



Legislative Assembly of the State of Goa

**The Goa Cooperative Societies
Bill, 2001**

(Bill No. 45 of 2001)

(As passed in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
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The Goa Cooperative Societies Bill, 2001
(Bill No. 45 of 2001)

A

Bill

to consolidate and amend the law relating to the co-operative societies in the State of Goa.

WHEREAS with a view to providing for the orderly development of the co-operative societies as people's institutions based on self-help and mutual aid in the State of Goa, in accordance with the Co-operative principles, it is expedient to consolidate and amend the law relating to Cooperative societies in the State.

It is hereby enacted in the Fifty second Year of the Republic of India as follows:-

CHAPTER - I
PRELIMINARY

1. **Short title, extent and commencement.** — (1) This Act may be called the Goa Co-operative Societies Act, 2001.

(2) It shall extend to the whole of the State of Goa.

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

2. **Definitions.**— In this Act, unless the context otherwise requires,—

(1) "agricultural marketing society" means a society,-

(a) the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production and

(b) not less than three-fourths of the members of which are agriculturists, or societies formed by agriculturists;

(2) "agricultural service co-operative society" means an agricultural co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers;

(3) "apex society" means a society, the area of operation of which extends to the whole of the State of Goa, and the main object of which is to promote the principal objects of the societies affiliated to it as members and provide for the facilities and services to them and which has been classified as an apex society by the Registrar;

(4) "area of operation" means the area from which the membership is drawn or specified in the bye-laws;

(5) "auditor" means a person appointed by the Registrar or by a society, to audit the accounts of the society;

(6) "board of directors" means the governing body or the committee of management of a society, by whatever name called, in which the management of the affairs of a society is vested;

(7) "bye-laws" means bye-laws prescribed under the Rules and registered under this Act and include registered amendments of such bye-laws;

(8) "central bank" means a co-operative bank, the object of which includes the creation of funds to be loaned to other societies but does not include the urban co-operative bank;

(9) "chief executive" with whatever designation called, means an individual, who, subject to the superintendence, control and direction of the board of directors, has been entrusted by the board, with the management of the affairs of the society;

(10) "cooperative farming society" means a cooperative society the principal object of which is to organise cultivation of lands held by it or by its members, jointly or otherwise, with a view to increasing agricultural production and employment by proper utilisation of land, labour and other resources;

(11) "consumers cooperative society" means a cooperative society the primary object of which is the procurement and distribution of goods to, or the performance of other services for its members as also other customers;

(12) "co-operative tribunal" means the Goa Co-operative Tribunal constituted under section 114 of this Act;

(13) "cooperative housing society" means a society as defined in section 102 of this Act;

(14) "cooperative bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949 (Central Act X of 1949);

(15) "cooperative credit society" means a cooperative society the primary object of which is to create funds for lending money to its members;

(16) "co-operative authority" means the authority constituted under section 84 of this Act to decide disputes referred to it under any of the provisions of this Act;

(17) "co-operative year" means a year or period ending on the thirty-first day of March;

(18) "director" means a member of the board of directors;

(19) "dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;

(20) "federal society " means a society,-

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

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

(21) "general body " in relation to a primary society, means all the members of the primary society and in relation to a federal society and apex society, means all the delegates of the member societies and includes a representative general body constituted under section 69 of this Act;

(22) "general meeting" means a meeting of the general body of a society ;

(23) "Government" means the Government of Goa;

(24) "industrial cooperative society" means a cooperative society, the object of which includes manufacture, processing and marketing of goods by or with the help of its members and providing supplies and services to them;

(25) "joint member" means a member who holds jointly a share of a society with another but whose name does not stand first in the share certificate ;

(26) "lift irrigation society" means a society, the object of which is to provide water supply by motive power or otherwise to its members for agriculture, horticulture and other purposes;

(27) "Liquidator " means a person appointed as liquidator under section 93 Of the Act;

(28) "member" means an individual or entities mentioned in section 21 joining in the application for the registration of a co-operative society which is subsequently registered, or duly admitted to membership of a society after registration and includes a joint member;

(29) "multi State society " means a cooperative society which is registered or deemed to be registered under the Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984);

(30) "mutually aided society " means a society which does not have any share capital, loans or any financial assistance from the State or the Central Government except with a Memorandum of Understanding with the Government;

(31) "officer " means a person elected or appointed to any office of a society according to its bye-laws; and includes a chairman, vice-chairman, president, vice-president, secretary, treasurer, member of the board of directors, managing director, chief executive, manager and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society;

(32) "Official assignee " means a person appointed by the Registrar to Act as an Official assignee under section 20 of the Act;

(33) "Official gazette" means the Official Gazette of the Government;

(34) "patronage refund" means annual refund to members in proportion to their transactions with the society during the year;

(35) " prescribed " means prescribed by rules;

(36) "primary society " means a society whose membership is available only to individuals;

(37) "processing society" means a society the object of which is the processing of goods;

(38) "producers' society" means a society, the object of which is the production and disposal of goods or the collective disposal of the labour of the members thereof;

(39) "resource society" means a society, the object of which is the obtaining for its members of credit, goods or services required by them;

(40) "Registrar" means a person appointed under section 4 of this Act and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred ;

(41) "rules" means rules made under this Act;

(42) "State " means the state of Goa.

(43) "society" means a co-operative society registered or deemed to be registered under this Act;

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

(45) "state aided society " means a society which is not a mutually aided society;

(46) "surplus " means the net excess of income over the expenditure;

(47) "year " means a Co-operative year as defined in this Act;

3. Cooperative principles and bye-laws.— Individuals or cooperatives intending to form into a cooperative society under this

Act shall frame bye-laws conforming to the following principles of cooperation, namely.—

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

(b) Cooperative societies are democratic organisations. Their affairs shall be administered by persons elected or appointed in a manner agreed to by the members and accountable to them. All members of cooperative societies shall enjoy equal rights of voting in the principle of one member, one vote and participation in decisions affecting their Cooperative Societies. Their administration shall be conducted on a democratic basis in a suitable form;

(c) Share capital shall receive a limited rate of dividend, if any;

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

(i) by provision for development of the business of the cooperative society;

(ii) by provision of common services, or

(iii) by distribution among the members in proportion to their transactions with the cooperative society;

(e) all cooperative societies shall make provision for the education of their members, office-bearers and employees and of the general public, in the principles and techniques of cooperation, both economic and democratic;

(f) all cooperative societies, in order to best serve the interest of their members and their communities, shall actively cooperate in every practical way with other cooperatives at local, national and international levels having as their aim the achievement of unity of action by cooperators throughout the world.

CHAPTER-II REGISTRATION

4. Registrar and his subordinates.— (1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint one or more persons to assist such Registrar with such designation, and in such local areas or throughout the State, as it may specify in that behalf and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar. They shall be subordinate to the Registrar and subordination of such persons amongst themselves shall be such as may be determined by the Government.

(2) The person appointed under sub-section (1) as the Registrar, shall not, during the course of his service, serve in any capacity with any society.

5. Societies which may be registered.— (1) Only such society may be registered as a co-operative society under this Act which provides in its bye-laws for the social and economic betterment of its members through self help and mutual aid in accordance with the cooperative principles.

(2) A Society shall be registered with limited liability.

6. Conditions of registration.— (1) No society, other than a federal society, shall be registered under this Act unless it consists of at least ten persons (each of such persons being a member of a different family), who are qualified to be members under this Act

and who reside or carry on business or profession in the area of operation of the society:

Provided that a Cooperative housing society consisting of at least four such persons who are residing or intend to reside in the area of operation of the society may be registered under this Act.

Provided further that, a lift irrigation society consisting of five or more such persons may be registered under this Act.

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

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

(4) The name of the society shall not have any reference to any caste or religious denomination.

(5) The word "limited" or its equivalent in any language shall be the last word in the name of every society which is registered or deemed to be registered under this Act.

Explanation.— For the purposes of this section and section 7, the expression "member of a family" means wife, husband, father, mother, unmarried son and unmarried daughter.

7. Application for registration.— (1) For the purposes of registration, an application shall be made to the Registrar in the form prescribed and shall be accompanied by four copies of the proposed bye-laws of the society and such registration fee as may be determined by the Registrar. Different registration fees may be determined for different classes of societies, regard being had to the service involved in processing an application for registration.

(2) The application shall be signed,—

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

(b) in the case of a Cooperative housing society, by at least five such persons .

Provided that in case where a cooperative housing society consists of more than five persons in accordance with the scheme of housing on the plot of land mentioned in the objects of the society, the application shall be signed by at least fifty one per cent of the total number of the expected members;

(c) in the case of lift irrigation society, by at least five such persons; and

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

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

8. Registration.— (1) If the Registrar is satisfied that a proposed society has complied with the provisions of sections 5, 6 and 7 of this Act and the rules made thereunder, he may register the society.

(2) Where the Registrar refuses to register a proposed society, he shall communicate his decision, with the reasons therefor, to the person making the application, within forty five days from the date of receipt of the application. In case no refusal is communicated within the said period of forty five days, the society shall be deemed to have been refused registration under this Act.

(3) An appeal against the order of refusal of registration under sub-section (2) shall be filled before the cooperative tribunal within a period of sixty days from the date of such refusal or deemed refusal, as the case may be.

(4) The Registrar shall maintain a register of all societies registered under this Act.

9. Evidence of registration.— A certificate of registration signed by the Registrar or a certified copy of the entry in the register maintained under sub-section (4) of section 8 of the Act shall be conclusive evidence that the society therein mentioned, is duly registered, unless it is proved that the registration of the society has been cancelled.

10. Classification of Societies.— (1) The Registrar shall classify all societies into one or other of the classes of societies defined in section 2 of this Act and also into such sub-classes thereof as may be prescribed.

(2) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another and may, in the interest of the cooperative movement and on such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.

(3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the Government may, from time to time, direct.

11. Amendment of bye-laws of society.— (1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed by a majority of not less than two third of the members entitled to vote who are present at a general meeting of the society shall be forwarded to the Registrar.

(2) Every application for registration of an amendment of the bye-laws shall be decided and communicated to the society by the Registrar within a period of forty five days from the date of its receipt.

(3) In case of refusal of amendment, if the decision is not communicated to the society, with the reasons therefor, within the said period of forty five days, the said amendment of the bye-laws shall be deemed to have been registered.

(4) Where the Registrar registers an amendment of the bye-laws of a society or where the amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of the amendment certified by him which shall be conclusive evidence that the same is duly registered.

12. Power to direct amendment of bye-laws.— (1) If it appears to the Registrar, that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may refer the matter to the cooperative tribunal for its decision. If the cooperative tribunal, after giving the society an opportunity of being heard, orders registration of the amendment, the bye-laws shall be deemed to have been duly amended accordingly with effect from the date of the order of the Cooperative tribunal and the bye-laws, as amended, shall, subject to appeal, if any, be binding on the society and its members.

13. Change of name.— (1) A society may, by resolution passed at a general meeting and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the society, or any of its members, or past members, or deceased members and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name.

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

14. Change of liability— (1) Subject to the provisions of this Act and the rules, a society may, by amendment of its bye-laws, change the form or extent of its limited liability.

(2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding anything in any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of such notice upon him, have the option of withdrawing his shares, deposits or loans.

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

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

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

(b) all claims of members and creditors who exercise the option, given by sub-section (2), within the period specified therein, have been met in full or otherwise satisfied.

15. Amalgamation, transfer, division or conversion of societies.— (1) A society may, by a resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide -

(a) to amalgamate with another society;

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

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

(d) to convert itself into another class of society.

(2) Such decision shall take effect after the approval of the Registrar who shall pass the necessary order to that effect.

