the resulting cooperative or cooperatives concerned, such vesting being subject only to the provisions of the scheme of transfer of assets and liabilities or of division of cooperative or of amalgamation of cooperatives or of merger of cooperative as the case may be.

**Explanation:-** For the purpose of this section -

- (a) “**affected cooperative**” means a cooperative which decides in any of the manners specified in Section 11, 12, 13 or 14;
- (b) “**resulting cooperative**” shall have the meaning assigned to it in Section 17

**16. Conversion of a cooperative into cooperative society -**

A cooperative registered or a cooperative society converted as cooperative under this Act intending to convert into a cooperative society may apply to the Registrar in accordance with the provisions of Cooperative Societies Act

**17. Saving of rights and obligation of resulting cooperative etc. -**

- (1) The reorganisation of the cooperatives under Section 11, 12, 13 or 14 shall not, in any manner whatsoever affect any right or obligation of the resulting cooperative or cooperatives or render defective any legal proceedings by or against the cooperative or cooperatives and any legal proceedings that might have been continued or commenced by or against the cooperative or cooperatives, as the case may be, before the reorganisation may be continued or commenced by or against the resulting cooperative or cooperatives.
- (2) Every resulting cooperative shall have such structure, property, powers, rights, interests, authorities, duties and obligations as may be specified in the scheme of :-
  - (i) transfer of assets and liabilities under Section 11; or
  - (ii) division of cooperative under Section 12; or
  - (iii) amalgamation of cooperatives under Section 13; or
  - (iv) merger of cooperative under Section 14,

as the case may be, and such scheme may contain such consequential, incidental and supplemental provisions as may be considered necessary to give effect to such scheme.

**Explanation :-** For the purpose of this section “resulting cooperative” means a cooperative-

- (i) to which the assets and liabilities of cooperative transferring the assets and liabilities are transferred in whole under Section 11; or
- (ii) which is formed as a result of division under Section 12; or
- (iii) which is formed as a result of amalgamation under Section 13; or
- (iv) which is formed as a result of merger under Section 14.

**18. Fee for services -**

- (1) Registration fee amounting to one percent of the authorised equity capital of the proposed cooperative, subject to the minimum of rupees one hundred and maximum of rupees five thousand, shall be charged for registration of each cooperative :

Provided that the fee shall be rupees two hundred in the case of such cooperatives which do not have intend to have any equity capital.

- (2) Subject to the provisions of sub-section (2) and sub-section (6) of Section 53 the Registrar may, by order, prescribe a scale of fee to be paid by cooperatives and others for various services rendered by him under this Act.

**CHAPTER III - MEMBERSHIP**

**19. Eligibility for membership in cooperative -**

- (1) Any person who needs the services of a cooperative, expresses willingness to accept the responsibilities of membership meets such other conditions as may be specified in the byelaws of the cooperative, and is in a position to use the services, may seek membership and if the cooperative is in a position to extend its services to the applicant, it may admit him as a member.
- (2) Every applicant for membership and every member of a cooperative shall keep each cooperative of which the person is a member, informed of membership in other cooperatives, and in case of conflicting membership, the board may, by resolution, refuse admission under Section 21 or terminate from membership under Section 24 as the case may be:

Provided that no such resolution to refuse admission shall be passed without giving the applicant as the case may be, a reasonable

opportunity to make representation to the board as to why he should not be refused admission.

**Explanation :-** For the purpose of this sub-section the expression “conflicting membership” means the membership of the common objective cooperatives functioning within the jurisdiction of a cooperative of which the membership is sought.

## **20. Disqualification of member -**

No person shall be eligible for admission as member and any member shall cease to be a member of a cooperative, if he incurs disqualification of membership prescribed in the byelaws.

## **21. Admission of member -**

- (1) The board may admit a person for membership in accordance with the procedure laid down in the byelaws within sixty days from the date of receipt of application for membership if he is eligible for membership or refuse admission to the applicant if he is not eligible for membership and communicate the same to the applicant by registered post.
- (2) Where admission is refused, the decision with the reasons therefor shall be communicated by registered post to such applicant within fifteen days of the date of the decision. If nothing is communicated within the period of sixty days under sub-section (1) the admission shall be deemed to have been refused by the board.
- (3) Where an applicant has been refused or deemed to have refused admission by the board, the applicant may appeal to the Arbitration Council within thirty days of -
  - (i) the communication of such decision under sub-section (2) or
  - (ii) the expiry of the period of sixty days referred to in sub-section (2) :

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

## **22. Withdrawal of membership -**

- (1) Subject to the provisions of sub-section (2) of Section 48, a member may at any time withdraw from membership in a cooperative in accordance with the procedure laid down in the byelaws.
- (2) The withdrawal from membership shall nonetheless require the person to fulfil such obligations as were under taken or assumed as

a member, under the provisions of this Act, the byelaws or any agreement.

**23. Cessation of membership -**

- (1) If any person having been admitted as a member of a cooperative dies or subsequently becomes subject to any of the disqualification specified in the byelaws shall cease to be a member, about the cessation of membership, for the settlement of accounts.

**24. Termination of membership -**

- (1) The board may, by a resolution passed by three-fourth majority of the directors present and voting at a meeting held for the purpose, terminate the membership of a member if he -
  - (a) intentionally does any act likely to injure the credit of the cooperative or bring it to disrepute; or
  - (b) wilfully deceived the cooperative; or
  - (c) has acted adversely to the objects or his act is detrimental to the interests of the cooperative; or
  - (d) persistently makes default in payment of his dues or fails to comply with the provisions of the byelaws; or
  - (e) having been admitted as a member subsequently becomes a member of any other common objective cooperative functioning within the jurisdiction of the cooperative of which he is a member:

Provided that no such shall be passed without giving the member concerned a reasonable opportunity to make representation at the board meeting.

- (2) Any member aggrieved by the resolution passed under sub-section (1) may appeal to the Arbitration Council within thirty days of the communication of such resolution.
- (3) No member of a cooperative whose membership has been terminated under sub-section (1) shall be eligible for re-admission as a member of the cooperative for a period as may be specified in the resolution but not exceeding five years.

**25. Register of members -**

- (1) Every cooperative shall maintain a register of members. The name of every person admitted as a member of the cooperative shall be entered in the register along with such particulars as may be deemed necessary by the board.
- (2) The name of a person -
  - (i) whose admission is refused under Section 21; or

- (ii) who has withdrawn from membership under Section 22; or
- (iii) who ceased to be a member under Section 23; or
- (iv) whose membership has been terminated under Section 24 shall be deleted from the register of members :

Provided that the name of a person referred to in clause (i) or clause (iv) shall not be deleted from the register of members till the decision of the Arbitration Council in appeal preferred under sub-section (3) of Section 21 or under sub-section (2) of Section 24 as the case may be.

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

## **26. Education of members etc -**

- (1) Every cooperative shall include in its budget annually, provision for expenses on member and potential member, education and training of staff and directors for the development of their cooperative in accordance with the cooperative principles specified in Schedule A and practices of cooperation.
- (2) Any balance under the budget head provided for under sub-section (1) shall be taken at the end of the year into a cooperative education fund, and may be used only for the purpose of educating and training of staff and directors in according with cooperative principles specified in Schedule A and practices of cooperation.

