

Uttarakhand Co-Operative Societies Act, 2003

UTTARAKHAND

India

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Act 05 of 2003

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Uttarakhand Co-Operative Societies Act, 2003(Uttarakhand Act No. 05 of 2003)Last Updated 24th December, 2019An Act be it enacted in the Fifty-fourth year of the Republic of India a replacing bill of Uttar Pradesh Co-operative Societies Act, 1965 enacted to provide for Co-operative Society in the state of Uttarakhand.It is hereby enacted in the Fifty-Fourth year of the Republic of India as follows:-Chapter -1 Preliminary

1. Short title, extent and Commencement.

(1)This Act may be called the Uttarakhand Co-operative Societies Act, 2003.(2)It extends to the whole of the State of Uttarakhand.(3)It shall come into force from such date as the State Government may by notification in the Gazette, appoint in this behalf :Provided that while appointing such date the State Government may declare that any provisions to be specified in the declaration shall not come into force from the date so appointed and in that case such provisions shall come into force from such date or dated as the State Government may similarly appoint in that behalf.

2. Definition.

- In this Act, unless the context otherwise requires,(A)"Co-operative society" means a society registered or deemed to be registered under this Act;(B)Primary Society is a Co-operative Society of which no member is a registered society;(B-1) "Credit Society" means a society which has as its primary object the raising of funds to be lent to its members :Provided that;(i)a co-operative marketing society, the area of operation whereof is only a part of a district or part of more than one district shall be deemed to be a primary society whether or not any other co-operative society is its ordinary member,(ii)a primary co-operative society any share whereof has been purchased under Chapter VI, by a central or apex society shall continue to be a primary society notwithstanding the purchase of such shares;(iii)a co-operative society, the area of operation whereof is only a part of a district and the primary object whereof is to arrange for the storage and distribution of seeds,

fertilizers, pesticides, agricultural appliances or consumer goods to its ordinary members and the membership whereof includes any other co-operative society notwithstanding the membership of other co-operative society in it.(B-2) "Central Society" or Central co-operative Society" means a co-operative society, which has any other co-operative society as its ordinary member and is not a primary co-operative society;(C)"Apex Society" Apex level society" or State level Co-operative society" means;(i)the area of operation of which extends to the whole State of Uttarakhand.(ii)the main object of which is to promote the principal objects of societies affiliated to it as members & to provide for the facilities & services to them.(iii)which has been classified as an apex society by the Registrar.(D)"Agricultural society" means a co-operative society the majority of the ordinary members whereof are primarily engaged in agricultural occupation which shall include production, processing or marketing of agricultural crops, horticulture, tea, sericulture and animal husbandry which includes piggery, Pisciculture, poultry farming and dairying;(E)"Arbitrator" means a person appointed under this Act to decide disputes referred to him by the Registrar;(E-1) "Board of Arbitrators" means a body appointed under this Act to decide disputes referred to it by the Registrar;(F)"Bye-laws" means the registered bye-laws of a co-operative society for the time being in force;(G)"Co-operative society with limited liability means a co-operative society in which the liability of its members for the debts of the society in the event of its being wound up is limited by its bye-laws;(H)"Co-operative society with unlimited liability" means a co-operative society the members of which are, in the event of its being wound up, jointly and severally liable for in respect of all its obligations and to contribute to any deficit in the assets of the society;(I)"Committee of management" means the committee of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;(J)"Co-operative year" means the year commencing on the first day of April and ending on the thirty-first day of March next following;(K)Dividend means the amount paid out of the profits of a society, to a member in proportion to the shares held by him;(L)Financing Bank" means a Co-operative society, the main object of which is to assist any affiliated or other co-operative society by giving loans or advancing money & includes any scheduled bank as defined in the Reserve Bank of India, Act 1934 & such other body corporate or financial institution as may be notified by the Govt. from time to time, which gives financial or other aid to a co-operative society;(L-1) "Co-operative bank" means a society which is doing the business of banking as defined in clause of sub section (1) of section 5 of the Banking Regulation Act, 1949.(L-2) "Urban co-operative Bank" means a primary co-operative bank other than a primary agricultural credit society;(i)The primary object of which is the transaction of banking business;(ii)The paid up share capital and reserves of which are not less than one lacs rupees, and(iii)The bye-laws of which do not permit admission of any other co-operative society as a member.(M)"Liquidator" means a person appointed by the Registrar under this Act to wind up the affairs of a co-operative society;(N)"Maximum liability" means the maximum amount that can be borrowed by a co-operative society. It does not include share capital;(O)"Member" means a person who joined in the application for registration of a society or a person admitted to membership after such registration in accordance with the provisions of this Act, the rules and the bye-laws for the time being in force but a reference to "members" anywhere in this Act in connection which the possession or exercise of any right of power or the existence or discharge of any liability or duty shall not include reference to any class of members who by reason of the provisions of this Act do not possess such right or power or have no such liability or duty;(P)"Officer of a co-operative society" means the President, Vice-president, Chairman, Vice-Chairman, Secretary, member of

Committee, of Management, Treasurer, Liquidator, Administrator or any other person employed by a co-operative society whether with or without remuneration to carry on the business of the society or to supervise its affairs;(Q)"Ordinary member" means a member of a co-operative society having a right to vote in the affairs of the society in accordance with the provisions of this Act, the rules and the bye-laws;(R)"Prescribed" means prescribed by rules;(S)"Registrar" means the person appointed as Registrar of co-operative societies under sub-section (1) of section 3 and includes any person appointed under sub-section (2) of that section when exercising all or any of the powers of the Registrar;(T)"Rules" means rules made under this Act;(U)"State Government" means the Government of Uttarakhand;(V)"Tribunal" means a co-operative Tribunal under this Act;(W)"The State Co-operative council" means the council constituted for Uttarakhand State under chapter XIII-A of this Act.(X)[Election Authority means the Co-operative Election Authority constituted by the State Government.] [Add. by section 2 of Uttarakhand Act no 10 of 2015]Chapter-II Registrar and Registration

3. Registrar and other officers and their powers.

(1)For carrying out purposes of this Act, the State Govt. may appoint a person to be the Registrar of co-operative societies for the State.(2)To assist the registrar in his function under this Act, the State Govt. may appoint such number of Additional Registrars, Joint Registrar, Dy. Registrars, Assistant Registrars and other persons with such designation as it may think.(3)(a)the State Govt. may by general or special order, confer on a person or persons appointed under section 2 all or any of the powers of Registrar under this Act;(b)every person appointed under sub section (2) shall work under the general guidance and the superintendence and control of the Registrar;(c)where any order has been made under sub section (2) conferring on any person all or any of the powers of the Registrar under any provision of this Act such order shall be deemed to confer on him all the powers under that provision as may be amended from time to time.

4. Societies which may be registered.

- Subject to the provisions of this Act, a society which has as its objects the promotion of the economic interest of its members or their general welfare in accordance with co-operative principles' or a society established with the object of facilitating the operations of such a society, may be registered under this Act :Provided that it shall not be registered, if in the opinion of the Registrar, it is economically unsound, or its registration may have an adverse effect upon any other society, or it is opposed to, or its working is likely to be in contravention of public policy;Co-operative principles shall include:(1)Voluntary and open membership;(2)Democratic member control;(3)Member economic participation;(4)Autonomy & independence;(5)Education, training & information;(6)Co-operation amongst co-operatives;(7)Concern for community.

5. Registration with limited or unlimited liability.

(1)A society may be registered as a co-operative society with limited or unlimited liability:Provided that a society having another co-operative society as its ordinary member shall be registered only with limited liability.(2)The word or its equivalent in English" Limited" shall be the last word in the

name of a society registered under this Act with limited liability.

6. Application for registration.

(1)An application for the registration of a society shall be made in the manner prescribed by the Registrar in such forms as the Registrar may from time to time specify; and the applicants shall furnish to him all such information's about the society as he may require.(2)Every such application shall conform to the following requirements namely-(a)That it is accompanied by three copies of the proposed bye-laws of the society;(b)That the applicants are eligible for membership under section 17.(c)That the application is duly signed by every applicant himself, if he is an individual, and by a duly authorized person if the applicant is any of the persons mentioned in any of the clauses (b) to (g) if section 17;(d)That the number of applicants, who are to be ordinary members of the society, is not less than ten, if all the applicants are individuals, and is not less than five in all other cases;(e)That where the objects of the society include the creation of funds to be lent to its members, all the applicants who are to be the ordinary members of society, if individuals reside in the same town or village or a group of contiguous villages, or belong to the same class.Explanation: - For the purposes of this clause any two or more persons shall be deemed to belong to the same class, if they pursue the same occupation or are under a common employers.

7. Registration.

(1)If the Registrar is satisfied-(a)that the application complies with the provisions of this act and the rules;(b)that the object of the proposed society are in accordance with section 4;(c)that the proposed bye-laws are not inconsistent with the provisions of this Act and the rules; and(d)that the proposed society complies with the requirements of rules in regard to the existence of any conditions in general or for the class of societies to which the particular society belongs and with the requirements of sound business and has reasonable chances of success:The Registrar shall resister the society and its by-laws. However, if the Registrar does not pass final orders thereon either registering the society or refusing its registration within two months from the date of the receipt of the application by him, the applicants may make a representation to the authority competent to hear under section 98 appeals against after calling for a report from the Registrar, passes an order for registration of society, the society shall be deemed to have been duly registered from the date of communication of such order to the Registrar.(2)Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons to such applicant as has been named in the application for this purpose and in default of such naming, to any one of the applicant.

8. Registration certificate.

(1)Where a society is registered under this Act or deemed to be registered under the provision to sub section (1) of section 7, the Registrar shall issue a certificate of registration signed by him which, unless the registration is proved to have been cancelled, shall be conclusive evidence that the society therein mentioned is a co-operative society duly registered under this Act.(2)No person or society shall commence business in the name of, or professing to be, a co-operative society unless a certificate of registration has been obtained under sub-section (1) for such society and every person

or member of society carrying on business in contravention of this sub section, shall be personally liable for all liabilities incurred in such business.

9. Co-operative societies to be bodies corporate.

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

10. Change of name of co-operative society.

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

11. Change of liabilities.

(1)Subject to the provisions of this Act and the rules, a co-operative society may be an amendment of its bye-laws, change the form or extent of its liability.(2)When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of three months from the date of service of the notice upon him, have the option of withdrawing, subject to the provisions of section 41, his shares, deposits or loans as the case may be.(3)Any member or creditor who does not exercise his option within the period specified in sub- section (2), shall be deemed to have assented to the change.(4)An amendment of the bye-laws of a co-operative society changing the form or extent of its liability shall not be registered until, either--(a)it has been assented to or deemed to have been assented to by all the members and creditors; or(b)all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. Amendment of bye-laws of a co-operative society.

(1)A co-operative society may, subject to the provisions of this Act and the rules, amend its bye-laws in the manner prescribed :Provided that no such amendment shall be valid and operative unless it has been registered under this Act.(2)The proposal for an amendment of the bye-laws shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment-(i)is not contrary to the objects specified in section 4 of the Act; and(ii)is not contrary to the other provisions

of the Act or the rules, he may register the amendment.(3)Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal, together with the reasons thereof, the society.

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

- An amendment of the bye-laws of a co-operative society shall, if it is expressed to come into operation on a particular day after registration, come into force on that day, but in all other cases on the day on which it is registered.