(3) When such amalgamation, transfer, division or conversion as aforesaid involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that—

(i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be;

(ii) all the members and creditors and other interested persons have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified have been met in full or otherwise satisfied.

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

(5) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society or as the case may be, the converted society, or the new societies,

(6) Where two or more societies have been amalgamated or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

16. Re-construction of societies.— Where a proposal for a compromise or arrangement,—

(a) between a society and its creditors, or

(b) between a society and its members, is approved at a special general meeting called for the purpose, the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the liquidator, order re-construction of the society in the prescribed manner.

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

(2) Nothing in the Partnership Act, 1932 (9 of 1932) shall apply to such partnership.

(3) The annual reports and accounts relating to specific business or businesses of each such society shall be placed before the annual general meeting of each such society.

(4) Any society may, by resolution passed at general meeting by three-fourths majority of members present and voting, promote one or more subsidiary organisations for the furtherance of its stated objectives and such organisations may be registered under any law for the time being in force as agreed to by the general body.

(5) The annual reports and accounts of such subsidiary organisations shall be placed before the general meeting of the promoting co-operative society every year.

(6) Any subsidiary organisation created under sub-section (4) shall exist only as long as the general body of the co-operative society deems its existence necessary.

(7) The concerned society shall intimate to the Registrar about such partnership or subsidiary within a month of its formation or dissolution

18. Collaboration by societies.— Any society may, by resolution passed in a general meeting by three-fourth majority of members present and voting, enter into collaboration with any Government undertaking or any under-taking approved by the Government for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.

19. Cancellation of registration.— The Registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, or it is de-registered under the provisions of sub-section (1) of section 20, or winding up proceedings in respect of the society are closed or terminated under section 99. The society shall, from the date of such order of cancellation, be deemed to be dissolved, and shall cease to exist as a corporate body.

20. De-registration of Societies.— (1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the chief promoter, the Board of Directors and the members of the society, de-register the society:

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the proceedings of de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the chief promoter and the members of the Board of Directors of the society, and no proceedings in respect of the de-registration of the society shall be called in question in any court merely on the ground that individual notice is not served on any such member.

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

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

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

(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any person or persons on whom all or any of the powers of the Registrar are conferred under section 4.

CHAPTER - III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

21. Person who may become member.— (1) Any person, who needs the services of the society, accepts the responsibilities of membership and fulfills such other conditions as may be specified in the byelaws of the society, may be admitted as a member.

(2) No person shall be admitted as a member of a society except the following, that is to say :—

(a) an individual, who is a citizen of India and who is competent to contract under the Contract Act, 1872 (9 of 1872);

(b) a firm, company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860 (XXI of 1860).

(c) a society registered, or deemed to be registered, under this Act or any other cooperative societies Act;

(d) a public trust registered under any law for the time being in force for the registration of such trusts;

(3) Admission of members may be made only by an elected board of directors or by the general body where such a board does not exist.

Provided that in the case of cooperative banks and cooperative credit societies, an Administrator appointed under section 71 may admit members only for the purpose of sanction of loans.

(4) A person admitted as a member may exercise the rights of membership, including the right to vote, only on fulfillment of such conditions as may be laid down from time to time in the bye-laws;

22. Open membership.— (1) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its byelaws.

(2) Where a person is refused admission as a member of a society, the decision, with the reason therefore, shall be communicated to that person within fifteen days of the date of the decision, or within three months from the date of the application for admission, whichever is earlier.

(3) Any person aggrieved by the decision of a society refusing him admission of its membership, may appeal to the cooperative authority.

(4) Where a society refuses to accept the application from an eligible person for admission as member, or the payment made by him in respect of membership, or having accepted the membership application, a society does not convey its decision within three months from the date of receipt of application, the membership shall be deemed to have been refused and the person aggrieved may appeal to the cooperative authority.

(5) An appeal under sub-section (3) shall be filed within two months of the date of communication of refusal and under sub-section (4) within two months of deemed refusal.

(6) Every such appeal under sub-section (3) or (4) shall, as far as possible, be disposed of by the cooperative authority within a period of three months from the date of its receipt;

23. Joint member.— (1) Subject to the provisions of section 21, a society may admit any person as a joint member. A joint member shall hold jointly a share of the society with another but his name shall not stand first in the share certificate.

(2) A member of a society may appoint not more than one joint member.

(3) When a person whose name stands first in the share certificate ceases to be a member, the person admitted as joint member shall automatically be the first member. In the event of the cessation of membership of the first member by death, the joint member shall be the first member and the nominee, if any, of the deceased member shall be the joint member.

(4) The joint member shall have equal right in the capital and property of the society with the first member.

(5) The joint member shall have the right to vote only in the absence of the member whose name stands first in the share certificate.

24. Cessation of membership.— A person shall cease to be a member of a society on his resignation from the membership thereof being accepted, or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society or ceasing to hold the qualification for the membership under the bye-laws of the society or where a firm, company, any other corporate body, society or trust is a member, on its dissolution or ceasing to exist.

25. Removal of member.— A society may, by a resolution passed in a general meeting held for the purpose, remove a member on the ground that,—

(1) he carries on business which is in conflict and in competition with the business of the society as specified in the bye-laws of the society;

(2) he has not used for two consecutive years the service of a society to a minimum level as specified in the bye-laws;

(3) he has not attended three consecutive annual general meetings of the society;

(4) he is in default regarding any payment to be made to the society exceeding an amount and for the period as specified in the bye-laws.

Provided that no such resolution shall be valid unless the member concerned is given an opportunity of representing his case to the general body.

26. Expulsion of member.— (1) A society may, by resolution passed by a majority of not less than three-fourths of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society:

Provided that, no such resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body. If the member is aggrieved by the decision of the society expelling him from its membership, he may appeal to the cooperative authority within two months of the date of the communication of such decision.

(2) No member of a society who has been expelled under the foregoing sub-sections shall be eligible for re-admission as a member of that society, for a period of one year from the date of such expulsion.

27. Rights of membership.— No person shall exercise the rights of the member of a society, until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be specified in the bye-laws of such society.

28. Voting powers of members.— (1) Save as otherwise provided herein and in sub-sections (2) to (7), no member of any society shall

have more than one vote in its affairs and every right to vote shall be exercised personally and not by proxy:

Provided that a member who is in the employment of the Defence Services shall be entitled to vote by proxy through any other member of the society if he is unable to exercise his right of vote personally:

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

(2) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate, shall have the right to vote. But in his absence, the person whose name stands second shall have the right to vote.

(3) A society which has invested any part of its funds in the shares of another society, may appoint any one of its directors or officers to vote on its behalf in the affairs of that other society; and accordingly, such director shall have the right to vote on behalf of the first society.

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

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

(6) A public trust which has invested any part of its fund in the shares of a society, may appoint any of its members or

trustees, to vote on its behalf in the affairs of that society; and accordingly, such person shall have the right to vote on behalf of the public trust.

(7) In the case of a federal society, the voting rights of individual members thereof shall be such as may be regulated by the rules made under this Act and by the bye-laws of the society.

(8) No nominee of a Government or of any financial institution of any society shall be entitled to vote at any meeting of the society or election of its Board of Directors.

(9) If a member has taken loan from the society, such member shall, in case he is a defaulter in paying three or more consecutive instalments towards repayment of the loan on the due dates, have no right to vote in the affairs of the society:

Provided that, a member shall not be deemed to be a defaulter if he has discharged his obligations to deliver his marketable produce to the marketing or processing society and the value of such produce is not less than the amount of his dues, even if the actual settlement of his dues, either in whole or in part, takes place at a later date.

29. Restrictions on transfer or charge on share or interest.— (1) A transfer of, or charge on the share or interest of a member in the share capital of the society shall be subject to such conditions as may be prescribed.

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

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

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

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Act or by the rules made thereunder or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed, provided that the total payment of share capital of the society in any co-operative year for such purposes does not exceed ten per cent of the paid up share capital of the society on the last day of the co-operative year immediately preceding.

Explanation.— The right to forfeit the share or interest of any expelled member in the share capital by virtue of any bye-laws of the society, shall not be affected by the aforesaid provisions.

(4) Where the Government contributes to the share capital of a society, it shall not be necessary for the Government to be a member of such society and the restrictions contained in this section shall not apply to any transfer made by it of its share or interest in the capital of the society, and the Government may, notwithstanding anything contained in this Act, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

30. Transmission of interest on death of member.— (1) On the death of a member of a society, the society shall transmit the share or interest of the deceased member to a person or persons nominated, or to such person as may appear to the Board of Directors to be the heir or legal representative of the deceased member:

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

Provided further that nothing contained in this sub-section or in section 21 shall prevent a minor or person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member in a society.

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

(3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

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

32. Rights of members to see books, etc.— (1) Every member shall be entitled to inspect, free of cost, at the society's office during office hours, or at any time fixed for the purpose by the society, the bye-laws, the last three years audited annual financial statements, audit report and audit rectification report and those portions of the minutes of general meetings and Board meetings and books and records relevant to his transactions with the society.

(2) A society shall furnish to a member, on request in writing and on payment of such fees as may be specified in the bye-laws, a copy of any of the documents mentioned in the foregoing sub-section within one month from the date of payment of such fees.

33. Liability of past member and estate of deceased member.— (1) Subject to the provisions of sub-section (2), the liability of a past member, or of the estate of a deceased member, of a society for the debts of the society as they 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 a deceased member, on the date of his death, shall cease after a period of two years from such date.

(2) Where a society is ordered to be wound up 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, within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed; but such liability shall extend only to the debts of the society as they stood on the date of his ceasing to be a member or death, as the case may be.

34. Insolvency of members.— Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (V of 1920) or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to the dues payable by him to the Government or to a local authority.

CHAPTER - IV

INCORPORATION; DUTIES AND PRIVILEGES OF SOCIETIES

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

36. Address of societies.— Every society shall have an address registered in accordance with the rules, to which all notices and communication will be sent; and the society shall inform in writing to the Registrar of any change in the said address within thirty days thereof.

37. Register of members.— (1) Every society shall keep a register of its members and enter therein the following particulars, that is to say:-

(a) the name, address and occupation of each member;

(b) in the case of a society having share capital, the share held by each member;

(c) the date on which each person was admitted as a member;

(d) the date on which any person ceased to be a member

(e) such other particulars as may be prescribed.

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

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

38. Copy of Byelaws etc, to be open to inspection.— The Registrar shall keep the bye-laws and a list of members of the Board of Directors of every society registered under this Act, open for inspection to the public, on payment of such fees as may be prescribed.

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

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

40. Power to exempt from taxation.— The Government, by notification in the official Gazette may, in the case of any society or class of societies, remit —

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

(b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees for the time being in force, and

(c) any other tax or fee or duty (or any other portion thereof) payable by or on behalf of a society under any law for the time being in force, which the Government is competent to levy.

41. Restrictions on borrowings.— A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed.

42. Regulation of loan making policy.— (1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on security of any person who is not a member:

Provided that with the approval of the general body, a society may make loans to or accept deposits from another society of its classification which is not its member.

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

43. Charge and set off in respect of share or interest of member.— A society shall have charge upon the share or interest in the capital and on the deposits, of a member or past member or deceased member, and upon any dividend, patronage refund or surplus payable to any such member, in respect of any debt due from such member or his estate to the society; and the society may set off any sum credited or payable to such member in or towards payment of any such debt:

Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 56 or its reserve fund, and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

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

(a) any debt or outstanding demand, owing to a society by any member or past member or deceased member, shall be a first charge,—

(i) upon the crops or other agricultural produce raised in whole or in part, whether with or without a loan taken from the society by such member or past member or deceased member;

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

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

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

Explanation:— The prior claim of the Government in respect of dues other than land revenue, shall be restricted for the purpose of sub-section (1) to the assets created by a member out of the funds in respect of which the Government has a claim.