## **27. Exercise of rights -**

- (1) No member of a cooperative shall exercise the right of a member, including the right of vote, unless he has made such payment to the cooperative in respect of membership or has acquired and continues to have such interest in the cooperative as may be specified in the byelaws.
- (2) Every financial year, within twenty days of closure of the previous financial year, the Chief Executive shall prepare a list of members with the right of vote, and a list of members without the right of vote, valid for the current financial year. The list shall be affixed on the notice board of the head office of the cooperative for information of all members, and any member, not satisfied with the specific instances of inclusion of non-inclusion of members in the lists, may appeal to the board within ten days from the date of the affixation of the lists on the notice board, for re-examination of the records, and the board shall, within forty-five days of closure of the previous financial year, review the lists, finalise it, and have it affixed on the notice board of the head office of it the cooperative.



## 28. Votes of members and manner of exercising vote -

- (1) In primary cooperatives, members shall have equal voting rights (one members, one vote). Similarly in case of secondary cooperatives, the representative of such cooperatives shall have same voting rights (one representative one vote). Every member of a cooperative or the representative referred herein shall exercise his vote in person and in the manner specified in the byelaws and no member or representative shall be permitted to vote by proxy:

Provided that a person shall have been a member for at least one full financial year, before being eligible to vote:

Provided further that the condition of one year membership shall not apply to the members who join at registration or at any time after the registration of a cooperative but before the first financial year ending;

- (2) Every member of a cooperative shall exercise his vote in the manner specified in the byelaws.

## 29. Liability of member -

- (1) A cooperative may be registered with limited or unlimited liability :  
Provided that unless the State Government, by a general or special order otherwise directs, the liability of a cooperative of which another cooperative is a member shall be limited.

**Explanation:** - For the purpose of this sub-section -

- (a) **“cooperative with limited liability”** means a cooperative in which the liability of its members for the debts of the cooperative is limited by its byelaws, to such form and extent as they may undertake to contribute to any deficit in the assets of the cooperative, in the event of its being wound up; and
  - (b) **“cooperative with unlimited liability”** means a cooperative the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations, to contribute to any deficit in the assets of the cooperative.
- (2) Where a cooperative by special resolution amends its byelaws to change the form and extent of liability, of its members it shall give notice thereof together with a copy of amendment to its members and creditors and any member other than those who voted in favour of the proposed change of liability and any creditor shall, within a period of thirty days from the date of service of notice upon, him have the option of withdrawing his shares, deposits or loans from the cooperative as the case may be subject to the discharge of his obligations to the cooperative.

- (3) Any member or creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have assented to the change of liability.
- (4) An amendment passed under sub-section (2) shall not take effect until-
  - (a) all claims of the members and creditors of the cooperative who have exercised the option under sub-section (2) shall be deemed to have assented to the change of liability.
  - (b) notice of the amendment of the byelaws of the cooperative and information of settlement of claims of members and creditors is sent to the Registrar and his acknowledgment is obtained.
- (5) Subject to the provisions of sub-section (6), the liability of a past member or of the estate of a deceased member of a cooperative for the debts of the cooperative as they stood -
  - (a) in the case of a past member, on the date on which he ceased to be a member; and
  - (b) in the case of deceased member, on the date of his death; shall continue for a period of two years from such date.
- (6) Where a cooperative is ordered to be dissolved under any provision of this Act, the liability of a past member or of the estate of a deceased member, who ceased to be a member or died during the period of two years immediately preceding the date of order for dissolution, shall continue until completion of the entire liquidation proceedings, but such liability shall be limited only to the debts of the cooperative as they stood on the date of cessation of his membership or his death, as the case may be.

#### **CHAPTER IV - MANAGEMENT**

##### **30. General Body -**

- (1) There shall be a general body for every cooperative consisting of all the members of such cooperative.
- (2) Where the general body of a cooperative decides that the size, spread or types of its membership requires a representative body of delegates for more effective decision making, its byelaws shall provide for a smaller body called delegate general body elected from the members, in the annual general meeting in accordance with the byelaws to exercise such powers and to discharge such duties of the general body as may be specified in the byelaws.
- (3) Unless the context otherwise requires, any reference in this Act to the general body shall apply to the delegate general body where it exists;

- (4) Subject to the provisions of this Act and the byelaws, the ultimate power of a cooperative shall vest in the general body.
- (5) Any power, function or responsibility, falling within the scope of a cooperative as a corporate body, which has not been specifically entrusted by this Act or the byelaws, to any authority of the cooperative, may be dealt with by the general body, on a reference by the board.

### **31. Functions, responsibilities and powers of general body -**

- (1) The following matters, among such other matters as are considered necessary by the board, shall be dealt with by the general body at its annual general meeting, namely :-

- (a) election, if fallen due, of the directors or delegates;

**Explanation :-** Election of the directors or delegates shall be deemed to have fallen due, if the term of such board or delegate general body comes to an end within a period of three months from the date of the annual general meeting.

- (b) consideration of the long term plan and budget, when required;
- (c) consideration of the annual operational plan and budget for the current financial year;
- (d) consideration of the annual report of activities for the previous financial year;
- (e) consideration of the audited financial statements of accounts, and the auditor's report relating to the previous financial year;
- (f) consideration of the report on deviations, if any, from the approved budget relating to the previous financial year;
- (g) disposal of surplus, if any, of previous financial year;
- (h) management of deficit, if any, of previous financial year;
- (i) creation of specific reserves and other funds;
- (j) review of actual utilisation of reserves and other funds;
- (k) review of the report on the attendance at meetings by directors;
- (l) review of the use of the cooperative's services by the directors;
- (m) review of remuneration paid to any director or member of any committee or internal auditor in connection with his duties in that capacity or his attendance at concerned meetings;
- (n) review of quantum and percentage of services provided to non-members vis-a-vis services provided to the members;
- (o) report of activities and accounts related to member education and director and staff training;
- (p) consideration of any other matter which may be brought before the meeting of the general body in accordance with the byelaws.

- (2) The following matters, among such other matters as considered necessary by the board, or which are specifically assigned to the general body under any other provision of this Act, may be dealt

with by the general body at its annual or any general meeting, namely :-

- (a) amendments of byelaws;
  - (b) removal of directors;
  - (c) membership of the cooperative in secondary cooperative;
  - (d) partnership with other cooperatives
  - (e) amalgamation, division, merger, transfer of assets and liabilities;
  - (f) dissolution of the cooperative;
  - (g) consideration of the Registrar's report of inquiry or reasons for the non-completion of the inquiry;
- (3) If the byelaws of a cooperative provide for election of all or more directors on territorial basis, such director shall be elected from the areas, in meeting of the members of that area in accordance with the provisions of the byelaws on a date prior to that of annual general meeting. The result thereof shall be affixed on the notice board of the head office of the cooperative and also at the place of the annual general meeting prior to the commencement of the proceedings of the annual general meeting.

### **32. General meetings -**

- (1) The board may, at any time, call a general meeting of the members of the cooperative:

Provided that one such meeting known as annual general meeting shall be held within one hundred and fifty days of the closure of the financial year to consider or to approve, among other matters, the returns to be filed with, and the information to be furnished to the Registrar.

