

**THE  
ASSAM CO-OPERATIVE SOCIETIES  
ACT, 2007**

**(ACT NO. IV OF 2012)**

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**[ AS AMENDED UP TO ACT NO. IV OF 2013 ]**

**THE  
ASSAM CO-OPERATIVE SOCIETIES  
ACT, 2007  
(AS AMENDED ACT NO. IV OF 2013)  
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# THE ASSAM CO-OPERATIVE SOCIETIES ACT, 2007<sup>1</sup>

(ASSAM ACT NO. IV OF 2012)

(Received the assent of the President on 18— 1-20 12)

[Dated the 4th February, 2012]

## An Act

*to consolidate and amend the-law relating to Cooperative Societies in the State of Assam to facilitate the voluntary formation and democratic functioning of Cooperative Societies as people's institutions based on self-help and mutual aid and to enable them to promote their economic and social betterment.*

**Preamble—** Whereas it is expedient to consolidate and amend the law relating to Cooperative Societies in the State of Assam to facilitate the voluntary formation and democratic functioning of Cooperative Societies as people's institutions based on self help and mutual aid and to enable them to promote their economic and social betterment and for matters connected there with or incidental thereto-It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:—

### NOTE

**Preamble.—** Preamble in a particular Act is the Philosophy behind the passing of the Act. However the preamble by itself may not have the force of law. But in certain cases the assistance of the preamble is required to be taken for effective interpretation of certain provisions in the Act. As such the preamble has its own importance as and when required in a given situations. As per the present preamble the concerned law is enacted for social and economic upliftment of the members of the society by a co-operative method which is regarded as one of the ways of democratic functioning.

### CHAPTER- I

#### PRELIMINARY

**1. Short title, extent and commencement—** (1) This Act may be called the Assam Cooperative Societies Act, 2007.

(2) It extends to the whole of Assam.

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

### NOTE

**Definitions.—** The definitions of the terms in a particular Act is the grammar for the Act. The definitions of the terms given in an act may not be in consonance with the general sence of the terms in question. So the provisions of an Act must be understood with reference to the meaning attached to a particular term. In the present Act the definitions are clear and without annoyntiy.

**2. Definitions-**In this Act, unless there is anything repugnant in the subject or context,—

- (a) **“Administrative Council”** means a body intermediary between a managing body and the General Assembly of a registered society;
  - (b) **“Affiliating Society”** means the registered society of which a particular society is a member and **“Affiliated Society”** means the particular society which is a member of the affiliating society;
  - (c) **“Arbitrator”** means a person appointed under the provisions of this Act to decide any dispute referred to him; ,
  - (d) **“Audit Officer”** means a person appointed under the provisions of this Act to audit the accounts of a registered society;
  - (e) **“area of operation”** means the area from which the membership is drawn;
  - 1[(ea) **“authorized person”** means the persons authorized under the Assam Cooperative Societies Act, 2007 (Assam Act No. IV of 2012), for the offences relating to the Cooperative Societies and penalties for such offences as referred to in Article 243 ZQ of the Constitution of India;”]
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- (f) **“bye-law”** refers to the registered bye-laws of a Society for the time being in force and includes registered amendments of bye-laws of a Society;
- <sup>1</sup>[(g) **“Board”** means the Board of Directors or the Governing Body of a Co—operative Society to which the direction and control of the management of the affairs of a Society is entrusted to;]
- (h) **“Co-operative Year”** means the period beginning and ending on such dates as may be fixed by the Registrar for the purpose of drawing up the Balance Sheets of registered societies and for all other purposes under this Act;
- (i) **“Co-operative Demand Certificate”** means a certificate as mentioned in sub-section (4) of Section 103 or sub-section (1) of Section 114;
- (j) **“Co-operative Society” or “society”** means a Co-operative Society registered under this Act and includes a society formed after amalgamation of such two or more societies or by division of an existing society;
- ([j]) **“Co-operative Bank”** means a Co-operative Society registered under this Act carrying on the business of Banking as defined under Section 5(b) of the Banking Regulation Act, 1949 (Act No. 10 of 1949), which shall also include Central Co—operative Bank and a State Co—operative Bank as defined under clauses (d) and (u) of Section 2 of the National Bank for Agriculture and Rural Development Act, 1981 (Act No 61 of 1981) and a Primary Co-operative Society carrying on the business of Banking;
- (k) **“Co-operative”** where used as a noun means an autonomous association of persons united voluntarily to meet their common socio—economic need through a jointly owned and democratically controlled enterprise formed in co-operative principles and registered under this Act;
- (l) **“Chief Executive”** means the individual, in paid or honorary capacity, nominated or elected or appointed by the Board from among members, Directors or others, in

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*1. Substituted by Anna Act No. IV of 2013, published in the Assam Gazette Extraordinary No. 144, dated 5th February, 2013. Before substitution read as:- (9) “Board” means the Governing body of a Co-operative Society to which the management of the affairs of the (lo-operative Society is entrusted under the bye-laws and includes Managing Committee of a Co-operative Society;*

accordance with the bye-laws of the society who shall perform such functions, and responsibilities and exercise such powers as specified in the Act, bye-laws and assigned by the Board;

- (m) **“common need”** means the economic and social need which is common to all who wish to form a cooperative society;
- (n) **“Chief Auditor”** shall mean the senior most cooperative officer posted at the office of the Registrar;
- (o) **“delegate”** means a person elected by a group of individual members of a society to represent them in the general body of the cooperative society in accordance with the bye-laws of the society;
- (p) **“Director”** means the Director of the Board which shall be construed as member in case of Managing Committee;
- (q) **“Delegate General Body”** in relating to a cooperative society means all its delegates;

- (r) **“Delegate General Body Meeting”** means a meeting of the delegates, called and conducted in accordance with the provisions of this Act and the bye-laws;
- (s) **“employee”** means a person, not being an office bearer, employed by a registered society on a salary or similar form of remuneration other than advance patronage dividend or payment for goods sold to or through such society;
- <sup>1</sup>[(sa) **“Election Authority”** means the Registrar on whom the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a Cooperative society has been vested under sub-section (1) of Section 41;”]
- (t) **“family”** means a person, his spouse, his children and parents dependent on him and jointly residing with him;
- (u) **“General Assembly”** in relation to a cooperative society means the highest authority of a registered society;
- (v) **“General Meeting”** means a meeting of the General Assembly called and conducted in accordance with the provisions of this Act and the bye-laws;
- (w) **“member”** means a person who is admitted as a member
- 

of the cooperative society in accordance with the Provisions of this Act and bye—laws of the society and shall include a cooperative self-help group and an institution;

- <sup>1</sup>[(x) **“office bearer”** means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer of a Co—operative Society and includes (any other person to be elected by the Board of any Cooperative Society;”]
- (y) **“Primary Cooperative Society”** means a Cooperative Society whose membership is available only to individual and self help groups and voluntary institutions other than cooperative societies;
- (z) **“patronage dividend”** means the dividend paid to members in relation to their participation in the business of the society in accordance with the provisions of the bye—laws;
- (aa) **“prescribed”** means prescribed by rules made under this Act;
- <sup>2</sup>[(aaa) **“Promoter”** means any eligible person or registered Society signing the application for registration of a Cooperative society;”]
- (bb). **“Registered Society”** means a cooperative society registered under this Act and includes a society formed after amalgamation of such two or more societies or by division of such an existing society;
- (cc). **“Registrar”** means the officer appointed by the State Government under Section 3 to perform the duties of Registrar of Cooperative Societies under this Act;
- (dd). **“rules”** means rules made under this Act;
- (ee). **“Secondary Cooperative Society or Federal Cooperative Society”** means a cooperative society whose members are cooperative societies as well as individuals;
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- (x) **“office bearer”** means a member duly elected by the appropriate body of a registered society according to its bye-laws to any office of such society, including the office of President, Chairmen, Vice-President, Vice-Chairman, Secretary, Managing Director & Treasurer:  
 Provided that any officer appointed or nominated by the State Government to hold charge of any office of a registered society shall be deemed to be an office bearer unless specifically stated to the contrary;
- (ff) **“surplus”** means the excess of income over expenditure of a cooperative society arrived at the end of a financial year after the payment of interest, if any, on share capital and before the payment of surplus refund and allocation of reserves and other funds;
- (gg) **“self help group (SHG) ”** means a homogeneous group of persons voluntarily formed to save small amounts of their earnings and also to raise loans to be lent to its members on terms, as mutually agreed upon;
- (hh) **“Service”** means the main services provided to members, through which a cooperative society intends to meet the need common to all members for the fulfillment of which the cooperative society was formed;
- <sup>1</sup>[(hhh **“State Level Cooperative society”** means a Cooperative Society having its area of operation extending to the whole of the State of Assam;”]
- (ii) **“Schedule”** means the Schedule appended to this Act

## **CHAPTER – II**

### **REGISTRATION OF THE SOCIETIES**

**3. The Registrar-** (1) The State Government may appoint an officer to be the Registrar of Cooperative Societies for the State or any portion of it for the registration, supervisions, assistance, counsel and for the all-round development of the Cooperative movement in the State with such other powers and responsibilities as may be provided under this Act or Rules or Bye—laws framed thereunder.

(2) The State Government may also appoint any other person or persons to assist the Registrar and may by general or special order in writing delegate to any such person or persons all or any of the powers and responsibilities of the Registrar under this Act.

**4. Societies which may be registered—** (1) Subject to the provisions hereinafter contained, a society which has as its chief object the promotion of the economic interest and general welfare of its members in accordance with cooperative principles laid down in Schedule ‘A’ may be registered under this Act; provided that a society established with the object of facilitating the operation of such a society including a society formed by the division of an existing registered society or amalgamation of existing two or more societies, may be registered under this Act with limited liability.

(2) No cooperative society with unlimited liability shall be registered after commencement of this Act.

(3) Where a cooperative society with unlimited liability was functioning before the commencement of this Act such society shall exercise the option within a period of one year from such commencement either to continue to function as such or to convert itself into a cooperative society with limited liability by following the procedure of amendment as specified in Section 12.

**EXPLAMTION-**For the purpose of this sub—section cooperative society with limited liability means a“ cooperative society in which the liability of its members for the debts of the cooperative society is limited by its bye-laws, to such form and extent as they may undertake to contribute to any deficit in the assets of the cooperative society in the event of its being wound up.

### **NOTE**

**Section 4.—** A limited liability concept for the members of a society is provided in the Act when the society is wound up. By the provisions in bye-laws the limit of each member may be fixed.

(4) Where a cooperative society is ordered to be dissolved under any provision of this Act, the liability of a past member or of the estate of a deceased member, who ceased to be member or died during the period of two years immediately preceding the date of order for dissolution, shall continue until completion of the entire liquidation proceedings, but such liability shall be limited only to the debts of the cooperative society as they stood on the date of cessation of his membership or his death, as the case may be.

(5) No society shall be registered if in the opinion of the Registrar its declared objects are not likely to be achieved or if it is economically unviable, technically and cooperatively unsound or if it may have an adverse effect upon any registered cooperative society or the cooperative movement as a whole or if the members or the applicants do not need the services or are not in a position to use the services of the cooperative society :

Provided that no other organization, entity or societies registered under any other-Act existing for the time being in force other than this Act shall be registered or converted or merged as a cooperative society.

(6) The Cooperative Society to be registered as a Cooperative Bank shall specifically indicate in its byelaws submitted before the Registrar at the time of registration, that the society shall be a Cooperative Bank which shall carry on the business of banking as defined under Section 5 (b) of the Banking Regulation Act, 1949 (Act No. 10 of 1949) on the basis of which the Registrar shall register the said society as a Co-operative Bank as defined under this Act.

(7) The existing Cooperative Societies carrying on the business of banking as defined under Section 5 (b) of the Banking Regulation Act, 1949 (Act No. 10 of 1949) on the date of coming into force of this Act, shall amend their Bye—laws indicating that the said societies have been carrying on the business of banking in the State of Assam and shall file a copy of the amended bye—laws before the Registrar for getting the societies registered as a CO— operative Bank and Registrar shall register the said societies accordingly under this Act.

**EXPLANATION**-For the purposes of this sub-section the term “existing Cooperative Societies” means the Cooperative Societies registered under the Assam Cooperative Societies Act, 1949 (Assam Act No.1 of 1950), and carrying on the business of banking at the commencement of this Act.

**4A. Cooperative Bank to be eligible Cooperative Bank—** A Cooperative Society registered as a Cooperative Bank under this Act shall be an eligible Cooperative Bank within the meaning of clause (gg) of Section 2 of Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Act No. 47 of 1961) and shall be bound by the following:—

(a) If so required by the Reserve Bank in the public interest or for preventing the Affairs of the Cooperative Bank being conducted in ,a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession of the committee of management or other managing body (by whatever name called) of the Cooperative Bank and the appointment of an administrator therefore for such period l[“not exceeding one year or as may be specified by the Reserve Bank from time to time”].

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*1. Substituted by Lena: Act lo. Iv of 2013, published In the Assam Guam Earn-ordinary lo. 144. dated 5th February. 2013. for the words “or period not exceeding five years in the aggregate as may from time to time specified by the Reserve Bank.”*

b), An order for the winding up of the Cooperative Bank or an order sanctioning scheme of compromise or arrangement or of amalgamation or reconstruction or an order for the supersession of the committee of management or other managing body (by whatever name called) of the Cooperative Bank and the appointment of an

administrator therefore made with the previous sanction in writing or on the requisition of the Reserve Bank shall not be liable to be called in question in any manner.

(c) The liquidator or the insured Cooperative Bank or the transferee Cooperative Bank, as the case may be, shall be under an obligation to repay the Corporation in the circumstances, to the extent and in the manner referred to in Section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Act No. 47 of 1961).

**5. Age, qualification of a member**-No person may become an individual member of a registered cooperative society unless he is above eighteen years of age, provided that the bye-laws of a society may prescribe a higher minimum age and he is not otherwise disqualified under this Act.

**6. Conditions of Registration**— No society other than a society of which a member is a registered society shall be registered under this Act which does not consist of at least such number of eligible persons as may be prescribed by the Registrar of Cooperative Societies:

Provided that the number of members for the above purpose shall not in any case be less than 10 members competent to contract under Section 11 of the Indian Contract Act, 1872 (IX of 1872) and belonging to ten different families.

(2) The *word* limited shall be the last word in the name of every society registered under this Act.

(3) No society shall be registered under this Act in an area where there already exists another cooperative society with similar objectives:

Provided that Registrar may allow registration of more than one cooperative societies in the same area of operation in case the need or necessity, demand for organization of such types of societies requires registration of more such types of societies in the same area of operation *e.g.* transport cooperative, labour contract cooperative, trading cooperative, housing cooperative.

However, in doing so proper justification must be obtained before allowing registration of such societies.

**7. Restrictions on acquisition of shares in a cooperative society**— (1) No member of a registered society shall hold more than such portion of the share capital of the society as may be prescribed by the rules, or the bye-laws of the society.

(2) No member shall be allowed to acquire an additional share until he has paid in full the value of the whole of that portion of his share holding which he is required to pay in accordance with the bye-laws of the society.

**8. Power of Registrar to decide certain questions** - (1) All disputes regarding formation, registration or continuance of a society under this Act shall be decided by the Registrar.

**9. Byelaws**- (1) A cooperative society shall frame their own bye-laws and the affairs of the cooperative society shall be managed in accordance with the terms, conditions and procedure specified in the bye-laws

(2) Subject to the provisions of this Act, the functioning of every cooperative society shall be regulated by its bye-laws.

(3) The bye-laws may contain such matters as decided by the General Assembly and shall be specific and confined only to the matters provided in Schedule B. However, the bye-laws of a society shall in no case supersede the provisions of the Act.

**10. Application for registration**- (1) For the purpose of registration, an application thereof shall be submitted to the Registrar in the form as may be prescribed, by hand or by registered post signed by at least ten persons or such number of persons as may be fixed by the Registrar, qualified under

Section 5 of the Act, read with sub-section (5) of Section 4 who wish to form a primary cooperative society or by a duly authorized person on behalf of at least three such registered cooperative society who . wish to form a secondary cooperative society. The person by whom or on whose behalf such application is made, shall furnish such information in regard to the proposed cooperative society as the Registrar may require. Every such application shall be accompanied by the original declaration signed by applicants expressing commitment to the cooperative principles specified in

**Schedule-A** and the following:-

- (a) four copies of the proposed bye-laws of the cooperative society as adopted by the applicants;
- (b) a true copy of the resolution passed at a meeting by the applicants adopting the bye-laws;
- (c) a list of names of the applicants with their complete address, occupation and equity participation and other details;
- (d) a scheme regarding viability of the proposed society, economically, financially, technically and cooperatively;
- (e) a copy of treasury challan in support of payment of registration fees calculated in accordance with the provisions of sub-section (1) of Section 17 which shall be non refundable and shall furnish such other information in regard to the society as the Registrar may require.