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

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

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

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

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

45. Deduction from salary to meet society's claim in certain cases.— (1) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay to the society the amounts so deducted in satisfaction of any debt or other demand of the society against the member. A copy of such agreement duly attested by an officer of the society shall be forwarded by the society to the employer.

(2) On receipt of a copy of such agreement, the employer shall, if so required by the society, by a requisition in writing in the form prescribed, and so long as the total amount shown in the copy of the agreement as payable to the society has been deducted and paid to the society, make the deduction in accordance with the agreement and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the Payment of Wages Act, 1936 (IV of 1936) on the day on which he makes payment.

(3) If, after the receipt of a requisition made under the foregoing sub-section, the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount

deducted to the society, the employer shall be personally liable for the payment of such amount or where the employer has made deductions but the amount so deducted is not remitted to the society, then such amount together with interest thereon at one and half times the rate of interest charged by the society, to the member for the period commencing on the date on which the amount was due to be paid to the society and ending on the date of actually remitting it to the society; and such amount together with the interest thereon, if any, shall, on a certificate issued by the Registrar, be recoverable from him as an arrear of land revenue, and the amount and interest so due shall rank in priority in respect of such liability of the employer as wages in arrears.

(4) A requisition under sub-section (2) shall be made by the society within one year from the date of default by the member concerned in payment of any debt or other demand of the society.

(5) This section shall not apply to the surety of a loanee member.

CHAPTER - V

STATE AID TO SOCIETIES

46. Government investment in societies.— The Government may subscribe to the share capital of a society with limited liability, upon such terms and conditions as may be agreed upon.

47. Liability to be limited in respect of Government shares.— Where any shares are purchased in a society by the Government, the liability in respect of such shares shall, in the event of the society of which the shares are purchased being wound up, be limited to the amount paid in respect of such shares.

48. Other forms of State aid to societies.—Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Government may, by general or

special order specify in this behalf, the Government may,—

(a) give loans to a society ;

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

(c) guarantee the repayment of loans given by a Cooperative Bank to a society;

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

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

49. Provisions of this Chapter to override other laws.— The provisions in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER - VI

PROPERTY AND FUNDS OF SOCIETIES

50. Mobilisation of funds.— A society may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from its members to such extent and under such conditions as may be specified in the bye-laws.

51. Restrictions on borrowings.— (1) A society may raise loans and receive amounts from external sources to such extent and under such conditions as may be specified in the bye-laws.

(2) The deposits or loans raised from external sources shall at no time exceed ten times the sum of members' funds and organisational reserves less accumulated deficit, if any:

Provided that in case of Cooperative housing societies, the borrowings shall not exceed twenty times and in case of Cooperative Banks twenty five times the sum of members' funds and organisational reserves less accumulated deficit, if any.

(3) A mutually aided society shall not accept share capital from the Government but may accept other funds or guarantee from the Government on such terms and conditions as are mutually agreed upon through a memorandum of understanding.

(4) A society may accept funds from the Government or other financing institution on such terms and conditions as are mutually contracted upon. Such conditions may include the right of the Government or other financier to nominate its representative on the board of directors of the society, subject, however, to the restriction that such representative shall not have the right to vote in the meetings of the society.

52. Disposal of net surplus.— The society shall prepare its Annual Financial Statement and arrive at its surplus or deficit. The society shall, out of its net surplus arising from its business in any year, make deferred payment to its members as patronage refund in proportion to the contribution of the members to such business an amount not less than 20% and not exceeding 50% of such surplus. The balance of net surplus shall be appropriated in the following manner:-

(a) At least 25% shall be transferred to statutory reserve fund;

(b) At least 20% shall be transferred to a deficit fund for meeting unforeseen deficits;

(c) Not less than 2% with a maximum limit of Rupees one lakh towards contribution to the Cooperative Education Fund which shall be transferred to the Goa Rajya Sahakari Sangh;

(d) Upto 5% to be transferred to a common benefit fund or common welfare fund whose purpose is approved by the general body;

(e) Upto 5% towards contribution for any purpose connected with the development of the cooperative movement;

(f) Not exceeding 25% of paid up share capital towards payment of dividend to members;

(g) The balance of surplus may be appropriated towards such other funds and reserves as may be approved by the board and confirmed by the general body.

53. Liability for deficit.— (1) Where a society has an operational deficit in any given year, the board of directors shall place before the general body the detailed report of causes of such deficit.

(2) The general body shall examine the reasons and where the deficit has arisen in the normal course of the business of the society, the general body may, based on its examination, resolve to make good the operational deficit, wholly or partly, from the deficit fund and other reserves.

54. Reserve and other funds.— (1) A society may create statutory and non-statutory reserves and other funds for the promotion of the objects of the society.

(2) Reserves and other funds shall be used for the purpose for which they were created when necessary but otherwise may be used in the business of the society. An annual interest equal to the Bank rate shall be credited to the accounts of such funds annually.

(3) Every society shall provide funds each year for cooperative education and training of its members, staff and Directors.

55. Investment of funds outside the business.— Such of its funds as are not needed for use by a society may be invested or deposited outside its business—

(a) in the local postal saving bank;

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

(c) in the shares, debentures, and deposits in the State Co-operative Bank ;

(d) in a cooperative or nationalised or scheduled bank;

(e) in any federal society of which it is a member;

(f) in deposits with Government companies.

(g) in any other mode permitted by the rules or by general or special order of the Government

56. Employees provident fund.— (1) Every society having more than five employees shall establish for its employees a provident fund into which shall be paid the contribution made by its employees and by the society. Such provident fund shall not be used in the business of the society nor shall it form part of the assets of the society but shall be invested under the provisions of the last preceding section and shall be administered in the manner prescribed.

(2) Notwithstanding anything contained in the foregoing subsection, a provident fund established by a society to which the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (XIX of 1952) is applicable, shall be governed by that Act.

57. Funds not to be utilized for certain proceedings filed or taken by or against officer in personal capacity.— Any expenditure incurred from the funds of the society for the purpose of any proceedings filed or taken by or against any officer of the society in the matter of elections to the board of directors or misfeasance

proceedings shall be recoverable from the said officer by the society if the proceedings are decided against him.

CHAPTER-VII

MANAGEMENT OF SOCIETIES

58. General body.— (1) Subject to the provisions of this Act and the rules made there-under, the final authority of every society shall vest in the general body of members, in general meeting summoned in such a manner as may be specified in the bye-laws.

(2) Where, because of spread of number of members a society feels the need for constituting a representative general body for more effective decision making, it may constitute a representative general body in such manner and with such functions as may be specified in the bye-laws.

(3) Subject to the provisions of this Act and the bye-laws, the following matters shall be dealt with by the general body in the general meetings:-

(a) amendments to bye-laws;

(b) removal of directors;

(c) consideration of-

(i) annual audited financial statement of the society and its subsidiaries, if any;

(ii) annual report of activities;

(iii) auditors report and audit rectification report.

(iv) annual operational plan and budget.

(v) Approval of excess budgetary expenditure of the previous year;

(vi) long term perspective plan and budget, if any;

(vii) special audit report or inquiry report, if any;

(d) appointment and removal of statutory auditors of mutually aided society;

(e) appropriation of net surplus;

(f) management of deficits;

(g) fixation of remuneration and other facilities to be allowed to the chairman, any directors or member of any committee or internal auditor in connection with his duties in that capacity or his attendance at related meetings;

(h) amalgamation, division re-constitution and partnership with any other society;

(i) sale and disposal of business undertakings;

(j) dissolution of society;

(k) all other functions expected of the general body under the other provisions of this Act.

59. Board of directors.— (1) The management of every society shall vest in a board of directors constituted in accordance with this Act, the rules and byelaws, which shall exercise such powers and perform such duties as may be conferred or imposed by this Act, the rules and the byelaws.

(2) The term of office of the board of directors elected after the commencement of the Goa Co-operative Societies Act, 2001, shall be five years from the date of its election:

Provided that where in terms of the provisions of the bye-laws of a society, one-third members of its committee or board of directors retire every year, the term of office of such a committee or board shall, after the commencement of the Goa Co-operative Societies Act, 2001, expire on the date on which retirement of any of its one-third members falls for the first time.

(3) The size of the board of directors shall be in accordance with the bye-laws, subject to a maximum of 15 directors. The chief executive shall be an ex-officio director of the board.

(4) The board shall have a Chairman and such other office bearers as may be provided in the bye-laws who shall be elected from among the directors in the manner provided in the bye-laws. Provided that no directors who is representing individual members on the board of directors of an Apex or Federal Society shall be a Chairman or other officer of such society.

(5) The board of directors may set up committees from among its directors and others for specific purposes and such committees shall submit their reports with recommendations or observations to the board for action, within the time specified by the board.

(6) Every director and employee of a society while exercising his powers and discharging his duties shall,—

(a) act honestly and in good faith and in the best interests of the society; and

(b) exercise such due care, diligence and skill as a reasonably prudent person would exercise in similar circumstances.

(7) A director or employee who is guilty of misappropriation, breach of trust or any other omission or commission, resulting in loss to the society as a result thereof, shall be personally liable to make good that loss, without prejudice to such criminal action to which he is liable under the law.

60. Disqualification for being director.— (1) In addition to such criteria as may be specified in the byelaws, a person shall be ineligible for being chosen as a director, if he,-

(a) has at any time lost the right to vote as a member as specified in the bye-laws;

(b) loses the right to continue as member under the provisions of the Act, rules and byelaws;

(c) is a defaulter of any society;

Explanation.— For the purpose of this clause, the term "defaulter" includes—

(i) in the case of a resource society, a member who defaults the payment of the crop loan on the due date;

(ii) in the case of a society which lends term loaning, a member who defaults the payment of any instalment of the loan granted to him;

(iii) in the case of any society,-

(a) a member who has taken anamat or advance; or

(b) a member who has purchased any goods or commodities on credit or availed himself of any services from the society for which charges are payable; and fails to repay the full amount of such anamat or advance or pay the price of such goods or commodities or charges for such service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of withdrawal of anamat or advance by him or from the date of delivery of goods to him or availing of services by him, whichever is earlier;

(iv) in the case of resource society the principle object of which is to provide credit for non-agricultural purposes, a

member who defaults the payment of three consecutive installments of the loan granted;

(v) in the case of Cooperative housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues;

(d) carries on business of the kind carried on by the society, either in his name or in the name of any member of his family or he or any member of his family is a partner in a firm or a director in a company which carries on business of the kind carried on by the society;

Explanation.— For the purposes of this clause, the expression "family" means a wife, husband, father, mother, brother, sister, son, daughter, son-in-law, or daughter-in-law; or

(e) is a salaried employee of the society or holds any office of profit under the society; or

(f) has incurred any other disqualification under this Act or the rules made there-under.

(2) A person shall cease to be a director if such person incurs any of the disqualifications specified in sub-section (1) or—

(a) absents himself from three consecutive board meetings without leave of absence;

(b) absents from three consecutive general meetings.

(c) is penalised under this Act.

(3) In order to be eligible for being chosen as director of the board of directors of a society which has been in existence for more than two years, a member, —

(a) shall have been a voting member of the society for at least two years immediately preceeding the year of election;

(b) shall have attended two general meetings of the society held immediately preceeding the elections.

61. Disqualification of all directors of the board.— Not withstanding anything contained in the foregoing section, all the directors of the board shall, be deemed to have incurred disqualification for a period of five years for being chosen as directors and shall be ineligible to continue as directors of the society, if, during their term as directors of the society,—

(a) they did not conduct the annual general meeting within nine months of closure of the society's accounting year;

(b) they did not conduct a requisitioned general meeting within the specified time;

(c) they did not place the accounts for the preceeding co-operative year before the general body at its annual general meeting.