- (2) The board shall call a special general meeting and shall be bound to do so within thirty days of the date of receipt of a written requisition -
- (a) signed by not less than twenty-five per cent of the members having right to vote; or
  - (b) from the Registrar
- (3) Such requisition shall contain the reasons why the meeting is felt necessary and the proposed agenda, and no subject other than the subjects included in the proposed agenda shall be discussed at the special general meeting.
- (4) If the board fails to hold an annual general meeting under sub-section (1) or a special general meeting on requisition under sub-section (2) within the period specified therein all directors shall cease to be directors on the date of expiry of the said specified period.

- (5) All directors shall cease to be directors on the date of the annual general meeting, if the audited annual financial statement of accounts and annual report of activities for the previous financial year were not sent to each member along with the notice to attend the annual general meeting under the certification of posting at which the report and accounts are to be considered by the general body.
- (6) Any meeting of the general body may, with the consent of the majority of the members present, be adjourned from time to time to a later hour on the same day or to any other date, but no business other than that left over at the adjourned meeting shall be transacted at the next meeting :-  
  
A notice of such adjournment posted in the head office of the cooperative on the day on which the meeting is adjourned shall be deemed sufficient notice of the next ensuing meeting.
- (7) The quorum for a general meeting shall be specified in the byelaws, but shall not be less than ten per cent of members eligible to vote at the general meeting.
- (8) If at any time in a meeting there is no quorum the presiding authority shall adjourn to such time or date as it thinks fit and announce the same at once; and the business set down for the meeting shall be brought forward at the subsequent meeting whether at such meeting there is a quorum or not.
- (9) No business other than the business fixed for the original meeting shall be transacted at such subsequent meeting.
- (10) A notice of such adjournment posted in the head office of the cooperative on the day on which the meeting is adjournment shall be deemed sufficient notice of the next subsequent meeting.
- (11) The quorum for a delegate general body meeting shall not be less than twenty-five percent of the delegate eligible to vote at the delegate general meeting. If at any time in the meeting of delegate general meeting, there is no quorum, the procedure laid down in sub-section (6) to (10) shall be followed.
- (12) At the meeting to the general body, the President, if present, shall prescribe. If the President is absent from the meeting of the general body the Vice President shall preside. If both the President and Vice President are absent from the meeting of the general body, the members present shall choose one of them to preside.

### **33. Board of directors -**

- (1) There shall be a board of directors for the management of very cooperative registered under this Act. The directors shall be elected

in accordance with the provisions of the byelaws. Subject to the provisions of sub-section (4) of Section 30 the management of every cooperative constituted in accordance with the provision of this Act and the byelaws shall vest in a board:

Provided that in the case of cooperative newly registered under this Act, the persons who have signed the application for the registration of the cooperative may appoint a promoter board, for a period not exceeding one year from the date of registration, to direct the affairs of the cooperative and it shall cease to function as soon as a regular board is constituted in accordance with the provisions of this Act and the byelaws :

Provided further that in the case of a Cooperative Society registered under the Cooperative Societies Act and the elected members of its board, whose term has not expired at the time of registration of cooperative under Section 5 shall be deemed to be the promoter board, with the same term and responsibilities as in the first proviso for a period not exceeding one year from the date of registration.

- (2) The promoter board appointed under the first provision to sub-section (1) or deemed to be promoter board under the second proviso thereto, as the case maybe, shall conduct the election of directors within the period mentioned therein.
- (3) Every director while exercising the powers and discharging duties shall :-
  - (a) act honestly and in good faith and in the best interests of the cooperative; and
  - (b) exercise such due care, diligence and skill as a reasonably prudent person would exercise in similar circumstances.
- (4) A director who is guilty of misappropriation, breach of trust or dishonesty resulting in loss or shortfall in revenue of the cooperative shall be personally liable to make good that loss or shortfall, without prejudice to any criminal action to which the director may be liable under any law.

#### **34. President and Vice-President of cooperative -**

- (1) There shall be a President and a Vice-President in a cooperative to be elected by the board from amongst its directors in accordance with the provisions of the byelaws. The term of President and Vice-President elected by the board shall be coterminous with the term of the Board. The board shall at the time of election of President and Vice-President also elect representative who shall represent it in other cooperative and the representative so elected shall not be withdrawn by the board till the next elections of the board.

- (2) Any casual vacancy in the office of the President or Vice-President or representative shall be filled in by the board in accordance with the provisions of the byelaws and the President or Vice-President or representative so elected shall hold office for the unexpired term of his predecessor.
- (3) The Vice-President may resign his office at any time by notice in writing to the President and the President may resign his office at any time by notice in writing to the Vice-President.
- (4) The board may by a resolution passed by three-fourth majority of the directors present and voting at a meeting held for the purpose, remove the President or Vice-President on any of the grounds mentioned in sub-section (1) of Section 24. Such meeting shall not be presided by the President or Vice-President against whom such resolution is to be considered.
- (5) The President or Vice-President as the case may be, aggrieved by the resolution passed under sub-section (4) may appeal to the Arbitration Council within thirty days from the date of passing of such resolution whose decision thereon shall be final.
- (6) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as president until the date on which a new President elected in accordance with the provisions of this Act and the byelaws to fill such vacancy.
- (7) When the President is unable to discharge his functions owing to absence, illness, or any other cause, the Vice-President shall discharge the functions of the President until the date on which the President resumes his duties.
- (8) The Vice-President shall, during and in respect of, the period while he is so acting as, or discharging the functions of, President, have all the powers of the President.

### **35. Functions, responsibilities and powers of board -**

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

- (a) to interpret the organisational objectives, to set up specific goals to be achieved towards such objectives, and to make periodic appraisal of operations;
- (b) to nominate, elect or appoint and remove the Chief Executive;

- (c) to make provisions for the matters mentioned in Section 44 in respect of the staff of a cooperative;
- (d) to finalise long-term perspective plan, annual plan and budget, and to direct the affairs of the cooperative in accordance with the plan and budget approved by the general body;
- (e) to arrange for funds;
- (f) to authorise acquisition and disposal of immovable property;
- (g) to frame, approve and amend regulations relating to services, funds, accounts and accountability, and information and reporting systems;
- (h) to elect President, Vice-President and representative in accordance with the provisions of the byelaws;
- (i) to prepare the annual financial statement of accounts.

### **36. Eligibility for directorship in cooperative -**

In addition to such other conditions as may be specified in the byelaws, a member of a cooperative shall be eligible for being chosen as a director of the cooperative, if :-

- (i) such member has the right to vote in the affairs of the cooperative; and
- (ii) such member has patronised the services of the cooperative during the previous financial year to the extent and in the manner specified in the byelaws; and
- (iii) such member has no pecuniary interest in any subsisting contract made with, or work being done for, the cooperative except as otherwise specified in the byelaws; and
- (iv) the period of three years has lapsed from the date such member ceased to be a director for the following reasons :-
  - (a) non-conduct of annual general meeting or special general meeting under sub-section (4) of Section 32;
  - (b) non-submission of annual report of activities, audited annual financial statement of accounts or auditor's report to the general body under sub-section (5) of Section 32; or
  - (c) non-conduct of elections of the directors, or the delegate or representative under sub-section (3) of Section 37;
  - (d) absence from board meetings under sub-section (7) of Section 39.