(2) On receipt of the application for registration and after due consideration, the Registrar may register the bye-laws with such modification as he thinks necessary to bring about conformity with the provisions of the bye-laws of any society having similar objects and functions or for any other grounds he deems necessary for the interest of cooperative society in particular and the cooperative movement in general. If the conditions laid down in Sections '4 and 6 are not fulfilled, the Registrar shall communicate by registered post the order of refusal for registration together with the reasons thereof, within sixty days from the date of submission or receipt of application for registration, as the case may be, to the applicants. However, in case of registration of a Cooperative bank clearance from NABARD or Reserve Bank of India as the case may be shall have to be obtained before considering for according permission for registration of such societies:

Provided that no order of refusal shall be made without giving an opportunity of being heard to the applicant. The certificate of registration signed and sealed by the Registrar shall be conclusive evidence that the society mentioned therein is a cooperative society duly registered under this Act, unless it is proved that the registration of the society has been subsequently cancelled: No cooperative society shall commence business unless it has obtained a certificate of registration under Section 11 and after obtaining prior license/permission if necessary under any State or Central Act in such business and every member of such , cooperative society carrying on business in contravention of this sub-section shall be severally liable for all liabilities incurred in. such business.

**11. Certificate of registration—** The Registrar shall register the society and also take on record its bye-laws and communicate by registered post a certificate of registration and the original bye-laws signed and sealed by him within sixty days from the date of submission or receipt of the application for registration, as the case may be to such person specified in the application for the purpose subject to the fulfillment of the following conditions, namely:-

- (a) the application is in conformity with the requirements laid down under this Act;
- (b) the object of the proposed cooperative society is the economic and social betterment of its members through the provision of services to fulfill such common need as specified in the proposed bye-laws;

- (c) the proposed bye-laws are not inconsistent with the provisions of this Act and are not against the aims and objects of the cooperative society :

Provided that where within sixty days of submission of the application for registration the society is not registered or the certificate of registration has not been issued or refusal of registration has not been communicated, the society shall be deemed to have been registered under this Act.

**12. Amendment of the bye-laws of a registered society— (1)** No amendment of the bye-laws of a registered society, whether by way of addition, alteration or change of name shall be valid until such amendment has been registered under this Act.

(2) Every proposal for such amendment shall have to be approved by a resolution at a meeting of the General Assembly in accordance with the bye-laws of the society and be forwarded within a month from the date of the resolution to the Registrar; and if the Registrar is satisfied that the proposed amendment is not contrary to the provisions of this Act or Rules, he shall unless for reasons to be recorded in writing he considers fit to refuse, register the amendment [“within sixty days from the date of receipt of application for amendment and if refused, that shall also be made Within sixty days of receipt of application which shall be duly communicated to the applicant with reasons recorded in writing”].

(3) When the Registrar registers an amendment of the bye- laws of a registered society, he shall issue to the society a copy of the amendment certified by him which shall be conclusive evidence that the same has been duly registered, unless it is proved that the registration of the society has been cancelled or that further amendments have been registered or that the society’s copy of the amendments have been tempered with, the amendment shall be binding upon the society with effect from the date of registration.

(4) A copy of the resolution of an amendment of the bye-laws of the society by the General Assembly shall be forwarded by the cooperative society to the Registrar within a period of thirty days from the date of the general meeting at which the resolution was passed.

(5) A copy of the resolution of an amendment forwarded to the Registrar shall be signed by the President and two Directors and shall be accompanied by the following particulars:-

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

(6) The Registrar shall consider the amendment of the bye-laws under sub-section (2) subject to the fulfillment of the following conditions, namely:-

- (a) the amendment is not inconsistent with the provisions of the Act or any of the existing societies with similar objectives or is not against the aims and objects of the cooperative society; and
- (b) the amendment is in conformity with the cooperative principles specified in Schedule-A.

**NOTE**

**Section 12(6).**— Any amendment of the bye-laws cannot be enforced unless the same is approved by the Registrar as provided under the Act. , Any amendment to the bye-laws must be for aims and object of the co-operative society. In case of amendment of the bye-laws the Registrar has a final say.

(7) The Registrar may by order refuse registration of the amendment if any of the conditions specified in sub—section (6) is not fulfilled.

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

(8) The Registrar may after considering the reply received in response to the opportunity given under sub-section (7) if satisfied that the directions to reconsider the amendment has been complied with or satisfied with the reply, he shall register the amendment. If no reply is received from the cooperative society within the period specified by the Registrar under the proviso to sub-section (7) or the reply is not in accordance with the direction of Registrar, the Registrar may refuse the amendment and shall communicate the decisions within thirty days of the receipt of such reply or on the expiry of the period referred to above, as the case may be.

<sup>1</sup>[(9) All registered Societies with approved bye-laws registered under the Assam Cooperative Societies Act, 2007 [Assam Act No. IV of 2012], shall within a period of twelve months from the date of coming into force of this Amendment Act, shall get their respective bye-laws amended as may be required so as to make them in conformity with the provisions of the Assam Cooperative Societies Act, 2007 (Assam Act No. IV of 2012) as amended by this Amendment Act and register the amendment before the Registrar.]

**13. Division of cooperative societies— (1)** A cooperative society may by a special resolution passed at a meeting of its General Assembly decide to divide itself into two or more cooperative societies.

(2) Where a special resolution is passed under sub—section (1), the cooperative society shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors and any member other than those who voted in favour of the proposed division and any creditor shall during a period of thirty days from the date of service of notice upon him have the option of withdrawing the shares, deposits or loans from the Cooperative society, as the case may be, subject to the discharge of his obligations to the cooperative society.

(3) Any member of creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have assented to the division.

(4) The special resolution passed under sub-section (1) shall not take effect until-

- (a) all claims of the members and creditors of the cooperative society who have exercised the option under sub-section (2) have been met in full or otherwise satisfied;
- (b) information of the intended division and settlement of claims members and creditors is sent to the Registrar and his approval is obtained; and
- (c) the certificates of registration and the original bye-laws of the resultant cooperative society signed and sealed by the Registrar are issued under Section 11.

(5) When a cooperative society divides itself into two or more cooperative societies under this section the registration of such cooperative society shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a cooperative body and the Registrar shall delete the name of such cooperative societies from the register of cooperative societies.

(6) When a cooperative society divides itself into two or more cooperative societies such member who has assented or deemed to have assented to the division shall be deemed to have

become a member of that newly formed cooperative society to which his interest were transferred, in accordance with the scheme of division approved by the general body of such cooperative society notwithstanding anything contained in this Act.

**14. Amalgamation of cooperative societies— (1)** Any two or more cooperative societies having similar objectives may, by special resolutions passed in the respective General Assembly, decide to amalgamate themselves and form a new cooperative society.

(2) Where special resolutions are passed under sub-section (1) each cooperative society shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors and any member other than those who voted in favour of the proposed amalgamation and any creditor shall, during a 1 period of thirty days from the date of service of notice upon him, shall have the option of withdrawing his shares, deposits or loans from the Cooperative Society, as the case may be, subject to the discharge of his obligations to the cooperative society concerned.

(3) Any member or creditor who fails to exercise the option within the period specified in sub-section (2) shall be deemed to have assented to the amalgamation.

(4) The special resolution passed under sub-section (1) shall not take effect until—

- (a) all claims of the members and creditors of each cooperative society who have exercised the option under sub-section (2) have been met in full or otherwise satisfied;
- (b) information of the intended amalgamation and settlement of claims of members and creditors is sent to the Registrar and his approval 15 obtained; and
- (c) the certificate of registration and the original bye-laws of the cooperative society which is formed as a result of amalgamation, signed and sealed by the Registrar, is issued under Section 11.

(5) When two or more cooperative societies amalgamate themselves into a new cooperative society under this section the registration of the cooperative society, so amalgamated, shall stand cancelled and they shall be deemed to have been dissolved and shall cease to exist as corporate bodies, and the Registrar shall delete the name of the cooperative societies so amalgamated from the register of cooperative societies. “

(6) When two or more cooperative societies amalgamate themselves into a new cooperative society under this section, all e members of the cooperative societies who have assented or deemed to have assented to the amalgamation shall be deemed 0 have become members of the new cooperative society not- withstanding anything contained in this Act.

#### **NOTE**

**Section 14.—** It is a new dimension that certain co—operative societies y be amalgamated for achieving the real aims.

**15. Merger of cooperative societies—** A cooperative society y, by a special resolution passed in the meeting of the General Assembly, decide to merge itself into any other cooperative society having similar objects and the said society by special resolution, agrees to such merger.

(2) Where special resolutions are passed under sub-section (1) each cooperative society shall give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and any member other than those who voted in favour of the proposed merger and any creditor, shall during a period of thirty days from the date of service of notice upon him, have the option of withdrawing his shares, deposits or loans from the cooperative society, as the case may.

## NOTE

**Section 15.**— Apart from the amalgamation the provision is made for merger of one cooperative society with others. Sub-section (2) has given the right to a member of the society to exercise his option in the matter of merger.

**16. Location Head office— (1)** Every cooperative society shall specify the full address of its Head office in its bye-laws.

(2) The Board may, subject to approval of the General Assembly, change the address of its Head office at any time and shall make such amendment in its bye-laws as per provision laid down in Section 12.

**17. Fees etc.— (1)** Registration fees amounting to one percent of the proposal authorized share capital of the proposed cooperative society shall have to be deposited by Treasury Challan along with the application for registration of the proposed cooperative society. '[The Registrar may, however, revise the registration fees from time to time on merit and on case to case basis maximum of which shall not exceed 50% of the registration fees calculated under this section.]

(2) Subject to the provisions of sub-section (3) of Section 81 i and sub-section (2) and (6) of Section 87 respectively, the Registrar J may by order prescribe a scale of fees to be paid by a cooperative '5 society for various services rendered by him under this Act.

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*l. Substituted by Assam Act No. IV of 2013, published In the Assam Gazette" Extraordinary No. 144, dated 5th February. 2013. Before substitution read as:- E" < The Registrar may, however, revise the fees-from time to time as deemed necessary.*

## CHAPTER – III

### MEMBERSHIP

**18. Eligibility of membership in cooperative society— (1)** Any person who needs the services of a cooperative society and expresses his willingness to accept the responsibilities of membership, meets such other conditions as may be specified in the bye-laws of the cooperative society and is in a position to use the services of the cooperative society, may seek membership and if the cooperative society is in a position to extend its services to the applicant, it may admit him as a member.

(2) Every applicant for membership and every member of a cooperative society shall keep each cooperative society of which the person is a member, informed of membership in other cooperative society and in case of conflicting membership, the Board may, by resolution, refuse admission under Section 19 or terminate from membership under Section 23, as the case may be :

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

**EXPLANATION:-** For the purpose of this sub-section the " expression, "conflicting membership" means membership of the common objective cooperative societies functioning within the jurisdiction of a cooperative society of which the membership is sought.

## NOTE

**Section 18.-** Eligibility of membership of cooperative society depends upon the aims for which the society is formed.

**19. Disqualification of member-**No person shall be eligible .for admission as a member and a member shall cease to be a member of a cooperative society if he incurs disqualification of membership prescribed in the bye-laws.

**20. Admission of member-** (1) The Board may admit a person for membership in accordance with the procedure laid down in the bye-laws within sixty days from the date of receipt of application for membership if he is eligible for membership under Section 18 or refuse admission to the applicant if he is not eligible for membership under Section 19 and communicate the same to the applicant by post or by hand.

(2) Where admission for membership is refused under sub-section (1), the decision with the reasons thereof, shall be communicated to such applicant within ninety days from the date of application. If nothing is communicated within the period of ninety days specified above the admission shall be deemed to have been accepted by the Board.

(3) Where an application has been refused by the Board the applicant may appeal to the General Assembly within a period of sixty days from the date of receipt of the order of the refusal. The decision of the General Assembly shall be final and binding on all concerned parties: “

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

**21: Withdrawal of membership-** (1) Subject to the provisions of sub-section (2) of Section 66, a member may, at any time after expiry of one year from the date of accepting membership, withdraw from membership in a cooperative society in accordance with the procedure laid down in bye-laws.

(2) The withdrawal from membership shall not require the person to fulfill such obligations as were undertaken or assured as a member, under the provisions of the Act, the bye-laws or any agreement.

**22. Cessation of membership—** (1) If any person having been admitted as a member of a cooperative society dies or subsequently becomes subject to any of the disqualifications specified in the bye-laws shall cease to be a member of the cooperative society.

(2) Every cooperative society shall inform, in the event of receipt of information of the death of the member, the nominee of the member and in every other instance, the member, about the \_ cessation of membership for the settlement of accounts.

**23. Termination of membership-** (1) The Board may, by a’ resolution passed by three fourth majority of the Directors present» ” and voting at a meeting held for the purpose, terminate the membership of a member if he-

- (a) Intentionally does any act likely to injure the creditability of the cooperative society or bring it to disrepute; or
- (b) willfully deceives the cooperative society; or
- (c) has acted adversely to the objects or his act is detrimental to the interest of the cooperative society; or
- (d) persistently makes default in payment of his dues or fails to comply with the provisions of the bye-laws; or
- (e) having been admitted as a member subsequently becomes a member of any other society having common objective cooperative functioning within the jurisdiction of the cooperative society, of which he is member; or
- (f) does not use the services of the cooperative society 1[for a period of three years or does not attend three consecutive Annual General Meetings], or he ceases to be a resident of the area of operation of the society:

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

(2) Any member aggrieved by the resolution passed under sub-section (1) may appeal to the General Assembly within thirty days of the receipt of such resolution.

(3) No member of a cooperative society whose membership has been terminated under sub-section (1) shall be eligible for readmission as a member of the cooperative society for a period as may be specified in the resolution but not exceeding five years, subject to the condition that his conduct during the period of expulsion sufficiently justified his fair conduct in the event of his enrolling membership again.

### **NOTE**

**Section 23.-** Termination of membership of a member depends largely upon the conduct exhibited by him. Here the principle of *andi-alterem partum* is directed to be followed.

**24. Register of member- (1)** Every cooperative society shall maintain a register of members. The name of every person admitted as a member of the cooperative society shall be entered in the register along with such particulars as may be deemed necessary by the Board.

(2) The name of a person—

- (i) whose admission is refused under sub—section (2) of Section 20; or
- (ii) who has withdrawn from membership under Section 21;
- (iii) who ceased to be a member under Section 22; or
- (iv) whose membership has been terminated under Section 23 shall be deleted fi'om the register of members :

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

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

**25. Education of member etc.-(1)** Every cooperative society shall include a certain amount in its budget annually, as provision for expenses on education of member and potential member, education and training of stall and directors for the development of their cooperative societies in accordance with the cooperative principles specified in Schedule A and practices of cooperation, besides contributing at least 1% of profit or an amount specified by the Registrar in case of societies not earning profit, to State Cooperative Union <sup>1</sup>[or any other institution under the administrative control of the Cooperation Department] for cooperative education and training.

### **NOTE**

**Section 26.-** Certain expenses by the cooperative society for proper education and training of its members and the staff is provided.

**26. Rights and liabilities of members of registered societies and exercise of rights thereof- (1)** Every member of a registered society and every ex-officio member of the Administrative Council or Managing Body of such society, unless under some temporary disqualification, shall have the right to attend any general meeting of the society and to exercise vote at such meeting.

(2) No member of a cooperative society shall exercise the right of a member including the right of vote unless he has made such payment to the cooperative society in respect of membership or has acquired and continues to have such interest in the cooperative society as may be specified in the bye-laws.

(3) The Chief Executive of every cooperative society within twenty days of closure of the previous cooperative year, shall prepare a list of members with the right of vote, and a list of

members without the right of vote, valid for the current financial year. The list shall be affixed on the notice board of the Head office of the cooperative society for information of all members and any member not satisfied with specific instances of inclusion or non-inclusion of members in the lists, may appeal to the Board within ten days from the date of the affixing of the lists on the notice board, for re-examination of the records, and the Board shall within forty days of closure of the previous cooperative year, review the lists, finalise it, and have it affixed on the notice board of the Head office of the cooperative society :

Provided that a member who is an employee or member of Employees Union of such society shall not be entitled to vote—

- (i) at election of a member of the Board of such society;
- (ii) in any general meeting convened for framing the bye- laws of such society or any amendments thereto.

(4) In the case of equality of votes the Chairperson shall have a casting vote.

**27. Votes of members and manner of exercising vote- (1)** In primary cooperatives societies, irrespective of the shares held in the society and subject to temporary disqualification, each member shall have equal voting right (one member one vote). Similarly in case of Secondary Cooperative Society, the representative of such cooperative society shall have same voting rights (one representative one vote). Every member of cooperative society or the representative referred herein shall exercise his vote in person and in the manner specified in the bye-laws and no member or representative shall be permitted to vote by proxy:

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

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

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

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

#### **CHAPTER –IV** **MANAGEMENT**

**29. General Assembly- (1)** General Assembly of a cooperative society shall consist of all the members of such cooperative society who are eligible to vote at the general meeting of the society.