14. Power to direct amendments in bye-laws.

(1)Where the Registrar is of the opinion, whether on the representation of a member of a co-operative society, or otherwise, that an amendment in the bye-laws of a co-operative society is necessary or desirable in the interests of such society or in public interest, he may, under such circumstances as may be prescribed, by order in writing issued to the society by registered post, require the society to make the amendment within such time as he may specify in the order.(2)If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard, register such amendment and issue to the society by registered post a copy of the amendment certified by him which shall be conclusive evidence that the amendment has been duly made and the bye-laws as amended shall, subject to appeal (if any) be binding on the society and its members.

15. Amalgamation and merger of co-operative societies.

(1)Any two or more co-operative societies may, after duly informing the Registrar, at their respective ordinary general meetings, called for the purpose, of which at least fifteen clear days notice shall be given to their respective members, resolve, by a majority of at least two-thirds of the members present, to amalgamate into one society or to merge into any of them, the Resolution (hereinafter called preliminary resolution) shall contain all particulars of amalgamation or merger, as the case may be, including the transfer of assets and liabilities to the new society in case of amalgamation and to the continuing society in case of merger and also the bye-laws of such a society.(2)Notwithstanding any other provision of this act or of any bye-laws of any society, notices of any meeting referred to in sub section (1) or sub section (4) shall be given to the members of the societies concerned, and copies of the preliminary resolution shall be served on the members and creditors of such societies in any one or more of the following manners, namely-(a)By delivery in person under acknowledgement in writing, or(b)Except in respect of any person who has acknowledged receipt in writing under clause (a), by post under certificate of posting at the address of each such person as noted in the society's records, and also by publication in a newspaper having circulation in the area of operation of the society.(3)(i)Any member of any such society may, notwithstanding any bye-law to the contrary, by notice of the society of which he is a member (within a period of thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub-section (2) or, as the case may be, from the date of its publication in a newspaper under clause (b) of that sub-section) intimate his intention not to become a member of

the new society in case of amalgamation, or to be a member of the continuing society in case of merger. (ii) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period, intimate his intention to demand a return of the amount outstanding to his credit. (4) After the expiry of [the period referred to in clause (i) of sub section (3)] a joint meeting of the members of such societies of which at least fifteen clear days, notice shall be given to them, shall be convened for considering the preliminary resolution, if, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two thirds of the members, present, either without changes or with such changes as in the opinion of the Registrar, are not material which shall be final, he may - (i) in the case of amalgamation, subject to the provisions of sub-section (5) and (6) and section 7, register the new society and the bye-laws thereof; and (ii) in the case of merger, give subject to the provisions of sub-section (5) and (6), his sanction thereto. Explanation. - for the purpose of this sub-section the term "members" shall include any delegates of members selected for the purpose in accordance with rules, made in this behalf. (5) While confirming the preliminary resolution under sub-section (4), provision shall be made by another resolution for - (i) the repayment, subject to the provision of section 41, of the share capital of all the members who have given notice under clause (i) of sub section (3); and (ii) the satisfaction of the claims of all the creditors who have given notice under clause (ii) of sub section (3). (6) If, within such time the Registrar considers reasonable, the share capital of the members, referred to in sub-section (5) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new society or to sanction the merger, as the case may be. (7) The registration of a new society or the sanction of merger under sub-section (4) shall be a sufficient conveyance to vest in the new society in the case of amalgamation and in the continuing society in the case of merger, all the assets and liabilities of the amalgamated societies or merged society or societies, as the case may be, anything contained in any other law for the time being in force to the contrary notwithstanding; and on such registration of a new society or sanction or merger, as the case may be the registration of the amalgamated societies or of the society or societies which has or have merged into another society, shall be deemed to have been cancelled.

16. Division co- operative societies.

(1) Any co-operative society may, after duly informing the Registrar, at a general meeting called for the purpose of which, at least fifteen clear days notice shall be given to its members, resolve to divide it self into two or more societies. The resolution (hereinafter in this section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operation of and specify the members who will constitute each of the new societies. (2) Notwithstanding any other provision of this Act or of any bye-law of such society, notice of any meeting referred to in this section shall be given to the members of the society and a copy of the preliminary resolution shall be served on the members and creditors of the society in any one or more of the manners specified in sub section (2) of section 15, which shall mutatis mutandis apply. (3) (i) any member of the society may, notwithstanding any bye-law to the contrary, by notice given to the society [within a period of thirty days from the date of receipt of a copy of the preliminary resolution under clause (a) of sub section (2) of section 15 as applicable by virtue of sub

section (2) of this section, or as the case may be, from the date of its publication in a newspaper under clause (b) thereof], intimate his intention not to become a member of any of the new societies.(ii)any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand return of the amount outstanding to his credit.(4)After the expiry of [the period referred to in clause (i) of sub section (3)] a general meeting of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is conformed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes, as in the opinion of the Registrar are not material, he may, subject to the provisions of sub section (5) and (6) and section 7, register the new societies and the bye-laws thereof, on such registration, the registration of the old society shall be deemed to have been cancelled.(5)While confirming the preliminary resolution under sub-section (4), provisions shall be made by another resolution for;(i)The repayment, subject to the provisions of section 41, of the share capital of all the members who have given notice under clause (i) of sub section (3); and(ii)The satisfaction of the claims of all the creditors who have given notice under clause (ii) of sub-section (3).(6)If, within such times as the Registrar considers reasonable, the share capital of the members, referred to in sub section (5) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, the Registrar may refuse to register the new societies.(7)Notwithstanding any thing in any other law for the time being in force, the registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (4).

16A. Powers of Registrar to direct amalgamation or merger of co-operative societies.

(1)Where in the opinion of the Registrar amalgamation or merger of two or more co-operative societies is necessary or desirable for increasing their strength or usefulness, he may, notwithstanding anything to the contrary contained in this Act, after consulting the financing bank, if any, to which the societies are indebted, call upon such societies by order in writing, to amalgamate or merge, within such time as may be specified by him, into one society, and thereupon the societies shall take all such steps, as may be necessary for that purpose in accordance with the provisions of section 15.(2)On the failure of the societies to amalgamate or merge in accordance with the order passed under sub section (1) the Registrar may, by order in writing, direct amalgamation or merger of the societies into one society.(3)The direction of the Registrar under sub-section (2) shall be deemed to be a preliminary resolution of the societies concerned for the purpose of sub-section (2) and (3) of section 15, and the Registrar shall take such further steps as required by that section.(4)After the expiry of thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub section (2) of section 15 or, as the case may be, from the date of its publication in a newspaper under clause (b) of that sub section, the Registrar shall, from the funds of the societies concerned, repay, subject to the provisions of section 41, the share capital of all the members, and satisfy the claims of all the creditors, who have given notice under clause (i) and clause (ii) respectively of sub section (3) of section 15 and thereafter declare the amalgamation or merger, as the case may be, of the societies and in the case of amalgamation register the new society

so formed and its bye-laws.(5)A declaration of merger or registration of the new society under sub section (4) shall be deemed to be a merger or registration under section 15 and the provisions of sub section (7) of that section shall apply to it.

16B. Power of Registrar to direct division of a co- operative society into two or more co- operative societies.

(1)Where in the opinion of the Registrar it is essential in public interest or in the interest of the co-operative movement, or desirable for the purpose of securing better management of a co-operative society, that any co-operative society should be divided to form two or more societies, he may, notwithstanding anything to the contrary contained in this Act, after consulting the financing bank, if any, to which the society is indebted, call upon such society by order in writing to divide itself into two or more societies with such constitutions, assets, liabilities, rights, duties and obligations as may be specified in the order, and thereupon the society shall take all such steps as may be necessary for that purpose in accordance with the provisions of section 16.(2)On the failure of the society to divide itself in accordance with the order passed under sub section (1), the Registrar may by order in writing, direct division of the society into two or more societies.(3)The direction of the Registrar under sub section (2) shall be deemed to be a preliminary resolution of the society concerned for the purpose of section 16, and the Registrar shall take such further steps as are required by that section.(4)After the expiry of thirty days from the date of receipt of the copy of the preliminary resolution under clause (a) of sub section (2) of section 15, or as the case may be, from the date of its publication in a newspaper under clause (b) of that sub-section the Registrar shall, from the funds of the society concerned repay subject to provision of section 41, the share capital of all the members, and satisfy the claims of all the creditors who have given notice under clause (i) and clause(ii) respectively of sub section (3) of section 16, and thereafter register the new societies and the bye-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled.(5)The registration of the new societies under sub-section (4) shall be deemed to be registration under section 16 and the provisions of sub-section (7) of that section shall apply to them.

17. Person, who may be members of a co-operative society.

(1)No person shall be a member of a co-operative society except the following namely-(a)an individual, who is competent to contract under the Indian Contract Act, 1872 excepting the provisions contained in section 18 (3) (a) section 80 and sub-section 2 of section 81 & in respect of an individual seeking admission to a society exclusively formed for the benefit of students of a school, college or University;(b)any other co-operative society;(c)the State Government;(d)the Central Government;(e)the state Warehousing corporation established or deemed to be established under the Warehousing Corporation Act, 1962 (Act L VIII of 1962);(f)a firm registered under the Indian partnership Act, 1932;(g)a body corporate not covered by any other clause and approved by the Registrar, for ordinary or nominal membership of co-operative societies in general or any particular co-operative society or class of co-operative societies on the ground of its being useful in the development of such societies, society or class of societies;(h)self help groups which fulfill the parameters approved by NABARD National Bank of Agriculture & rural Development);(i)there shall

be no restriction as to minimum age limit in societies constituted for the benefit of students.(2)Notwithstanding any thing contained in sub-section (1) a joint-stock company or an individual shall not be admitted as an ordinary member in such co-operative society or societies or class of a co-operative societies as may be prescribed.

18. Classes of members.

(1)A co-operative society may, in addition to ordinary members, have the following kinds of members-(a)Nominal members;(b)Associate members;(2)(a)a person with whom the co-operative society has or proposes to have business dealing may be admitted as a nominal member;(b)a nominal member shall have no right to share in the profits of the society nor shall be eligible for the membership of the committee of management.(3)(a)any individual including a minor who is a seasonal or temporary worker or apprentice in the business of the society or who is otherwise interested in such business may be admitted as an Associate member;(b)an Associate member shall not be eligible for the membership of the committee of management nor have a right to share in the profits otherwise than as wages and bonus.(4)Save as provided in this section or elsewhere in this Act, a nominal or Associate member shall have such privileges and rights of a member and be subject of such liabilities of a member, as may be specified in the bye-laws of the society, or the rules.

19. Member not to exercise right till due payment made.

- No member of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society as may be specified in the rules or the bye-laws of the society.

20. Vote of members.

- A member of a co-operative society shall, notwithstanding the quantum of his interest in the capital of the society, have one vote in the affairs of the society :Provided further that-2(a)no nominal or associate member shall have the right of vote;(aa)a member shall have no right of vote if-(i)he is defaulter and has been a defaulter for a period of not less than six months; or(ii)he is a delegate of a society which is such defaulter as is referred to in sub-clause (i)Explanation I. - For the purpose of this clause, the word "defaulter" means-(i)a member (whether individual or body corporate) who has failed to pay any dues of the society concerned on the due date; or(ii)a member co-operative society which has failed to pay not less than 75 percent of the total dues on the due date.Explanation II. - In the case of a transaction between a society and its members where there is no documents evidencing the transaction in which the due date is specified the expression due date, for the purposes of the preceding explanation shall mean the date of expiration of six months from the date of transaction.Explanation III. - A member shall cease to be treated as defaulter if he pays the sum for non-payment of which such member became defaulter-(i)in the case of an election, on or before the date fixed under the rules for deciding objections against the provisional voters, list;(ii)in any other case before the commencement of the meeting;(b)Where a co-operative society, the State Warehousing Corporation or a body corporate is a member of such society, each delegate

of such co-operative societies, State Warehousing corporation or body corporate, (appointed in the prescribed manner) to the general body of such society shall have one vote;(c)Where the State Government or the Central Government is a member of such society, each person nominated according to the laws by the State Government or the Central Government on the committee of management or the general body of the co-operative society shall have one vote;(d)The rules or the bye-laws may provide for a group of members or any class of members partaking in the affairs of the society through a delegate or delegates, each delegate having one vote.