### **37. Elections -**

- (1) It shall be the responsibility of the incumbent board to conduct elections of directors, delegates to the delegate general body and representatives if fallen due within the meaning of explanation to clause (a) of sub-section (1) of Section 31.
- (2) The elections shall be conducted in the manner specified in the byelaws, before the expiry of the term of office of the outgoing directors, delegates or representatives as the case may be.



- (3) Where a board fails to conduct election of directors of delegates or representatives, as the case may be before the expiry of the term of their office in accordance with the byelaws, all directors shall cease to be directors on the date of the annual general meeting at which the elections were due.
- (4) The elections of directors, and delegates shall take place at the annual general meeting.
- (5) Where a board fails to conduct elections before the expiry of the term of the directors or delegates or representatives, or, where there are no directors remaining on the board, a minimum of 25% of total members of the cooperative may jointly convene a general meeting, or request the Registrar to convene a general meeting for constituting an ad-hoc board for the specific purpose of conducting elections and to perform all functions of the board during the interregnum except those functions as prescribed by the general body.
- (6) The term of the ad-hoc board so constituted shall not exceed three months and the ad-hoc board shall cease to function as soon as a regular board is constituted in accordance with the byelaws.
- (7) The directors shall hold office for the period for which they were elected and the newly elected directors shall assume office on the date of expiry of said period.
- (8) The director shall not be eligible, if so specified in the byelaws, for re-election.
- (9) Where there are vacancies in the office of the directors and where there are not sufficient number of directors to constitute a quorum for board meetings, the remaining directors shall, notwithstanding anything contained in this Act or the byelaws, call a general meeting for the purpose of electing directors to fill the vacancies for the unexpired term of the board.

### **38. Term of Directors -**

- (1) The term of office of the directors, or where the byelaws provide for retirement of director by rotation, the term of office of the individual directors shall be for such period as specified in the byelaws, which shall not exceed five years from the date on which first meeting of the board is held.
- (2) The term of representative elected by the board shall be coterminous with the term of the board for which representative is elected

Provided that the representative of a board shall continue to hold his office only till the expiry of the term of the board of which he is a member.

- (3) For removal of doubt it is hereby declared that where the term of office of the director is changed by mending byelaws, the changed term shall apply only to the director elected after such amendment for the constitution of new board.
- (4) Any casual vacancy in the office of the director shall be filled in accordance with the provisions of the byelaws and the director so elected shall hold office for the unexpired term of his predecessor.

### **39. Board meetings -**

- (1) A meeting of the board may be called at any time by the President and in the event of his being incapable of acting then by the Vice-President but at least four meetings of the board shall be held in a financial year, and the period between two consecutive meetings shall not exceed one hundred and twenty days.
- (2) The President and in the event of his being physically incapable of acting then the Vice-President may, whenever he thinks fit, call a special meeting of the board and shall be bound to do so within fifteen days of the date of receipt of a written requisition -
  - (a) signed by not less than one-third of the directors on the board;  
or
  - (b) from the Registrar; or
  - (c) form the Auditor;

Such requisition shall contain the reasons why the meeting is felt necessary and the proposed agenda and no subject other than the subjects included in the proposed agenda shall be discussed at the special meeting of the board.

- (3) If the President or Vice-President, as the case may be, fails hold the meeting of the board under sub-section (1) or the special meeting of the board under sub-section (2) within the period specified therein, he shall cease to be President or Vice-President, as the case may be on the date of expiry of the said specified period.
- (4) A person who ceases to be the President or Vice-President , under sub-section (3) shall not be eligible to hold the office of President or Vice-President, as the case may be, for a period of three years from the date of such cessation.
- (5) The quorum for a meeting of the board shall be such as may be specified in the byelaws but shall not be less than fifty per cent of the total number of directors on the board.

- (6) Subject to the provisions of this Act, the procedure to convene and conduct the meetings of the board shall be such as may be specified in the byelaws.
- (7) If a director fails to attend three consecutive meetings of the board without the permission of the President he shall cease to be a director, from the date of the third meeting.

#### **40. Decision by majority of votes -**

Except as otherwise provided by this Act, or the byelaws, all questions brought before any meeting under this Act shall be decided by majority of the votes of the members present and in the case of an equality of votes the presiding authority of the meeting shall have a second or casting vote :

Provided that in the case of equality of votes at the election of the President, Vice-President, Director, delegate or representative the presiding authority shall not exercise his casting vote and the result shall be decided by lot.

#### **41. Minutes of proceedings of meetings -**

- (1) Every cooperative shall record, In Hindi or in any other language prescribed in the byelaws the minutes book, minutes of all proceedings of every general meeting, delegate general body meeting and board meeting and the names of the members/delegates/directors present thereat and shall be confirmed at the same or the next ensuing meeting and send the copy thereof within fifteen days of the conclusion of every such meeting to all delegates or members or directors as the case may be.
- (2) The minutes so recorded shall be signed -
  - (a) in the case of a general meeting or delegate general body meeting , by the person who presided the said meeting, or in the event of his death or incapacity to sign the minutes within the time required, by the person who presides the following meeting wherein the minutes are confirmed; and
  - (b) in the case of a board meeting, by the person who presided the said meeting or by the person who presides the following meeting, wherein the minutes are confirmed;
- (3) The minutes of a general meeting shall be deemed to have been confirmed on the thirtieth day of its dispatch to all members, if no comments are received from members within that time :

Provided that where comments have been received from members, corrections, if any, may be made to the minutes by the President, and the revised minutes shall be confirmed by the person who presides the following meeting of the general body.

**42. Vacancies etc. not to invalidate proceedings -**

No act or proceeding of the cooperative or of board or of any officer constituted or appointed under this Act shall be questioned on account of any vacancy in the membership or any defect in the election or qualification of the President, Vice-President, Director, Delegate or representative or any defect or irregularity in such act or proceeding not affecting the merit of the case.

**43. Proceeding of meeting to be deemed to be good and valid -**

Unless contrary is proved every meeting of the general body or the board shall be deemed to have been duly convened and held and, all members of the meeting shall be deemed to have been duly qualified when the minutes of the meeting have been signed in accordance with the provisions of this Act.

**44. Staff -**

Subject to other laws regulating employer, employee relations all employees of a cooperative shall be appointed, regulated and removed by and be accountable to authorities within the cooperative in accordance with the service conditions approved by the board.

**CHAPTER V - FINANCE**

**45. Mobilisation of funds -**

- (1) A cooperative may raise funds in shape of equity capital, deposits and loans from its members to such extent and under such conditions as may be specified in the byelaws.
- (2) A cooperative may borrow funds from non-members/individuals and institutions to such extent and under such conditions as may be specified in the byelaws.

**46. Deployment of funds and profits -**

- (1) The funds mobilised by a cooperative shall be primarily for the furtherance of its objectives.
- (2) No part of the funds of a cooperative other than the net profits shall be paid by way of bonus or dividend or otherwise distributed among its members.