(2) (a) Every member of a registered society and every ex-officio member of the Administrative Council or managing body of such society, unless under some disqualification, shall have the right to attend any general meeting of the society and to exercise his vote at such meeting :

Provided that the bye-laws of a registered society may prescribe-

- (i) that a registered society affiliated to such society may have more than one representative entitled to vote at general meetings of the society; and

(ii) that only one third of the members of the General Assembly, excluding ex-officio members, may be individual members and the other two thirds being representatives of affiliated registered societies;

(b) if the number of individual members exceeds one third of the total membership of the society the individual members shall elect at a special meeting to be called by the Secretary of the society not more than thirty days before the Annual General Meeting in the manner prescribed in the bye-laws to represent in the Annual General Meeting, those individual members who, as the representative of the body of individual members shall form the one third membership of the General Assembly for the purpose of voting at the Annual and other meetings of the General Assembly during the ensuing year. Only such elected representatives shall have the right to attend and vote at such general meeting.

(3) If the general body of a cooperative society decides that the size, area or types of its membership requires a representative body of delegates for more effective decision making, its bye-laws shall provide for a smaller body, called "delegate body" elected from the members, in the annual general meeting in accordance with the bye-laws, to exercise such powers and to discharge such duties of the general body as may be specified in the bye-laws.

[4] Subject to the provisions of this Act and the bye-laws, the ultimate power of a cooperative society shall vest in the general body. The supreme authority shall however vest with the State Government or the Registrar of Cooperative Societies, as the case may be, during the pendency of any loan or service to the society from the Government.

(5) Any power, function or responsibility, falling within the scope of a cooperative society as a corporate body, which has not been specifically entrusted by this Act or the bye-laws, to any authority of the cooperative society may be dealt with by the General Body or by the State Government during the pendency of any loan or services to the society from the Government.

**30. Matters to be dealt with in the Annual General Meeting-** (1) The following matters in addition to others as are considered necessary by the Board shall be dealt with by the Annual General Meeting namely:—

- <sup>1</sup>[(a) election of delegates and representatives, if fallen due;]
- (b) consideration of the long term plan and budget, when required;
- (c) consideration of the annual operational plan and budget for the current financial year;
- (d) consideration of the annual report of activities for the previous financial year including provisional financial statements of accounts if not audited;
- (e) consideration of the audited financial statements of accounts, and the auditor's report relating to the previous financial year or years;
- (f) consideration of the report on deviations, if any from the approved budget relating to the previous financial year;
- (g) disposal of surplus, if any, of previous financial year;
- (h) management deficit, if any, of previous financial year;
- (i) creation of specific reserves and other funds;
- (j) review of actual utilization of reserves and other funds;
- (k) review of the report on the attendance at meeting by Directors;

- (l) review of the use of the cooperative societies' services by the directors;
- (m) appointment of internal auditor, fixation of remuneration paid to any Director or member of any committee or internal auditor in connection with his duties in that capacity or his attendance at concerned meetings;
- (n) review of quantum and percentage of service provided to non members vis-a-vis services provided to the members;
- (o) report of activities and accounts related to education of member and Director "and staff training;
- (p) consideration of any other matter which may be brought before the meeting of the general body in accordance with the bye-laws;
- (q) expulsion of members;
- (r) disposal of appeals;
- (s) formulation of code of conduct the members of Board of Directors and officers appointed by the Board.

(2) The following matters among such other matters as considered necessary by the Board or which are specifically assigned to the general body under any other provision of this Act may be dealt with by the general body at its annual or any general meeting, namely:-

- (a) amendments of bye-laws;
- (b) removal of Directors and election of new Director;
- (c) membership of the cooperative society in secondary cooperative society;
- (d) partnership with other cooperative societies;
- (e) amalgamation, division, merger, transfer of assets and liabilities;
- (f) dissolution of the cooperative society;
- (g) consideration of the Registrar's report of inquiry and action taken thereon or reasons for the non completion of the inquiry.

(3) If the bye—laws of the cooperative society provide for election of one or more Directors on territorial basis, such Director shall be elected from the areas, in a meeting of the members of that area in accordance with the provision of the bye-laws on a date prior to that of annual general meeting. The result thereof shall be affixed on the notice board of the Head office of the cooperative society and also at the place of the annual general meeting prior to the commencement of the proceedings of the annual general meeting.

(4) All Directors shall cease to be Directors on the date of the Annual General Meeting, if the annual financial statement of accounts and annual report of activities for the previous financial year were willfully not prepared before 15 days of the Annual General Meeting for inspection of the members or for placing before the Annual General Meeting.

**31. Term of the Board**-The term of the Board shall be 1[five] Cooperative year.

**32. General Meeting-** The Board may, at any time, call a general meeting of the members of the cooperative society. However, one general meeting in every cooperative year must be convened by the Board.

**33. Special General Meeting-(1)** The Board may call a special general meeting and shall be bound to do so within forty five days of the date of receipt of a written requisition,-

- (a) signed by not less than twenty five percent of the members having right to vote; or
- (b) from the Registrar.

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

(3) If the Board fails to hold a special general meeting on requisition under sub—section (1) or any of the Annual General Meeting under Section 32 within the period specified therein all directors shall cease to be directors on the date of expiry of the said specified period.

(4) Any meeting of the General Assembly other than the Special General Meeting may, with the consent of the majority of the members present, be adjourned from time to time to a later hour on the same day or to any other date as may be provided in this bye-laws, but no business other than that left over at the adjourned meeting shall be transacted at the next meeting.

A notice of such adjournment posted in the notice board of the Head office of the cooperative society on the day on which the meeting is adjourned shall be deemed sufficient notice of the next adjourned meeting.

**34. Quorum of meetings of General Assembly—** (1) The quorum for a meeting for the General Assembly shall be specified in the bye-laws, but shall not be less than ten percent of the members eligible to vote at the meeting.

(2) If within one hour from the time fixed for meeting of the General Assembly a quorum is not present, the meeting shall stand adjourned ordinarily to the same day in the next week at the same time and place. But the Chairman of the meeting may, however, decide to adjourn the meeting to a later date not later than fifteen days or as may be specified in the bye-laws of the society : , V

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

(3) If at any time in a meeting there is no quorum the presiding authority shall adjourn it to such time or date as it thinks fit and announce the same at once and the business set down for the meeting shall be brought forward at the subsequent meeting whether at such meeting there is a quorum or not.

(4) No-business other than the business fixed for-the original meeting shall be transacted at such subsequent meeting.

(5) A notice of such adjournment posted in the notice board of the Head office of the cooperative society on the day on which the meeting is adjourned shall be deemed sufficient notice of the next subsequent meeting.

(6) The quorum for a delegate general body meeting shall not be less than twenty five percent of the delegate eligible to vote at the delegate general body meeting. If at any time in the meeting of

delegate general body meeting there is no quorum, the procedure laid down in-sub-section (1) to (5) shall be followed.

(7) At the meeting of the General Assembly, the President shall preside over the meeting. If the President is absent the Vice-President shall preside. If both the President and the Vice-President are absent from the meeting of the General Assembly, the members present shall choose one of them to preside the meeting.

**35. Board-(1)** There shall be a Board for the management of every cooperative society registered under this Act. The Directors shall be elected in accordance with the provisions of the bye-laws. The management of every cooperative society constituted in accordance with the provision of this Act and the bye-laws shall vest in the Board:

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

\*[(2) The Board shall consist of fifteen number of Directors:

Provided that there shall be reservation of one seat of Director for the Scheduled Castes or the Scheduled Tribes and two seats for Women in the Board of every Cooperative Society consisting of individuals as members and having members from such class or category of persons. ]

\*(3) The promoter Board appointed under the proviso to sub-section (1) shall conduct the election of Directors within the period mentioned therein.

\*(4) Every Director while exercising the powers and discharging duties shall act honestly and in good faith and in the best interests of the cooperative society and exercise such care, diligence and skill as a reasonably prudent person would exercise in similar circumstances.

\*(5) A Director who is guilty of misappropriation, breach of trust or dishonesty resulting in loss or shortfall in revenue of the cooperative society and is found guilty after an enquiry or inspection under Section 87 and Section 88 or after audit under Section 81, shall be personally liable to make good that loss or shortfall, without prejudice to any criminal action to which the Director may be liable under any law.

**36. President and Vice-President of cooperative society- (1)** There shall be a President and Vice-President in a cooperative society to be elected by the Board from amongst its Directors in accordance with the provisions of the bye-laws. The term of President and Vice-President elected by the Board shall be coterminous with the term of the Board.

(2) Vacancy in the office of the President or Vice—President shall be filled in by the Board in accordance with the provisions of the bye-laws and the President or Vice-President so elected shall hold office for the unexpired term of his predecessor.

(3) The Vice-President may resign his office at any time by notice in writing to the President and the President may resign his office at any lime by notice in writing to the Vice-President. Such resignation shall take effect from the date of its acceptance by the Board. -

(4) The Board may, by a resolution passed by three—fourth majority of the Directors present and voting at a meeting held for the purpose, remove the President or Vice-President. Such meeting shall not be presided over by the President or Vice-President against whom such resolution is to be considered.

(5) The President or Vice-President as the case may be aggrieved by the resolution passed under sub-section (4) may appeal to the Registrar within thirty days from the date of passing: of such resolution whose decision thereon shall be final.

(6) in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal or otherwise, the Vice-President shall act as President until the date on which a new President is elected in accordance with the provisions of this Act and the Bye-laws to fill such vacancy.

(7) When the President is unable to discharge his functions owing to absence, illness or otherwise the Vice-President shall discharge the functions of the President until the date on which the President resumes his duties.

**37. Disqualification of the members of the board and administrative council-** A member shall not be eligible for being chosen or being appointed, as a member of the Board or Administrative Council of a society or another society to which the society is affiliated if such member-

(a) is adjudged by a competent court to be insolvent or of unsound mind;

(b) has been punished with imprisonment for an offence involving moral turpitude or criminal activities;

(c) is concerned or participates in the profit of any contract with the society;

(d) in a credit society, failed to pay in three consecutive years immediately preceding the election at least an amount equivalent to any installments fixed for repayment of any loan or advance or credit or become defaulter to any other cooperative society;

(e) has acted in a manner prejudicial to the interest of the cooperative society in' particular or the cooperative movement in general.

**38. Powers and functions of the Board-** The Board shall discharge such functions, perform such duties and exercise such powers as may be specified in the bye-laws and in accordance - with the terms, conditions and procedure laid down therein and in particular the Board shall have the following powers, functions and duties, namely:-

(1) to interpret the organisational objectives, to set up specific goals towards achieving such objectives and to make periodic appraisal of operations;

(2) to nominate, elect or appoint and remove the Chief Executive provided he is not a Government appointee;

(3) to make provisions for the matters mentioned in Section 49 in respect of the staff of cooperative society;

(4) to finalise long term perspective plan, annual plan and budget and to direct the affairs of the cooperative society in accordance with the plan and budget approved by the general body;

(5) to arrange for funds;

(6) to authorise acquisition and disposal of immovable property;

(7) to frame, approve and amend regulations relating to services, funds, accounts and accountability and information and reporting systems;

(8) to elect President and Vice—President in accordance with the provisions of the bye-laws;

(9) to prepare the annual financial statement of accounts;

(10) to hold Annual General Meeting in stipulated time; and

(11) to remove President or Vice-President in accordance with sub-section (4) of Section 36.

“(12) to make policies and to lay down qualification and terms and conditions of service for appointment of Chief Executive and other staff of the Society.]”

**1[39. Annual General Meeting.**— A general meeting to be termed as Annual General Assembly of a registered Cooperative Society shall be held at least once in every Cooperative year within a period of six months of close of the financial year to transact the business as provided in this Act. The Board shall automatically stand dissolved for not holding Annual General Meeting in accordance with the provisions of the Act and bye-laws within six months from the expiry of every financial year.]”

**40. Eligibility for a Director in cooperative society**— Subject to such other conditions as may be specified in the bye-laws a member of a cooperative society shall be eligible for being chosen as a Director of the cooperative society, if-

- (1) such member has the right to vote in the affairs of the cooperative society;
- (2) such member has patronised the services of the cooperative society during the previous financial year to the extent and in the manner specified in the bye-laws and has attended at least two Annual General Meetings in the previous five years;
- (3) such member has no pecuniary interest in any subsisting contract made with, or work being done for the cooperative society except as otherwise specified in the bye-laws;

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*"39. Annual General Meeting-A general meeting to be termed as Annual General Meeting of the General Assembly of a registered cooperative society shall be at least once in every cooperative year within a period of 120 days from the date of expiry of every cooperative year. The Board shall automatically stand dissolved for not holding Annual General Meeting in accordance with the provisions of the Act and bye—laws within 120 days from the date of expiry of every cooperative year."*

(4) the period of <sup>1</sup>(five) years has elapsed from the date such member ceased to be a Director for the following reasons:-

- (a) not conducting or wrongly conducting the Annual General Meeting under Section 39 or Special General Meeting under sub-section (3) of Section 33 and Board meetings under sub—section (3) of Section 43;
  - (b) non submission of annual report of activities, annual financial statement of accounts to the general body under sub-section (4) of Section 30;
  - (c) not conducting the meeting of the Board under sub-section of Section 43 of delegates or representative under sub-section (3) of Section 41;
  - (d) absence from Board meetings under sub-section (7) of Section 43;
  - (e) automatic dissolution under sub—section (3) of Section 41;
  - (f) for failure to take follow up action on audit report as specified in Section 85. ,
- (5) such member is free from default of any payment due to the society.

#### **NOTE**

**Section 40,-** Under this section certain restrictions have been laid down against a person who may be chosen as director for the society. Anybody who does not conform to the requirements cannot be chosen as director.

**<sup>2</sup>[41. Elections.— (1)** The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all election to a Co-operative Society shall vest in the Registrar. It shall be the duty of the Register to prepare the voters list with eligible members to arrange for holding election of Directors, delegates, or representatives to the delegate general body and representative of the society, if fallen vacant.

(2)The election of Directors to a Board shall be conducted before the expiry of the term of the Board so as to ensure that the newly elected members of the Board assume office immediately on the expiry of the office of members of the out-going Board.

(3) Subject to the provisions of the Constitution of India and the provisions of this Act, the State Government may make rules to provide for the procedure and guidelines for the conduct of elections to the Cooperative Societies.

(4) Where a Board fails to arrange for holding election of the Directors or delegates, as the case may be, before the expiry of the term of their office in accordance with the Act and bye-laws, all Directors shall cease to be Directors on the expiry of the period as specified in Section 42(1).

(5) The election of Directors and delegates shall take place at the General Meeting called for the purpose.

(6) Where a Board fails to arrange for holding election before the expiry of the term of the Board or delegates or where there are no Directors remaining on the Board, the Registrar shall convene a General Meeting by appointing an Officer of the Cooperative Department for Constitution of the Board within ninety days from the date of such appointment and the officer so appointed shall perform all functions of the Board during the said period of ninety days at the cost of the Society.

(7) The Directors shall hold office for the period for which they were elected and the newly elected Directors shall assume office on the date of expiry of the said period.

(8) The Directors shall not be eligible for re-election, if so specified in the bye-laws.

(9) Where there are vacancies in the office of the Directors and where there are no sufficient number of Directors to constitute a Quorum for Board meeting, the Board may co-opt maximum three eligible members for constituting quorum or arrange for holding election to fill up the vacancies for the un-expired term of the Board.

(10) Notwithstanding anything contained in this Act, no person shall be eligible to hold; at the same time, office of a President or Vice-President of the Board of more than two Co-operative Societies. ]

**42. Term of Directors—**<sup>1</sup>[(1) The tenure of an office of elected members of the Board and its office bearers shall be five years from the date of election:

Provided that the tenure of office bearers shall be co—terminus with the tenure of the Board]

(2) The term of representative of an affiliated' society shall be co-terminus with the term of Board of such cooperative society :

Provided that the said representative shall cease to be a representative if the Board of the society which he represents is dissolved:

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

(3) Any casual vacancy in the office of the Director shall be filled in accordance with the provisions of the bye—laws and the Director so elected shall hold office for the unexpired term of his predecessor :

<sup>1</sup>[Provided that the Board may fill a casual vacancy of a member of the Board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of the Board is less than half of the original term.]

<sup>2</sup>[(4) The Board may co—opt persons having experience in the field of banking, management, finance or specialization in the field relating to the objects and activities undertaken by the Cooperative societies as members of the Board of such Cooperative Societies, provided that there is no such experienced or specialized person in the Board. The number of such co-opted members shall not exceed two in addition to the fifteen Directors specified in Section 35(2):

Provided that such co-opted members shall not have the right to vote in any election in the Board in the capacity as such member or to be eligible to be elected as office bearers of the Board:

Provided further that the financial Directors of a co-operative , society shall also be the members of the Board and such members shall be excluded for the purpose of counting the total number of , Directors of Board as specified in section 35(2).]