62.-Powers and functions of the board of directors.—

(1) Without prejudice to the generality of the powers of the board under section 59, the board shall have powers to —

(a) admit members;

(b) elect and remove the office bearers;

(c) accept or reject the resignation of the directors on the board;

(d) appoint and remove the chief executive;

(e) fix the staff strength;

(f) frame policies concerning—

(i) business of the society;

(ii) recruitment and service conditions of the staff;

(iii) mobilisation, utilisation and investment of various funds;

(iv) maintenance of accounting systems;

(v) management information systems;

(vi) such other subjects and matters necessary for the effective performance of the society;

(g) place the annual report, annual financial statements, annual plan and budget for the approval of the general body;

(h) consider audit and compliance reports and place these before the general body;

(i) acquire or dispose of immovable property;

(j) take such other measures or do such other acts as may be prescribed or required under this Act.

(2) The chairperson shall be elected by the board from among the elected members and shall, in accordance with the byelaws-

(a) preside at meetings of the board and the general body;

(b) have only a casting vote in the event of equality of votes on any matters being decided upon by the board.

(c) exercise such other powers as may be delegated by the board and specified in the policies framed or resolutions adopted by the board.

63. Chief executive.— (1) There shall be a Chief Executive, by whatever designation called, of every society, to be appointed by the board and he shall be a full time employee of such society.

(2) The Chief Executive shall be a member of the board and of the committees as may be constituted under the provisions of the bye-laws.

(3) Where the Government has subscribed to the extent of more than one half of the share capital of a society, it shall be obligatory on such a society to seek prior approval of the Government to the appointment of the Chief Executive.

64. Powers and functions of chief executive.— The Chief executive shall exercise the power and discharge the functions specified below, namely:-

(a) Day-to day management of the business of the society;

(b) Operating the accounts of the society and be responsible for making arrangement for safe custody of the cash;

(c) signing on the documents for and on behalf of the society;

(d) making arrangements for the proper maintenance of various books and records of the society and for the correct preparation and timely submission of the periodical statements and returns in accordance with the provisions of this Act, the rules and the bye-laws;

(e) convening meetings of the general body of the society, the board and the other committees constituted by the board and maintaining proper record of such meetings;

(f) making appointments to posts in the society in accordance with the directions of the board;

(g) assisting the board in the formulation of policies, objectives and planning;

(h) appraising the board with periodical information necessary for the operations and functions of the society;

(i) performing such other duties and exercising such other powers as may be prescribed or as may be specified in the bye-laws of the society.

65. Society's nominee on other society not eligible to be office bearer except in a federal society.— No member of a society who is nominated to represent it on any other society shall be eligible for being elected as office bearer of the other society, unless the other society is its federal society.

66. Election to board of directors of societies.— (1) The elections to the board of directors of all the societies and representative general bodies under section 69(d) and (e) of this Act, except those mentioned in sub-section (5) of this section, shall be conducted by the Registrar in such manner as may be prescribed.

(2) Where the Registrar fails to hold election to the board of any society, the term of office of the members of the board of that society shall be deemed to have been extended till the date immediately preceeding the date of the first meeting of the newly elected board.

(3) The voting at election shall be by secret ballot.

(4) The expenses for holding any such elections shall be borne by the concerned society.

(5) Societies having paid up share capital of less than rupees twenty five lakhs may hold their election in accordance with their bye-laws and election rules: Provided that the Registrar may conduct the election of any such society in accordance with the provisions of sub-section (1) to (4) of this section if he is satisfied that circumstances exist for such election. No such election shall, however, be held by the Registrar after the election programme is commenced by the society in accordance with its bye-laws and election rules.

67. Vacancies on the board of directors.— (1) Where there is a vacancy or vacancies on the board of directors, the remaining directors may exercise all the powers of the board or may fill the vacancies for the remainder of the term from eligible persons through co-option if such vacancies are not more than one-third of the total number of directors of the board.

(2) Where there is a vacancy or vacancies on the board in excess of one-third of the total number of directors of the board, the remaining directors shall call upon the Registrar to hold election for electing members to fill the vacancies for the remaining period.

(3) The term of office of the directors who are appointed or nominated or co-opted on the board to fill the vacancy shall be co-terminus with the term of office of the elected directors notwithstanding the date of their such appointment, nomination or co-option to fill the vacancy.

(4) The Government may, by general or special order direct such societies or class of societies to reserve not more than two seats, one each for the members of scheduled castes or scheduled tribes or woman or any other economically backward classes on the board of directors of such societies

68. Government's power to give directions in the interest of Cooperative movement.— (1) If the Government, on receipt of a report from the Registrar or otherwise, is satisfied that in the interest of Cooperative movement or for the purpose of securing proper implementation of cooperative production and other development programmes approved or undertaken by the Government or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies in particular, the Government may issue directions to them from time to time, and all societies or the society concerned, as the case may be, shall be, bound to comply with such directions.

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

(3) Where the Registrar is satisfied that any person was responsible for not complying with any directions, the Registrar may, by order:—

(a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order;

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

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

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

69. Representative general body.— A society having more than five thousand individual members shall have a representative general body constituted in the following manner:—

(a) Election of the representative general body of the societies having more than five thousand individual members shall be held by the Registrar in the prescribed manner.

(b) The members of the society shall be divided in different groups on territorial or any other basis as may be specified in the bye-laws for the purpose of electing a representative to represent the said group of members at general meetings of the society and to vote on their behalf at such general meetings. The elected representatives shall also be entitled to vote at the election of the board of directors of such societies on behalf of the group they represent.

(c) The representative group shall be formed in such a manner that the number of representatives elected shall not be less than fifty and shall not be more than five hundred depending upon the total membership of the society.

(d) The election of representatives to the representative general body shall be held six months prior to the election of the board of directors of the concerned society and such elected representative shall be elected for a term of five years and shall be eligible for re-election, if not otherwise disqualified under the provisions of this Act, rules and bye-laws.

(e) Any vacancy arising in the post of representative shall be filled by re-election by the concerned group of members within a period of six months. Such re-election shall be held by the Registrar in the same manner.

70. Qualifications of Chief Executive Officers or any other officers.— The qualifications for the appointment of the chief executive officers or any other officers of a society shall be such as may be specified in the bye-laws.

71. Removal of directors and appointment of Administrator.— (1) (a) If the board of directors of any society makes default or is negligent in the performance of the duties imposed on it by this Act, or the rules or bye-laws or commits any act which is prejudicial to the interest of the society or has ceased to discharge its functions and the business of the society has or is likely to come to a standstill, then the Registrar, at the request of hundred

members or 10% of the total number of members of the society, whichever is less, may by an Order, remove the board of directors and appoint a board of administrators consisting of not more than three persons, who may or may not be members of the society, to manage the affairs of the society for a period not exceeding six months, which period, at the discretion of the Registrar, may be extended by a further period not exceeding three months, so however that the total period shall not exceed nine months in the aggregate subject to the provisions of sub-section (6).

(b) Where any director on the board of directors of a society commits the acts mentioned in clause (a) above, the Registrar, at the request of hundred members or 10% of the total number of members, whichever is less, or by resolution passed with a two-third majority of the board of directors of the society, shall remove such director from the board.

(c) In the case of a society having Government share capital exceeding 50% of the total paid up share capital of the society, the Registrar shall have the power, in cases mentioned under clauses (a) and (b) above, to act suo-motu and appoint a board of administrators as mentioned in clause (a) above for a period of one year, which period, at the discretion of the Registrar, may be extended for a further period not exceeding one year, or to remove the director or directors in cases under clause (b):

Provided that no order shall be passed by the Registrar under clauses (a) and (b) above without giving an opportunity to the board of directors or director, as the case may be, to file objection, if any, within 15 days from the receipt of notice from the Registrar.

(2) The Registrar shall have the power to change the board of administrators or any members thereof appointed under sub-section 1(a) or 1(c) at his discretion even before the expiry of the period specified in the order under sub-section 1(a) or 1(c).

(3) The board of administrators so appointed shall have power to execute all or any of the functions of the board and to take all

such actions as may be required in the interest of the society except admission of members.

(4) The Registrar may fix the remuneration payable to the members of the board of administrators which shall be paid from the funds of the society.

(5) If, at any time, during any period, or extended period referred to in sub-section (1), it appears to the Registrar, that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, the Registrar may, by an order, direct that the management by the board of administrators shall terminate and on such order being made, the management of the society shall be handed over to a new board of directors duly constituted under the bye-laws.

(6) The board of administrators shall, before the expiry of its term of office, arrange for the constitution of a new board of directors in accordance with the bye-laws of the society:

Provided that, if a new board of directors is not, or cannot be, constituted at the expiry of the term of office of the board of administrators, for any reason beyond the control of the board of administrators, the term of the board of administrators shall be deemed to be extended until the new board of directors is duly constituted under the bye-laws.

72 Meetings and minutes.— (1) The bye-laws of the society shall specify the frequency of and the manner in which the meetings of the board shall be held, so however that the board shall meet at least once in every three months.

(2) Every society shall in each cooperative year hold, in addition to any other meetings or general meetings, its annual general meeting within nine months from the close of the cooperative year and not more than fifteen months shall elapse between the date of an annual general meeting and that of the next.

(3) The board shall convene a general meeting within thirty days of receipt of requisition for convening a general meeting signed by at least one-tenth of the members of the society or one-tenth of the representatives of a representative general body of the society constituted under section 69 of the Act and any such requisition shall contain the proposed agenda and the reasons why the meeting is felt necessary.

(4) Where the board fails to convene the annual or requisitioned general meeting within due time, it shall be competent for the Registrar to convene the requisitioned or annual general meeting, as the case may be.

(5) Every society shall record in separate minute books, minutes of all proceedings of every general meeting, every meeting of its board of directors and every committee meeting.

(6) Such minutes shall be communicated to all persons invited for the meeting within forty five days of the conclusion of the meeting.

(7) The minutes of the board meetings so recorded shall be signed by the person who chaired the said meeting, or by the chairman of the succeeding meeting, and minutes of the general meeting shall be signed by the person who chaired the meeting within thirty days from the date of the meeting or in the event of his unwillingness or inability, by a director duly authorised by the board for the purpose.

CHAPTER - VIII

ACCOUNTS, AUDIT AND INQUIRY

73. Accounts and records.— (1) Every society shall maintain at its office the following accounts, records and documents, namely:-

(a) copy of its registered bye-laws with amendments made from time to time;

(b) the minute book of the board of directors meetings and committee meetings;

(c) the minute book of the general meetings;

(d) accounts of all sums of money received and expended by the society;

(e) accounts of all purchases and sales of goods made by the society;

(f) accounts of all assets and liabilities of the society;

(g) a register showing member-wise patronage of various services provided by the society;

(h) an up-to date register of all members;

(i) copies of the annual statement of accounts, directors report and auditors report;

(j) all such other accounts, records and documents as may be required by this Act or other laws.

(2) The books of accounts and other records shall be open for perusal by any director during business hours.

(3) The books of accounts of every society, together with supporting records and vouchers, shall be preserved for such period as may be prescribed subject to any other laws for the time being in force.

74. Audit.— (1) The Registrar shall constitute a panel of auditors from among the chartered accountants within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949) and who are fellow members of the Institute of Chartered Accountants of India, holding certificate of practice, who have their registered address within the State of Goa, and retired officers of the Government, who

are holding higher Diploma in Co-operation or having working experience of ten years in Cooperative Audit.

(2) The Registrar shall appoint auditors to audit the accounts of State aided societies and other societies with paid up capital exceeding Rupees one lakhs as may be notified by the Registrar from time to time, from among the departmental auditors or the panel of auditors.