- (3) A cooperative may out of its net profits in any year, pay on the paid up share capital of members a dividend at a rate fixed by the general body in the annual general meeting.
- (4) Such of its funds as are not needed for use in its business, a cooperative may invest or deposit, outside its business, in any non-speculative manner.

#### **47. Disposal of surplus -**

- (1) The surplus, if any, arising out of the business of a cooperative in a financial year may be used in one or more of the following purpose :-
  - (a) towards a deficit cover fund;
  - (b) to be distributed as surplus refund among its members;
  - (c) to develop its business;
  - (d) towards reserves and funds constituted in accordance with the byelaws;
  - (e) to provide common service to its members;
  - (f) to provide rewards or incentives to staff;
  - (g) towards payment of bonus under the Payment of Bonus, Act, 1965 (No. 21 of 1965) to the employees;
  - (h) towards payment of taxes;
  - (i) towards writing off bad debts and losses not adjusted;
  - (j) towards, such purposes as may be specified in the byelaws.
- (2) Surplus arising out of the business of a cooperative shall be fully disposed of at the annual general meeting in which the audited annual financial statement of accounts for the year in which the surplus arose is presented for the consideration of the general body.

#### **48. Management of deficit -**

- (1) The deficit, if any arising out of the operation of the business of a cooperative during any given financial year, shall be fully settled by debiting a part or whole of the deficit to the deficit cover fund, if any, or as charge, among its members:

Provided that nothing in this sub-section shall preclude a cooperative from also proceeding against its directors or staff for recovery of amounts contributing to the deficit, where such deficit is the result of deviation from the approved plan or budget, and where such deviation does not received the approval of the general body, or is the result of gross negligence or mismanagement :

Provided further that where such amounts are recovered, the general body may resolve to credit a part of whole amount to the deficit cover fund or to the account of each member in proportion to the deficit charge levied on him.

- (2) No member shall be permitted to withdraw from the membership of the cooperative without paying his share towards clearing the deficit, if any.

**49. Operation of special funds -**

- (1) A cooperative may create reserves and such other funds as are in the interest of members or the cooperative and which are specified in the byelaws :

Provided that where a contributory provident fund is created for the benefit of employees, such fund -

- (a) shall not be used in the business of the cooperative;
  - (b) shall not form part of the assets of the cooperative;
  - (c) shall not be liable to attachment or be subject to any other process of any Court or other authority; and
  - (d) shall be administered in such manner as may be provided in the byelaws.
- (2) The funds so created may be used in the business of the cooperative, but in any financial year if the fund is not applied in part of whole for the purpose for which it was created, the cooperative shall credit to the account of such fund an annual interest on the amount of balance of such fund at a rate not less than the rate paid by Scheduled banks on long-term fixed deposits, debiting such interest as operational expenditure.

**CHAPTER VI - ACCOUNTABILITY**

**50. Accounts, Records and Documents to be maintained -**

- (1) Every cooperative shall keep at its head office, the following accounts, records and documents, namely :-
  - (a) a copy of this Act with amendments made therein from time to time;
  - (b) copies of other laws and regulations to which the cooperative is a subject;
  - (c) a copy of its byelaws, with amendments made therein from time to time;
  - (d) a copy of the Regulations framed under clause (g) of Section 35 and amendments made therein from time to time;
  - (e) the minutes books;
  - (f) account of all sums of money received and expended by the cooperative and their respective purposes;
  - (g) account of all purchases and sales of goods by the cooperative;
  - (h) account of the assets and liabilities of the cooperative;

- (i) a list of members, their fulfilment of responsibilities over the previous financial year, their eligibility to exercise their rights for the current twelve month period updated within sixty days of closure of the financial year; and
- (j) all such other accounts, records and documents as may be required by this Act or other laws and regulations or byelaws of the cooperative:

Provided that where a cooperative has branch offices, summarised statements of accounts relating to such branch office, shall be available at the head office for each quarter of financial year, within fifteen days of the end of that quarter.

- (2) The books of account and records shall be opened to inspection by any director during office hours of the cooperative.
- (3) The copies of this Act, byelaws, regulations, minutes book of the general body, voters list and such account and records of transactions that relate to a member shall be made available to any member during office hours of the cooperative.
- (4) The books of accounts relating to a period of at least eight years before the current financial year together with supporting records and vouchers shall be preserved unless otherwise require for a longer period.

#### **51. Audit -**

- (1) A cooperative shall get its accounts audited by a Chartered Accountant as defined meaning of the Chartered accountants Act, 1949 (No. 38 of 1949) or by any other auditor authorised by the Registrar.
- (2) A cooperative, at its annual general meeting, shall resolve to appoint an auditor. The resolution shall be valid for the period ending on the close of the next succeeding annual general meeting.
- (3) The remuneration of an auditor may be fixed by the general body or, if not so fixed, by the board.
- (4) An auditor shall cease to hold office -
  - (a) on his resignation; or
  - (b) on his removal from office under sub-section (6); or
  - (c) on completion of his term of office.
- (5) The resignation of an auditor becomes effective on the date the resignation in writing is received by the cooperative, or on the date specified in the resignation whichever is later.

- (6) The general body may, by special resolution, remove an auditor from office.
- (7) An auditor, who-
  - (a) resigns; or
  - (b) received a notice or otherwise learns of a general meeting called for the purpose of removing him from office; is entitled to submit to the general body a written statement giving the reasons for his resignation or the comments on the proposed removal as the case may be.
- (8) A vacancy occurred on account of death, resignation, removal or otherwise shall be filled in by the general body. An auditor appointed to fill a vacancy shall hold office for the unexpired term of his predecessor.
- (9) The auditor shall be given notice of every general meeting and, at the expense of the cooperative, shall be entitled to attend and be heard thereat on matters relating to his duties as auditor and their exercise as auditor.
- (10) Where one-tenths of members of a cooperative give written notice, of not less than ten days before a general meeting to the auditor or a former auditor, to attend the meeting at the expense of the cooperative and answer questions relating to his duties and their exercise as auditor. A copy of the notice shall concurrently be given to the cooperative.
- (11) It shall be the duty of the board to ensure that annual financial statements of accounts are prepared and presented for audit within forty-five days of closure of the financial year.
- (12) Upon the reasonable demand of the auditor, the present or former directors, members, managers or employees of the cooperative shall -
  - (a) provide access to such records, documents, books, accounts vouchers, papers, securities, cash and other properties belonging to or in the custody of the cooperative; and
  - (b) furnish such information and explanations,as are, in the opinion of the auditor, necessary to enable him to make the examination and report, and as the present or former director, members, managers or employees are reasonably able to furnish.
- (13) It shall be the duty of the auditor to ensure that audited annual financial statements of accounts and his audit report are furnished



to the cooperative within forty-five days of the submission of annual financial statements of accounts to him by the board.

(14) The auditor's report shall -

- (a) state whether the auditor has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of the audit;
- (b) state whether the balance sheet of cooperative and income and expenditure account dealt with by the report are in agreement with the books of accounts;
- (c) indicate the basis on which each asset and liability was valued, and mention specifically any change in the manner in which such valuation was done in the financial year under examination and its effect on surplus or deficit;
- (d) indicate the amount of surplus earned or deficit incurred from provision of services to non-members as distinct from surplus earned or deficit incurred because of services to members or in normal course of business;
- (e) indicate every deviation in actual expenses and income from the estimated expenses and income, in the approved budget;
- (f) state whether or not any of the directors had at any time during the financial year under review, become ineligible under this Act to continue in office as a director; and
- (g) state whether the decisions on disposal of surplus or assessment of deficit, of the general body, at its previous annual general meeting were implemented correctly and completely or not.