21. Manner of exercising vote.

- Every individual member, every delegate and every nominee shall exercise his vote in the affairs of a co-operative society in person and no member, delegate or nominee shall be permitted to vote by proxy.

22. Restriction on holding of shares.

- A member who is an individual shall-(a)neither hold more than such portion of the total share capital of the society, nor exceeding one-fifth thereof, as may be prescribed;(b)nor have or claim any interest in the shares of the society exceeding (such amount as may be prescribed) in nominal value.

23. Restriction on transfer of shares or interest.

(1)The transfer of a share or interest of a member in the capital of a co-operative society shall be subject to such conditions and restrictions as to the maximum holding as are specified in section 22.(2)No transfer by a member of his share or interest in the capital of a co-operative society shall be valid unless-(a)the member has held such share or interest for not less than one year;(b)the transfer is made to the society or a member of the society; and(c)the transfer is approved by the committee of management of the society.(3)Notwithstanding anything contained in sub-section (2) a co-operative society may, subject to such conditions as may be prescribed, permit the transfer of, acquire or retain the share or interest of any member in the capital of the society.

24. Transfer of interest on death of member.

(1)On the death of a member of a co- operative society, the society shall transfer the share or interest of the deceased member to the person or persons nominated in the manner prescribed, or if no person has been so nominated, to such person as may appear to the Committee of Management to be the heir or legal representative of the deceased member;(2)Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in the manner prescribed and the society shall pay the amount due within three months from the expiry of the period provided in section 25 for the continuance of liability.(3)A co-operative society shall pay all other moneys which may be found due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.(4)All transfers and payments made by a

co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person :Provided that nothing herein shall effect the right of the rightful heir or legal representative to make any claim against the persons to whom any transfer or payment has been made under this section.(5)Nothing contained in sub-section (2) and (3) shall prejudice the right of society under this Act to realize its outstanding claims against the deceased member out of the value of share or interest of, or other moneys due to, the deceased member.

25. Liability of past member and estate of deceased member.

(1)Subject to the provisions of sub-section (2) the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed-(a)in the case of a past member, on the date on which he ceased to be a member; and(b)in the case of a deceased member, on the date, of his death, shall continue for a period of two years from such date.(2)Where a co-operative society is ordered to be wound up under section 72, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire winding up proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

26. Admission to and withdrawal from membership.

(1)A person may be admitted as a member of a co-operative society subject to the provisions of this Act, the rules and the bye-laws.(2)Where a person is refused admission as a member in a co-operative society, the decision refusing admission shall be communicated by the society to that person within seven days of the date of the decision.(3)A member of a cooperative society if he is not in debt to the society or is not a surety for any unpaid debt, may withdraw from the membership of the society after giving at least one month's notice to the society :Provided that he has put in such minimum period of membership, if any, as may be laid down in the bye laws of the society which may also provide for a longer period of notice not exceeding six months. After the expiry of the period of notice of withdrawal he shall be deemed to have withdrawn and after the expiry of the period specified under section 25, he shall be entitled to repayment of his dues outstanding against the society in respect of his shares as ascertained in the manner prescribed.

26A. Universal membership for primary agricultural credit society.

(1)Any individual who is qualified for admission to membership under the provision of this Act, the rules and the bye laws and makes an application in the manner prescribed, for membership of a primary agricultural credit society shall be deemed to have been admitted to the membership of such society from the date of receipt of such application in the office of the society.(2)If at any time after the date of admission of the individual under sub-section (1), it is discovered that the individual concerned is not qualified, under this Act, the rules or the bye laws, to become a member of such society, the Registrar may, notwithstanding anything contained in this Act, either suo moto or on the application of the concerned society within a period of three months from the date of such

discovery give notice to such individual to show cause why he should not be removed from the membership of the society, and upon an order of the Registrar made in this behalf such individual shall, from the date of the order, cease to be the member of such society.

27. Removal or expulsion of a member by a society or the Registrar.

(1)A co-operative society may, by resolution, remove, or expel a person from its membership in accordance with such procedure and for such causes and within such period as may be prescribed.(2)The Registrar may also remove or expel a person from the membership of a co-operative society-(a)if the person has ceased to fulfill the qualifications required for membership, or is disqualified to be a member under this Act, or the rules or the bye-laws of the society, and the co-operative society, even when required by the Registrar by order in writing, fails to remove or expel him, accordance with the provisions of sub section (1) within thirty days from the receipt of the order of the Registrar; or(b)if the person was admitted to the membership of the society in contravention of the provisions of this Act, the rules or the bye-laws of the society.(3)No resolution under sub-section (1) and no order under sub-section (2), shall be passed unless the member concerned has been afforded reasonable opportunity of being heard in respect of the grounds on which his removal or expulsion is proposed to be made.(4)A resolution under sub-section (1), or an order under sub-section (2), shall, subject to the result of appeal, if any against the resolution or the order, as the case may be, with effect from the date of communication of the resolution or the order, have the effect of termination the membership of the member so removed or expelled but without prejudice to his rights and liabilities under this Act, the ruled or the bye-laws of the society, as a past member.(5)No member of a co-operative society, expelled under sub-section (1) or sub-section (2), shall be eligible for re-admission as a member of that society for a period of two years from the date the resolution or order of expulsion takes effect and he shall further be not eligible to hold any office under that society, or to seek election to its committee of management for a period of three years from the date of his re-admission as a member.

Chapter IV Management of Societies

28. Final authority in co-operative society.

- Subject to the provisions of this Act and the rules the final authority of a co-operative society shall vest in the general body of its members in general meeting :Provided that, in such circumstances as may be prescribed (the final authority shall vest in the delegates of such members elected in the manner prescribed) and assembled in general meeting and in such case all references in this Act, the rules or the bye-laws to the general body and general meeting shall be deemed to be references to the body consisting of such delegates of members and to the general meeting of such delegates.

29. Committee of management.

(1) The management of every co-operative society shall vest in Committee of management constituted in accordance with this Act, the rules and the bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed by this Act, the rules and the bye-laws. (2) The term of every Committee of management shall be [three years]³ and the term of the elected members of the committee of management shall be co-terminus with the term of such committee :[Provided that the tenure of the Management Committee and its elected members, having completed the period of two years from the date of its constitution on or prior to the date of the commencement of the Act, shall expire on such commencement.] [Added by section 2 (b) of Uttarakhand Act No. 09 of 2007] (3) [To ensure that the newly elected members of the Board assume office immediately on the expiry of the office of members of the outgoing Board, the election shall be conducted before the expiry of the term of the Board.] [Subs. by section 2 (1) of Uttarakhand Act No. 22 of 2013] [(3-a) To prepare electoral rolls of all elections of every co-operative Society and power of conduct, superintendent, direction and control of all elections shall be vested in the independently constituted Co-operative Election Authority by the State Government. (3-b) [There shall be a Chairman and three members in the Co-operative Election Authority, in which two members shall be from Cooperative Service and one from Apex Cooperative Societies. The terms and service conditions of the Chairman and members and the number of employee and their qualifications shall be such as may prescribed by the State Government.] [Subs. By section 3 of Uttarakhand Act no 10 of 2015]] (4) It shall be the duty of Chief Executive, (Secretary/G.M/managing Director by whatsoever name he is designated) of the co-operative society to send to the Registrar, [two months] [Added by section 2 (d) of Uttarakhand Act No. 09 of 2007] before the expiry of the term of committee of management, a requisition for conduction the election and to furnish all such information as may be required by him within such period as may be fixed by him. (5) (a) Where, for any reason whatsoever, the election of the elected members of the committee of management has not taken place or could not take place before the expiry of the term of elected members, the committee of management shall, notwithstanding anything to the contrary in this Act or the rules, or the bye-laws of the society, cease to exist on the expiry of such term. (b) On or as soon as may be after the expiry of such term, the Registrar shall appoint an Administrator or a committee of Administrators (hereinafter, in this section, referred to as the committee) for the management of the affairs of the society until the reconstitution of the committee of management in accordance with the provisions of the Act, the rules and the bye-laws of the society, and the Registrar shall have the power to change the administrator or, as the case may be, any member of the committee or to appoint a committee in place of an administrator or vice versa from time to time. (c) Where a committee is appointed under clause (b), it shall consist of a Chairman and such other members not exceeding five as may be nominated by the Registrar, out of which at least one shall be Government servant. (d) The procedure for summoning and holding of meetings of the committee, the time and place of holding such meetings, the conduct of business at such meetings and the number of members necessary to form quorum thereof shall be such as may be prescribed. (e) So long as no administrator or, as the case may be, the committee is appointed under clause (b), Chief Executive i.e. the Secretary/G.M. or the Managing Director, as the case may be, of the society shall be in charge only of the current duties of the committee of management. Explanation. - where results of the election of members of the committee of management have not been or could not be declared,

for any reason whatsoever, before the expiry of the term of the elected members of the outgoing committee of management, it shall be deemed that the election of the elected members of the committee of management has not taken place within the meaning of this sub-section.(6)The Administrator or the Committee appointed under sub-section (5) shall, subject to any directions which the Registrar may from time to time give, have the power to perform all or any of the functions of the committee of management or of any officer of the society and shall be deemed for all purposed under this Act, the rules and the bye-laws of the society to be the committee of management and the Chairman of such committee shall exercise the powers and perform the function of the Chairman of the committee of management.(7)The administrator or the committee, as the case may be, appointed under sub-section (5), shall as soon as may be but not later than the expiry of {one year and six months}1 from the date of appointment, arrange for the reconstitution of the committee of management in accordance with the provisions of the Act, the rules and the bye-laws of the society to take over the management of the society from the Administrator or the committee, as the case may be :Provided that where an Administrator is replaced by a committee or a committee by an Administrator as provided in clause (b) of sub-section (5), the period of [one year and six months] [Subs. by section 2 of Uttarakhand Act No. 04 of 2012] shall count from the date the Administrator or the committee, as the case may be was originally appointed.

30. Chairman.

(1)Every co-operative society shall have a Chairman and Vice-chairman elected or nominated in accordance with the provisions of this Act, the rules and the bye-laws;(2)The Chairman shall, when present-(A)preside only the meeting of the general body and the committee of management; and(B)have a second vote in the event of equality of votes on any matter being decided by the Board & General meeting and shall exercise such powers and perform such duties as may be conferred or imposed on him by this Act, the rules, the bye-laws and the resolutions of the committee of management.(3)The Vice-chairman shall preside, in the absence of the Chairman, at the meeting of the general body or the committee of management and shall exercise such powers and perform such duties as may be delegated to him in writing by the Chairman subject to the bye-laws.(4)In the event of occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or removal or otherwise, the Vice-chairman shall perform the duties of the chairman until the date on which a new chairman is duly elected or nominated.

30A. Motion of no-confidence against Chairman or Vice-Chairman.