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

(2) The President or Chairman and in the event of his being physically incapable of acting, the Vice—President or Vice-Chairman may, whenever he thinks fit, call a special meeting of the Board and shall be bound to do so within fifteen 'days of the date of receipt of a written requisition—

- (a) signed by not less than one third of the Directors of the Board; or
- (b) from the Registrar; or
- (c) from the auditor.

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

(3) If the President or Chairman, Vice-President or Vice-Chairman, as the case may be, fails to hold the meeting of the Board under sub-section (1) or the special meeting of the Board under sub-section (2) within the period specified therein, he shall cease to be President or Chairman, Vice-President or Vice-Chairman, as the case may be, on the date of expiry of the specified period. In which case the remaining Board members shall elect a new President or Chairman, Vice-President or Vice-Chairman, as the case may, from among themselves.

(4) A person who ceases to be the President or Chairman Vice-President or Vice-Chairman, as the case may be, under sub-section (3) shall not be eligible to hold the office of President or Chairman, Vice-President or Vice-Chairman, as the case may be, for a period of three years from the date of such cessation.

(5) The quorum for a meeting of the Board shall be such as may be specified in the bye—laws but shall not be less than fifty percent of the total number of Directors of the Board.

(6) Subject to the provisions of this Act, the procedure to convene and conduct the meeting of the Board shall be such as may be specified in the bye-laws.

(7) If a Director fails to attend three consecutive meetings of the Board without the permission of the President or Chairman he shall cease to be a Director, from the date of the fourth meeting.

(8) The State Government and Registrar may appoint nominee to the Board or any sub-committee of a cooperative society on its own motion when the Government has subscribed more than 50% of the paid-up share capital or when there is provision of Government nominee in its bye-laws.

(9) The Financial institution may also appoint its nominee when it participates in its capital by way of share or other financial assistance as per bye-laws of the cooperative society.

**44. Decision by majority of votes-**Except as otherwise provided under this Act, or the bye-laws, all questions brought before any meeting under this Act shall be decided by majority of the votes of the

members present and in the case of any equality of votes the presiding authority of the meeting shall have a second or casting vote :

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

**45. Minutes of proceedings of meetings- (1)** Every cooperative society shall record in the minutes books, in the official language of its station or in English or in any other language prescribed in the bye-laws, proceedings of every general meeting, delegate general body meeting and Board meeting and the names of the members or delegates present there at and shall be confirmed at the same or the next meeting. The proceedings of all General Meetings and Special General Meeting of every cooperative society complete in all respects as provided in the Act and bye-laws shall be sent to the Registrar within fifteen days from the date of completion of such meeting with due acknowledgement. The Registrar shall give his approval on the resolutions within fifteen days of receipt of "the proceedings. If no approval is received within 6 aforesaid period, the proceeding shall be deemed to have been approved.

(2) The minutes so recorded shall be signed-

- (a) in the case of a general meeting or delegate general body meeting, by the person who presided the said meeting, or in the event of his death, unwillingness or incapacity to sign the minutes within the time required by the Chief Executive of the cooperative society for the purpose of submission of proceedings for approval and which shall be confirmed in the following meeting;
  - (b) in the case of a Board meeting by the person who presided the said meeting or by the person who presides the following meeting, wherein the minutes are confirmed.
- (3) In the matter of inclusion of any matter in the minutes of general meeting or Board meeting; which in the opinion of the Chairman of the meeting,-
- (a) is or could reasonably be regarded as defamatory of any person;
  - (b) is irrelevant or immaterial to the proceedings, or
  - (c) is detrimental to the interest of the society, the Chairperson shall exercise discretion in regards to inclusion or deletion in the minutes on the grounds specified above.

**46. Vacancies etc; not to invalidate proceedings—** No act or proceeding of the cooperative society, Board or of any office constituted or appointed under this Act shall be questioned on accounts of any vacancy in the membership or any defect in the election or qualification of the President/Chairman, Vice-President/Vice-Chairman, Director, delegate or representative or any defect or irregularity in such act or proceeding not affecting the merit of the case.

**47. Proceeding of Meeting to be deemed to be good and valid-** Unless contrary is proved every meeting of the general body or of any office constituted or the Board shall be deemed to have been duly convened and held and, all members of the meeting shall be deemed to have been duly qualified when the minutes of the meeting have been signed in accordance with the provisions of this Act. However, the proceeding of the Annual Meeting and all general meetings shall require approval of the Registrar as provided under Section 45.

**48. Power to depute Govt. Servant to manage the affairs of a Cooperative Society-** The State Government may, on application supported by a resolution of the Board of a registered cooperative society and on such terms and conditions, depute Government officials to the service of the

cooperative society for the purpose of managing the affairs of the cooperative society and the official shall exercise such powers and such duties as may be determined by the State Government and acceptable by the borrowing cooperative society.

**49. Chief Executive, his powers and functions and staff- (1)** <sup>1</sup>[(a) There shall be a Chief Executive, by whatever designation called of every cooperative society to be appointed by the Board or by the State Government. In the event of appointment of the Chief Executive by the Board, he shall be a full time employee of the society]

- (b)) The Chief Executive shall be the ex-officio member of the Board;
- (c) Where the State Government stands guarantee for repayment of any loan secured from any financial institution the Chief Executive may be appointed by the State Government and salary and allowances payable to other terms and conditions of service including pension, gratuity and other benefits of the Chief Executive shall be prescribed by the Government;
- (d) Notwithstanding anything contained in any law in force or bye-laws of the society, the Chief Executive appointed by the Government shall have full administrative control over the employees of the society in all matters including transfer, posting and disciplinary action. However, in case of dismissal of employees approval of the Board shall be necessary.

[2] The Chief Executive shall be under the general superintendence, direction and control of the Board and exercise the following powers and the functions, namely:-

- (a) day-to-day management of the business of the cooperative society;
- (b) operating the accounts of the co—operative society and be responsible for making arrangements for safe custody of cash;
- (c) signing on the documents for and on behalf of the cooperative society;
- (d) making arrangements for the proper maintenance of various books and records of the cooperative society and for the correct preparation, timely submission of periodical statements and returns, in accordance with the provisions of this Act, the rules and the bye-laws;
- (e) convening meetings of the general body of the cooperative society, the Board and the Executive Committee and other committees or sub-committees constituted under provision of the Act and bye-laws and maintaining proper records for such meetings;
- (f) making appointments to the posts in the cooperative society in accordance with the bye-laws;
- (g) assisting the Board in the formulation of policies, objectives and planning;
- (h) furnishing to the Board periodical information necessary for appraising the operations and functions of the cooperative society;
- (i) to sue or be sued on behalf of the cooperative society; in
- (j) present the draft annual report and financial statements for the approval of the Board within thirty days of closure of the cooperative year;
- (k) performing such other duties, and exercising such other powers, as may be specified in the bye-laws of the cooperative society;
- (l) in case of dispute between the Chief Executive and the Board in any matter, the decision of the Registrar shall be binding on the both.

- (3) Subject to other laws regulating employer—employee relations all employees of a cooperative society shall be appointed, regulated and removed by and be accountable to authorities within the cooperative society in accordance with the service conditions approved by the Board :

Provided that in case of cooperative societies where State Government holds more than fifty percent of Share Capital or guarantees repayment of loan secured from any financial ' institution, any upward revision of pay and allowances of staff, shall require prior approval of the State Government. The controlling authority of all staff shall be the Chief Executive of the society.

**NOTE**

**Section 49.**— The Chief Executive may be the head of a society but he is under the general superintendence, direction and control of the Board. Nevertheless he is the disciplinary authority for the staff in the society.

**50. Votes of Members-(1)** Irrespective of the shares he holds in the society and subject to any temporary disqualification from voting which may be prescribed in bye-laws and to the provisions of Section 27 relating to voting by representatives, a member of a registered society shall have one vote only in the affairs of the society :

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

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

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

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

(3) Voting by proxy shall not be allowed.

(4) Notwithstanding anything contained in this Act, a registered society may by specific provisions made in its bye-laws, admit certain class of members without any voting right.

**51. Loan to be utilised for the purpose for which advanced-**The loan advanced by a registered society to a member thereof shall be utilized by him for the purpose for which it was advanced and for no other purpose. The society shall have power to recover the advance as prescribe if the member does not so utilise it.

**52. Restriction on transfer of share or interest** – The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed.

**NOTE**

**Section 52.-**Transfer or change of share or interest of a member of society is permitted but it must not exceed the maximum prescribed.

**53. Validity of transfer or charge of share or interest-**Except otherwise provided in this Act no transfer or charge of his share or interest by a member of a society with unlimited liability shall be valid unless-

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

(b) the transferor or mortgager is either a member of such ~ society or a person "mere application for membership has been accepted.

**NOTE**

**Section 53.-** Here the matter of limited liability is indicated.

**54. Share or interest not liable to attachment-** Notwithstanding anything contained in any other law for the time being in force and subject to the provision of Section 56, the share or interest of a member in the capital of a registered society or in any fund under Section 65 shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member nor be subject to any claim by a receiver under the Provincial Insolvency Act, 1920 (5 of 1920).

**NOTE**

**Section 54.-** Share or interest of a member is the capital of or fund of a registered society which is exempted from attachment.

**55. Nomination of Transferee-**If the bye-laws of a registered society so permit, any member of the society may, in accordance therewith, nominate a person in whose favour the society shall dispose of the shares or interest of such member on his death.

**56. Transfer of Interest on Death of Member-**When a member of a registered society dies, his shares and interest in the society shall, subject to the provisions of this Act, be transferred-

(a) to the person, if any nominated in accordance with the provision of Section 55; or

(b) if there is no such nominee or if the nominee is not available, or is difficult to be ascertained by the managing body, or if for any other cause such transfer cannot be made without unreasonable delay, the transfer of interest on death of a member shall be made to the person as may appear to the managing body to be the legal heir or legal representative of the deceased member, provided that ninety days have elapsed from the date of the member's death and no new claim shall be entertained after the said period of ninety days.

**57. Disposal of shares or interest of ceased members-** When a member of a registered society is expelled or Withdraws or otherwise ceases to be a member under this Act, rules or bye-laws, his share or interest shall be transferred to his nominee or to another eligible person, and the value thereon, determined in accordance with the rules, shall be paid to such ceased member if his share or interest is not forfeited under the provisions of this Act, rules or bye-laws or if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912, (Central Act IV of 1912); provided that if there is no eligible transferee and if the bye-laws of the society so provide, the value of his share or interest determined in accordance with the bye-laws shall be paid to him or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

**58. Liability of Members on winding up of society-**The members of a registered society shall, in the winding up of the society, jointly and severally liable to contribute towards any deficiency in the assets of the society-

(a) in the case of a society with unlimited liability, without limit; and,

(b) in the case of a society with limited liability, subject to such limitation of amount as may be provided in the bye-laws.

**NOTE**

**Section 58.-** The liability of a member in the case of winding up the society depends upon the limited or unlimited liability provided in a particular society-

**59. Restriction on transfer of possession of Land held under a society-(1)** Notwithstanding anything in any other law for the time being in force, a member of a registered society the object of which is to develop cooperative of collective farming, shall not be entitled to transfer his possession or interest in any land held by him under the society except to the society or with the previous

approval of the managing body and in accordance with its bye-laws, to a member thereof or to a person who will be admitted as a member of the society.

(2) On the death of such a member his possession of an interest in any such land held by him under the society shall come to his nominees in accordance with the provisions of Section 56 or to the first eligible heir according to seniority in age willing to become a member of the society.

(3) If no nominee or heir becomes a member the possession of an interest in such land of the deceased shall vest in the society which shall pay to the nominee or the heir a sum equivalent to the value of the share and interest of the deceased member and any other sum due from the society as determined in accordance with this Act or Rules framed thereunder, after deducting all dues of the deceased member owing to the society.

(4) If there is no person qualified to succeed to the share or interest of the deceased member the society shall pay to his heir, executor or the legal representative, as the case may be, sum equivalent to the value of the share and interest of the deceased member as determined in accordance with the rules, after deducting the dues of the deceased to the society.

(5) When in any other case a member ceases to be a member of such a society under this Act, Rules or Bye-laws his possession of and interest in any such land held by him under the society shall come to the society. If the bye-laws allow and if the share and interest of the members is not forfeited under this Act or Rules framed thereunder, the society shall pay to the ceased member a sum equivalent to the value of the share and interest of such member and any other sum due to him from the society after deducting his debts to the society, if any.

(6) No land held under a registered society specified in sub-section (1) by a member thereof, or vested under sub-section (2) in the heir or nominee of such member shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof.

(7) No land shall vest in such a society by reason of the provisions of this Section unless it is owned by the society or has been leased to the society and, if the society holds the land by lease or contract the land shall vest in the society only during the pendency of lease or contract.

### **NOTE**

**Section 59.-** In case of co—operative society for collective farming some restrictions have been put in the transfer of possession or interest over the land of a member. The conditions imposed are mandatory in character.

**60. Right of a registered society to pay prior debts of a mortgagor- (1)** Where a mortgage is executed in favour of a registered society for payment of prior debts or part thereof, the mortgagor secured on the mortgaged property, the registered society may notwithstanding under the provisions of Section 83 and 84 of the Transfer of Property Act, 1882 (IV of 1882) by notice in writing and served by registered post with acknowledgement due, require any person to whom any such debt is due to receive payment of such debt or part thereof from the society at its registered office within such period as may be specified in the notice.

(2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the society, but where there is disagreement or dispute between the mortgagor and such person as regards to the amount of the debt or Where the society tenders less than the agreed amount of debt the receipt of the sum offered by the society shall not debar such person from enforcing his right to recover the balance amount claimed by him.

(3) If any such person refused to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice and the property mortgaged under sub-section (1) shall be deemed to have been freed from the encumbrance of such prior mortgage.

(4) No society shall advance any loan on any mortgage without taking a declaration from the prospective mortgagor as to the names of prior mortgagees of the property in question, if any.

### **NOTE**

**Section 60.-** Certain provisions of Transfer of Property Act, 1882 are not applicable to the society in case of certain secured debt *etc.*

**61. Restriction on mortgaged property- (1)** Where land is mortgaged to a registered society, the mortgagor shall not be entitled without the approval of the society to transfer or mortgage as equity of redemption or to create a charge upon or lease out such property during the pendency of the mortgage.

(2) If the mortgaged property at any time is wholly or partially destroyed or the security rendered becomes insufficient due to fall in value or for any other reason and the mortgagor having been given a reasonable opportunity by the society of providing for further security sufficient to cover the loan or for repaying the loan with interest or such portion of the loan as may be determined by the supervisory, managing or controlling body and the mortgagor having failed to provide such security or repay such portion of the ' loan, the whole of the loan or such uncovered portion shall be . deemed to fall due at once and recoverable through a cooperative demand certificate.

(3) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), the mortgaged property, in case of default of payment of mortgage money or any part thereof, may be sold by the society as prescribed by rules in addition to any other remedy available, without the intervention of court if expressly conferred by the mortgage deed :

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

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

### **NOTE**

**Section 61.-** For further mortgage or transfer of already mortgaged property a prior approval from the authority of the society is needed.

**62. Bar to certain Claim-**All payment and transfer made by a registered society under this Chapter shall be valid and effectual against any demand made upon the society by any other person.

## **CHAPTER - V**

### **FINANCE**

**63. Mobilisation of funds- (1)** A cooperative society may raise funds in the shape of equity, capital, deposit and loans from its members to such extent and under such conditions as may be specified in the bye-laws.

(2) A cooperative society may borrow funds from non-member] individuals and institutions including Government to such extent and under such conditions as may be specified in the bye-laws.

**64. Deployment of funds and profits- (1)**The funds mobilized by a cooperative society shall be deployed primarily for the furtherance of its objectives.

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

(3) A cooperative society may out of its net profits in any year, pay on the paid up share capital of members a dividend at a rate fixed by the general body in the annual general meeting.

(4) Such of its funds as are not needed for use in its business, a cooperative society may invest or deposit, outside its business in any non speculative manner.

**65. Disposal of surplus- (1)** The surplus, if any, arising out of the business of a cooperative society in a financial year shall be used for the purpose as mentioned under clause (a), (d), (h) and (i) and in one or more of the following purpose as:-

- (a) towards a deficit cover fund;
- (b) to be distributed as surplus refund among its members;
- (c) to develop its business;
- (d) towards reserves funds constituted in accordance with the bye-laws;
- (e) to provide common services to its members;
- (f) to provide rewards or incentives to staff;
- (g) towards payment of bonus under the Payment of Bonus Act, 1965 (21 of 1965) to the employees;
- (h) towards writing off bad debts and losses not adjusted;
- (i) towards such purposes as may be specified in the bye-laws; and
- (j) to cooperative development fund.

(2) Surplus arising out of the business of a cooperative society shall be fully disposed of at the annual general meeting in which the audited annual financial statement of accounts for the year in which the surplus arose is presented for the consideration of the general body.