## **52. Returns to be filed with Registrar -**

(1) Every year, within thirty days of the holding of the annual general meeting, the board shall file the following returns with the Registrar, namely :-

- (a) annual report of activities;
- (b) annual financial statements of accounts as audited with auditor's report, thereon;
- (c) statistical statement indicating name of the cooperative; core services offered by the cooperative to its members; total number of members as on the last day of the financial year; total liabilities expressed as (i) funds from members, and surpluses, (ii) funds from other external sources as on the last day of the financial year; quantum, in rupees of services provided (i) to members, and (ii) to non-members; and surplus or deficit at the end of financial year; and
- (d) annual disposal of surplus or management of deficit.

(2) Alongwith the returns specified in sub-section (1), every cooperative shall furnish the following information to the Registrar, namely :-

- (a) the date of the annual general meeting at which the returns to be filed with the Registrar were considered or approved;
  - (b) the total number of members on the rolls of the cooperative who were eligible to vote on the date of such annual general meeting;
  - (c) the number of eligible members present at such annual general meeting;
  - (d) list of names of directors, their addresses and their terms of office;
  - (e) name and address of the auditor appointed for auditing the current financial year's accounts; and
  - (f) any other relevant and specific information required by the Registrar to enable him to decide whether the cooperative has conducted its affairs in accordance with the cooperative principles mentioned in Schedule A and the provisions of this Act and the byelaws.
- (3) If the returns and information, as specified in sub-sections (1) and (2), are not filed with or furnished to the Registrar within the period specified in sub-section (1) it shall be treated as an offence under this Act and the board shall be penalised in accordance with the provisions of this Act

### **53. Inquiry -**

- (1) The Registrar shall on the application of a secondary cooperative to which the cooperative concerned is affiliated , or of a creditor to whom the cooperative is indebted, or of not less than one-third of the directors, or of not less than one-tenth of the members, hold an inquiry of cause an inquiry to be made into any specific subject or subjects relating to any violation of any of the provisions of this Act or byelaws.
- (2) The Registrar shall order in inquiry only after the receipt of a fee, as determined by him from the applicant or the applicants. The fee should be sufficient to meet the costs of the inquiry to be conducted.
- (3) The inquiry shall be completed within a period of sixty days from the date of order of the inquiry :

Provided that were the inquiry cannot be completed within a period of sixty days the reasons there of shall be recorded in writing;

- (4) The Registrar shall, -
  - (i) within a period of thirty days from the date of the completion of the inquiry, communicate the report of the inquiry;
  - (ii) within a period of fifteen days from the date of expiry of the period mentioned in sub-section (3) communicate the reasons for the non-completion of the inquiry along with the period not

exceeding thirty days which is likely to be taken for completion of inquiry in case the inquiry cannot be completed within the period mentioned in sub-section (3) -

- (a) to the co-operative concerned; and
  - (b) (i) to the applicant secondary co-operative; and  
(ii) to the applicant-creditor, or  
(iii) to the person designated by the applicant-directors, or  
(iv) to the person designated by the applicant-members, as the case may be.
- (5) The Co-operative concerned shall, on receipt of the report, place it before the next general meeting to take such action thereon as the general body may think fit.
- (6) A copy of report shall be supplied to any person, on payment of fee as determined by the Registrar.

## **CHAPTER VII - OFFENCES**

### **54. Prohibition of use of word “Co-operative” -**

- (1) No person other than a cooperative registered under this Act and a person or his successor in his interests of any name or title under which he traded or carried on business at the date on which this Act come into force, shall without the permission of the State Government, function, trade or carry on business under any name or title of which the word “cooperative” or its equivalent in any Indian language forms part.
- (2) Every person who is a member of a cooperative formed in contravention of sub-section (9) of Section 4 and every person contravening the provisions of sub-section (1) shall be punishable with a fine which may extend to five hundred rupees and in the case of a continuing offence with further fine of two hundred rupees for each day on which the offence is continued after conviction therefor.

### **55. Offences -**

- (1) A person who makes or assists in making a report, return, notice or other document required by this Act to be sent to the Registrar or to any other person that -
- (a) contains an untrue statement of a material fact; or
  - (b) omits to state a material fact required in the report or necessary to make a statement contained in the report not misleading in the light of the circumstances in which it was made.

Shall be guilty of an offence and shall on summary conviction, be punishable -

- (i) in the case of an individual with a fine which may extend to rupees one thousand or with imprisonment for a term which may extend to three months or with both.
  - (ii) in the case of a person other than an individual, with a fine which may extend to rupees ten thousand.
- (2) (a) If the person commits an offence under sub-section (1) is a cooperative which is a body corporate, the cooperative as well as every person in charge of and responsible to, the cooperative for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (b) Notwithstanding anything contained in clause (a) where an offence has been committed by a cooperative and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the cooperative, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be punishable with a fine of one thousand rupees or with imprisonment for a term which may extend to ninety days or with both.
- (3) No person shall be guilty of an offence under sub-section (1) or sub-section (2) where the untrue statement or omission -
- (a) was unknown to him, and
  - (b) in the exercise of reasonable diligence, could not have been known to him,
- (4) Every person who -
- (a) without reasonable cause, contravenes a provision of this Act for which no penalty is otherwise provided; or
  - (b) fails to file or furnish return or to give any notice, or to send any document required by the provisions of this Act;

Shall be guilty of an offence and shall, on summary conviction, be punishable with a fine which may extend to one thousand rupees.

- (5) Where a person is convicted of an offence under this Act, the Court may, in addition to any punishment imposed, order the person to comply with the provisions of this Act for the contravention of which he has been convicted.

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

## **CHAPTER VIII - DISPUTES**

### **56. Disputes -**

- (1) If any dispute touching the constitution, management or business of a cooperative arises -
  - (i) (a) among members, past members or persons claiming through member, past member or deceased member; or
  - (b) between a member, past member or a person claiming through a member, past member or deceased member and the cooperative, its board, director, office-bearer or liquidator, past or present; or
  - (c) between the cooperative and its board and any past board, any director office-bearer, or any past director, past office-bearer, or the nominee, heir, or legal representative of any deceased director or deceased office-bearer of the cooperative.

shall be referred to the Arbitration Council;

- (ii) between the cooperative and any other cooperative or between a cooperative and liquidator of another cooperative or any other Individual or institutions shall be referred to the Cooperative Tribunal.

**Explanation:-** For the purposes of this sub-section, a dispute shall include-

- (a) a claim by a cooperative for any debt or other amount due to it from a member, past member, the nominee, heir or legal representative of a deceased member, whether such debt or other amount due be admitted or not;
- (b) a claim by surety against the principal debtor where the cooperative has recovered amount from the surety in respect of any debtor or other amount due to it from the principal debtor as a result of the default of the principal debtor whether such debt or other amount due be admitted or not;
- (c) a claim by a cooperative against a member, past member or the nominee, heir or legal representative of a deceased member for the delivery of possession to the cooperative of land or other immovable property resumed by it for breach of the conditions of assignment or allotment of such land or other immovable property;

- (d) any dispute arising in connection with the election of directors or delegates or representatives or President or Vice-President of the cooperative :

Provided that no dispute under this clause shall be entertained during the period commencing from the announcement of the election programme till the declaration of the results.