(1)A motion expressing no-confidence against the Chairman or the Vice-Chairman of a co-operative society shall be made and proceeded with in accordance with the procedure as may be prescribed.(2)When a motion for no-confidence is carried, the Chairman or the Vice-chairman against whom it is carried shall cease to hold that office forth-with and shall be succeeded by his successor, who shall be elected by another resolution in the same meeting in the manner as may be prescribed.

31. Chief Executive and his Emoluments and functions.

(1) There shall be a Chief Executive in every co-operative society who will be designated as Secretary in Primary Agricultural credit societies & Secretary, Manager or General Manager or by any other designation in non-agricultural primary societies and central societies below the district level, General Manager or Chief Executive in the District level central co-operative societies and Managing Director in the case of Apex level co-operative societies. Except the Managing Director of Apex level co-operative societies, all other Chief Executives of societies by whatever name they are designated (secretary, manager, General Manager or Chief Executive officer) shall be appointed & be removable by the society subject to the provision of rules and regulations framed under section 121 & 122. The emoluments & other conditions of service of the Chief Executive shall be such as may be prescribed in rules & regulations made in this behalf : Provided that where a service for the post of Chief Executive common to any class of co-operative societies has been created under section 122-A, the recruitment, appointment, removal and other conditions of service of persons appointed to such posts, including persons appointed to such posts before the creation of such service, shall be governed by the provisions of that section and the rules made there under. (2) Powers and functions of Chief Executive (other than Apex), the Chief executive of societies (other than Apex level societies) shall exercise the powers and discharge the functions, specified below, namely- (a) be responsible for the sound management of the business of the society and its efficient administration; (b) operate the accounts of society singly or jointly in accordance with bye-laws provisions and resolutions of the committee of management & make arrangement for safe custody of cash; (c) sign and authenticate all documents on behalf of the society; (d) making arrangements for the proper maintenance of various books and records of the society and correct preparation timely submission of periodical statements and returns in accordance with the provisions of the Act, the rules & the bye-laws; (e) convening meetings of the general body of society, the Board & the Executive committee & other committees or sub-committees constituted by the Board & maintaining proper records for such meetings; (f) assisting the Board in the formulation of policies & objectives and planning; (g) making appointments to the posts in co-operative society in accordance with rules & regulations; (h) furnishing to the Board periodical information necessary for appraising the operations & function of society; and (i) perform such other duties & exercise such other powers as may be imposed or conferred on him under the rules, bye-laws & Board resolutions of the society. (3) A co-operative society may, subject to the provisions of the rules and the bye laws and the regulations made under (section 121, 122 or section 122-A) appoint, if necessary, one or more persons to assist the Chief Executive and to entrust him or them with such powers and duties of the Chief Executive as the society may deem fit. (4) After a co-operative society has been registered and till such time as its Chief Executive is appointed under sub section (1) or for six months, whichever is earlier, the functions and duties of the Chief Executive shall be performed by such member of the society as may be provided in the rules and the bye-laws of the society.

31A. Appointment of Managing Director instead of Secretary for Apex societies.

(1) For every apex society there shall be, a Managing Director who shall be Government servant of co-operative service not below the rank of a class I officer or a Government servant not below the

rank of class I officer of the concerned department, and his services shall be deemed to be on deputation with the society, in apex co-operative bank an experienced bank officer may also be appointed Managing Director.(2)The Managing Director shall be ex-officio member of the committee of management.(3)The Managing Director shall exercise the powers & discharge the function, specified below, namely-(a)be responsible for the sound management of the business of the society and its efficient administration, Chief Executive officer will be work according to co-operative Act, Rules, bye-laws and decisions of Management Committee;(b)operate the accounts of society singly or jointly in accordance with bye-laws provisions & resolutions of the committee of management & make arrangement for safe custody of cash;(c)sign & authenticate all documents on behalf of the society;(d)making arrangements for the proper maintenance of various books and records of the society & correct preparation, timely submission of periodical statements & returns in accordance with the provisions of the Act, the rules & the bye-laws;(e)convening meetings of the general body of society, the Board & the Executive committee & other committees or sub-committees constituted by the Board & maintaining proper records for such meetings;(f)assisting the Board in the formulation of policies & objectives and planning;(g)making appointments to the posts in co-operative society in accordance with rules & regulations;(h)furnishing to the Board periodical information necessary for appraising the operations & functions of society;(i)to receive all moneys and securities on behalf of the society and to make arrangements for the proper maintenance and custody of properties of the society;(j)to endorse and transfer promissory notes, Government and other securities and to endorse, sign and negotiate cheques and other negotiable instruments on behalf of the society;(k)to sign all bonds and agreements in favour of the society;(l)to create subject to provisions contained in the budget of the society, class III and class IV posts for a period of three months and to make, as appointing authority, recruitment thereto through the Board as provided in the regulations framed by the State Government in exercise of the powers under sub-section (2) of section 122;(m)to determine the powers, duties and responsibilities of the employees of the society;(n)to institute, conduct, defend, compound or abandon any suit or other legal proceeding by or against the society or otherwise concerning the affairs of the society and also to compound and allow time for payment or satisfaction of any claims or demand by or against the society;(o)to enter into negotiations and sanction contracts up to the value of Rs. 10lakhs each during the construction phase and up to Rs.5 lakhs each thereafter and to incur contingent expenditure up to Rs. One lac subject to Budget provisions and to do all such acts, deeds and things in the name of and on behalf of the society in relation to any of the matters aforesaid for the purposes of the society;(p)to delegate all or any of the powers, authorities and discretion's vested in him to an employee or employees of any society, subject to the ultimate control and authority being retained by him; and(q)perform such other duties & exercise such other powers as may be imposed or conferred on him under the Rules, bye-laws & Board resolutions of the society.

32. Annual general meeting.

(1)A meeting of the general body of a co-operative society (hereinafter referred to as the annual general meeting) shall be held, once in a co-operative year within such period as may be prescribed, for the purposes of-(a)approval of the programme of the activities of the society prepared by the committee of management for the ensuing co-operative year;(b)election of members of committee

of management under the provisions of rules and by-laws of the society, if due;(c)consideration of the balance sheet and the annual report for previous co-operative year unless the audit has not been completed within the period specified in the rules;(d)consideration in the prescribed manner of the audit certificate and the audit report for previous co-operative year unless the audit has not been completed within the prescribed period;(e)fixation to the maximum liability of the society for the ensuing co-operative year;(f)disposal of the net profits;(g)consideration of the budget for the ensuing co-operative year;(h)consideration of any other matter as may be brought before it in accordance with the bye-laws.(2)Notwithstanding anything contained in section 31, it shall be the duty of the Chief executive to call the annual general meeting in accordance with the provisions of sub-section (1), failing which the Registrar, or any person duly authorized by him in this behalf, may call the annual general meeting.

33. Other general meetings.

(1)The committee of management may as often as may be necessary for the transaction of business of the cooperative society call a general meeting of the general body of the society (to be called ordinary general meeting).(2)The committee of management shall call a general meeting of the general body of the society (to be called extra ordinary general meeting) within one month after the receipt of the requisition in writing from the Registrar or from at least one-fifth of the members of the general body of the society. In default of the committee of management to call a meeting, the Registrar or any person duly authorized by him in this behalf shall have the power to call the extra ordinary general meeting at such place and time as he may direct.

34. Nominees of the Government on the committee of management.

(1)Where the State Government has-(a)subscribed directly to the share capital of a co-operative society under chapter VI,(b)assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in chapter VI, or(c)given loans or made advances to a co-operative society or guaranteed the repayment of principal and payment of the interest on debentures issued by a co-operative society or guaranteed the repayment of principal and payment of interest on loans or advances to a co-operative society.The State Government shall have the right to nominate on the committee of management of such society not more than two persons one of whom shall be a government servant, (which will include a professional also if nominated by the Government) so, however, that the Government servant shall not vote at an election of an office-bearer of the society :Provided that where the society is engaged in production of sugar --(i)the share capital subscribed to by the State Government is not less than one crore rupees; or(ii)the share of the State Government in the share capital of the society exceeds fifty percent of the total share capital of the society;(iii)the State Government has given loans or made advances to the society or guaranteed the repayment of principal or payment of interest on debentures issued by the society or guaranteed the repayment of principal and interest on loans and advances to the society and the amount exceeds fifty percent in the aggregate of the total amount so borrowed by the society.The State Government shall also have the right to nominate the Chairman of the committee of management, who shall be a Government servant.(2)A person nominated under sub-section (1) shall hold office during the pleasure of the State Government.(3)The right of nomination vested in

the State Government under this section may be delegated by it to any authority specified by it in that behalf. Explanation. - For the purpose of this section any guarantee given by the central Government on the recommendation of the State Government shall be deemed to be a guarantee given by the State Government.

35. Supersession or suspension of the committee of management.

(1) Where, in the opinion of the Registrar, the committee of management of any co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws of the society or commits any act which is prejudicial to the interest of the society or its members, or is otherwise not functioning properly, the Registrar after affording the committee of management a reasonable opportunity of being heard and obtaining the opinion of the general body of the society in a general meeting called for the purpose in the manner prescribed may, by order in writing, supersede the committee of management; (2) Where the Registrar, while proceeding to take action under sub-section (1) is of opinion that suspension of the committee of management during the period of proceeding is necessary in the interest of the society, he may suspend the committee of management which shall thereupon cease to function, and make such arrangement as he thinks proper for the management of the affairs of the society till the proceedings are completed : Provided that if the committee of management so suspended is not superseded it shall be reinstated and the period during which it has remained suspended shall not count towards its term. (3) Where the Registrar has superseded the committee of management under sub-section (1), he may appoint in its place, (for a period not exceeding six months) to be specified in the order of supersession; (a) a new committee consisting of one or more members of the society, (b) an administrator or administrators who need not necessarily be members of the society : Provided that the Registrar may, with the previous approval of the State Government extend the period of supersession, so however, that any single extension does not exceed six months and the total extension does not exceed one year : Provided further that the committee or an administrator or administrators appointed (before the commencement of Uttarakhand co-operative societies Act 2003) shall be deemed to have been duly appointed and no action taken or power exercised or functions performed by it or him, as the case may be, shall be deemed to be invalid or shall be called in question in any court on the ground of any defect in its or his appointment as such or on the ground that the committee of management was not reconstituted within time or the period of supersession or the term of its or his office was not duly extended. (4) The Registrar shall have the power to change the committee or any members thereof or the administrator or administrators appointed under clause (a) or (b) of sub-section (3) at his discretion during the period specified under that sub section. (5) The committee, administrator or administrators appointed under sub section (3) and (4) shall, subject to any directions which the Registrar may from time to time give, have the power to exercise all or any of the functions of the committee of management or of any officer of the society and shall be deemed for all purposes under this Act, the rules and the bye-laws of the society to be the committee of management. (6) Before the expiry of the period specified under sub section (3) the committee, administrator or administrators, appointed under sub sections (3) and (4) shall arrange for the reconstitution of the committee of management in accordance with this Act, the rules and the bye-laws of the society to takeover the management of the co-operative society on the expiry of the said period. (7) The provisions of section 29 shall apply in respect of

reconstitution of the committee of management under this section.

35A.