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

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

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

**67. Operation of special funds- (1)** A cooperative society may create reserves and such other funds as in the interest of members or the cooperative society and which are specified in the bye-laws:

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

- (a) shall not be used in the business of the cooperative Society;
- (b) shall not form part of the assets of the cooperative society;
- (c) shall not be liable to attachment or be subject to any other process of any court or other authority; and
- (d) shall be administered in such manner as may be provided in the bye-laws.

(2) In any financial year if the fund is not applied in part or whole for the purpose for which it was created, the cooperative society shall credit to the account of such fund an annual interest on the amount of balance of such fund at a rate not less than the rate paid by scheduled banks on long term fixed deposits, debiting such interest as operational expenditure.

**68. Address of society-**Every registered society shall have a registered address to which all notices and communications may be sent and shall send notice in writing of every change thereof within thirty days of such change to the Registrar and to the affiliating society, if any.

**69. Maintenance and inspection of documents- (1)** Every registered society shall keep the following documents and allow inspection free of charge by any member of the society and such other persons as may be prescribed at all reasonable times at the office of the society-

- (a) a copy of this Act;
- (b) a copy of the Rules framed under this Act;
- (c) a copy of the bye-laws of society;
- (d) a copy of all Rules framed under the bye-laws of the society;
- (e) annual Balance Sheet authenticated by the Audit Officer;
- (f) such other books, forms, register or other documents as may be prescribed by the Registrar.

(2) A society shall deliver to every member on payment of a sum prescribed by the society's bye-laws or rules, copies of documents certified to be true copies.

**70. Restrictions on borrowing-**A registered society may receive deposits and may borrow from its members and from persons who are not members to such extent and 'on such conditions as may be provided in the Act and bye-laws:

Provided that no cooperative society shall, by accepting deposits, or loans or in any other way, incur liabilities exceeding 25 times the sum of the paid up share capital and the accumulated reserve fund during any financial year:

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

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

**72. Restriction on loans- [1]** A registered society shall not give loans—

- (a) to any person other than a member except with the general or special sanction of the Registrar; provided that a loan may be given to a depositor of the society out of his deposit; or
- (b) to a member in excess of his normal credit limit fixed for that member by the society in accordance with the provision of the bye-laws, provided that in assessing normal credit limit the managing body shall take a full statement as to the member's means of earning;
- (c) to a member on the security of movable property or future movable property, unless the movable property is charged, hypothecated or pledged with the society;
- (d) on personal security without sureties, unless the borrowing member has unencumbered immovable property or attachable funded assets sufficient to cover the loan and a full statement of such securities is submitted by the borrower and the truth of the statement is ascertained by the managing body;
- (e) on personal security with sureties unless, the borrowing member and his surety together have unencumbered immovable property or attachable funded assets sufficient to cover the loan and a full statement of such securities is submitted by the borrower and the sureties separately and the truth of the statements is ascertained by the managing body;

- (f) to a member on personal security, with or without sureties, unless the loan is for a short period not exceeding the time required to reap the benefit of the loan and in no case exceeding three years.
- (2)(a) Notwithstanding the provisions of sub-section (1), a loan may be given on personal security provided that the managing body of the society is satisfied as to the borrowers capability and has taken from him a scheme for the utilisation of the loan and has ascertained the truth of the statements contained in the scheme and the bonafides of the borrowing member;
- (b) the resolution of the managing body granting a loan under this section shall contain the names of all assenting members, and all the assenting members and secretary shall be held jointly and severally responsible for the issue of the loan and its recovery;
- (c) Notwithstanding the provisions of clauses (b), (c), (d), (e), and (f) of sub-section (1) and clauses (a) and (b) of this sub-section a registered society may issue a loan on mortgage of valuable security;
- (d) no person shall be accepted as a surety for any borrower unless he is also a member of the same registered society.
- (3) A registered society, the primary object of which is not the issue of loans, shall open a separate accounting or finance or banking branch in accordance with its bye—laws and frame rules for the conduct of business in such branch before it issues any loans and such rules shall first be approved by the Registrar.

#### **NOTE**

**A Section 72.-** The society under the Act cannot grant loan without observing the formalities provided.

**73. Office bearer of society is required to furnish information and produce documents- (1)** Every office bearer of a registered society shall produce documents and books of account and cash balance in his custody and appear before and furnish such information in regard to the transaction or working of the society as may be required of him by the Registrar or persons authorized by the Registrar in this behalf and auditing officer, arbitrator, liquidator or any persons conducting inspection or an inquiry under the provisions of this Act and the rules made thereunder.

- (2)(a) At any sale of property, movable or immovable, held under this Act or Rules framed thereunder, no office bearer of the registered society concerned or any person having any duty to perform in connection with such sale, shall either directly or indirectly bid for, acquire or attempt to acquire any interest in such property;
- (b) any office bearer of a society or a liquidator may, on behalf of the society bid and purchase at a sale of mortgaged property.

#### **NOTE**

**Section 73.-** Register of Cooperative society has kea role to be played in successful functioning of the society.

### **CHAPTER - VI**

#### ACCOUNTABILITY AND PRIVILEGES OF REGISTERED SOCIETY

**74. Prior claims of societies-(1)** Notwithstanding anything contained in Sections 60 and 61 of the Code of Civil Procedure, 1908 (Central Act V of 1908) any debt or outstanding demand due to a registered society by any member, surety, past member or the estate of any deceased member shall be a first charge :

- (a) if such debt or the demand is due in respect of the supply, or any loan to provide the means of such supply, of seed, manure, labour, fodder for cattle or any other thing incidental to the

conduct of agricultural operations upon the crops or agricultural produce of such member, past member, or belonging to the estate of such deceased member, at any time within two years from the date of such supply or loan or from the days on which the last installment of such supply or loan became repayable;

- (b) if such debt or demand is due in respect of the supply of or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouse thus supplied or purchased wholly or in part from any such loan;
- (c) if such debt or demand is due in respect of the supply of loan for the purchase of raw materials, industrial implements, machinery, workshop, warehouses or business premises upon the raw materials or other things supplied or purchased by such member, past member or the deceased member wholly or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased wholly or in part from any such loan;
- (d) if such debt or demand is due in respect of any loan for the purchase, improvement or redemption of land or for the purchase or construction of any house, building or any portion thereof, upon the land purchased, improved or redeemed or the house or building so purchased or constructed by such member, past member or the deceased member from any such loan.

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

- (a) a member who makes an application for a loan to a cooperative society of which the majority of the members are agriculturists shall, if he owns any land or has any interest in any land as a tenant, make in such forms as may be prescribed, a declaration that he thereby creates a charge upon such land or such interest, or such portion thereof, as may be specified in the declaration for securing the repayment of the loan which the society may make to the members on the application and of future loans, if any, that may be made to him, from time to time by the society together with interest on such loan or loans;
- (b) a declaration made under clause (a) may be varied or cancelled at any time by the members making it, with the consent of the society in whose favour it is made;
- (c) any land or interest in land in respect of which a declaration has been made under clause (a) or any part of such land or interest, shall not be sold or otherwise transferred by the member making the declaration until the entire amount of the loan or loans taken by the member from the society together with interest thereon is paid to the society:

Provided that nothing in this clause shall apply to any such part of such land or interest as may have been released from the charge created under this section under the proviso to clause (d);

- (d) subject to any claim of the State Government in respect of land revenue or any sum recoverable as land revenue or as public demand, there shall be a first charge in favour of the society on the land or interest in land specified in the declaration made under clause (a) for and to the extent of the dues recoverable from the member making the declaration on account of the loan or loans together with any interest thereon made to him by the society:

Provided that if a part of such dues is paid by the member,

the society may, on the application of the member and with the approval of the financing bank to which it may be indebted, release from the charge such part of the land or interest in the land specified in the declaration made under clause (a) as the society may, having due regard to the security of the outstanding amount of the loan or loans made to the member deem proper;

- (e) every record-of—rights prepared and maintained under the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) or any other law for the time being in force shall also include the particulars of every charge on any land or any interest thereon created under clause (a).

### **NOTE**

**Section 74.-** Society is placed in a privileged position for releasing its dues.

**75. Charge and set off in respect of shares or interest of members—** A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member or deceased member and upon any dividend, bonus or surplus payment to a member or past member or the estate of a deceased member in respect of ,any debt due from such member or past member of estate of such deceased member to the society, and may set off any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt.

**76. Deduction of dues from salary of members-** If a member of a registered society, who is an employee of the Government or any local authority, takes a loan from a society and contracts to repay it by installments, and authorises the society to recover such installments by deduction from his salary, the person who disburses any amount payable to such member as salary or remuneration in respect of such employment shall on demand from the society, deduct the amount of such installment from the amount disbursed to such members as salary and shall forthwith remit to the society the amount so deducted.

**77. Exemption from compulsory registration and personal attendance for registration of instruments-** Nothing in clauses (b) and (c) of sub-section (1) of Section 17 of the Indian Registration Act, 1908 (Central Act XVI of 1908) shall apply to—

- (1) any instrument relating to share in a registered society, notwithstanding that assets of such society consists in whole or in part of immovable property; or
- (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except, in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holder of such debentures;
- (3) any endorsement upon or transfer of any debenture issued by any such society;
- (4) notwithstanding anything contained in the Indian Registration Act, 1908 (Central Act XVI of 1908), it shall not be necessary for any office bearer of a registered society or a liquidator of a society to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58 of that Act.

### **NOTE**

**Section 77 & 78.-** Certain mandatory provisions of Indian Registration Act, 1908 are made non applicable in certain operation of the society indicated under this section.

**78. Exemption from registration of mortgage deeds executed in favour of cooperative land development bank or primary society (1)** Notwithstanding anything contained in the Indian Registration Act, 1908, (Central Act XVI of 1908), it shall not be necessary to register mortgages executed in favour of the Cooperative Land Development Bank or a primary society of which the

majority of the members are agriculturists, for the purpose of securing the repayment of a loan provided that; the Land Development Bank or the primary society concerned send within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the registering officer with the local limits of whose jurisdiction the whole or any part of the property mortgaged is situated.

(2) On receipt of the copy of the instrument under the preceding sub-section, the Registering Authority shall file a copy or copies as the case may be in Book No. 1 prescribed under Section 51 of the Indian Registration Act, 1908.

(3) The mortgages executed in favour of and all other assets transferred to a cooperative Land Development Bank or a primary society of which the majority of members are agriculturists, by the members thereof, as security for repayment of loan, before or after commencement of this Act shall, with effect from the date of such execution or transfer be deemed to have been executed or transferred by such society in favour of or to the financing bank.

**79. Power to grant remission of certain duties, fees etc.- (1)** The State Government may, by general or special order in the case of a registered society or class of registered societies, remit any tax, cess or fee payable under any law for the time being in force or the rules thereunder in respect of which they are competent to exempt remission of such tax or fee.

(2) The State Government may, in respect of any registered society or class of registered societies by notification in the Official Gazette, grant remission of—

- (a) the stamp duty other than stamp duties falling within item 91 or item 96 in List - I of Seventh Schedule to the Constitution of India in respect of any instrument executed by or on behalf of a member thereof, and relating to the business of such society or any class of such instruments, cooperative demand certificates or decisions, awards or orders of Registrar or arbitrators under this Act, in cases where, but for such remission, the registered society, Officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law for the time being in force, in respect of such instrument, and
- (b) any fee payable by a registered society under any law for the time being in force for the registration of documents or of court for the time being in force.

#### **80. Accounts, records and documents to be maintained -**

(1) Every cooperative society shall keep at its Head office the following accounts, records and documents, namely-

- (a) a copy of this Act with amendments made therein from time to time;
- (b) copies of other laws and regulations to which the cooperative society is a subject;
- (c) a copy of its bye-laws, with amendments made therein from time to time;
- (d) a copy of the Regulations framed under clause (7) of Section 38 and amendments made therein from time to time;
- (e) the minutes books;
- (f) accounts of all sums of money received and expended by the cooperative society and their respective purposes;
- (g) account of all purchases and sales of goods by the cooperative society;
- (h) account of the assets and liabilities of the cooperative society;

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

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

(2) The books of account and records shall be open to inspection by any Director during office hours of the cooperative society.

(3) The copies of this Act, bye—laws, regulations, minutes book of the general body, voters list and such accounts and records of transactions that relates to a member shall be made available to any member during office hours of the cooperative society for inspection.

(4) The books of accounts relating to a period of at least ten years before the current financial year together with supporting records and vouchers shall be preserved unless otherwise require for a longer period.

## **CHAPTER – VII**

### **AUDIT**

**81. Audit- (1)** The Registrar shall audit or cause to be audited by auditors of the department or by some person authorised by him, by a general or special order in 'writing in this behalf, the accounts prepared by every registered society and society under liquidation once at least in every year :

Provided that State Government shall also maintain a panel of auditors consisting of Chartered Accountants and any cooperative society shall have the option to get the accounts audited by an auditor out of this panel subject to the condition that accounts of such cooperative society shall have to be audited by departmental auditors at least once in every three years.

(2) The Registrar or the person authorised by him in this behalf shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for custody of any such books, accounts, documents, securities, cash or other properties to produce the same and furnish such information in regard to the transactions and working of the society at any convenient place or at the head quarters of the society or any branch thereof by the same means and so far as may be in the same manner as provided in the Code of Civil Procedure, 1908 (Central Act V of 1908).

(3) In respect of every audit of the accounts a registered society shall pay such audit fee as may be prescribed by the Registrar of Cooperative Societies and such fee shall be deemed to be outstanding dues from the society.

<sup>1</sup>[(4) The State Government shall, by notification, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the cooperative societies.

(5)The accounts of every cooperative society shall be audited within six months of the close of the financial year to which such account relates.]

**82. Power of the Registrar to have the accounts written up-**If at the time of the audit the accounts of a registered society are not complete the Registrar or with his sanction the audit officer may cause the accounts to be written up at the expense of the society.

Such expenses shall be realised by the auditor from the society concerned along with the audit fee.

**83. Nature of audit- (1)** The audit shall include among others—

- (a) a verification of the cash balance and securities;

- (b) a verification of the balance at the credit of the depositors and creditors and the amounts due from the debtors of the society;
- (c) an examination of overdue debts, if any;
- (d) the valuation of the assets including stock verifications, and liabilities of the society;
- (e) an examination of the statement of accounts and balance sheets to be prepared by the managing body of the society in such forms as may be prescribed;
- (f) a certification of the realised profits; and
- (g) any other relevant matter.

(2) The auditor's report among others shall include-

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

**84. Audit report-** The Audit Officer shall within a fortnight from the date of completion of audit, submit to the registered society and to the Registrar, together with the statement of accounts audited, audit report including a statement of-

- (a) every transaction which appears to him to be contrary to law or to the rules or bye-laws;
- (b) every sum which ought to have been brought but has not been brought into account;
- (c) the amount of deficiency or loss which appears to have resulted from any negligence or misconduct that requires further investigation;

- (d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person;
- (e) any of the assets which appears to him to be bad or doubtful;
- (f) any irregularity in maintaining the account;\*
- (g) any other relevant matter under Section 83\*; and

\*[(h) The audit report of the accounts of a co-operative society shall be laid before the Assam Legislative Assembly by the Registrar in any one of the sessions immediately after expiry of 120 days from the closure of the Co-operative year.]

**85. Rectification of defect- (I)** A registered society shall be afforded by the Registrar an opportunity of explaining any defects, or irregularities pointed out and objected to by the audit officer and thereafter, the society shall within such time and in such manner as the Registrar may direct, remedy such defects and irregularities and report to the Registrar, the action taken by it thereon,

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*Deleted the word "and" in clause "07' and in clause "(yr the word "and" substituted for "." and thereafter new clause*

2) The Boards of all societies shall take follow up action on the audit report and shall submit a report to the Registrar within 3 months of acceptance of report by the Annual General Meeting of the society. The non compliance of above shall disqualify the Board in office after expiry of three months period.

**86. Re-Audit/Recasting of audit report-** If the Chief auditor on appeal or on inquiry and detail checking of accounts satisfies himself that the audited accounts need recasting or re-audit he shall give order for such recasting or re-audit. Provided that no such recasting or re-audit shall be taken up after 3 years from the date of acceptance of Balance Sheet by the General Assembly in their Annual General Meeting. If recasting or re-audit is required to be undertaken due to non compliance of the procedure of audit the cost of recasting or re-audit shall be recovered from the auditor auditing the accounts in addition to facing disciplinary action under the Assam Government. Services and Conduct Rules or action under appropriate law as the case may be. If the same has to be undertaken due to non furnishing of adequate records, reports etc., the cost of such recasting or re-audit shall be recovered from the respective office bearer or officer of the society. He will also be liable to disciplinary action under appropriate law, rules applicable for the purpose. The cost of re—audit or recasting of audit report shall be determined by the Registrar.