- (2) If any question arises whether a dispute referred to the Arbitration Council under this section is a dispute touching the constitution, management or business of the cooperative, such question shall be decided by the Arbitration Council.
- (3) The Arbitration Council shall on deposit of fees prescribed in the byelaws decide the dispute in accordance with the provisions of this Act and the byelaws. Pending final decision on the dispute, the Arbitration Council may make such interlocutory orders as it may deem necessary in the interest of justice.
- (4) Every order or decision made under this section, shall be executed by the Civil Court having jurisdiction, as if such order is decree of that Court, on a certificate issued by the Arbitration Council.
- (5) Notwithstanding anything contained in sub-section (4), and without prejudice to any other mode of recovery which is being taken or may be taken, the Arbitration Council may, on the application made by the cooperative for the recovery of arrears of any sum advanced by the cooperative to any of its members, and on its furnishing a statement of accounts in respect of the arrears and after making such inquiry as such Council deems fit, issue a certificate for the recovery of the amount stated therein to be due as arrears.
- (6) A certificate issued by the Arbitration Council under sub-section (5) shall be final and conclusive proof of the arrears stated to be due and the certificate shall be executed by the Chief Executive in the manner specified in the byelaws.
- (7) A person aggrieved by the order of the Arbitration Council may appeal to the Cooperative Tribunal within forty-five days from the date of passing the order:

Provided that no appeal under this sub-section shall be admitted unless twenty-five per cent of the decreed principal amount is deposited in such manner as the Cooperative Tribunal may prescribe by regulations.

## **57. Constitution of Arbitration Council -**

- (1) The byelaws shall provide for the constitution of an Arbitration Council consisting of three members, possessing such qualifications as may be prescribed by byelaws appointed by the general body from among its members or others, whose term of office shall be of the same duration as that of the directors.
- (2) The Arbitration Council shall follow such procedure and exercise such powers for settlement of disputes as may be prescribed by the Cooperative Tribunal.

## **CHAPTER IX - DISSOLUTION**

### **58. Dissolution of cooperative by members -**

- (1) A cooperative may, by special resolution, authorise its own dissolution; A notice of the general meeting called for the purpose shall also be sent by registered post with an invitation to attend, to the Registrar, to creditors, if any, to any secondary cooperative to which the cooperative is affiliated, and to any cooperative with which a partnership contract has been entered into.
- (2) The invitee under sub-section (1) shall have the right only to make a presentation to the general body, if he wishes to do so, on the issue of the proposed dissolution.
- (3) Within fifteen days of such authorisation for dissolution, the cooperative shall send to the Registrar a copy by registered post of the authorisation to dissolve the cooperative.
- (4) The authorisation approved under sub-section (1) shall set out -
  - (a) the assets and liabilities of the cooperative;
  - (b) the claims of creditors;
  - (c) the number of members;
  - (d) the nature and extent of the members, interest in the cooperative;
  - (e) the name and address of the liquidator appointed by the cooperative.
- (5) When the Registrar receives the special resolution passed under sub-section (1) -
  - (a) where he is satisfied that the cooperative has no assets or liabilities, he shall dissolve the cooperative, delete its name from the register of cooperatives and issue a certificate of dissolution of such cooperative; or
  - (b) he shall, within thirty days of the date of receipt of such resolution, cause at the expense of the cooperative a notice of the special resolution to be published once in the Gazette and once a week for two consecutive weeks in a newspaper

published or distributed in the district where the head office of the cooperative is located.

- (6) In the case of dissolution, the Registrar may require, till the certificate of dissolution is issued by him, from the liquidator appointed by the cooperative or from any other person who is required to furnish information, a periodical return showing :-
- (a) the progress of dissolution;
  - (b) the distribution of any undistributed surplus or reserve; and
  - (c) any other relevant information.

### **59. Dissolution of cooperative by Registrar -**

- (1) Where the Registrar has reason to believe that a cooperative -
- (a) has not commenced business within two years after the date shown on its certificate of registration; or
  - (b) has not carried on business for two consecutive years;

he shall send to the cooperative a letter by registered post, inquiring whether the cooperative is carrying on business.

- (2) Where the Registrar -
- (i) does not, within thirty days of the date of sending a letter under sub-section (1), receive a reply to the letter, he shall within fifteen days after the expiry of said thirty days, send to the cooperative a letter stating that :-
    - (a) a letter was sent to the cooperative under sub-section (1);
    - (b) no reply to the letter has been received by him within thirty days from the date of sending it;
  - (ii) receives a reply from the cooperative that it is not carrying on business; or
  - (iii) does not, within thirty days from the date he sent a letter under this sub-section receive a reply to that letter;

he shall publish the notice in the newspaper and send to the cooperative a notice that, at the expiry of thirty days from the date of the notice, the cooperative shall, under cause is shown to the contrary, be dissolved and have its name deleted from the register of cooperatives.



- (3) On the expiry of thirty days from the date of issue of the letter under sub-section (2), the Registrar shall, unless cause to the contrary is previously shown by the cooperative :-
- (a) where he is satisfied that the cooperative has no assets or liabilities, dissolve the cooperative, delete its name from the register of cooperatives and issue a certificate of dissolution of such cooperative; or
  - (b) appoint a liquidator under Section 60 to wind up the affairs of the cooperative.
- (4) Where a cooperative fails to file returns and furnish information, as required by Section 52, even after a lapse of two hundred and forty days from the close of the financial year, the Registrar shall send a requisition under sub-section (2) of Section 32 to the board to call a special general meeting for the purpose of considering the annual returns to be filed with, and the information to be furnished to, the Registrar.
- (5) Where the board fails to call a special general meeting within the period specified in sub-section (2) of Section 32, the Registrar may at the cost of the cooperative call the special general meeting notwithstanding anything contained in this Act:-
- (a) to review the affairs of the cooperative; and
  - (b) to ascertain whether the general body desires to continue the cooperative.
- (6) Where:
- (a) a quorum of members is not present at a special general meeting called under sub-section (4) or sub-section (5); or
  - (b) the general body fails to pass a resolution to the effect that:-
    - (i) the cooperative is to carry on business;
    - (ii) the board shall present, within sixty days from the date of the special general meeting, to the general body the annual returns to be filed with, and the information to be furnished, to the Registrar; and
    - (iii) the cooperative shall file the returns with, and furnish the information to the Registrar within ninety days from the date of the special general meeting; or
  - (c) the cooperative fails to file the returns with, and furnish the information to, the Registrar within ninety days from the date of the special general meeting;

the Registrar shall -

- (i) If he is satisfied that the cooperative has no assets or liabilities, dissolve the cooperative, delete its name from the register of

- cooperatives and issue a certificate of dissolution of such cooperative; or
- (ii) appoint a liquidator under Section 60 to wind up the affairs of the cooperative.