(3) A mutually aided society which is not notified under subsection (2) above shall appoint an auditor from among the panel of auditors by resolution in the annual general meeting and such appointment shall be valid till the conclusion of next annual general meeting:

Provided that the first auditor shall be appointed from among the said panel by the board of directors in the first meeting held after the registration of the society and such appointment shall be valid till the conclusion of the first annual general meeting.

(4) The remuneration of all auditors shall be fixed by the Registrar.

(5) The auditor shall be given notice of every general meeting and will be entitled to attend the meeting.

(6) Where a mutually aided society fails to get its accounts audited within nine months from the end of the cooperative year, the Registrar shall be empowered to appoint the auditor and get the accounts audited.

75. Powers and duties of the auditor.— (1) Every auditor of a society shall have right of access at all times to the books of accounts and vouchers of the society, whether maintained at the head office or at the branches or elsewhere, and shall be entitled to require from the society such information and explanations as the auditor may think necessary for the performance of his duties as an auditor.

(2) The auditor shall, after examination of the books of accounts and records, report:-

(a) Whether the society has maintained proper books of accounts and records as required by this Act;

(b) Whether he has obtained all the information and explanations, which to the best of his knowledge and belief were necessary for the purposes of his audit;

(c) Whether the final statement of accounts prepared are in agreement with the books of accounts and records maintained;

(d) Whether the final statement of accounts gives true and fair view,-

(i) in the case of balance sheet, of the state of affairs of the society as at the end of the cooperative year.

(ii) in the case of income and expenditure account, of the surplus or deficit for the cooperative year.

(e) Whether report of the branch auditors, not audited by him has been considered, and how he has dealt with the same in preparing his report;

(3) The auditor of the society shall also examine the following before he submits his report.

(a) Whether a society has maintained proper records showing particulars including quantitative details and situation of fixed assets;

(b) Whether the fixed assets have been periodically physically verified by the management of the society and the discrepancy, if any, is considered in the books;

(c) Whether loans and advances made by the society on the basis of security have been properly secured and whether the terms and conditions are not prejudicial to the interest of the society;

(d) Whether any personal expenses have been charged to income and expenditure account;

(e) Whether capital expenses have been charged to income and expenditure account;

(f) Whether any expenditure incurred by the society is not in accordance with or not in consonance with its objectives;

(g) Whether the society has utilised the financial assistance granted by the Government or any Government undertakings, for the purpose it is granted;

(h) Whether there are adequate internal control procedures, commensurate with the size of the society and nature of its business;

(i) Whether any purchases and sales are made during the year exceeding Rs.50,000/- in aggregate from any relative of any director or any company or firm in which directors are interested;

(j) Whether any manpower requirement is assessed and recruited as per the recruitment rules.

(4) The auditor of the society shall submit a copy of the audit report together with the accounts to the Registrar within thirty days from the date of the report.

76. Special audit.— (1) A society dealing with the funds from the Government or any other external individual or institutions may be subject to a special audit initiated by the Registrar at the request of such creditor, on such specific terms of reference as agreed to by the Registrar.

(2) The cost and expenses of the special audit under subsection (1) shall be met by such creditor.

(3) Every special audit shall be completed, and report submitted to the Registrar within four months from the date of appointment.

(4) The special audit report shall contain a statement of:-

(a) every payment which appears to the auditor to be contrary to law;

(b) the amount of any deficiency, waste or loss which appears to have been caused by the gross negligence or misconduct of any person in the performance of his duties;

(c) the amount received which ought to have been accounted for but is not brought into account; and

(d) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due.

(5) The Registrar shall, within a period of thirty days from the date of the receipt of the special audit report, communicate copies of the same to —

(a) the applicant creditor; and

(b) the society concerned,

77. Inquiry.— (1) Every society shall furnish all relevant information required by the Registrar in order to enable him to satisfy whether the society has conducted its affairs in accordance with the cooperative principles and the provisions of this Act.

(2) The Registrar may, of his own motion, and shall, on the application of a Federation to which the society concerned is affiliated, or of a creditor to whom the society is indebted or of not less than one-third of the directors, or of not less than one-tenth of the members, cause an inquiry to be made into the specific

matter or matters relating to any gross violation of any of the provisions of this Act by the society.

(3) The cost and expenses of the inquiry shall be met by such persons at whose instance the inquiry is conducted.

(4) The inquiry shall be completed within a period of four months from the date of ordering the inquiry.

(5) The Registrar shall, within a period of thirty days from the date of the completion of the inquiry, as specified in sub-section (4), communicate the report of the inquiry or the reasons for the non-completion of the inquiry, as the case may be —

(a) to the society concerned;

(b) to the applicant Federation, if any;

(c) to the applicant-creditor, if any;

(d) to the person designated by the applicant directors, if any;

(e) to the person designated by the applicant members, if any;

(f) to any person, on payment of fee fixed by the Registrar.

(6) The inquiry officer acting under this section shall, among others, specifically state the amount of deficiency, waste or loss which appears to have been caused by the gross negligence or misconduct of any person in the performance of his duties.

78. Powers to summon and examine persons and documents.— (1) The person authorised to conduct special audit under section 76 or inquiry under section 77 shall give the concerned society, not less than fifteen days notice in writing of the date on which he proposes to commence the special audit or inquiry:

Provided that, for special reasons to be recorded in writing, he may give a shorter notice than fifteen days or commence a special audit or inquiry on the authority of the Registrar without such notice.

(2) For the purpose of any special audit or inquiry under this Act, the person conducting such audit or inquiry may,—

(a) require in writing the Chairman or other authority concerned to produce at the head office of the society such receipts, vouchers, statements, returns, correspondence, notes or any other documents as he may consider necessary for the purpose of special audit or inquiry;

(b) require in writing:—

(i) any employee of the society or other authority or person accountable for or having the custody or control of such receipts, vouchers, statements, returns, correspondence, notes or other documents to appear in person, or

(ii) any person having, directly or indirectly, any share or interest in any contract with the society to appear in person or by an authorised agent, before him at the head office of the society and answer any question or sign a declaration with respect thereto;

(c) in the event of any explanation being required from the Chairman or any other authority concerned, direct that it may be communicated to him in writing and request him to furnish the explanations at the head office of the society, or

(d) exercise such other powers as can be reasonably said to be necessary for the purpose of this section.

(3) The person conducting special audit or inquiry may fix a reasonable period of not less than seven days for the purpose of compliance of the provisions of sub-section (2) and such compliance shall be mandatory on the persons required to provide information under sub-section (2).

(4) It shall be competent for the Registrar to withdraw any special audit or inquiry from the officers to whom it is en-

trusted and to hold the inquiry himself or entrust it to any other person or persons as he deems fit.

79. Action on special audit or inquiry report.— On communication of a special audit report under sub-section (5) of section 76 or an inquiry report under sub-section (5) of section 77 to the persons concerned, the Registrar may, where the special audit or inquiry report reveals mismanagement on the part of any or all of the office bearers or directors, without prejudice to any civil or criminal proceedings to which they may be liable, direct the board to convene a general meeting within such reasonable time as he may specify so as to enable him to bring to the notice of the general meeting, either directly or through his nominee, the findings of the special audit or inquiry report, for necessary action.

80. Audit rectification report.— If the auditor of a society has pointed out any defects in the working of the society, the society shall, within three months from the date of audit report, explain to the Registrar, the defects or the irregularities pointed out by the auditor and steps taken to rectify the defects and remedy the irregularities. The Registrar may make an order directing the society, to take such action as may be specified in the order to remedy the defects within the time specified therein.

81. Filing of returns.— Every year, within thirty days from the date of holding of the annual general meeting, every society shall file the following documents with the Registrar along-with the filing fees as may be prescribed:—

- (a) Annual audited or unaudited statement of accounts;
- (b) Report of the board of directors;
- (c) Auditors report;
- (d) Audit rectification report, if any;
- (e) Notice convening the annual general meeting;

(f) Name and address of the directors and their terms of office;

(g) List of amendment to the bye-laws, if any;

(h) Declaration regarding the date of holding of the general meeting and number of members who attended such meetings.

82. Power of the Cooperative Authority to order recovery of losses.— (1) A member, director, chairman of the society, Registrar or any officer authorised by the Registrar may, file a copy of the report of the auditor or the special auditor or the inquiry officer, before the Cooperative Authority with an application for necessary action against the person on account of whose conduct the society has incurred loss. The Cooperative authority may, on the basis of such report, disallow every item of expenditure incurred contrary to law and order recovery of the same from the person incurring or authorising the incurring of such expenditure, or held responsible in the said report for any deficiency, loss or unprofitable outlay occasioned by his negligence or misconduct of any such amount which ought to have been accounted but is not brought into account by that person and shall, in every such case, specify the amount liable to be paid by such person to the society.

Explanation:— It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss, to contend that notwithstanding his negligence or misconduct, the deficiency or loss would not have occurred, but for the negligence or misconduct of some other person.

(2) The Cooperative authority shall state in writing the reasons for its decision in respect of every dis-allowance or surcharge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the Code of Civil Procedure, 1908(V of 1908):

Provided that the Cooperative authority shall not pass any order of recovery under this section unless the person against whom any such order is passed had an opportunity of making a representation either by himself or through a Counsel.

(3) Any person aggrieved by an order passed under this section may, within sixty days after the date of service on him of the order by the Cooperative authority, file an appeal against such order in the Co-operative tribunal

(4) Where an appeal is filed in the Co-operative tribunal under sub-section (3), the persons who filed the application before the Cooperative authority or, as the case may be, the Registrar, or his representative shall be the sole respondent thereto, and the applicant shall not make any other person a party to the proceedings.

(5) Every order passed by the Cooperative authority or order passed by the Cooperative tribunal shall be executed in the same manner as a decree of a Civil Court under the Code of Civil Procedure, 1908(V of 1908).

(6) Where a person is held liable by the Co-operative authority for misappropriation, fraud, breach of trust, cheating or any other act involving moral turpitude, resulting in a loss to the society, he shall be punishable under the relevant provisions of the Indian Penal Code, 1860 (45 of 1860).

CHAPTER - IX

DISPUTES AND COOPERATIVE AUTHORITIES

83. Settlement of disputes.— Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, elections of the board of directors or its office bearers, conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, to a Cooperative authority, if both the parties thereto are one or other of the following:—

(a) a society, its board of directors, any past board of directors, any past or present director, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased director;

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

(c) a surety of a member, past member or deceased member, whether such surety or person is or is not a member of the society;

(d) any other society, or the liquidator of such a society:

Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), shall not be deemed to be a dispute for the purposes of this section.

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

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

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

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

(iv) a refusal or failure by a member or nominee, heir or legal representative of a deceased member, to deliver

possession to a society of land or any other asset resumed by it for breach of condition of the assignment.

84. Constitution of Cooperative Authority.— (1) The Government may appoint one or more persons to be a cooperative authority for the adjudication of disputes referred to the cooperative authority under section 83 or other provisions of this Act.

(2) The qualifications for appointment as a Cooperative authority, shall be such as may be prescribed.

(3) A Cooperative authority shall have jurisdiction over such societies or over such matters contained in this Act as may be specified by the Government by general or special Notification, from time to time. Where more than one cooperative authorities have the same jurisdiction, the Government shall specify as to who shall distribute various works amongst such cooperative authorities.

(4) All disputes and other proceedings pending immediately before the commencement of this Act, before any nominee or board of nominees or any other person appointed by the Registrar, or before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made there-under have been delegated, shall be transferred by the Registrar, by general or special order, to any Cooperative authority specified by him and shall be heard and disposed of by the authority as if they had been originally filed before it. The Cooperative authority may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing de novo.