(1) Without prejudice to other provisions of this chapter, where for two successive co-operative years (including any period before the commencement of this section)-(a) more than sixty per cent of the total dues of any primary society, which is a credit society against its members during any co-operative year, remain unpaid at the end of such year; or (b) the number of defaulting members exceeds sixty percent of the total number of indebted members of such society, at the end of any such year, then, the Chairman and all members of the committee of management of any such society shall, upon an order coming into effect under sub-section (3) vacate their respective offices as such. (2) The provisions of sub-section (10), as they apply to a primary credit society, shall mutatis mutandis apply to a financing bank. (3) In relation to any society or banks as referred to in sub-section (1) or sub-section 20, the Registrar may make such arrangements as he thinks proper for the management of the affairs of such society or bank, as he thinks fit and the provisions of sub-section (3), (4), (5) and (6) of section 35 shall mutatis mutandis apply.

36. Securing possession of records etc.

(1) When the committee of management of a co-operative society is suspended or superseded under section 35 or if the society is ordered to be wound up under section 72 and outgoing members of the committee of management fail to hand over charge of the records and property of the society to a nominee of the Registrar or the committee, the administrator or administrators appointed under sub-section (2), (3) and (4) of section 35, or the Liquidator, as the case may be, such nominee of the Registrar, or the committee, the administrator or administrators or the Liquidator may apply to any magistrate within whose jurisdiction the society function for securing the records and property of the society. (2) On receipt of an application under sub-section (1) the magistrate shall take such action as may be necessary to take possession of the record and property of the society and may authorize any police officer by warrant to take possession of such records and property and the records and property seized shall be handed over to the applicant.

37. Registrar's emergency powers to seize records, etc.

(1) When the Registrar is satisfied that the books and records of a co-operative society are likely to be tampered with or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar may issue an order directing a person duly authorized by him in writing, to seize and take possession of such books, records funds and property of the society and the officer or officers of the society responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorizes. (2) A person authorized by the Registrar under sub-section (1) may, for the purpose of execution of the said order, request the officer in charge of the nearest police station to give him necessary police help and such police officer shall thereupon give him such help.

38. Removal of an officer of a co-operative society.

(1) If in the opinion of the Registrar, any officer of a co-operative society has contravened or omitted to comply with, any provisions of this Act, the rules or the bye-laws of the society, or has forfeited his right to hold office, the Registrar may, without prejudice to any other action that may or can be taken against him, call upon the society to remove, within a specified period, such officer from the office held by him and where necessary also to disqualify him from holding any office under that society for a period not exceeding three years, where upon the society shall, after affording opportunity of being heard to the officer concerned, pass such orders as it may deem fit. (2) On the failure of the society to take action under sub-section (1), the Registrar may, after affording opportunity of being heard to the officer and for reasons to be recorded and communicated to the person and the society concerned, remove, or remove and disqualify for a period not exceeding three years, the officer from holding any office under that society. (3) An officer removed under sub-section (1) or sub-sections (2), shall, with effect from the date of communication of the order, cease to hold that office and, if disqualified, shall not be eligible to hold any office under that society for the period specified in the order.

Chapter V

Privileges of Co-Operative Societies

39. First charge of co-operative society on certain assets.

- Notwithstanding anything contained in the provincial Insolvency Act, 1920 (Act 5 of 1920) or in the code of Civil Procedure, 1908 (Act 5 of 1908) or in any other enactment relating to land tenure for the time being in force, any debt or outstanding demand due to a co-operative society by any member, past or present, or standing against the estate of any deceased member, shall subject to any claim of the Central Government or the State Government arising from a loan granted by it before, but not after, the grant of the loan by the society, or in respect of land revenue or any sum recoverable as arrears of land revenue, be a first charge- (a) if such debt or demand is due in respect of the supply of, or any loan to provide the means for, seed, manure, labour, subsistence, fodder for cattle or any other thing incidental to the conduct of agricultural operations, upon the crops and agricultural produce of such members; (b) if such debt or demand is due in respect of any loans to provide the means for paying the rent or revenue of the land or for irrigation facilities, upon the land whose rent or revenue has been so paid or, as the case may be, on which the irrigation facilities have been provided; (c) if such debt or demand is due in respect of supply of, or any loans to provide the means for the purchase of cattle, or other livestock, or for the purchase, repair or maintenance of agricultural implements, transport equipments or equipment for dairy or for other activities relating to animal husbandry, or for making, repairing or purchasing of farm-house or shed for cattle or for other livestock or for making, repairing or purchasing of warehouse for storage of agricultural produce, then upon the farm-produce of such members and also upon the cattle, livestock so purchased, or upon the equipments, warehouse, farm-house or shed so purchased, repaired, maintained or made wholly or partially out of any such loan, and if the borrower is a landholder, then upon his land also, at any time within three years from the date on which the last installment of

such loan becomes repayable;(d)if such debt or demand is due in respect of the supply of , or any loan for the purchase of raw material, industrial implements, plant and machinery, workshop, warehouse or business premises, upon the raw material or other things so supplied or purchased by such member and in the case of a debt or demand in respect of the supply, or for the purchase of raw materials also upon the articles manufactured from such raw material;(e)if such debt or demand is due in respect of any loan for the purchase or redemption of land, upon the land so purchased or redeemed;(f)if such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof, or in respect of the supply of materials for such constructions upon the house or building or materials so purchased or constructed or supplied; and(g)if such debt or demand is due in respect of any loan of Rs. 500/- or more for reclaiming or protecting land or for effecting improvement on land or for preparation of land for orchard or plantation or for purchase of cattle, agricultural implements, machinery, upon the land so sought to be reclaimed, protected improved or prepared, or upon the land for the use of which the implements or machinery are sought to be purchased and in case of purchase of cattle, upon any land of the borrower :Provided that along with the charge created under this section all other property of the indebted member including any amount payable to him by a society shall be liable to attachment and sale in execution of a decree in favour of the society irrespective of the object of the loan.

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

(1)Notwithstanding anything contained in any law for the time being in force, but subject to such conditions, if any, as may from time to time be laid down by the State Government, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member of the society.(2)Notwithstanding anything in any law for the time being in force, the employer shall, if so required by the co-operative society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement executed under sub-section (1) and pay the amounts so deducted to the society within fourteen days from the date of the deduction.(3)An employer who without sufficient cause fails to make the deduction in terms of sub-section (2), or having made, any such deduction fails to pay the amount so deducted to the society within fourteen days from the date of deduction, shall be liable to the society to the extent of the amount which the employer has failed to deduct or to pay, as he case may be.

41. Charge and set off in respect of shares or interest of members in the capital of a co-operative society.

- A co-operative society shall have a charge on the share or interest in the capital and on the deposits of a member, a past member or a deceased member and on any dividend, bonus or profits, payable to a member or a past member, or the heirs or legal representatives of a deceased member in respect of any debt or outstanding demand owing to the co-operative society and may notwithstanding anything to the contrary contained in any other law for the time being in force, set off any sums so credited or payable to such member or his heirs or legal representatives towards payment of any

such debt or outstanding demand :Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in financing bank as reserve fund by the society if the bank's share in the total amount of loans taken by the society is less than 75 percent, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society. Attachment shares- under this section, the share of a member is not liable to sale and attachment.

42. Share or interest not liable to attachment.

- Subject to the provisions of section 31, the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member or past member and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claims on, such share or interest. Insolvency effect - A person does not cease to be a member of the society by his adjudication as an insolvent.

43. Exemption from compulsory registration of Instruments.

- Nothing in clause (b) and (c) of sub section (1) of section 17 of the Indian Registration Act, 1908 (Act XVI of 1908), shall apply to-(a)any instrument relating to shares in a co-operative society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or(b)any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title, title or interest to or in immovable property, except insofar 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; or(c)any endorsement upon or transfer of any debenture issued by any such society.

43A. Register of Members.

- Any register or list of members kept by any co-operative society shall be prima facie evidence of any of the following particulars entered there in, namely-(a)the date on which a person became a member;(b)the date on which any such member ceased to be a member,(c)the no. of shares held by such member and the date from which so held.

43B. Registers of mortgages and charges.

- Any register or list of Mortgages & charges kept by any co-operative society shall be prima facie evidence of any of the following particulars entered therein, namely -(a)the date on which the mortgage or charge was created by a member in favour of the society;(b)particulars of the land or other immovable property mortgaged or charged;(c)the date on which declaration of the mortgage or charge was sent to the sub-registrar or Revenue Authority, as the case may be.

43C. Proof of the entries in books of co-operative societies.

(1)A copy of any entry in a book of a co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.(2)A co-operative society may grant copies of any document obtained and kept by it in the course of its business or of any entries in such document; and any copy granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original documents, or the entries therein, as the case may be, are admissible.(3)No officer of a co-operative society and no officer, in whose office the books of a co-operative society are deposited after its winding up 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 or documents, the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court, Tribunal, the Registrar of the arbitrator made for special cause.

43D. Pass book to members.

(1)A Co-operative society which gives loans to its members or a co-operative society or a class of co-operative societies, as may be notified by the State Government, shall provide to each member a pass book which shall contain the details of transaction with the member, such as, the date of the transaction the amount of loan advanced the rate of interest, the repayments made by the member, the amount of the principal and interest due and such other particulars as may be prescribed. The entries of the pass book shall be made up to date from time to time and shall be countersigned by such officer of the co-operative society as may be authorized by it in this behalf and for this purposes such member shall present the pass book to such officer who shall issue a receipt thereof, if the pass book is required to be detained for making entries therein.(2)The entries in the pass book duly made shall until the contrary is proved, be prima facie evidence of the transaction of the co-operative society with the member.

43E. Exemption from certain Taxes, fees and duties.

(1)The Government may, by notification, remit in respect of any class of co-operative societies-(a)The stamp duty chargeable under any law for the time being in force, in respect of any instrument executed by or on behalf of a cooperative society or by an officer or member thereof and relating to the business of such society; or(b)Any fee payable under any law for the time being in force relating to the registration of documents or court fees.(2)The Government may by notification, exempt any class of co-operative societies from-(a)Land Revenue; and(b)Taxes on sale and purchase of goods.

Chapter VI

State Aid To Co-Operative Societies

44. Direct partnership of State Govt. in societies.

(1)The State Govt. may subscribe directly to the share capital of a society with limited liability, upon such terms & conditions as may be agreed upon;(2)Indirect partnership of State Govt. in societies-(a)the State Govt. may provide money to an Apex Society for the purchase directly or indirectly, or shares in other societies with limited liability;(b)the State Government shall be entitled to dividend on its shares in any such co-operative society at the same rate as paid to other shareholders of the society.

45. Principal State partnership Fund.

(1)An apex society which is provided with moneys by the State Government under section 44 shall with such money establish a Fund to be called the principal State partnership fund.(2)An apex society shall utilize the principal State partnership fund for the purpose of-(a)directly purchasing shares in other co-operative societies with limited liability;(b)providing moneys to a co-operative society which includes in its membership other co-operative societies, to enable that society to purchase shares in other affiliated co-operative societies with limited liability (hereinafter in this chapter referred to as primary societies);(c)making payments to the State Government in accordance with the provisions of this chapter;(d)making such other payments as may be permitted by the State Government after the requirements in sub-clause (a),(b) and (c) have been met in full, and for no other purpose.

46. Subsidiary State partnership Fund.

(1)A central society which is provided with moneys by an apex society from the principal State partnership fund shall, with such moneys, establish a fund to be called the Subsidiary State partnership Fund.(2)A central society shall utilize the subsidiary State partnership fund for the purpose of-(a)purchasing shares in primary societies;(b)making payments to the apex society in accordance with the provisions of this chapter, and for no other purpose.

47. Approval of State Government for purchase of shares.

- No shares shall be purchased in a co-operative society from the moneys in the principal State partnership fund or the subsidiary State partnership fund, except with the previous approval in writing of the State Government.