**87. Inquiry- (I)** Registrar shall on the application of a federal or a secondary cooperative society to which the cooperative society concerned is affiliated, or of a creditor to whom the cooperative is indebted, or of not less than one third of the Directors, or of not less than one—tenth of the members, hold an inquiry or cause an inquiry into any specific subject relating to any violation of any of the provisions of this Act or bye-laws.

<sup>1</sup>[(2) The Registrar shall order an enquiry or reject the application for an enquiry showing the reasons within ten days from the date of receipt of application]

(3) The inquiry shall be completed within a period of thirty days from the date of order of the inquiry :

Provided that where the inquiry cannot be completed within a period of thirty days the reasons thereof shall be recorded in writing.

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*Before substitution read as:— "(2) The Registrar shall order an inquiry only after the receipt of a fee as determined by him from the applicant or the applicants. The fee should be sufficient to meet the costs of the inquiry to be conducted."*

(4) The Registrar shall—

- (a) within a period of thirty days from the date of the completion of the inquiry, communicate the report of the inquiry—
  - (i) to the cooperative society concerned; and
  - (ii) to the applicant secondary cooperative society; or
  - (iii) to the applicant creditor; or
  - (iv) to the person designated by the applicant Directors; or
  - (v) to the person designated by the applicant members, as the case may be;
- (b) within a period of fifteen days from the date of expiry of the period mentioned in sub-section (3) communicate the reasons for the non-completion of the inquiry within the specified period along with the period which is likely to be taken for completion of inquiry, to the parties concerned under sub-section 4(a).

(5) The cooperative society concerned shall, on receipt of the report, place it before the next general meeting or in a special general meeting to take such action thereon as the general body may think fit, which may include removal of all or any Directors and election of new Directors or any other action on any employees as required.

(6) A copy of report shall be supplied to any other member of the cooperative society, on payment of such fee as determined by the Registrar.

88. Inspection of society— (1) Every registered society shall be liable to inspection at any time by the Registrar or any person authorized by him by general or special order and by any affiliating society if so provided in its bye-laws.

(2) An inspection of a registered society shall also be made by the Registrar or any person authorized by him in this behalf by an order in writing at any time on the application of a creditor of a registered society :

Provided that no inspection shall be made under sub-section unless-

- (i) the creditor deposits with the Registrar such sum as security for the cost of the proposed inspection as the Registrar may require; and
- (ii) the creditor satisfies the Registrar that the alleged debt is a sum then due and that he has demanded payment thereof and has not received satisfactory response within a reasonable time :

Provided further that no inspection shall be conducted under this sub-section without giving the society an opportunity of being heard. . 4

The result of an inspection under this section shall be communicated to the society and if held at the instance of a creditor, to the creditor.

- (3)(a) A financing bank shall have the right to inspect the books of any cooperative society which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier;
- (b) the inspection may be carried out by an officer or any other member of the paid staff of financing bank.
- (c) the officer or any other member of the paid staff of the financing bank undertaking such inspection, shall at all reasonable time have access to the books of account, documents, securities, cash and other properties belonging to or in the custody of the cooperative society for inspection by him. Such information, statements and returns as may be required by him to assess the financial conditions of the society and the safety of the financial assistance to be made to the society or already made to it.

(4) The cooperative society concerned shall on receipt of the report, place it before the next Annual General Meeting or Special Annual General Meeting with action taken report and to take such action thereon as the General body may think fit which may include removal of all or any Directors or any other action on employee as required.

(5) A copy of the report shall be supplied to any member on requisition and on payment of fees to be determined by the Registrar.

**89. Cost of inquiry and inspection- (1)** When an inquiry is held under Section 87 or an inspection is made under Section 88, the Registrar may, after giving the parties an opportunity of being heard, apportion the cost or such part of the cost as he may deem fit, between the society, the members thereof or the affiliating society or the creditor or creditors applying for such inspection or inquiry, as the case may be, and the officers, former officers, members and past members of the society.

(2) No expenditure from the fund of registered society shall be incurred for the purpose of defraying any cost in support of any appeal preferred by any person other than the society itself against an order under sub-section (1). t ‘

(3) Any person authorized by the Registrar for the purpose of inquiry and inspection under Section 87 and 88 shall have all the powers of the Registrar when acting these sections.

(4) Any sum awarded By way of cost under this section shall be recoverable as the fees for inquiry or inspection in the manner of realization of audit fees or through a Cooperative Demand Certificate.

**90. Prohibition of use of word “Cooperative” and Penalty- (1)** No person other than a cooperative society registered under this Act shall, without the permission of the State Government, function, trade or carry on business under any name or title of which the word “cooperative” or its equivalent in any Indian language forms part.

(2) Every person who is a member of a cooperative society formed in contravention of Section 4 and Section 6 of this Act and every person contravening’ the provisions of sub-section (1) shall be punishable with a fine which may extend to five hundred rupees and in the case of a continuing offence with further fine of two hundred rupees for each month on which the offence is continued after conviction thereof.

**91. Offence- (1)** A person who makes or assists in making a report, return, notice or other documents required under this Act to be published or sent to the Registrar or to any other person that— .

- (a) contains an untrue statement of a material; or
- (b) omits to state a material fact required in the report or makes a statement contained in the report misleading in the light of the circumstances in which it was made;

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

- (a) in case of an individual, with imprisonment for a term which may extend to ninety days or with fine which may extend to rupees ten thousand or both;
- (b) in the case of juristic person other than an individual, with a fine which may extend to rupees ten thousand.

(2)(a.) If the person committing an offence under sub-section (1) is a cooperative society which is a body corporate, the cooperative society as well as every person in charge of and responsible to the cooperative society for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (b) Notwithstanding anything contained in clause (a) where an offence has been committed by a cooperative society, and it is proved that the offence has been committed with the consent of and connivance of or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the cooperative society, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be punishable with imprisonment for a term which may extend to ninety days or with fine of one thousand rupees or with both.

(3) No person shall be guilty of an offence under sub-section (1) or sub-section (2) where the untrue statement or omission—

(a) was not known to him, and

(b) after exercising reasonable diligence fact could not have been known to him.

(4) Every person who-

(a) without reasonable cause, contravenes a provision of ,this Act for which no penalty is otherwise provided, or

(b) fails to file or furnish return or to give any notice or to send any document required by the provisions of this Act,- shall be guilty of an offence and shall, on summary conviction, be punishable with a fine which may extend to two thousand rupees.

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

(6) No prosecution for an offence under this Act shall be commenced after five years from the date when the subject matter of the complaint arose.

(7) No civil remedy for an act or omission under this Act is suspended or affected by reason that the act or omission is an offence under this Act.

## **CHAPTER - VIII**

### STATEMENT OF DISPUTES

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

(a) the society, its past or present controlling or managing body any past or present officer, agent or employee or the liquidator of the society, or

(b) member, past member or persons claiming through a member, past member or deceased member of the society, or

(c) a surety of a member, a past member or deceased member of a society, or

(d) any other registered society or the liquidator of the society, or

(e) a registered society and a financing bank.

**93. Settlement of dispute- (1)** The Registrar shall on receipt of a reference under Section 92—

(a) decide the dispute himself or authorize any other Government officer to decide the dispute; or

(b) refer it for disposal to an arbitrator appointed by the Registrar or to three arbitrators one to be nominated by each of the parties to the dispute and the third who shall be nominated by the Registrar to act as Chairman. Where any party to the dispute fails to nominate an arbitrator within fifteen days after the communication of this notice, the Registrar may

himself make the nomination. No legal practitioner may be nominated as an arbitrator by any party to a dispute or by the Registrar;

(c) an arbitrator appointed under the previous sub—clause shall be governed by the Indian Arbitration Act, 1940 (X of 1940), with such statutory re-enactment or modification thereof as shall from time to time be made.

(2) The Registrar may withdraw any reference of such dispute referred to under sub-section (1) and may deal with it himself under the said sub-section.

(3) Where the Registrar is satisfied that a party to any reference made to him under Section 92 with intent to defeat or delay the execution of any decision that may be passed thereon—

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

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar; the Registrar may direct the conditional attachment of the said property or such part thereof as he deems necessary, and such attachment shall have the same effect as if it had been made by a competent Civil Court.

## **CHAPTER – IX**

### DISSOLUTION OF A SOCIETY

**94. Cancellation of Registration-** (1) If the Registrar, on receipt of an application made upon resolution adopted in a meeting of the General Assembly by a three—fourth majority of the members present in the meeting, provided that the notice of dissolution was included in the circulated agenda of the meeting, is of opinion that the society ought to be dissolved, he may, by an order in writing, cancel the registration of the society.

(2) The Registrar after an enquiry has been held under Section 87 or after the inspection has been made under Section 88 may cancel the registration of a society which—

(i) has not commenced working; or

(ii) has ceased working; or

(iii) has ceased to comply materially with any condition as to registration in this Act, Rules or Bye-laws; and

(iv) in his opinion ought to be dissolved.

(3) A copy of the order canceling the registration of a society shall forthwith be published in the official Gazette by a notice, which shall be communicated to the society and to any affiliating society concerned by registered post. The notice shall contain the name of the liquidator appointed under Section 95 who shall take full charge of the society forthwith and shall require all claims against the said society to be made to the liquidator within two months of the publication of the notice. All liabilities recorded in the account books of the society shall be deemed ipso facto to have been so claimed.

(4) When the cancellation of the registration of a society takes effect, the society shall cease to exist as a corporate body, but shall vest in the liquidator.

(5) Any member of the society may within two months from the date of publication of the order of cancellation, appeal to the State Government from such order.

(6) Where an appeal is presented within two months from the publication of an order cancelling the registration of the society, the order shall take effect on the expiry of the period.

(7) When an appeal is presented within two months of an order of cancellation, the order shall not take effect until it is confirmed by the State Government and such confirmation is communicated to the society by registered post.

**NOTE**

**Section 94.**-The provision under this section empowers Registrar to cancel registration of society if the conditions for the same are complied with.

**95. Winding up, Appointment of liquidator and his powers and functions- (1)** When an order of cancellation of the registration of a society is made by the Registrar under Section 94, he may appoint any person to be the liquidator of the society and may remove such person and appoint another in his place.

(2) The liquidator appointed under sub-section (1) shall have power from the date of his appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and all books, records, case and other documents pertaining to the business of the society and, in the interest of the society, shall hold charge of the society notwithstanding the provisions of Section 94 provided that no steps shall be taken for the winding up of the society during the pendency of any stay order.

(3) The liquidator shall, under the general control of the Registrar, have power, so far as is necessary for the winding up of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to such winding up, and in particular shall exercise the following powers:

- (a) to institute, compromise and defend suits and other legal proceedings on behalf of the society;
- (b) to make any compromise or arrangement with any person between whom and the society there exists any dispute;
- (c) to determine the debts due to the society by a member, past member or estate, nominees, heirs or legal representatives of deceased members;
- (d) to determine from time to time the contribution to be made or remaining to be made by the members, past members or by the estate or nominees, heirs or legal representative of deceased members or by any officers or former officers, to the assets of the society and to determine the debts due from such members or persons and the cost of liquidation;
- (e) to calculate the cost of liquidation and to determine by what persons and in what proportion they are to be borne;
- (f) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising between claimants;
- (g) to pay claims against the society including interest up to date of cancellation of registration according to their respective priorities, if any, in full or rateably as the assets including the reserve fund of the society, permit; the surplus, if any, remaining after payment of claims being applied in payment of interest from the date of such cancellation at the rate fixed by him but not exceeding the contract rate in any case;
- (h) to take step to recover dues according to the provisions of Section 102, if necessary; and

- (i) to dispose of the surplus, if any, remaining after paying the claims against the society in accordance with Section 96.

(4) Subject to the provisions of this Act and Rules made there under, a liquidator appointed under Section 95 shall, in so far as such powers are necessary for carrying out the purpose of this Section, have power to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908).

(5) Notwithstanding anything contained in any law for the time being in force, if any landed property is held by a liquidator as such 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.

#### **NOTE**

**Section 95.-** As in the case of registered company the provisions are made for appointing liquidator when the society is dissolved. The liquidator can proceed as empowered.

**96. Distribution of fund of a dissolved society-** On dissolution of a society the reserved fund and any undisbursed cash in hand shall be applied to discharging liabilities of the society and the repayment of the share capital. Any sum that may remain may be applied to such object of local and public utility as may be selected by the members of the dissolved society and approved by the Registrar. If, within three months of the notice published in the Official Gazette under Section 97, notifying the closing of the liquidation proceedings of the society, the members fail to select any object as aforesaid, the Registrar shall, with the approval of the Government, apply the fund to such local public utility as may be determined by him or credit the remaining sum to the reserve fund of a society to be formed to replace the dissolved society or if there be no such society to any other deserving society existing within the same area of operation and having objects similar to those of the dissolved society or if there be no such society to any other registered society in Assam as may be determined by the Registrar.

**97. Liquidator to deposit the books and submit a final report-** When the affairs of a registered society have been wound up, the liquidator shall make a report to the Registrar, who, when satisfied shall order the liquidation proceedings to be closed and direct the liquidator to deposit the records whatsoever the Registrar thinks fit and the Registrar shall issue a notice in the Official *Gazette*, notifying the closing of the liquidation proceedings of the society.

**98. Disposal of surplus assets of liquidated Co-operative societies-** After all the liabilities including the paid up share capital of a wound up cooperative society have been met, the surplus assets shall not be divided among its members but they shall be applied to any object described in the bye-laws and when no object is so prescribed in the bye-laws, to the cooperative development fund.

**99. Bar of suit: or legal proceedings-**When an order to wind up the cooperative society has been made or the liquidator has been appointed a suit or other legal proceeding relating to business of such cooperative society shall he proceeded with or instituted against the liquidator as such or against the cooperative society or any member thereof except with the leave of the Registrar and subject to such conditions as he may impose.

**100. Final accounts- (1)** A liquidator shall pay the costs of liquidation out of the property of the cooperative society and shall pay or make adequate provision for all claims against the cooperative society.

(2) Subject to the provisions of Section 60 after paying or making adequate provision for all claims against the cooperative society, the liquidator shall apply to the Registrar for approval of his final accounts and for permission to distribute in cash or in kind the remaining property of the cooperative society in accordance with the bye-laws.

(3) Where the Registrar approves the final accounts rendered by a liquidator under sub—section (2), he shall-

- (a) issue direction with respect to the custody or disposal of the documents and records of the cooperative society; and
- (b) discharge the liquidator.

(4) Where the Registrar discharges a liquidator under sub-section (3) the Registrar shall dissolve the cooperative society, issue a certificate of dissolution and delete its name from the Register of Co-operative Societies.

(5) The cooperative society ceases to exist on the date shown in the certificate of dissolution, which shall not be later than eight years after the appointment of the liquidator.

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

#### **NOTE**

**Section 101.-** The jurisdiction of Civil Court is barred in the matter of dissolution of the society or in the finding of the liquidator.

#### **CHAPTER – X**

##### RECOVERY OF SUMS DUE

**102. Recovery of sums due and enforcement of obligations- (1)** Notwithstanding anything contained in this Act, the Registrar or such other person as may be authorized in this behalf, may, on his own motion when the interest of the Government is involved or on the written requisition of a registered society, an affiliating society or financing bank for the recovery of any loan or any other sum due by a defaulting member after due inquiry as he may deem fit and after giving a reasonable opportunity of being heard, grant a Cooperative Demand Certificate for recovery of any amount found to be due.

(2) (a) If any installment of loan or interest payable by a member of a cooperative society or any part of such installment has remained unpaid for more than 30 days from the date on which it fell due, the Board may, in addition to any other person authorized for the recovery of such installment or part thereof, recover the installment or such part thereof by distraint and sale of the produce of the charged land including the standing crop;

(b) On receipt of such application the Registrar or the person authorized by him may, notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner as prescribed for the purpose of detaining and selling such produce:  
Provided that no distraint shall be made after the expiry of twelve months from the date on which the installment fell due;

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

**103. Charge and surcharge- (1)** Where, as the result of an audit under Section 81 or an inquiry under Section 87 or an inspection under Section 88 or a report made in the course of the winding up of a registered society, it appears to the Registrar that any member, officer or employee past or present, of the society has at any time within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be-

- (a) intentionally, whether individually or as an assenting member of any managing or other controlling body, made or authorized any payment or granted any loan which is contrary to the provision of this Act or to the Rules or Bye-laws or failed to take timely steps to recovery any loan at the due date or it was being improperly utilized: or
- (b) was grossly negligent in respect of any loss or deficiency;
- (c) failed to bring into account any sum which ought to have been brought into account; or
- (d) misappropriated or fraudulently retained any property of the society; or
- (e) committed breach of trust in relation to the society, the Registrar may inquire into the conduct of such officer or members of the managing or other controlling body.

(2) The Registrar may similarly inquire into the conduct relating to the affairs of the society or of any member, officer or employees, past or present, of a registered society on the application of the present controlling or managing body of the society or liquidator, or any creditor, or any other registered society to which the society is affiliated or any contributory.