85. Limitation.— (1) Notwithstanding anything contained in the Limitation Act, 1963 (XXXVI of 1963) but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the cooperative authority under the last preceding section shall—

(a) when the dispute relates to the recovery of any sum, including interest thereon due to a society by a mem-

ber thereof, be six years from the date on which such sum or installment thereof payable by the member of the society concerned has fallen due;

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

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 92 be six years from the date of issue of the order;

(d) when the dispute is in respect of election of a board of directors or office bearers of the society, be two months from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in sub-section (1) which are required to be referred to the Cooperative authority under section 84 shall be regulated by the provisions of the Limitation Act, 1963 (XXXVI of 1963), as if the dispute were a suit and the Cooperative authority a Civil Court.

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

(4) Notwithstanding anything contained hereinabove, the period of limitation shall be computed from the date on which this Act comes into force in respect of all disputes and causes of action arising prior to the date of coming into force of this Act.

86. Transfer of disputes from one Cooperative authority to another.— Where any dispute is referred to any Cooperative authority, the President of the Cooperative tribunal may, on an application made to him by any of the parties to the dispute or suo motu, for reasons to be recorded in writing, withdraw such dispute from that authority and may refer it for decision to any other Cooperative authority as he deems fit.

87. Procedure for settlement of disputes and powers of the cooperative authority.— (1) The Cooperative authority, hearing a dispute referred to it, shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, on affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908 (V of 1908).

(2) Save as otherwise provided in this Act, or the rules made there-under, the provisions of the Code of Civil Procedure, 1908 (V of 1908) shall be applicable in all disputes and matters referred to the Cooperative authority.

(3) Every dispute in relation to any election shall be heard and decided by the Cooperative authority as expeditiously as possible and endeavour shall be made to conclude the hearing and decision within six months from the date on which the dispute is referred to it.

(4) (a) If the Cooperative authority is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to the dispute, it may order that the person who has acquired the interest in the

property may join as a party to the dispute; and any decision that may be passed by the Cooperative authority shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the opponents have not been included, the Cooperative authority may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order any other person to be substituted or added as a disputant or an opponent, upon such terms as it thinks just.

(c) The Cooperative authority may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Cooperative authority to be just, order that the name of any party improperly joined, whether as disputant or opponent, be struck out, and that the name of any person who ought to have been joined, whether as disputant or opponent or whose presence before the Cooperative authority may be necessary in order to enable the Cooperative authority effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

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

(5) In any case in which a dispute is decided by the Cooperative authority ex-parte against any person, he may apply to the authority within thirty days from the date of the decision to set it aside and the authority, if satisfied that there was sufficient cause for his failure to appear when the dispute was called and heard, the authority shall make an order setting aside the decision as against him, upon such terms as to costs, payment to the authority or otherwise as it thinks fit.

88. Attachment before award and interlocutory orders.— (1) Where a dispute has been referred to the Cooperative authority under section 83 or under sub-section (1) of section 95 or in proceedings under section 82 for recovery of losses, the Cooperative authority, if satisfied on inquiry or otherwise, that a party to such dispute or against whom proceedings are pending under section 82, with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,—

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

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

2) Where attachment of property is directed under sub-section (1), the Cooperative authority shall issue a notice calling upon the person whose property is so attached to furnish security as it thinks adequate within a specified period. If the person fails to provide the security so demanded, the Cooperative authority may confirm the order and, after the decision in the dispute or the completion of the proceedings under section 82 may direct the disposal of the property so attached towards the claim, if awarded.

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

(4) The Cooperative authority may , in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision in a dispute referred to in sub- section (1), as may appear to be just and convenient.

89. Award of Cooperative Authority.— When a dispute is referred to the Cooperative authority, the authority may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and the fees and expenses payable to the Cooperative authority. Such an award shall, subject to appeal or review or revision, be binding on the parties to the dispute.

90. Appeal against award under section 89 and order under section 88.— Any party aggrieved by any award of the Cooperative authority under section 89 or an order passed under section 88 may, within two months from the date of the award ,decision or order, as the case may be, appeal to the Cooperative tribunal.

91. Execution of awards and orders of Cooperative authority, Registrar and Liquidator.— (1) (a) An award passed by the Cooperative authority under section 89 or order under section 88 or under any other provision of this Act may be executed by the Cooperative authority which passed it, or by the Cooperative authority to which it is sent for execution.

(b) Provided that when such award or order provides for recovery, the same may be executed by the Cooperative authority which passed it or by any person authorised by the said Cooperative authority in writing in this behalf

(2) An order passed by the Registrar or the Liquidator may, if not complied with, be referred by the Registrar or the Liquidator, as the case may be, to the Cooperative authority for execution and such order shall be executed as if it was an order of the Cooperative authority to which it is sent for execution.

(3) The awards and orders referred to in sub-sections (1) and (2) shall be executed in the manner prescribed. Save as otherwise provided in the rules, the provisions of the Code of Civil Procedure, 1908 (V of 1908) shall be applicable in the matter of execution of awards and orders referred to in sub-sections (1) and (2).

CHAPTER - X

LIQUIDATION

92. Winding up.— (1) If the Registrar,—

(a) after an inquiry has been held under section 77 or on the report of the auditor auditing the accounts of the society, or

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

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

(i) has not commenced working, or

(ii) has ceased working, or

(iii) possesses shares or members' deposits not exceeding five hundred rupees, or

(iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws, is of the opinion that a society ought to be wound up, he may issue an interim order directing it to be wound up.

(2) A copy of such order made under sub-section (1) shall be communicated in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within

a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order. The final order shall be published in the Official Gazette.

93. Appointment of Liquidator.— (1) When an interim order is passed under the last preceding section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the Liquidator of the society, and fix his remuneration.

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

(3) When a final order is passed confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force, the general body of the society shall not exercise any powers.

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 95. The Registrar may remove such person and appoint another in his place, without assigning any reason.

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

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

94. Appeal against order of winding up.— (1) The board of directors or any member of the society ordered to be wound up, may, within two months from the date of the issue of the final order made under section 92, appeal to the Cooperative tribunal.

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

95. Powers of Liquidator.— (1) The Liquidator appointed under section 93 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,—

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

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

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

(d) to transfer by sale assets valued at market price to a society registered with similar objects, or to a Government undertaking which carries on the same business as of the society under liquidation;

(e) to lease to other societies or to Government undertakings, with prior approval of the Registrar, the property of the society to run the same business as that of the society under liquidation;

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

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

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

(i) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society, and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;

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

(k) to refer orders for execution to Cooperative authority under section 91;—

(l) to refer or to get referred any dispute to the Cooperative authority for decision;

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

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

(o) to summon and enforce the attendance of witnesses and to compel the production of books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908);

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

(q) to take such action as may be necessary under section 16 with the prior approval of the Registrar, if there is reason to believe that the society can be re-constructed.

(2) Notwithstanding anything contained in sub-section (1), the Liquidator shall not have the right to vote on behalf of the society in liquidation, at the election of the board of directors or of the office bearers of any other society.

96. Effect of order of winding up.— After expiry of the period for appeal against the order made under section 92 or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective,

the Liquidator shall proceed to realise the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose.

97. Bar of suit in winding up and dissolution matters.— Save as expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act; and when a winding up order has been made, no suit or other legal proceedings shall lie or be proceeded with against the society or the liquidator, except by leave of the Registrar, and subject to such terms as he may impose:

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

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

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

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

(4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions subsequent to his taking over the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 82:

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

99. Termination of liquidation proceedings.— (1) The winding up proceedings of a society shall be closed as soon as practicable within six years from the date of the final order under sub-section (2) of section 92, unless the period is extended by the Registrar:

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

Explanation.— In the case of a society which is under liquidation at the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the date of such commencement.

(2) Notwithstanding anything contained in the foregoing sub-section, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property of and the claims of the society have been disposed of and shall include a statement showing a summary of the account of the winding

up including the cost of liquidation, the amount (if any) standing to the credit of the society in liquidation, after paying off its liabilities including the share or interest of members, and suggest how the surplus should be utilised.

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

100. Disposal of surplus assets.— The surplus assets, as shown in the final report of the Liquidator of a society which has been wound up, may either be divided by the Registrar, with the previous sanction of the Government, amongst its members in such manner as may be prescribed or be devoted to any objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose or may be utilised for both the purposes. Where the surplus is not so divided amongst the members and the society has no such bye-laws, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society, to which the surplus belonged, was serving:

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

(a) an object of public utility and of local interest as may be recommended by the members general meeting held under the preceding section;

(b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no

federal society exists, the State federal society which may be notified in this behalf by the Government; and

(c) for the purpose of development of the Cooperative movement.

CHAPTER - XI

SPECIAL PROVISIONS FOR COOPERATIVE HOUSING SOCIETIES

101. Application.— This Chapter shall apply to:—

(a) all cooperative housing societies registered or deemed to be registered before the commencement of the Goa Co-operative Societies Act, 2001, or under any law relating to cooperative societies in force in the State of Goa, and the registration of which has not been cancelled before such commencement, and

(b) all cooperative housing societies registered or deemed to be registered under this Act.

102. Definitions.— In this Chapter, unless the context otherwise requires,—

(a) "allottee" means a member of a cooperative housing society to whom a plot of land, or site, or a tenement in a building held by it, is allotted by the society;

(b) "building fund" means a fund created by the collection of contribution from members for—

(i) the purchase and or acquisition of land; or

(ii) the land development; or

(iii) the construction of a dwelling unit or building; or

(iv) the purpose of providing any other common amenities to achieve the objectives of the society

(c) "building maintenance fund" means a fund created by collection of the contributions from its members at such rate as may be specified in the bye-laws for carrying out repairs or structural additions, improvements or alterations to the property of the cooperative housing society which are likely to increase the life of such property and to maintain the property of the said society in good and habitable condition at all times;

(d) "commercial unit" means office, shop, godown, garage or such other premises used for commercial or industrial purpose;

(e) "cooperative housing society" means a society—

(i) registered or deemed to be registered as a cooperative housing society under any law relating to cooperative societies in force in the State of Goa;

(ii) the principal object of which is to provide its members open plots, dwelling units or commercial units (whether in a multi-storeyed building or otherwise) and in case where open plots or dwelling units are already acquired, to provide its members common amenities and services including services relating to the arrangement of finances facilitating construction of dwelling units in order to solve their needs of dwelling units through mutual aid in accordance with the cooperative principles, and includes a co-ownership housing society, co-partnership housing society, cooperative housing maintenance society, and any other cooperative society of like nature and purpose;

(f) "co-ownership housing society" means a society in which the land is held either on lease-hold or free-hold basis by the society and the houses constructed on it, are owned or to be owned by its members;

(g) "co-partnership housing society" means a society in which land and buildings are held by the society on lease-hold or free hold basis and members are allotted flats,

tenements or such other premises in such buildings with a right to occupy the same in accordance with the bye-laws;

(h) "cooperative house mortgage society" means a credit society which lends money to its members for a certain period of time against certain securities for the construction of houses for their dwellings;

(i) "cooperative housing maintenance society" means a society formed by the owners of dwelling units or commercial units in a building for the purpose of maintenance of the building and provision of common amenities;

(j) "dwelling unit" includes a house, flat, apartment, and tenement for the purpose of dwelling;

(k) "external repairs" means all structural repairs and repairs required to be carried out to the property of the society the use of which is common to two or more members, and includes repairs of common walls, external walls, roads, lifts, water tanks, electric pumps, staircases, terraces and parapet walls, roofs of flats, street lights, electric lines, all leakages of water, water pipelines, compound walls, septic tanks, fencing, drainage, gates and other like common amenities;

(l) "internal repairs" means such repairs as are not external repairs;

(m) "occupancy right" means the right of an allottee to possess and use the plot of land, site or dwelling unit or commercial unit allotted to him with power to give it on hire or on leave and licence or to mortgage it or to donate or to transmit it by will or by inheritance or to transfer it;

(n) "outgoings" means ground rent, if any, municipal and other local taxes, cesses, charges, water charges, electricity charges, revenue assessments, expenses of management

and maintenance, repairs to or replacement of any property, insurance premium, other like expenses in respect of the society;

(o) "sub-allottee" means an individual or body of persons, whether incorporated or not, in whose favour the possession of the dwelling unit or part thereof is transferred for a period of not less than three months, and includes a tenant, licensee, paying guest and caretaker thereof.