#### **60. Appointment of liquidator -**

Where a cooperative is to be dissolved and no liquidator is appointed by the general body, the Registrar shall appoint any person as a liquidator to wind up the affairs of the cooperative.

#### **61. Duties of liquidator -**

A liquidator on his appointment shall :-

- (a) immediately give notice of his appointment :-
  - (i) in the case of a liquidator not appointed by the Registrar; to the Registrar; and
  - (ii) to each claimant and creditor known to the liquidator;
- (b) immediately publish notice of his appointment in the Gazette and once a week for two consecutive weeks in a newspaper published or distributed in the district where the head office of the cooperative is located and take reasonable steps to give notice of the liquidation in every jurisdiction where the cooperative carries on business;
- (c) include in the notice mentioned in clauses (a) and (b) a provision requiring any person :-
  - (i) indebted to the cooperative, to render an account and pay to the liquidator at the time and place specified in the notice any amount owing;
  - (ii) possessing property of the cooperative, to deliver it to the liquidator at the time and place specified in the notice; and
  - (iii) having a claim against the cooperative, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator at the time and place specified in the notice which shall not exceed sixty days from the date of first publication of the notice.
- (d) take into his custody and under his control all the property and actionable claims to which the cooperative is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of or damage to such property, effects and claims;
- (e) open and maintain a trust account for the moneys of the cooperative;
- (f) keep accounts of the moneys of the cooperative received and paid out by him;

- (g) maintain separate lists of the members, creditors and other persons having claims against the cooperative;
- (h) where at any time he determines that the cooperative unable to pay or adequately provide for the discharge of its obligations, apply to the Registrar or general body as the case may be, for directions; and
- (i) deliver to the Registrar or general body, as the case may be, periodically as the Registrar or general body may require, financial statements of the cooperative in such from the liquidator considers proper or that the Registrar or general body may require.

## **62. Powers of liquidator -**

- (1) The whole of the assets of a cooperative in respect of which an order for winding up has been made shall vest in the liquidator appointed under Section 60 from the date the order takes effect.
- (2) The liquidator may -
  - (a) retain lawyers, accountants, engineers, appraisers and other professional advisors;
  - (b) institute and defend suits and other legal proceedings on behalf of the cooperative by the name of his office;
  - (c) carry on the business of the cooperative so far as may be necessary for the beneficial winding up of the same;
  - (d) sell by public auction or private sale any property of the cooperative;
  - (e) do all acts and execute any documents in the name and on behalf of the cooperative;
  - (f) borrow money on the security of the property of the cooperative;
  - (g) settle or compromise any claims by or against the cooperative; and
  - (h) do all other things that he considers necessary for the liquidation of the cooperative and distribution of its property.
- (3) Where a liquidator has reason to believe that any person has in his possession or under his control, or has concealed, withheld or misappropriated any property of the cooperative, he may apply to the Court for an order requiring that person to appear before the Court at the time and place designated in the order and to be examined.
- (4) Where the examination under sub-section (3) discloses that a person has concealed, withheld or misappropriated property of the

cooperative or has in possession or under his control the property of the cooperative, the Court may order that person to restore the property or pay compensation to the liquidator on behalf of the cooperative.

- (5) No liquidator shall purchase, directly or indirectly, any part of the stock-in-trade, debts or assets of the cooperative.
- (6) Where an order of winding up of cooperative is set aside in appeal the property, effects and actionable claims of the cooperative shall revert in the cooperative.

### **63. Disposal of surplus assets of liquidated cooperatives -**

After all the liabilities including the paid up share capital of a wound up cooperative have been met, the surplus assets shall not be divided among its members but they shall be applied to any object described in the byelaws and when no object is so described to any object of public utility determined by the general body meeting.

### **64. Bar of suits or legal proceedings -**

When an order to wind up the cooperative has been made or the liquidator has been appointed no suit or other legal proceedings relating to business of such cooperative shall be proceeded with or instituted against the liquidator as such or against the cooperative or any member there or except with the leave of Registrar and subject to such conditions as he may impose.

### **65. Final accounts -**

- (1) A liquidator shall pay the costs of liquidation out of the property of the cooperative and shall pay or make adequate provision for all claims against the cooperative.
- (2) Subject to the provisions of Section 63 after paying or making adequate provision for all claims against cooperative, the liquidator shall apply to the Registrar for approval of his final accounts and for permission to distribute in case or in kind the remaining property of the cooperative in accordance with the byelaws.
- (3) Where the Registrar approves the final accounts rendered by a liquidator under sub-section (2), he shall :-
  - (a) issue directions with respect to the custody or disposal of the documents and records of the cooperative; and
  - (b) discharge the liquidator.

- (4) Where the Registrar discharges a liquidator under sub-section (3) the Registrar shall dissolve the cooperative, issue a certificate of dissolution and delete its name from the register of cooperatives.
- (5) The cooperative ceases to exist on the date shown in the certificate of dissolution, which shall not be later than two years after the appointment of the liquidator.

## **CHAPTER X - MISCELLANEOUS**

### **66. Previous sanction of Reserve Bank of India or NABARD in certain matters -**

Notwithstanding anything contained in Sections 5, 11, 12, 13, 14, 58 and 59 of this Act, in the case of a co-operative bank or an urban cooperative bank, no conversion, transfer, division, amalgamation, merger or dissolution shall take place save with the previous sanction in writing of Reserve Bank or National Bank for Agriculture and Rural Development as the case may be.

### **67. Certain provisions of Cooperative Societies Act to apply -**

The provisions of Section 17-A and 17-B of the Madhya Pradesh Cooperative Societies Act, 1960 (No. of 17 of 1961) shall mutatis and mutandis apply to all cooperative banks.

**Explanation :-** For the purpose of this section a “Cooperative Bank means a cooperative registered under this Act, which is doing the business of banking as defined in clause (b) of sub-section (1) of Section 5 of the Banking Regulation Act, 1949” (No. 10 of 1949).

### **68. Removal difficulty -**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may pass such order not inconsistent with the provisions of this Act as it may deem necessary to remove such difficulty:

Provided that no such order shall be passed after the expiry of the period of two years from the date of coming into force of this Act.

- (2) The order passed under sub-section (1) shall be laid on the table of the legislative assembly.

### **69. Right to Information -**

Any member or creditor having interest in the affairs of the cooperative may seek information relating to any transaction of the cooperative and for that purpose may be provided a certified copy of any document within one month from the date of receipt of the application relating to such transaction on payment of such fee as may be specified in the byelaws.

**70. Bar of Jurisdiction of Courts -**

- (1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of -
  - (a) the registration or conversion of a Cooperative or of an amendment of a byelaw;
  - (b) any matter concerning the winding up and the dissolution of a Cooperative.
- (2) While a Cooperative is being wound-up, no suit or other legal proceedings relating to the business of such Cooperative shall be proceeded with, or instituted against, the liquidator as such or against the Cooperative or any member thereof except by leave of the Registrar and subject to such conditions as he may impose.
- (3) Save as provided in this Act, no order decision or award made under this Act shall be questioned in any Court on any ground whatsoever.

**71. Indemnity for acts done in good faith -**

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting under this authority, in respect of anything done or purporting to have been done by him in good faith under this Act.