(3) Upon such inquiry giving such member, officer or employee an opportunity of being heard and in the case of payment made contrary to the provision of this Act or Rules or Bye-laws after affording such member, officer or employee time to recovery the amount of such payment from the payee and credit it to the funds of the society, if such member, officer or employee fails to recover the amount then the Registrar may by an order in writing require such member, officer or employee to pay such sum with interest at such rate as the Registrar may direct, to the society by way of compensation in respect of such payment or loss or to restore such property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceedings under this section.

(4) Any award made by the Registrar under sub-section (3) shall be reduced to the form of a Cooperative Demand Certificate by the officer authorized to issue such certificates.

(5) This section shall apply notwithstanding that such member, officer or employee may by his act or omission have incurred in addition to criminal liability under this Act or any other law for the time being in force.

## **CHAPTER – XI**

### **PENALTY**

**104. Punishment for false return, false information, disobeying summons, order etc.-** If a registered society or an officer or member thereof or any liquidator-

- (a) willfully makes a false return or furnishes false information or willfully neglects or refuses to do any act required by this Act or any Rules or Bye-laws or does anything contrary to this Act or any Rules, or Bye-laws or fails to submit returns; or
- (b) any person willfully or without reasonable excuse disobeys any summons, requisition or lawfully written order issued under the provisions of this Act or does not produce document or cash balance of the society or does not furnish any information lawfully required from him by a person authorized in this behalf under the provisions of this Act or fail to maintain up-to-date account, record and other documents of the society required to be maintained by him under this Act or Rules or Bye—laws he shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence a further fine of fifty rupees for each day on which the offences are continued after conviction thereof\*;or
- \*[(c) any officer or custodian who willfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a co-operative society of which he is an officer and custodian, to an authorized person; or
- (d) any employer who, without sufficient cause fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made shall be punishable as per provision of clause (b).]

**105. Punishment for disposing property in contravention of Section 61-**Any member, past member or the nominee, heir or legal representative of a deceased member removing or otherwise disposing of any property on which a registered society holds a charge under Section 61 with intent to defraud the society or with such intents doing any other act to the prejudice of the society's charge, shall be punishable with fine which may extend to five thousand rupees. '

**106. Penalty for certain misdemeanours-** Where it appears to the Registrar that any person has contravened the provisions of this Act or Rules or Bye-law-

- (a) by sitting or voting or exercising his rights as a member, or as a member of any managing or controlling body, or voting in the affairs of a registered society as a representative of another society which is a member of such society, when such person was not entitled so to sit, vote or exercise such rights, as the case may be;
- (b) or by utilizing a loan for a purpose different from that for which it was granted; the Registrar may, after affording such person an opportunity to be heard by an order in writing, direct him to pay to the assets of the society by way of penalty such sum not exceeding five thousand rupees as the Registrar thinks fit\*; or
- [\*(c) whoever, before, during or after the election of members of the Board or office bearers, adopts any corrupt practice, the Registrar may, after giving such person an opportunity of being heard, by an order in writing, direct him to pay to the asset of the society by way of penalty by such sum as the Registrar may deem fit.]

**107. Power to enforce performance of obligations-** Not—

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

**108. Cognizance of offence- (1)** No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(2) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar.

(3) Offences under this Act may be tried summarily.

## **CHAPTER – XII**

### **JURISDICTION**

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

**110. Bar to Jurisdiction - Civil or Revenue Courts-** (1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of-

- (a) registration of a society-or its bye-laws or amendments of bye-laws; or
- (b) the dissolution of a managing or controlling body and the management of the affairs of the society on dissolution thereof; or
- (c) any dispute referred to the Registrar; or
- (d) any matter in relation to the winding up and dissolution of a registered society.

(2) Save as provided in this Act, no order, decision or award under this Act, or working of the affairs of a registered society shall be liable to be challenged, set aside, modified, revised, declared void in any court on any ground whatsoever.

**111. Appeal or Review- (1)** Except where otherwise expressly provided to the contrary an appeal shall lie to the Registrar from the decisions made under this Act or Rules framed thereunder by any Government Officer liquidator appointed under Section 95.

(2) The Registrar may review any order passed by him at any time within sixty days from the communication of such order.

(3) Save as otherwise provided in this Act or Rules, no appeal shall lie to the State Government against any order of the Registrar, except on a question of law, and provided such appeal is preferred within sixty days of the communication of such order.

(4) Any appellate authority and the Registrar in case of review may pass any stay order pending any appeal or review before such an authority, and may award costs against any party appealing or petitioning for review if such appeal or review petition is considered false, vexatious or frivolous by the authority concerned.

(5) Notwithstanding anything contained in this Act where with the previous sanction in writing or on requisition by the Reserve Bank of India, a Cooperative Bank-

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

**112. Power of Attachment of property—** Where the Registrar or such Gazetted officer as may have powers delegated to him under Section 114 is satisfied that any person holding property within his jurisdiction with intent to defeat or delay the execution of any order, under a Cooperative

Demand Certificate for recovery of dues, or with intent to avoid payment of dues from such person under this Act, Rules or Bye—laws—

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

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

**114. Recovery of Sums Duo-(1)** All dues recoverable under this Act or Rules framed thereunder shall be reduced to the form of a Cooperative Demand Certificate, as in Schedule C over the signature of the Registrar or of such Gazetted Officers as may have powers delegated to them by the Registrar in this behalf and shall be recovered as an arrear of land revenue under Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) and shall be paid to the certificate holder or his authorized nominee. Such certificate shall be in the name of the claimant and shall be delivered to him.

(2) Notwithstanding anything contained in sub-section (1), all the said dues shall also be recoverable as public demand in accordance with the procedure laid down in the Bengal. Public Demands Recovery Act, 1913 (Bengal Act III of 1913) on a written requisition sent to the certificate officer in the prescribed form over the signature of the Registrar or of such Gazetted Officer or officer of a cooperative society as may have powers delegated to him by the Registrar in this behalf.

**Explanation-** “The Certificate Officer” means the officer so defined in and the Prescribed Form, means the form so prescribed under the Bengal Public Demands Recovery Act, 1913 (Bengal Act III of 1913).

(3) For the purpose of this section a member of an affiliated society shall be deemed to be a member of the affiliating society and loans due to the affiliated society shall be deemed also to be loan due to affiliating society to the extent that loans from the affiliating society to the affiliated society are outstanding and cannot be recovered from the affiliated society provided that not more than one demand= Motto may be executed against a single loan.

(4) A copy of the Cooperative Demand Certificate prepared under this section shall be Served in the manner prescribed upon the person from the amount is due.

(5) On receipt of a copy of the Co-cooperative Cooperative Demand Certificate the person from the amount is due shall pay the same within a period-of thirty days from the date of service of the certificate :

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

(6) Any person violating the provisions of sub-section (5) above shall, on conviction be punished with imprisonment of either description which may extend to six months or with fine which may extend to one thousand rupees or with both.

**115. Registrar may order a meeting of creditors- (1)** Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a registered society and its creditor or creditors or any class of them the Registrar, upon an application made by a registered society or

by liquidator, in case of a society in respect of which an order has been passed for the winding up thereof, or by a creditor or creditors or any class of creditors may order a meeting of the creditors.

(2) If a majority number of creditors or the class of creditors, as the case may be representing claims to three-fourths of the debts due by the society to the creditor or class of creditors, at a meeting agree to any compromise or arrangement and if the Registrar agrees to such compromise or agreement and gives his sanction then the compromise or the arrangement shall be binding on all the creditors or class of creditors and also on the society or on the liquidator in the case of a society in respect of which an order has been passed for the winding up thereof, and on all persons who may be required by the liquidator to contribute to the assets of the society.

## **CHAPTER - XIII**

### **MISCELLANEOUS**

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

### **NOTE**

**Section 116.-** In case the license of a Cooperative Bank or Urban Cooperative Bank is cancelled the Registrar of Cooperative societies must send the concerned bank into liquidation.

**117. Society to be a body corporate-** Every registered cooperative society shall be deemed to be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it was constituted.

**118. Register of members-** Any register or list of members or shares kept by any registered society shall be prima facie evidence of any of the following particulars entered therein—

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

**119. Entries in book of registered society shall be received at prima facie evidence- (1)** A copy of any entry in a book of a registered society, regularly kept in the course of business shall, if certified by the Chairman or Secretary of the society, be received in any suit or legal proceedings as prima facie evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub— section (1) or to appear as a witness to prove the matters, transaction and accounts therein recorded unless specially so directed by an order of the Court or the Arbitrator.

### **NOTE**

**Section 119.-** In a suit or legal proceeding the certificate issued as to an entry in a register of registered Co-operative Society will go as evidence.

**120. Savings of existing societies-** (1) Every society existing at the commencement of the Act which has been registered under the Cooperative Societies Act, 1949 (Assam Act 1 of 1950, shall be deemed to be registered under this Act, and its bye-laws shall, in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

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

**121. Construction of reference to Asian Cooperative Societies Act, 1949-** All reference to the Assam Cooperative Societies Act, 1949 (Assam Act I of 1950), occurring in any enactment made by any authority in India and for the time being in force in Assam shall in the application of any such enactment thereto, be construed as reference to this Act, and anything done, or any proceedings commenced in pursuance of such enactment on or after the commencement of this Act shall be deemed to have been done or to have commenced and to have had effect as in the reference in such enactment to the Assam Cooperative Societies Act, 1949 (Assam Act I of 1950), had been a reference to this Act, and no such thing or proceedings shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.

**122. Act VII of 1913 not to apply-** The provisions of the Indian Companies Act, 1913 shall not apply to registered societies.

#### **NOTE**

**Section 122.-** Although a registered Co—operative Society is deemed to be a body corporate no provisions of Indian Companies Act, 1913 shall be applicable to it.

**123. Acts of societies, etc. not to be invalidated by certain defects- (1)** No act of a registered society or of a managing or controlling body or of any officer or liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organization of the society or in the constitution of any such body, or in the appointment or election of the officer or liquidator or on the ground that such officer or liquidator was disqualified for appointment.

(2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason on the fact that his appointment has been cancelled or in consequence of any order subsequently passed under this Act.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

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

**[125. Supersession of the Board.-** If in the opinion of the Registrar the Board of a co-operative society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or has committed any act which is prejudicial to the interest of the society or its members or has omitted or failed to comply with any directions given to it or that there is a stalemate in the constitution or functions of the Board, the Registrar shall cause an enquiry under Section 87 or an inspection under Section 88 and after giving the society an opportunity to state its objections if any and after considering the objections if received, forward the enquiry/

inspection report: to .“the society for placing the report before the Annual General Meeting if due within 60 days from the date of receipt of the report by the society or at a Special General Meeting to be convened specially-for considering to take actions as suggested in the report under sub-section (5) of Section 87 and sub-section (4)of Section 88. If no action as stated above is taken by the society.withi11.ithe stipulated period the Registrar shall by an order in writing supersede or kept under suspension the Board and appoint one or more administrators from the department to manage the affairs of the society for such period not exceeding six months. Such appointed person shall arrange for holding election of a new Board within the above period]¹

**126. Power to seize records of society- (1)** If the Registrar or any person authorized by him in this behalf, while making audit, inspection, inquiry or supervision, as the case may be believe or has reason to believe that the registered society is not keeping or maintaining the accounts, books and records of the society properly or finds or reasonably suspects gross negligence of duties misappropriation or misuse of fund of the society irregularity in recording proceeding or keeping accounts or books he shall have power to take possession of any .or all books, registers or documents, cash in hand or accounts books of the society and remove such seized property as may be directed by the Registrar.

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*“125. Super-autos of Board by Registrar-li’ in the opinion of the Registrar the Board of a cooperative society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the Rules or the Bye-laws or has committed any act which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it or that there is stalemate in the constitution or functions of the Board. the Registrar shall cause an enquiry under Section 87 or an inspection under Section 88 and after giving the society an opportunity to state its objections. if any and after considering the objections, if received forward the enquiry/inspection report to the society for placing the report before the Annual General Meeting it due within 60 days from the date of receipt of the report by the society, or at a Special General Meeting to be convened specially for considering to take actions as suggested in the report under sub-section (5) of Section 87 and sub-section [4] of Section 88. If no action as stated above is taken by the society within the stipulated period the Registrar shall by an order in writing superseed the Board and appoint one or more administrators or an adhoc committee from the department to manage the affairs of the society for such period not exceeding three months as may be specified in the order which period may at: the discretion of the State Government be extended from time to time: Provided that the total period of extension in any case shall not exceed six months.*

*Such appointed person shall call a special general meeting and shall elect a new Board within the above period.*

(2) The person seizing the property of the society under sub— section (1) shall prepare an inventory of the properties seized in duplicate with his signature and require the officer or member of the society from whose possession or custody the property is seized to put his signature in witness thereof and if such officer or member refuses to sign, then the person seizing; the property shall call upon two or more persons to sign the seizure list. A copy of the list prepared under this section signed by the witnesses, shall be delivered to the officer of the society.

(3) The Registrar shall take immediate steps in such case for audit or inspection and pass such orders as he may think fit.

(4) The Administrative Head of a Civil Sub-division or administrative area shall give police help to all officers mentioned in sub-section [1] of this section’ when sought for.

**127. Power of the managing body of an affiliating society to enquire into the shin of a member society-** When a registered society takes a loan from an affiliating society and defaults payment of the, debt on any installment thereof any member of the managing body of the affiliating society, may examine and look into the accounts and working of such borrowing society and report the result of his inquiry or examination particularly with reference to the said loan to the affiliating society and may recommend any suggestion «in his report. The borrowing society shall furnish such information and produce such documents, books and accounts as the member of the managing body may require.

**128. Limitation— (1)** Notwithstanding any of the provisions of the Indian Limitation Act, 1908 (X of1908), the period of limitation for the institution of a claim to recover any sum, including the

interest thereon, due to a registered society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of a society.

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

**129. Information and returns to be filed; with Registrar-** (1) Every year within thirty days of holding of the Annual General Meeting, the Board shall file the following information with the Registrar:-

- (a) annual report of activities;
- (b) annual financial statements of accounts as audited with auditor's report thereon;
- (c) statistical statements indicating name of the cooperative society, services offered by the Cooperative society to the members, total number of members as on the last day of the financial year;
- (d) total liabilities expressed as-
  - (i) funds from members and surpluses;
  - (ii) funds from other external sources as on the last day of the financial year;
  - (iii) quantum of rupees or services provided to members and non members, and surplus or deficit at the end of the financial year; and
- (e) annual disposal of surplus or management defici\*;
- \*[(f) declaration regarding date of holding of its general body meeting and conduct of elections when due;
- (g) list of amendments to the bye-laws of the co—operative society, if any, and any other information required by the Registrar in pursuance of any of the provisions of this Act]

(2) Along with the returns specified in sub-section (1) every cooperative society shall furnish the following information to the Registrar:—

- (a) the date of Annual General Meeting at which the returns to be filed with the Registrar were considered or approved;
- (b) the total number of members on the rolls of the cooperative society who were eligible to vote on the date of such Annual General Meeting;
- (c) the number of eligible members present at such Annual General Meeting;
- (d) list of names of Directors with addresses and terms of office;
- (e) name and address of the internal auditor appointed for internal audit of the society for the current financial years accounts;
- (f) any other relevant and special information required by the Registrar to enable him to decide whether the Cooperative Society has conducted its affairs in accordance with the cooperative principles mentioned in Schedule A and the provision of this Act and the Bye-laws.

(3) If the returns and information as Specified under sub-section (1) and (2) are not filed or furnished to the Registrar within the period specified under sub-section (1) shall be treated as an offence under this Act and the Board shall be penalised in accordance with provisions of this Act.

**130. Power to exempt societies from the operation of the Assam Money Lenders Act-** The State Government may by a notification in the Official Gazette, exempt a registered society from any or all the provisions of the Assam Money Lenders Act, 1934 (Assam Act IV of 1934), for the time being in force.

#### **NOTE**

**Section 130.—** The State Govt. has the power to grant exemption to a co—operative society as to certain provisions of the Assam Money Lenders Act, 1934.

**131. Power to make rules- [1]** The State Government may, after previous publication, make rules for carrying out the purpose and objects of this Act, and such Rules may provide a penalty not exceeding five thousand rupees for a breach thereof.

(2) Every Rule made under this section shall be laid as soon as may be after it is made before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the Rule or the Assam Legislative Assembly agree that the Rule should not be made, the Rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

**132. Repeal and Saving- (1)** The Assam Cooperative Societies Act, 1949 (Assam Act I of 1950), is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken, any order passed by any authority or any penalty imposed under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

### **\*[CHAPTER-XIV]**

#### **'SPECIAL PROVISIONS APPLICABLE TO THE CO-OPERATIVE CREDIT SOCIETIES**

**133. Overriding effect of Chapter XIV.-** Notwithstanding anything contrary or inconsistent contained in any other provisions of this Act or rules framed thereunder or bye-laws of any registered society or orders issued thereunder, the provisions of this Chapter shall have overriding effect.