103. Limit on membership.— A cooperative housing society shall not admit to its membership persons exceeding the number of dwelling units and commercial units or plots, as the case may be, available for allotment in the society.

104. Allotment of plots, dwelling units and commercial units.— (1) Every member of a society, whether registered before or after the commencement of this Act, to whom plots of land, dwelling units or commercial units have been allotted, shall be issued certificate of allotment by the society under its seal and signature in such form as may be prescribed.

(2) Any allotment (including re-allotment) of a plot of land or dwelling unit or commercial unit in a building of a cooperative housing society to its member in accordance with its bye-laws shall entitle such member to hold such plot of land or dwelling unit or commercial unit with such title or interest as may be specified in the bye-laws and the certificate of allotment shall be conclusive evidence of such title or interest in favour of such member.

(3) A member of a cooperative housing society shall not be entitled to any title or interest in any plot of land or dwelling unit or commercial unit in a building of the society until he has made such payment as may be specified by the society towards the cost of such plot of land or construction of such dwelling unit or commercial unit or both, as the case may be, to the cooperative housing society.

(4) The right, title and interest in a plot of land or dwelling unit or commercial unit in a building of the society (including the undivided interest in common areas and facilities) shall constitute a heritable and transferable immovable property within the meaning of any law for the time being in force:

Provided that notwithstanding anything contained in any other law for the time being in force, such land or building shall not be partitioned for any purpose whatsoever.

(5) Every member of a cooperative housing society shall be entitled to an undivided interest in the common areas and facilities pertaining to the plot of land or dwelling unit or commercial unit allotted to him.

(6) Every member of a cooperative housing society in whose favour a plot of land or a dwelling unit or commercial unit has been allotted shall have the right to use the common areas and facilities as aforesaid for the purpose for which they are intended without interfering with or encroaching upon the lawful rights of other members in whose favour similar allotment has been made.

(7) The work relating to the maintenance, repair and replacement of the common areas and facilities (including additions or improvements thereto) shall be carried out in accordance with the bye-laws of the cooperative housing society and the building rules of the concerned municipality, or other competent authority, as the case may be, and the costs thereof shall be apportioned amongst the members of the cooperative housing society in such manner as may be specified in the bye-laws of that society.

105. Rights of a member in a co-ownership housing society.— In a co-ownership housing society, the society, which holds free-hold or lease-hold land, shall execute deeds of lease or sub-lease, as the case may be, in favour of its members to whom

the plots are allotted for such period and with such covenants as may be specified in the bye laws of the society.

106. Provisions for nomination.- (1) Every member of a cooperative housing society shall nominate a person or persons to whom the occupancy right shall be transferred in the event of his death.

(2) The member shall have the right to change the nomination at any time.

(3) There shall not be more than one nomination subsisting at any time.

(4) On the death of the member, only occupancy right shall vest in the nominee and the succession to the property shall be governed by the law relating to succession and wills.

107. Restriction on letting out.— (1) Notwithstanding anything contained in any other law for the time being in force, no member of a cooperative housing society who has been allotted a plot of land or dwelling unit in a building over a period of three months shall part with the possession of such plot or dwelling unit, as the case may be, without the written consent of the board of directors of the society. On an application made in this behalf by the member concerned, the board of directors may give its consent or refuse such consent for reasons to be recorded in writing and communicate its decision to the member within thirty days from the date of receipt of his application.

(2) If the board of directors fails to take decision on the application within thirty days from the date of its receipt or refuses such consent, the member shall have a right to appeal to the cooperative authority within thirty days thereafter.

108. Restriction on transfer of share or interest of a member.— Subject to the provisions of this Act, in the case of a cooperative housing society, no transfer of share or interest of a member

in the society or the occupancy right, except the transfer to his heir or a nominee, shall be effective, unless:—

(a) the transferor vacates and gives possession of the premises to the transferee provided that the transferor may give possession of the premises pending the society's approval for transfer;

(b) the dues of the society are paid or transferred to the transferee with the consent of the society;

(c) the transfer fees or transfer charges, as may be specified in the society's bye laws, are duly paid;

(d) the previous permission of the society has been obtained in this behalf in writing and the transferee has been admitted as member.

109. Permission for transfer of occupancy right not to be ordinarily refused and provision for appeal.— (1) No cooperative housing society shall ordinarily refuse to grant to its member permission for transfer of his occupancy right in the property of the society, unless the transferee is not qualified to be a member under the provisions of this Act, rules and bye-laws of the society.

Provided that nothing contained in any agreement, contract or the said bye-laws regarding eligibility for membership stipulated therein shall apply to a nominee, heir or legal representative of the deceased member for his admission to membership of the society.

(2) The decision of the cooperative housing society on any application for permission to such transfer shall be communicated to the member within fifteen days from the date of the decision or within thirty days from the date of receipt of the application, whichever is earlier.

(3) Any person aggrieved by the decision of the cooperative housing society refusing permission for such transfer may, within thirty days from the date on which the refusal of permission is communicated to him, appeal to the Cooperative authority.

110. Creation, maintenance and utilisation of building maintenance fund.— (1) A cooperative housing society, which owns land or building, shall maintain a building maintenance fund by collecting from its members contributions to the extent and in the manner as may be provided in its bye-laws.

(2) The building maintenance fund shall be utilised only for the purposes of repairs and maintenance of the building and for carrying out such structural additions and alterations to the building which are likely to increase its life.

(3) The building maintenance fund of the cooperative housing society, when not required by it for its immediate use, shall ordinarily be invested with the apex housing finance society of the State.

111. Miscellaneous.— (1) Notwithstanding anything contained in the laws relating to rents or any other corresponding law for the time being in force in any part of the State, any dispute relating to the occupation or recovery of possession of any plot, dwelling unit or commercial unit in any society, the recovery of dues payable by a member or sub-allottee to a cooperative housing society or vice-versa arising on or after the date of commencement of this Act and suits or proceedings pending in any other court on the date after such commencement, shall be deemed to be a dispute within the meaning of section 83 of this Act, and shall be decided in accordance with the provisions of this Act, and no court or other tribunal or authority shall have jurisdiction to entertain and decide any proceedings in respect of such dispute.

(2) Notwithstanding anything contained in the law relating to rents or any other corresponding law for the time being in force,

no licensee, caretaker, or sub-allottee who is occupying the dwelling unit or commercial unit, or plot of land in a cooperative housing society shall be a tenant of such dwelling unit or commercial unit or plot of land within the meaning of that law

112. Unit of assessment.— Notwithstanding anything contained in any other law for the time being in force, each plot of land or dwelling unit or commercial unit in a building (including the undivided interest in the common areas or facilities) shall constitute a separate unit for the purpose of assessment of rates and taxes to be realised by a local authority or any other authority competent in this behalf.

113. Certain portion of land acquired by the Government for housing to be utilised on cooperative principles.— Where the Government or any development authority under its control acquires any land for the purpose of housing, then, having regard to the purposes of such acquisition and all other relevant factors in this behalf, the Government shall endeavour to utilise at least one-third portion of the land so acquired, on cooperative principles for the said purpose.

CHAPTER - XII

APPEALS, REVIEW AND REVISION

114. Goa Co-operative Tribunal.— (1) The Government shall constitute a Tribunal called the Goa Co-operative Tribunal to exercise the powers and to discharge the functions conferred on it by or under this Act.

(2) The Co-operative tribunal shall consist of the President who shall be a person appointed by the Government as the President of the Co-operative tribunal.

(3) The President of the Co-operative tribunal shall be a person who is qualified to be appointed as a District Judge or is or has been a judicial officer for a period of seven years.

(4) The Government may appoint the President of the Administrative tribunal appointed under the Goa Administrative Tribunal Act, 1965 (Act No 6 of 1965) to be the President of the Cooperative Tribunal.

(5) The Cooperative tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(6) The regulations made under sub-section (5), shall be published in the Official Gazette. The regulations governing the procedure of the Goa, Daman and Diu Co-operative Tribunal constituted under section 149 of the Maharashtra Co-operative societies Act, 1960 (Maharashtra Act XXIV of 1961), as applied to the State of Goa, shall continue to be in force till such publication.

(7) The Co-operative tribunal may call for and examine the record of any proceeding in which an appeal lies to it, for the purposes of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Co-operative tribunal that any such decision or order should be modified, annulled or reversed, the Co-operative Tribunal may pass such order thereon as it may deem just.

(8) Where an appeal or application is made to the Cooperative tribunal under this Act, it may, in order to prevent the ends of justice being defeated, make such inter-locutory orders pending the decision of the appeal or application, as the case may be, as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the tribunal.

(9) An order passed in appeal or in revision under sub-section (7), or in review under section 115 by the Cooperative tribunal, shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

(10) (a) The President of the Goa, Daman and Diu Co-operative Tribunal functioning immediately before the commencement of this Act, shall be deemed to be the President of the Goa Cooperative Tribunal constituted for the purpose of this Act; and all appeals and other proceedings pending before the said Goa, Daman and Diu Co-operative Tribunal shall be heard and disposed of by the Co-operative tribunal constituted under this Act from the stage they reached before such commencement.

(b) Anything done or any action taken including any orders passed or regulations made by the said Goa, Daman and Diu Co-operative Tribunal, shall be deemed to have been done or taken by the Co-operative Tribunal constituted under this Act and shall continue in operation until duly modified or annulled.

(c) Any reference to the said Goa, Daman and Diu Cooperative Tribunal in any law or instrument, for the time being in force, shall, with effect from the commencement of this Act, be construed as a reference to the Co-operative Tribunal constituted under this Act.

Explanation— The Co-operative Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate Court by section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908 (V of 1908).

115. Review of orders by the Cooperative Tribunal.— (1) The Co-operative Tribunal may, either on the application of the Registrar, or on the application of any party interested, review its own order in any case, and pass in reference thereto such order as it thinks just:

Provided that, no such application made by the party interested shall be entertained, unless the Cooperative tribunal is satisfied that there has been discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has

been some mistake or error apparent on the face of the record, or for any other sufficient reason:

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

(2) An application for review under the foregoing subsection by any party, shall be made within ninety days from the date of the communication of the order of the Co-operative Tribunal.

116. Co-operative Tribunal to have powers of civil court.—

(1) In exercising the functions conferred on it by or under this Act, the Co-operative tribunal shall have the same powers as are vested in a Court in respect of,—

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person and examining him on oath;
- (c) compelling discovery or the production of documents; and
- (d) issuing commissions for the examination of witnesses.

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

117. Extension of period of limitation by Co-operative tribunal in certain cases.— In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the Tribunal may admit an appeal after the expiry of such period, if the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within such period.