48. Liability to be limited in respect of certain shares.

- Where any shares are purchased in a co-operative society by-(a)the State Government; or(b)an apex society from the principal State partnership fund;(c)a central society from the Subsidiary State Partnership Fund, the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the nominal value of the shares.

49. Restrictions on amount of dividend.

- An apex society which has purchased shares in other co-operative societies from the moneys in the principal State partnership fund and a central society which has purchased shares in primary societies from the moneys in the subsidiary State partnership fund shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.

50. Indemnity of apex and central societies.

(1)if a co-operative society in which shares are purchased from the principal State partnership fund is wound up or is dissolved, the State Government shall not have any claim against an apex society which purchased the shares in respect of any loss arising from such purchase, but the State Government shall be entitled to any moneys received in connection with such shares by the apex society in winding up proceedings or on dissolution, as the case may be.(2)If a co-operative society in which shares are purchased from the subsidiary State partnership fund is wound up or is dissolved, neither the State Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received in connection with such shares by the central society in winding up proceedings or on dissolution, as the case may be, and such moneys shall be credited to the principal State partnership fund.

51. Disposal of share capital and dividends, etc.

(1)All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the principal State partnership fund on redemption of such shares, or by way of dividend or otherwise shall be credited to that fund.(2)All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the subsidiary State partnership fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that fund and then transferred to the apex society which shall credit them to principal State partnership fund.(3)All moneys and dividends referred to in sub-section (1) and (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the State Government.(4)Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 44.

52. Disposal of principal State partnership fund and subsidiary State partnership fund on winding up of an apex or a central society.

(1) If an apex society which has established a principal partnership fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the State Government. (2) If a central society which has established a subsidiary State partnership fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid and credited to the principal State partnership fund from which it received moneys under clause (d) of sub-section (2) of section 45.

53. Principal State partnership fund and subsidiary State partnership fund not to form part of the assets.

- Any amount to the credit of a principal State partnership fund or a subsidiary State partnership fund shall not form part of the assets of the apex society or the central society as the case may be.

54. Terms and conditions for providing moneys.

- Subject to the foregoing provisions of this Chapter-(a) The State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 45; (b) An apex society may, with the previous approval of the State Government, enter into an agreement with a central society, setting out the terms and conditions on which it, shall provide moneys to that society from the principal State partnership fund for the purpose specified in clause (a) of sub-section (2) of section 46.

55. Other forms of State aid to co-operative societies.

- Subject to the rules made in this behalf, the State Government may-(a) give loans or make advances to co-operative societies; (b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society; (c) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and (d) give financial assistance in any other form including revolving fund (interest free Loan) and subsidies, to a co-operative society.

56. Provision of this Chapter to override other laws.

- The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Chapter VII

Properties and Funds of Co-Operative Societies

57. Fund not to be divided.

- Except as otherwise specifically provided in this Act, no part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members :Provided that a member may be paid remuneration on such scale as may be laid down in the bye-laws for any services rendered by him to the co-operative society.

58. Disposal of net profits.

(1)the net profit of the co-operative society in a co-operative year shall be computed after deduction the following from its gross profit in that year-(a)interest that is overdue;(b)managerial expenses;(c)contributions to the provident fund or the gratuity fund of the employees;(d)interest on loans and deposits;(e)audit fee;(f)working expenses which include repairs, rents, taxes and depreciation of property;(g)contribution to the fund created for writing off unadjusted bad debts and losses :Provided that a co-operative society may add to the net profit of a year, the interest which accrued in the previous year but which was recovered in the year.(1-A) A co-operative society shall distribute the net profit of a year as computed under sub-section (1), including the net profits brought forward from the previous years, in the following manner-(a)an amount not less than twenty-five per cent shall be transferred to a fund called the reserved fund;(b)not less than such amount as may be prescribed, shall be credited to a co-operative education fund to be established in the manner prescribed, and this shall be applicable to such co-operative societies also which incur loss in the year;(c)an amount not exceeding twenty percent as may be prescribed shall be transferred to a fund called the Equity Redemption Fund to be established and utilized in the manner prescribed by such co-operative society which has the subscription of the State Government in its share capital :Provided that the aggregate amount transferred by a co-operative society to such fund shall not exceed the amount subscribed by the State Government in the share capital of that co-operative society.(2)Subject to such conditions as may be prescribed, the balance of the net profits may be utilized for all or any of the following purposes, namely-(a)Payment of dividend to members on their paid-up share capital at a rate not exceeding twenty percent;(b)Payment of bonus to members on the amount or volume of business done by them with the society, to the extent and in the manner specified in the rules or the bye-laws;(c)Constitution of, or contribution to, building fund, rural improvement fund or any other fund as may be specified in the rules or the bye-laws;(d)Donation of amounts not exceeding 5 percent for any charitable purpose as defined in section 2 of Charitable Endowments Act,1980 (Act VI of 1980) :Provided that no amount shall be donated to any organization established for any charitable purpose, which has an object, whether directly or indirectly, to further the interest of any political party or a religious faith.(3)Subject to the provisions of any rules made in this behalf, the Registrar may, on the request of a co-operative society, exempt the society from contributing towards any of the funds, or lower the percentage of contribution to such funds, as mentioned in sub-section (1) and (2) or enhance the percentage of dividend mentioned in clause (a) of sub-section (2).

59. Investment of funds.

- Subject to the provisions of the rules, a co-operative society may invest or deposit its funds-(a)in any of the securities specified in section 20 of the Indian Trust Act, 1882 (Act II of 1882);(b)in the shares or debentures of any other co-operative society;(c)with any bank approved for this purpose by the Registrar; or(d)in any other mode permitted by the rules, or by general or special order of the State Government which will have the effect of Rules.

60. Restrictions on borrowings.

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

61. Restrictions on loans.

(1)A co-operative society shall advance loans to its members, it will also advance loans to its employees under a scheme approved by the Registrar:Provided that with the general or special sanction of the Registrar a co-operative society may make loans to another co-operative society.(2)Notwithstanding anything contained in sub-section (1) a co-operative society may make a loan to a depositor on the security of this deposit N.S.C.K.V.P. Gold & Silver ornaments & other immovable property on mortgage and on other modes of security as permitted by Nabard/ RBI.

62. Restrictions on other transactions with non members.

- Save as provided in sections 60 and 61 the transactions of a co-operative society, including making of deposits of its funds, with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

63. Provident fund & pension.

(1)A co-operative society having such number is class of employee as may be prescribed shall establish a P.F. which may be G.P.F. with pension or C.P.F. for the benefit of employees. In case of C.P.F. all contributions made by the employees and the equal amount by the society will be credited in accordance with the provident fund act while in case of G.P.F. only employees contribution will be credited.(2)Provident fund established by a co-operative society under sub-section (1) shall not-(a)be used in the business of the society;(b)form part of the assets of the society;(c)be liable to attachment or be subject to any other process of any court or other authority ; and(d)be subject to a charge or liable to be set off towards payment of any debt or outstanding demand owing to a co-operative society under section 41.However if a co-operative society introduces a pension scheme with the approval of Govt. for its employees, societies contribution to P.F. will not be required.(3)Where however a contributory provident fund scheme was in operation before the commencement of this Act the same will not be altered without the consent of concerned employees of the scheme if a pension scheme is introduced with the stipulation that C.P.F. beneficiary

employees will have to forego/refund the society contribution if they want to avail of pension scheme.

Chapter VIII

Audit, Inquiry, Inspection And Surcharge

64. Audit.

(1)The Registrar, or any other person appointed by the State Government, shall audit or cause to be audited by a person authorized by him by general or special order in writing and possessing such qualifications including that of chartered accountant as may be specified by the State Government in this behalf, accounts of every co-operative society, at least once in each co-operative year. Central and apex societies will be audited by a C.A. other co-operative societies which are viable and can afford the cost of C.A. can also be audited by C.A.(2)The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.(3)The registrar, or any other person appointed by the State Government under sub-section (1) or any other person authorized by him or the Registrar, as the case may be, shall, at all times, have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for the custody of, any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at the headquarters of the society or branch thereof.(4)Every person who is or has at any time been an officer or employee of a society and every member and past member of the society, shall furnish such information in regard to the transactions and working of the society as the Registrar or any other person appointed by the State Government under sub-section (1) or any person authorized by him or the Registrar, as the case may be, may require.(5)For auditing the accounts of a society under this section, every society shall be liable to pay to the Registrar or as the case may be to the auditor, audit fee-(a)In relation to any period beginning from the date of the commencement of this act and ending on the day immediately before the date of general or as the case may be special order made under clause (2) at the existing rates.(b)In relation to any other period at such rates or scale as the State Government may from time to time by general or special order determine.(6)The State Government may if it considers necessary to do so in public interest exempt by notification in official Gazette and for reasons to be specified therein any society or class of societies wholly or partially from payment of audit fees.(7)The amount of audit fees payable by any society for any period, whether before or after the commencement of this act shall be deemed to be a sum due to the Government.(8)If the result of the audit held under section 64 discloses any defects in the working of the society, the society shall within three months from the date of the audit report explain to the Registrar that defect or the irregularities pointed out by the auditor and take steps to rectify the defects and remedy irregularities and report to the Registrar the action taken by it thereon.

65. Inquiry by Registrar.

(1)The Registrar may, of his own accord, himself, or by a person authorized by him by order in writing, hold an inquiry into the constitution, working and financial condition of a co-operative society.(2)An inquiry of the nature referred to in sub-section (1) shall be held by the Registrar or by a person authorized by him in writing in this behalf on the application of -(a)a co-operative society to which the society concerned is affiliated;(b)not less then one-third of the total members of the society;(c)a majority of the members of the committee of management of the society.(3)The Registrar, or the person authorized by him under sub-section(1) shall, for the purposes of any inquiry under this section, have the following powers, namely-(a)he shall, at all times, have access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession of, or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;(b)he may summon any person who, he has reason to believe, has knowledge of any affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath;(c)he may notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society require the offices of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself; and(d)he may in the manner and for the purpose mentioned in clause (c) require to be called or himself call, a meeting of the committee of management.(4)Any meeting called under clause (c) of sub-section (3) shall have the powers of the general meeting or meeting of the committee of management, as the case may be, under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.(5)When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and, in the case of inquiry on an application under clause (a) of sub-section (2), also to the applicant co-operative society.

66. Inspection of books and property of a co-operative society.

(1)The Registrar may of his own motion, or on the application of a credit of a co-operative society, inspect or direct any person authorized by him by order in writing in this behalf, to inspect books, cash and other property of the society :Provided that no such inspection shall be made on the application of a creditor unless the applicant satisfied the Registrar that a debt is still due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time.(2)The Registrar shall communicate the results of any such inspection-(a)Where the inspection is made of his own motion, to the society; and(b)Where the inspection is made on the application of a creditor, to the creditor and the society.

67. costs of inquiry.

- Where an inquiry is held under section 65, or an inspection is made under section 66 on the application of a creditor, the Registrar may apportion the cost, or such part of the costs as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society,

the members or creditor demanding an inquiry or inspection and the officer or former officer of the society :Provided that-(a)no order for such apportionment shall be made unless the society or person sought to be made liable to pay the costs there under has been afforded a reasonable opportunity or being heard;(b)the Registrar shall state in writing the grounds on which the costs are apportioned.