**134. Definitions.-** In this Chapter unless the context otherwise requires,-

- (a) “Co-operative Credit Structure Society” means a State Co- operative Bank and a Primary Agricultural Credit Society;
- (b) “State Co-operative Bank” means a Co—operative society engaged in the business of banking as defined under Section 5(b) of the Banking Regulation Act, 1949 (Act No. 10 of 1949) and

Section 2(a) of the National Bank for Agriculture and Rural Development Act, 1981 [Act No. 61 of 1981];

- (c) "Primary Agricultural Credit Society" means a co-operative society as defined under clause (cciv) of Section 5 of Banking Regulation Act, 1949 (Act No. of 1949) and includes a Multi-purpose Co-operative Society;
- (d) "Multi-purpose Co-operative Society" means a Primary Co-operative Society the object of which is to provide various services including services related to savings, credit, business, industry, consumer durables to its members;
- (e) "Chartered Accountant" means a member of the Institute of Chartered Accounts of India within the meaning of the Chartered Accountants Act, 1949 (Act No. 38 of 1949);
- (f) "Reserve Bank" means the Reserve Bank of India established under Section 3 of the Reserve Bank of India Act, 1934 (Act No 2 of 1934);
- (g) "National Bank" means the National Bank for Agriculture ' and Rural Development established under Section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (Act No. 61 of 1981).

**135. Membership and voting right in Primary Agricultural Credit Society.- (1)** An individual or group depositor in a primary Agricultural Credit Society shall become a member of the society under sub-section (1) of Section 18 of this Act by subscribing at least the minimum share capital specified in the bye-laws and on holding a minimum deposit of rupees five thousand or such minimum sum as may be prescribed by the State Government from time to time, for continuous period of minimum two years preceding the date of notification of election and shall have the full voting rights.

(2) An individual or a group borrower shall become a member of Primary Agricultural Credit Society under sub-section (1) of Section 18 of this Act by subscribing the prescribed share capital specified in the bye-laws and shall have full voting rights.

(3) Every group depositor or group borrower admitted as a member under sub-section (1) of Section 18 of this Act shall be entitled to vote through one delegate nominated by the group.

**136. Autonomy of the (lo-operative Credit Structure Society.-** A Co-operative Credit Structure Society shall have autonomy in all financial and internal administrative matters including the following areas:-

- (i) Interest rates on deposits and loans conformity with the guidelines issued by the Reserve Bank;
- (ii) Borrowing and investments;
- (iii) Loan policies and individual loan decisions;
- (iv) Personnel policy, staffing, recruitment, posting and remuneration to staff; and
- (v) Internal control systems, appointment of auditors and remuneration for the audit.

**137. State Governments subscription to the equity share capital of Co-operative Credit Structure Society.- (1)** The State Government's subscription to the equity share capital of a Co-operative Credit structure society shall not exceed twenty five percent of its equity share capital and the State Government may reduce the State Government's subscription further at its choice:

Provided that in the case of State Co-operative Bank which is unable to comply with the requirements of sub-section (1) of Section 11 of Banking Regulation Act, 1949 (Act No. 10 of 1949), the State Government may contribute equity in excess of the limit specified above only to the extent

required to enable the State co-operative Bank to comply with the requirements of sub-section (1) Section 11 of Banking Regulation Act, 1949 (Act No. 10 of 1949).

(2) There shall be only one nominee of the State Government on the Board of a State Co-operative Bank, if the State Government has subscribed to its share capital.

(3) There shall be no nominee of the State Government of the Board of a Primary Agricultural Co-operative Society:

Provided that the existing nominees on the Managing Committee shall continue till the expiry of their current term. However, they shall not have any voting right in any election or in a motion of no-confidence.

(4) A Co-operative Credit Structure Society may affiliate or disaffiliate with an affiliating society at its choice:

Provided that before dis-affiliation, the society shall discharge its financial liability, if any, to the society which it is dis-affiliating?

(5) A Co-operative Credit Structure Society shall have the freedom of entry and exit at any tier of co-operative society and there shall be no mandatory restriction of geographical boundaries for its operations within the State of Assam.

(6) A Co-operative Credit Structure Society may invest or deposit its funds in any Bank of financial institution regulated by the Reserve Bank and not necessarily in the affiliating society.

(7) A Co-operative Credit Structure Society may obtain loans from any Bank or financial institution regulated by the Reserve Bank and refinance from the National Bank or any other refinancing agency directly or through any Reserve Bank regulated financial institution and not necessarily from the affiliating society.

(8) A Primary Agricultural Credit Society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

(9) There shall be no other compulsion on contribution to any fund other than those required for improving the net worth / owned funds of a Co—operative Credit Structure Society.

**138. Condition for member of the Board of the Co-operative Credit Structure Society.-** No person shall be elected, nominated or co-opted or allowed to continue as a member of the Board of a Co-operative Credit Structure Society, if he-

- (i) is a person who represents a society other than a Primary Agricultural Credit Society on the Board of a State Co-operative Bank, if such society he represents has committed a default towards the payments of such bank for a period exceeding ninety days;
- (ii) is a person who committed a default towards the payments to a Primary Agricultural Credit Society or represents a Primary Agricultural Credit Society in the Board of a State Co-operative Bank, if such society he represents has committed a default towards the payments of such Bank for a period exceeding one year, unless the default is cleared;
- (iii) is a person, who represents a society whose Board is superseded or has ceased to be a member of the Board of his own society.

**139. Conditions for supersession of the Board of State Co-operative Bank.-** (1) The Board of a State Co-operative Bank shall be superseded only with the prior approval of the Reserve Bank.

(2) The Board of a Primary Agricultural Credit Society shall be superseded by the Registrar only under the following conditions:-

- (i) that a society incurs losses for three consecutive years; or
- (ii) that serious financial irregularities or frauds have been identified; or
- (ii) that there are judicial directives to this effect; or

(iv) there is a perpetual lack of quorum.

Explanation:- “perpetual lack of quorum” means failure of holding three consecutive meetings for want of quorum.

**140. Election to the (lo—operative Credit Structure Society.- (1)** The Registrar shall ensure conducting of elections to the Co— operative Credit Structure Society before the expiry of the term of the existing Board.

(2) The Registrar shall ensure conducting of elections to a CO-operative Credit Structure Society within two months from the date of supersession:

Provided that in the circumstances beyond control of the Registrar, the State Government may allow holding of such elections within a period not exceeding six months from the date of such supersession.

(3) A member of the Board of a Primary Agricultural Credit Structure Society which has been superseded under sub-clauses (i) and (ii) of sub-section (2) of Section 139 shall not be entitled to contest again for a period of five years after supersession.

**141. Registration of bye-laws or amendments with the Registrar.-(1)** The bye—laws or any amendment to the bye-laws of a Co-operative Credit Structure Society shall be registered by the Registrar within thirty days from the date of receipt of the application.

(2) If the Registrar is satisfied that the proposed bye-laws or the amendments to the bye-laws are contrary to the provisions of the Act and the Rules made thereunder, he shall reject the same duly recording his reasons thereon within thirty days from the date of receipt of the application.

**142. Registrar to prescribe prudential norms etc.-** The prudential norms including Capital to Risk weighted Asset Ratio shall be specified by the Registrar by an order for all the Primary Agricultural Credit Structure Societies in consultation with the National Bank.

**143. Criteria for appointment and removal of Chief Executive Officer and the members.-** The Chief Executive Officer and the members of the Board of a State Co-operative Bank shall fulfill the criteria stipulated by the Reserve Bank for the time being in force and such person who, in the opinion of the Reserve Bank or the National Bank, does not fulfill the criteria stipulated by the Reserve Bank shall be removed on the advice of the Reserve Bank or the National Bank.

**144. Professional to have knowledge and experience as stipulated by the Reserve Bank. - (1)** There shall be at least such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank on the Board of a State Co-operative Bank and in case such number of elected Directors do not, in the opinion of Reserve Bank or National Bank, possess special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the Board of a State Co-operative Bank shall co—opt such number of professionals with full voting rights irrespective of,-

- (i) the limit of the number of members of the Board under this Act or rules framed there under or its bye-laws;
- (ii) whether such professional is a member of the society or not.

(2) If any person, who, in the opinion of the Reserve Bank, has been co-opted as a member of the Board under sub-section (1) without having requisite knowledge or experience as stipulated by the Reserve Bank, he shall, on being advised by the Reserve Bank or the National Bank, be removed from the office after giving him a reasonable opportunity of being heard.

**145. Audit.- (1)** The accounts of a State Co-operative Bank shall be audited and certified by Chartered Accountants appointed by it from the panel approved by the National Bank.

(2) The Registrar shall ensure conduct of special audit of a State Co-operative Bank if requested by the Reserve Bank in the manner and form stipulated by the Reserve Bank and also furnishes the report to the Reserve Bank within the time stipulated.

**146. Registrar's obligations-(I)** The Registrar shall ensure that Reserve Bank's regulatory prescriptions in case of a State Co-operative Bank including recommendation for supersession of the committee or winding up of a State Co-operative Bank are implemented and an administrator or a liquidator, as the case may be, is appointed within one month from the date of receipt of the advice from the Reserve Bank.

(2) The Registrar shall, within two months of being advised by the Reserve Bank or the National Bank, ensure removal of the Chief Executive Officer of a State Co-operative Bank who does not fulfill eligibility criteria specified by the Reserve Bank.

(3) The Registrar shall, within two months of being advised so by the Reserve Bank or the National Bank, ensure removal of any person elected or co-opted as a member of the Board under sub-section ( 1) of Section 144 without having the requisite knowledge or experience as stipulated by the Reserve Bank.

**147. Prohibition to use the nomenclature as Bank.-** No Primary Agricultural Credit Society or its federation or association, except those which are permitted to act as a Bank under Banking Regulation Act, 1949 (Act No. 10 of 1 949) shall be registered with the words "Bank" or any other derivative of the word "Bank" in its registered name or shall use the same as a part of its name :

Provided that Where any Primary Agricultural Credit Structure Society or its federation or association except those which are permitted to act as a Bank under Banking Regulation Act, 1949 (Act No. 10 of 1949) has been registered or using the same as a part of its name before the commencement of the Assam Co-operative Societies Act; 2007 as amended with the word "Bank" or any of its derivatives in its registered name, it shall within three months from the date of such commencement, change its name so as to remove the word 'Bank' or its derivative, if any, from its name :

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall order the winding up of such society forthwith.

**148. Prior approval of Reserve Bank in case of exemption of this Chapter-** No Co-operative Credit Structure Society shall be exempted by the State Government from the application of any of the provisions of this Chapter without the prior approval of the Reserve Bank or the National Bank.)

## **SCHEDULE - A**

(See Section 4(1), 25)

### COOPERATIVE PRINCIPLES

The cooperative principles are guidelines by which cooperative societies put their values into practice.

1<sup>st</sup> Principle : Voluntary and open Membership.

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

2<sup>nd</sup> Principle: Democratic Member Control.

Cooperative societies are democratic organisation controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the members. In primary co-operative members have equal voting rights (one member, one vote) and cooperative society at other levels are also organised in a democratic manner

3<sup>rd</sup> Principle : Member Economic Participation.

Members contribute equitably to and democratically control, the capital of their cooperative societies. At least part of that capital is usually the common-property of the cooperative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes : developing their co—operative societies, possibly by setting up reserves, part of which at least would be invisible, benefiting members in proportion to their transaction with the cooperative society, and supporting other activities approved by the members.

4<sup>th</sup> Principle : Autonomy and Independence. Cooperative societies are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including Governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

5<sup>th</sup> Principle : Education, Training and Information.

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

6<sup>th</sup> Principle: Co-operation among Co-operatives Societies.

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

7<sup>th</sup> Principle: Concern for Community.

Co-operative societies work for the sustainable development of their community through policies approved by their members.

8<sup>th</sup> Principle : Professional Management.'

Co-operative Societies are managed in a professional manner in running their affairs]<sup>1</sup>

## **SCHEDULE - B**

(See Section 9)

Subject matter for specific consideration when framing Bye—  
laws.

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

- (a) the name of the cooperative;
- (b) the village/town/city where the Head Office of the Cooperative society is to be located;
- (c) the custody and use of the common seal;
- (d) the area of operation from where the membership is to be draw.

### **2. Aim and services:**

- (a) the aim of the cooperative society explicitly stated as a common need of the members which the cooperative society aims at fulfilling;

- (b) key service and support services to members to fulfill the common need stated in the aim;
- (c) the conditions under which—services may be provided to non-membership.

### **3. Membership :**

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

### **4. Member rights and obligations :**

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

### **5. General Body:**

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

### **6. Board of Directors:**

- (a) The size and composition of the Board of Directors;
- (b) Eligibility, ineligibility for becoming Director;
- (c) Eligibility, ineligibility for retaining Directorship;
- (d) The procedure for election including the appointment of election officer, removal of Directors, the election of the President, Vice4President, and representative and filling of casual vacancy;
- (e) The terms of office of the Directors;
- (f) The frequency of board meetings;

- (g) The manner of convening board meetings, and quorum;
- (h) The functions, responsibilities and powers of the-Board;
- (i) The minutes of proceedings of Board meetings;
- (j) The functions, responsibilities and powers of Directors.

**7. Chief Executive and staff:**

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

**8. Finance:**

- (a) the financial year which the cooperative society wishes to adopt;
- (b) the manner of appointment of auditors and their duties;
- (c) the manner of appointment of internal auditors and their duties;
- (d) the nature and amount of equity capital, if any, of the cooperative society;
- (e) the maximum capital which a single member can hold;
- (f) the types and extent of funds to be raised;
- (g) the purposes for which the funds raised by the cooperative society may be applied;
- (h) the debt-equity ratio that the cooperative society wishes to maintain at all times, and the maximum external debt that a cooperative society wishes to permit itself at any point of time;
- (i) procedure for transfer of shares or interest by a member;
- (j) procedure for redemption of shares by the cooperative society;
- (k) procedure for transfer or payment of interest on death of member;
- (l) the nature and extent of the liability of the members for the debts contracted by the cooperative society;
- (m) the nature and extent of the liability of the Directors for the debts contracted by the cooperative society;
- (n) the manner of disposal of funds if under liquidation.

**9. Secondary cooperative societies:**

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

**10. Other matters:**

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

**SCHEDULE - C**

Form (See Section 114)

Cooperative Demand Certificate granted under Section 114(1) of the Assam Cooperative Societies Act, 2007.

(To be realized as an arrear of land revenue by the authority within whose jurisdiction the judgment debtor's property is situated)

Case No. \_\_ of 20..  
District / sub-division

In the matter of .....

Versus .....

(1) Whereas as a result of my enquiry I decide that a sum of Rs.

..... (Rupees.....) by

way of ..... under Section 102(1) of the

Assam Cooperative Societies Act, 2007 and a sum of Rs.....

..... (Rupees .....

by way of interest upto ..... is/are due from you

and you have not paid.

Or

Whereas ..... has made a reference

in writing to me complaining/determining that a sum of Rs.....  
..... (Rupees..... ) by  
way of .....under Section .....  
of the Assam Cooperative Societies Act, 2007 and a sum of  
Rs. .... (Rupees ..... ) by way of  
interest upto ..... is/are due from you .and you  
have evaded payment of the same.

(2) And whereas a notice of demand calling on you to pay the dues within the specified time was served with notice to show cause.

(3) And whereas you have not paid up your dues specified in the notice.

(4) And whereas you have not submitted explanation/your explanation is unsatisfactory.

(5) Now, therefore I under the authority of the sub—section (1) of Section 102/ ..... of the Assam Cooperative Societies Act, 2007 read with the sub—section (1) of Section 114 of the Assam Cooperative Societies Act, 2007 do hereby order that the above mentioned sum of Rs. .... ‘ ..... “(Rupees ..... ) is due to the above named from you and that you will pay the amount with further interest on the principal sum at the rate of ..... percent per annum from ..... together with all cost till the date of realization of the above mentioned sum.

(6) I further order that the title and interest of ..... in the properties set out and described in the Schedule below be sold as an arrear of land revenue under the provisions of Assam Land and Revenue Regulation Act, 1886 (Regulation I of 1886) and that, if the sale proceeds should be found insufficient to discharge the dues with subsequent interest at the above rate till the date of realization and costs in full, the balance be realized by attachment and sale of the other movable property of judgment-debtor as an arrear of land revenue.

(7) Further take notice that if you fail to pay the amount as ordered above within a period of thirty days from the date of service of Certificate you shall also be liable to prosecution under sub-section (6) of Section 114 of the Assam Cooperative Societies Act, 2007 in addition to other measures for the recovery of the amount payable by you.

**SCHEDULE**

.....  
.....  
.....

Dated Guwahati/ .....  
The .....

Registrar of Cooperative Societies, Assam

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

.....