OFFENCES AND PENALTIES

118. Offences.— The following shall constitute offences under this Act:—

(a) Functioning, trading or carrying on business under any name or title of which the word "Co-operative" or its equivalent in any language forms part, except in the case of a society registered or deemed to be registered under this Act or any other State or Central Act or the family name of any person;

(b) Willful neglect or refusal to do any act required to be done under this Act, or any rule, by any officer of any societies or of a co-operative society as mentioned in section 123;

(c) Willfully making a false return or furnishing false information or failing to file the documents with the Registrar specified in section 81 of the Act;

(d) Failure to hand over the records of the Society to the person authorised to have the custody of the records;

(e) Indulging in fraudulent activities concerning the constitution, management and business of the Society;

(f) Misuse of the funds and property of the Society by any officer or employee of the society

119. Penalties.— A person who commits any of the offences specified in section 118 of the Act shall be liable for a fine not exceeding Rs.100/- per day for each of the offences committed, so long as the offence continues, without prejudice to the civil or criminal liability that may arise on such person under any other laws for the time being in force.

120. Authority to take cognizance.— (1) No court inferior to that of a Judicial Magistrate First Class shall try any offences under this Act.

(2) Notwithstanding any-thing contained in the Code of Criminal Procedure ,1973 (Act 2 of 1974), it shall be lawful for a Judicial Magistrate of the First Class to pass sentence of fine or imprisonment on any person convicted of an offence under clauses (e) and (f) of section 118 of this Act, in excess of his powers under section 29 of that Code.

(3) No prosecution under this Act shall be lodged except with the previous sanction of the Registrar, Such sanction shall not be given except after hearing the parties concerned by an officer authorised in this behalf, by the Government by a general or special order.

121. Contempt of Cooperative Authority and of Cooperative Tribunal.— (1) If any person—

(a) when ordered by a Co-operative authority or the Co-operative tribunal to produce or deliver up any document or to furnish information, being legally bound so to do, intentionally omits to do so; or

(b) when required by a Co-operative authority or Tribunal to bind himself by an oath or affirmation to state the truth; refuses to do so;

(c) being legally bound to state the truth on any subject to a Co-operative authority or Tribunal, refuses to answer any question demanded of him touching such subject by the Cooperative authority or Tribunal; or

(d) intentionally offers any insult or causes any interruption to a Co-operative authority or Tribunal at any stage of its judicial proceeding, he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person refuses to sign any statement made by him when required to do so by a Co-operative authority or the Co-operative tribunal, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) If any offence under sub-sections (1) or (2) is committed in the view or presence of a Co-operative authority or Tribunal concerned, the said authority or tribunal may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1973 (II of 1974), forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of the accused person before such Magistrate or, if sufficient security is not given, shall forward such person in custody to such Magistrate. The Magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the Code of Criminal Procedure, 1973 (II of 1974).

(4) If any person commits any act or publishes any writing which is calculated to improperly influence a Co-operative authority or the Co-operative tribunal to bring any such Authority or Tribunal into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.

(5) In the case of contempt of itself, the Co-operative Tribunal shall record the facts constituting such contempt, and make a report in that behalf to the High Court.

(6) In the case of contempt of a Co-operative authority, the Co-operative authority shall record the facts constituting such contempt, and make a report in that behalf to the Co-operative tribunal, and thereupon, the Tribunal may, if it considers it expedient to do so, forward the report to the High Court.

(7) When any intimation or report in respect of any contempt is received by the High Court under sub-section (5) or

(6) The High Court shall deal with such contempt as if it were contempt of itself, and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.

CHAPTER - XIV

MISCELLANEOUS

122. Recovery of sums due to Government.— (1) Unless otherwise provided by this Act, all sums due from a society or from an office bearer or member or past member or a deceased member of a society as such to the Government, may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(2) Sums due from a society to the Government and recoverable under the foregoing sub-section may be recovered, firstly from the property of the society and secondly from the members or past members or the estate of deceased members subject to the limit of their liability.

(3) The liability of past members or estate of deceased members shall in all cases be subject to the provisions of section 33.

123. Branches, etc. of societies outside the State.— (1) No society shall open a branch or a place of business outside the State of Goa, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the State of Goa, without the permission of the Registrar.

(2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the State of Goa under the foregoing sub-section, or which has a branch or a place of business in the State of Goa at the commencement of this Act, shall, within three months from the opening of such branch or place of business or from the commencement of this Act, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these are not written in English language, a certified translation thereof in English or Hindi, and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State where such society is registered.

124. Registrar and other officers to be public servants.— The Registrar, a person exercising the powers of the Registrar, a person appointed to audit the accounts of a society or to hold an inquiry or to make an inspection, or a person appointed as a Cooperative authority, the Cooperative Tribunal or a Liquidator shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

125. Indemnity for acts done in good faith.— No suit, prosecution or other legal proceedings shall lie against the Registrar or any person sub-ordinate to him or acting on his authority, in respect of anything in good faith done, or purported to be done by him by or under this Act.

126. Bar of jurisdiction of Courts.— (1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of—

(a) the registration of a society or its bye-laws, or the amendment of its bye-laws, or the dissolution of the board of directors of a society, or the management of the society on dissolution thereof, or

(b) any dispute required to be referred to the Cooperative authority for decision;

(c) any matter concerned with the winding up and dissolution of a society.

(2) While a society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the society or any member thereof, or any matter touching the affairs of the society, except by leave of the Registrar and subject to such terms as he may impose.

(3) All orders, decisions or awards passed in accordance with this Act or the rules, shall, subject to the provisions for appeal or revision in this Act, be final; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits or upon any other ground whatsoever.

127. Rules.— (1) The Government may, for the whole or any part of the State and for any society or class of societies, make rules for the conduct and regulation of the business of such society or class of societies, and for carrying out the purposes of this Act.

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

(i) subject to the provisions of section 4, prescribe the designation of officers who shall exercise powers vested in the Registrar;

(ii) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 7 and the procedure in the matter of such application;

(iii) prescribe the classes and sub-classes of Societies and the criteria thereof;

(iv) prescribe the matters in respect of which a society may make, or the Registrar may direct a society to make bye-laws and the conditions to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(v) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion or re-construction of society;

(vi) prescribe the form and procedure for an application under section 16 and the procedure for re-construction of a society under that section;

(vii) prescribe the manner of giving public notice of the proceedings of deregistration of societies;

(viii) prescribe the manner for entering into collaboration by any society or societies with any Government undertaking or any undertaking approved by the Government for carrying on any business;

(ix) prescribe the conditions subject to which the Official Assignee shall realise the assets and liquidate the liabilities, under sub-section(3) of section 20;

(x) prescribe the manner of giving public notice and the remuneration and allowances to be paid to the Official Assingee, under sections 20(1) and 20(4) respectively;

(xi) prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the payment to be made and the interests to be acquired before the exercise of the right of membership;

(xii) prescribe, in the case of a federal society, the manner of exercising voting rights by individual members;

(xiii) prescribe the procedure for the admission of joint members and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;

(xiv) provide for the withdrawal, removal or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members;

(xv) prescribe the conditions and procedure for the transfer of share or interest;

(xvi) provide for nomination of a person to whom the share or the interest of a deceased member may be paid or transferred;

(xvii) Provide for ascertaining the value of a share or interest of a past member or deceased member;

(xviii) Provide for the inspection of bye-laws and documents in the Registrar's office and the levy of fee for inspection and granting certified copies of the same;

(xix) provide for the procedure for registering the address of a society and the change of its address;

(xx) prescribe the particulars to be entered in the register of members besides the particulars mentioned in section 37(1);

(xxi) prescribe the fees to be levied by the Registrar for inspection of bye-laws and list of members of the board of directors of the societies registered under the Act.

(xxii) prescribe the manner of certifying the entries in the book, register or list kept by a society in the course of its business;

(xxiii) provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;

(xxiv) prescribe the period for and terms upon which Government aid may be given to societies and terms under which the Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies;

(xxv) prescribe the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise and the quantum of funds so raised

(xxvi) prescribe the forms in which a Society shall send requisition to employer under Section 45(2);

(xxvii) prescribe the manner in which the employees provident fund shall be administered;

(xxviii) prescribe the modes of investment of funds under section 55 (g)

(xxix) prescribe other measures or acts besides those mentioned in section 60(1) (a) to (f);

(xxx) prescribe the forms and procedure for elections to the board of directors of societies to be conducted by the Registrar;

(xxxi) prescribe the forms and procedure for election of representative general body of societies mentioned in section 69;

(xxxii) prescribe the period for which the books of accounts and supporting records and vouchers shall be preserved by the societies;

(xxxiii) prescribe the form for the rectification of defects discovered in the course of audit;

(xxxiv) prescribe the fees for filing the returns with the Registrar;

(xxxv) prescribe the qualifications of person constituting the Co-operative authority, provide for the terms and conditions of appointment;

(xxxvi) prescribe the procedure to be followed in proceedings before the Co-operative authority, provide for fixing, levying and collecting appropriate fees and expenses for determining the disputes including expenses incurred by the parties to the proceedings having regard to the service rendered or to be rendered or any expenditure incurred or likely to be incurred for the machinery set up therefor, provide for delegation of the power of fixing the scale of any such fees and expenses being applicable to any disputes and other proceedings which may be pending immediately before the commencement of the Goa Co-operative Societies Act, 2001, or which may be referred to or instituted thereafter, provide for the mode of payment of these fees and expenses, whether in the form of court fee stamps, in cash or in any other manner; and provide, for enforcing the decisions, awards or orders in such proceedings;

(xxxvii) prescribe the form in which a dispute shall be referred to the Co-operative authority;

(xxxviii) provide for the issue and service of processes and for providing of service thereof;

(xxxix) prescribe the procedure for and the method of recovery of any sums due under this Act or the rules;

(xl) prescribe the procedure to be followed for the custody of property attached under section 88;

(xli) prescribe the manner of communication of interim order of winding up;

(xlii) prescribe the procedure to be followed in the execution of awards and orders of the Co-operative authority, Registrar and Liquidator;

(xliii) prescribe the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by a society in execution proceedings;

(xliv) prescribe the procedure for attachment and sale of property for the realisation of any security given by a person in the course of execution proceedings;

(xlv) prescribe the manner of appointing a Liquidator under section 93(1);

(xlvi) prescribe the form and period of submitting the Liquidators accounts to the Registrar for audit;

(xlvii) prescribe the procedure and conditions for the exercise of the powers conferred under section 95 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets;

(xlviii) prescribe the matters in which an appeal shall lie from the order of Liquidator appointed under section 93;

(xlix) prescribe the form of certificate of allotment under section 104(1);

(l) prescribe the period of office of the President of the Cooperative tribunal and the terms and conditions of his appointment';

(li) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules;

(lii) provide for all other matters expressly required or allowed by this Act, to be prescribed by rules.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

128. Repeal, saving and construction.— (1) The Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act XXIV of 1961) as applied to in the State of Goa, is hereby repealed:

Provided that, the repeal shall not affect the previous operation of the Act so repealed and anything done or action taken or deemed to have been done or taken including any appointment or delegation made, application or other document filed, certificate of registration granted, agreements executed, notification, order, direction or notice issued, regulation, form or bye-law framed, rule made or deemed to be made or proceeding instituted before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person by or under the provisions of that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(2) Accordingly, all societies registered or deemed to be registered under the repealed Act the registration of which is in force at the commencement of this Act, shall on such commencement, be deemed to be registered under this Act; and all proceedings pending immediately before such commencement before any Registrar or his nominee, liquidator or Cooperative Tribunal or other officer, authority or person under the provisions of the repealed Act shall stand transferred, where necessary, to the Registrar, Cooperative authority, Liquidator or Co-operative

Tribunal or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person, to such officer, authority or person as the Government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

(3) Any reference to the repealed Act or to any provisions thereof, or to any officer, authority or person entrusted with any functions thereunder, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this Act or its relevant provisions or the corresponding officer, authority or person functioning under this Act, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions under the repealed Act or under the instrument or document.

129. Companies Act not to apply.— For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956 (I of 1956), shall not apply to societies registered, or deemed to be registered, under this Act.