68. Surcharge.

(1)If in the course of an audit, inquiry, inspection or the winding up of a co-operative society it is found that any person, who is or was entrusted with the organization or management of such society or who is or has at any time been an officer or an employee of the society, has made or caused to be made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or willful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorized by him by an order in writing in this behalf to inquire into the conduct of such person :Provided that no such inquiry shall be commenced after the expiry of twelve years from the date of any act or omission referred to in this sub-section.(2)Where an inquiry is made under sub-section (1) the Registrar may, after affording the person concerned a reasonable opportunity of being heard, make an order of surcharge requiring him to restore the property or repay the money or any part thereof with interest at such rate, or to pay contribution and costs or compensation to such an extent as the Registrar may consider just and equitable.(3)Where an order of surcharge has been passed against a person under sub-section (2) for having caused any deficiency in the assets of the society by breach of trust or willful negligence, or for having misappropriated or fraudulently retained any money or other property belonging to such society, such person shall, subject of the result of appeal, if any, failed against such order, be disqualified from continuing in or being elected or appointed to an office in any co-operative society for a period of five years from the date of the order of surcharge.

69. Registrar's power to order remedying of defects.

- If as a result of audit held under section 64 an inquiry under section 65 or an inspection under section 66 the Registrar is of opinion that the society is not working on sound lines, or its management is defective & defects pointed out by Audit have not been remedied within the stipulated period as laid down in section 64 (8) he may, without prejudice to any other action under this Act, make an order directing the society or its officers to take such action not inconsistent with this Act, the rules and the bye-laws as may be specified in the order to remedy the defects within the time specified therein.

Chapter IX

Settlement of Disputes

70. Disputes which may be referred to arbitration.

(1) Notwithstanding anything contained in any law for the time being in force, if any dispute relating to the constitution, management or the business of a co-operative society other than a dispute regarding disciplinary action taken against a paid servant of a society arises---(a) among members, past members and person claiming through members, past members and deceased members; or (b) between a member, past member or any person claiming through a member, past member or deceased member, and the society, its committee of management or any officer, agent or employee of the society, including any past officer, agent or employee; or (c) between the society or its committee and any past committee, any officer, agent or employee or any past officer, past agent or past employee or the nominee, heir or legal representative of any deceased office, deceased agent or deceased employee of the society; or (d) between a co-operative society and any other co-operative society or societies; such dispute shall be referred to the Registrar for action in accordance with the provisions of this Act and the rules and no court shall have jurisdiction to entertain any suit or other proceeding in respect of any such dispute : Provided that a dispute relating to an election under the provisions of this Act or rules made there under shall not be referred to the Registrar until after the declaration of the result of such election. (2) For the purpose of sub-section (1), the following shall be deemed to be included in dispute relating to the constitution, management or the business of a co-operative society, namely-(a) Claims for amounts due when a demand for payment is made and is either refused or not complied with whether such claims are admitted or not by the opposite party; (b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor or whether such debt or demand is admitted or not; (c) a claim by a society for any loss caused to it by a member, officer, agent, or employee including past or deceased member, officer, agent, or employee, whether individually or collectively and whether such loss be admitted or not ; and (d) all matters relating to the objects of the society mentioned in the bye-laws as also those relating to the election of office-bearers. (3) If any question arises whether a dispute referred to the Registrar under this section is a dispute relating to the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

71. Reference of dispute to arbitration.

(1) On receipt of a reference under sub-section (1) of section 70, the Registrar may, subject to the provisions of the rules, if any-(a) decide the dispute himself; or (b) refer it for decision to an arbitrator appointed by him; or (c) refer it, if the parties so request in writing, for decision to a board of arbitrators consisting of the persons to be appointed in the prescribed manner. (2) The Registrar may, for reasons to be recorded, withdraw any reference made under clause (b) or (c) of sub-section (1) and refer it to another arbitrator or board of arbitrators or decide it himself. (3) The Registrar, the arbitrator or the board of arbitrators, to whom a dispute is referred for decision under this section may, pending the decision of the dispute make such interlocutory order including attachment of property as he or they may deem necessary in the interest of justice. (4) The decision given by the Registrar, the arbitrator or the board of arbitrators under this section shall hereinafter be termed as award. (5) The procedure to be followed by the Registrar, the arbitrator or the board of arbitrators in

deciding a dispute and making an award under this section shall be as may be prescribed.(6)The Registrar, arbitrator, or the board of arbitrators shall have power to summon & enforce attendance of witnesses including the parties interested or any of them & to compel them to give evidence on oath, affirmation or affidavit and to compel the production of documents by the same means & as far as possible in the same manner as is provided in the case of a civil court by the code of civil procedure 1908 :Provided that the officer who has been directly involved in the matter shall not be appointed as arbitrator or a member of the board of arbitrators.

71A. Powers of creditor society against debtor society and its members.

(1)If a co-operative society is unable to pay its debts (hereinafter in this section referred to as the debtor-society) by reason of its members defaulting in the payment of the moneys due to another co-operative society (hereinafter in this section referred to as the creditor society) and the committee of management of the debtor society omits or neglects to take necessary steps for recovery of money due from its members, the creditor-society may, notwithstanding anything in this Act, direct the said committee by a notice in writing to proceed against the defaulting members in accordance with the provisions of section 70, section 91, section 92 or section 95-A, as the case may be.(2)If the committee of management of the debtor-society fails to comply with the notice referred to in sub- section (1) within a period of thirty days from the date of service of such notice, the creditor-society may itself proceed against such defaulting members in accordance with the provisions of section 70, section 91, section 92 or section 95-A, as the case may be, as if they were members of the creditor-society, and in that event, the provisions of this Act and the rules made there under and the bye-laws of the debtor-society shall so apply as if all references to the debtor-society and its committee of management and officers in the said provisions were references to the creditor-society and its committee of management and officers.(3)Where the creditor-society has in respect of any money due from the debtor-society, obtained an award or order referred to in section 92 against the debtor-society, the creditor-society may proceed to recover such money in accordance with the provisions of this Act and the rules made thereunder, either from the assets of the debit-society or from the members thereof to the extent of the debts due from them to the debtor-society, or from both.

71B. Exemption from Indian Limitation Act, 1963.

- Notwithstanding any provision in the Indian Limitation Act, 1963 the period of limitation for the institution of a suit to recover any sum, including interest thereon due to a co-operative society by a member thereof, shall be computed from the date on which such member dies or ceases to be a member of the society.

Chapter X

Winding Up and Dissolution of Co-Operative Societies

72. Winding Up of Co-Operative Societies.

(1) If the Registrar, after an inquiry has been held under section 65, or an inspection has been made under section 66, or on receipt of an application made by not less than three-fourth of the members of a co-operative society is of the opinion that the society ought to be wound up, he may pass an order directing it to be wound up. (2) The Registrar may of his own motion and after giving such notice as may be prescribed pass an order directing the winding up of a co-operative society- (a) Where the registration of the co-operative society was obtained by fraud or mistake; or (b) Where the number of ordinary members has been reduced to less than such minimum as provided in section 6 for the registration of such society; or (c) Where the co-operative society has not commenced working within a reasonable time or has ceased to function; or (d) Where the co-operative society is no longer fulfilling its objects or complying with the requirements of clause (d) of sub-section (1) of section 7.

73. Liquidator.

(1) Where the Registrar has made an order under section 72 for the winding up of a co-operative society, he may appoint a Govt. servant of co-operative department to be a liquidator for the purpose and, if necessary, fix his remuneration. (2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of or damage to, such property, effects and claims, the liquidator shall keep full accounts of all such property, effects and actionable claims and be responsible for their safe custody. (3) Where an appeal is preferred under section 98 against an order of winding up of a co-operative society passed under section 72, the further winding up proceedings shall be stayed by the liquidator until the order is confirmed in appeal: Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section. (4) Where an order winding up a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

74. Power of Liquidator.

(1) Subject to any rules made in this behalf the whole of the assets of a co-operative society in respect of which an order for winding up has been passed, shall vest in the liquidator appointed under section 73 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise. (2) Such liquidator shall also have power, subject to the control of the Registrar- (a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of this office; (b) to determine from time to time the contribution (including debts and other dues) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officer or past officer, to the assets of the society, after giving to the person or persons concerned an opportunity to answer the claim; (c) to fix the time, which will not be less than thirty days in any case, within which the creditors shall prove their debts and claims or be included for the benefit of any distribution

made before these debts or claims are proved, and to give notice of such time in the manner prescribed;(d)to investigate all claims against the co-operative society and subject to the provisions of this Act, to decide question of priority, arising between claimants;(e)to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or ratably, as the assets of the society may permit, the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;(f)to determine by what persons and in what proportion the costs of the winding up are to be borne;(g)to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs to the society;(h)to get disputes covered by Chapter IX referred to arbitration and to represent the society in any arbitration proceeding to which the society is a party;(i)to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;(j)to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and(k)to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability of the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.(3)When the affairs of a co-operative society have been wound up the liquidator shall make a report to the Registrar and deposit the record of the society in such place as the Registrar may direct.(4)Any sum ordered under sub-section (2) to be recovered as contribution (including debts and other dues) to the assets of the society or as costs or winding up may be recovered in the same manner as arrears of land revenue on requisition being made in this behalf to the collector by the Registrar on a request by the liquidator for recovery.(5)Any debt or claim not proved within the time fixed for it under clause (c) of sub-section (2) shall subject to the power of the liquidator to allow it to be proved beyond that time in case of sufficient cause being shown, be deemed to be discharged.

74A. Audit of liquidator's Accounts.

(1)The liquidator shall during his tenure of office twice each year, present to the Registrar an account in the prescribed form of his receipts and payments as liquidator, the Registrar shall cause the accounts to be audited in such manner as he thinks fit.(2)The liquidator shall cause a summary of audited accounts to be prepared and shall send a copy of such summary to every contributory.(3)The liquidator shall pay such fees as the Registrar may direct for the Audit of the account and books kept by him in the manner prescribed.(4)The liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of Audit in respect of transactions subsequent to his taking over the affairs of the society :Provided that no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society due to gross negligence or omission in carrying out the duties and functions.

74B. Disposal of surplus Assets.

- The surplus assets as shown in the final report of the liquidator of a society which has been wound up may either be divided with the previous sanction of Registrar amongst its members in such manner as may be prescribed or be devoted to any object or objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilized for the particular purpose or may be utilized for both the purposed. Where the surplus is not so divided amongst the members and the society has no such bye-laws, the surplus shall vest in the Registrar, who shall hold it in trust and shall use it accordingly to his prudence in development of society.

75. Bar of suit in winding up and dissolution matters.

- Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected within the winding up or dissolution of co-operative society under this Act and when a winding up order has been made, no suit or legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

76. Cancellation of Registration of a co-operative society.

- Where in respect of a co-operative society which has been ordered to be wound up under section 72, the Registrar is of opinion that it is not necessary to appoint a liquidator, or where the affairs of a co-operative society in respect of which a liquidator has been appointed under section 73, have been wound up, the Registrar shall make an order canceling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

Chapter XI

Co-Operative Farming Societies

77. Registration of co-operative farming societies.

(1)Where any five or more persons-(a)holding bhumidhari or Sirdar rights in land in a circle ,and desiring to pool it; or(b)intending together to obtain, in the name of the society land in a circle, by purchase, lease or otherwise;from a society with the object of jointly using such land for any purpose connected with agriculture, horticulture, sericulture or animal husbandry which includes piggery, pisciculture and poultry farming or for the development of any cottage industry subsidiary to any such purpose along with such purpose, such society (to be hereinafter called a "co-operative farming society") may, if it conforms to the requirements of section 7, and if the bulk of the operations on such land relating to the aforesaid purposes are to be performed by members of society, be registered under this Act as a co-operative society :Provided that the Registrar may, having regard to the circumstances of any particular case, grant an exemption from the requirement of the land being in one circle and in the case of such exemption, any reference to a circle hereinafter shall be deemed

to be reference to the circle in which land held by the members or desired to be obtained lies.(2)The Registrar shall cause a copy of registration certificate and such other documents as may be prescribed to the collector for such action, if any, as may be prescribed.

78. Certain requirements of registration.

- An application for registration of farming society shall be accompanied by--(a)Extract from the record of rights showing the total area with the recorded numbers of all fields which will be contributed to the society;(b)In the case of a society covered by clause (b) of sub section (1) of section 77, only a description of the land intended to be obtained and the manner of obtaining it and the plans for developing and using the same;(c)Such other documents and particulars, as may be prescribed.

79. Consequences of registration.

(1)When a co-operative farming society is registered under section 77, all land in the circle held by a member shall be used by the society for any of the purposed mentioned in sub-section (1) of section 77 :Provided that nothing in this sub-section shall apply to any land on which a farm house has been built or to such land, not exceeding one half of an acre in area. Appurtenant of the farm house as the member, at the time of applying for membership of the society, opts to reserve for his personal cultivation:Provided further that where a member of a co-operative farming society has only a share in a joint holding, his share in that holding shall not, unless all the co-shares of that holding are members of society, be deemed to pass into the possession, control and management of the society, unless he gets his share partitioned or he is in separate possession of a part of that holding :Provided also that nothing in this section shall be construed to mean that the interest of the Bhumidhar in the land contributed by him to the co-operative farming society has except as provided in section 82, ceased to vest in him.Explanation. - for the purposes of this section, "land" shall not include Groveland, or land held and used by the Bhumidhar for purposed connected with horticulture, sericulture or animal husbandry which includes piggery, pisciculture and poultry farming, or for the development of any cottage industry subsidiary to any such purpose, but shall include such land as is held by the Bhumidhar for any of the aforesaid purposed if it is also one of the purposed of the society.(2)No member of a co-operative farming society shall, except as provided in sub-section (3), be entitled to make any disposition of any land contributed by him to the society.(3)Every member of co-operative farming society shall be entitled to such rights and privileges, be subject to such obligations and liabilities, and be bound to discharge such duties as may be conferred or imposed upon him, by or under this Act.(4)All cases, local rates, rent or land revenue payable by a member of a co-operative farming society, in respect of the land held by the society under sub section (1) may, as from the date of registration of the society, be recovered from it, any amount so paid by the society on behalf of a member shall be recovered by it from that member.

80. Lunacy of members.

- If a member of a co-operative farming society becomes a lunatic, he may continue to be a member through his curator who may act in his behalf as if he were the member himself.

81. Admission of new members.

(1) Any person who is a resident of the circle where a co-operative farming society has been formed or who intends to settle down in the circle or who cultivates land therein, may be admitted as a member thereof, upon such terms and conditions as may be laid down in the bye-laws of the society. (2) A minor or a lunatic holding land in the circle as a Bhumidhar, may through his legal guardian or curator, as the case may be, be admitted as a member of a co-operative farming society in that circle and in such a case the guardian or the curator may act on behalf of the minor or the lunatic as if he were the member himself. (3) Where a person is admitted as a member of the society on the condition of his contributing land to the society, any land held by him in the circle as a Bhumidhar shall stand transferred to the possession, control and management of the society and the provision of section 79 shall apply to him.

82. Effect of cessation of membership.

(1) Subject to the other provisions of this Act and the rules and the bye-laws, where a member who contributed land to the co-operative farming society ceases to be a member, he shall be given back the land contributed by him, or, in the interest of compactness of the land left with the society or of the land being returned to the member, any other land of equivalent value belonging to the society or any other member whose written consent to such exchange has been obtained: Provided that the society shall be entitled to reimburse itself from such member the cost of any improvement or operations effected by the society benefiting, or contributing to or helping in production from the land to be returned; Provided further that if the land to be returned is subject to a mortgage made by the society under the provisions of section 86, the society shall, before returning the land to the outgoing member, secure redemption of the land from such mortgage shall release such land from the mortgagor on payment of proportionate amount of the mortgaged money by the society notwithstanding anything to the contrary contained in the Transfer of Property Act, 1882 (Act IV of 1882); Provided also that with the mutual consent of the society and the outgoing member such cash compensation as may be determined in the prescribed manner, be paid by the society in lieu of the land to such member. (2) Any land received back under sub-section (1) by the outgoing member, shall be held by him in the same right in which the land contributed by him to the society was held immediately before the cessation of his membership of the society, and the society or any other member, under sub-section (1) as the case may be, shall have the same rights in the land, if any, retained in exchange of the land given to the outgoing member. (3) No member shall on the cessation of his membership, be entitled to claim any part of the land or other property acquired in any manner by the co-operative farming society, but nothing herein shall affect his right to get the value of any share to which he may be entitled under this Act.

83. Heirs entitled to become members of the co-operative farming society.

- When a member whose land is held by a co-operative farming society, dies, his heirs in respect of such land, shall become members of the society and, if any such heir is a minor or lunatic, his legal guardian or curator, as the case may be, shall act in his behalf as if he were a member himself.

84. Consolidation of land held by co-operative farming society.

- It shall be duty of every co-operative farming society to take steps for the consolidation of the land held by it.

85. Distribution of profit.

(1)The provisions of section 58, in so far as they are not inconsistent with sub-section (2) and (3) shall also apply to the utilization of the net profits of a co-operative farming society.(2)A co-operative farming society shall carry at least one-twentieth of its net profits to a fund called the reserve fund.(3)A co-operative farming society may out of its net profits pay to such extent and in such manner as may be prescribed, bonus to its members in respect of their land and labour contributions made to the society.

86. Power of a co-operative farming society to raise loan of the mortgage of land held by it.

- Subject to such conditions as may be prescribed, a co-operative farming society may for the purpose of raising a loan from the State Government or any co-operative society, mortgage without possession any land held by it in its own name and, after obtaining an authorization in writing from the members concerned, the land contributed by its member under sub-section (1) of section 79, anything to the contrary contained in the Transfer of Property Act 1882, or any other law for the time being in force notwithstanding.

87. Concessions and facilities for co-operative farming societies.

- Without prejudice to any other concession admissible to co-operative societies in general under this Act, the co-operative farming societies shall be entitled to such other concessions, facilities and priorities as may be prescribed and these may, amongst others, include the following-(a)Reduction in land revenue;(b)Reduction in irrigation charges, taxes by local bodies and sales tax on the purchase of diesel oil, petrol and mobil-oil, for agricultural purposes;(c)Priority in the grant of taqavi;(d)Priority in the constructions of irrigation and other projects by the State Government;(e)Priority in the supply of water for irrigation, seeds, manures, fertilizers, and other articles necessary for farm production;(f)Priority in the marketing of farm produce.

88. Power of make rules.

(1)In addition to rules framed under section 128, the State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.(2)Without prejudice to the generality of the foregoing power, such rules may provide for-(a)the grounds on which a co-operative farming society may grant permission to a member for disposition of his land under section 79;(b)principles on which and the manner in which cost and compensation shall be determined or reimbursed or paid under section 82;(c)the forms in which applications and appeals shall be filed under section 84

and the amount of court-fee, if any, to be paid on applications and memorandum of appeal;(d)the principles and procedure to be followed in the consolidation of holding in directing exchange of land in payment of compensation under section 84;(e)satisfaction of the claim of an outgoing or past member as respects land, funds, agricultural stocks, and implements contributed by him to the co-operative farming society;(f)the contribution by members of property other than land and its evaluation and adjustment;(g)principles governing remuneration to be paid to members working on the farm of a co-operative farming society;(h)any other matter which is to be or may be prescribed under this Chapter.

89. Provisions of Chapter to prevail over other law.

- The provisions of this Chapter shall take effect notwithstanding anything to the contrary in this Act or any other enactment for the time being in force.

Chapter XI

A Insured Co-Operative Banks

90. Interpretation.

- In this Chapter insured co-operative bank' means a co-operative bank insured under the Deposit Insurance Corporation Act 1961(Act no.47 of 1961), hereinafter in this Chapter referred to as the said Act.

90.

A Special provisions applicable to insured co-operative banks. - Notwithstanding anything contained in this Act, the following provisions shall apply to every insured co-operative bank, namely-(1)an order sanctioning a scheme or resolution for the amalgamation or merger or division or winding up of an insured co-operative bank may be made by the Registrar only with the previous sanction in writing of the Reserve Bank;(2)an order for the winding up of an insured co-operative bank shall be made under the provisions of this Act if so required by the Reserve Bank in the circumstances referred to in section 13-D of the said Act;(3)if the Reserve Bank is of opinion that it is necessary so to do in the public interest or for preventing the affairs of an insured co-operative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of such co-operative bank, it may require the Registrar to pass an order for super session of the committee of management or other managing body (by whatever name called) of such co-operative bank and to appoint an administrator therefore for such period or periods not exceeding five years in the aggregate as may, from time to time, be specified by the Reserve Bank and the Registrar shall pass an order accordingly and the remaining provisions of sections 35 and 36 shall apply in relation to such an order as if it were an order made under section 35, but the requirements of that section to afford the committee of management an opportunity of being heard and to obtain the opinion of the general body of the society shall not be applicable;(4)in the event of the Chairman and members of the committee of management of an insured co-operative bank

vacating their respective offices under sub-section (1) or sub-section (2) of section 35-A, the Reserve Bank may require the Registrar to make such arrangements as it thinks proper for the management of the affairs of such bank and the Registrar shall pass an order accordingly, and the remaining provisions of section 35-A shall apply in relation to such an order as if it were an order made under that section;(5)an order sanctioning a scheme of or the resolution for amalgamation or merger or the division or winding up of an insured co-operative bank or of the super session of the committee of management or other managing bodies(by whatever name called) of such bank and the appointment of an administrator thereof made with the previous sanction in writing or on the requisition of the Reserve Bank shall not be called in question in any manner; and(6)the liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay to the Deposit Insurance Corporation the sums mentioned in section 21 of the said Act in the circumstances and to the extent and in the manner referred to in that section.

Chapter XII

Executions of Awards and Orders

91. Enforcement of charge.

- Notwithstanding anything contained in Chapter IX, or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him and empowered by him in this behalf may, on the application of a co-operative society and on being satisfied of the existence of the debt or outstanding demand make an order direction the payment of such debt or outstanding demands due to the society by any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under section 39 :Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within one month from the date of service.

92. Execution of certain orders and awards.

- Every award made under section 71, and capable of execution in the manner provided below, and every order so capable of execution made by the Registrar under section 67 or sub-section (2) of section 68 or under section 91, or by the liquidator under section 74 or by an appellate authority on appeal under section 97 or 98 or on review under section 99 or as an interlocutory order under section 100 or a certificate for recovery issued under section 95-A shall, if not carried out, be executed-(a)in the manner provided by law for the time being in force for the recovery of arrears of land revenue where the order is for the recovery of money:Provided that an application for the recovery of any such sum is made to the collector and accompanied by a certificate signed by the Registrar or any person authorized by him in this behalf;Provided further that such application is made within 12 years from the date fixed for payment in the order or award and if no such date is fixed, from the date of the order or award, as the case may be;(b)by the Registrar or any other person subordinate to him and empowered by him in this behalf, by attachment and sale or sale

without attachment of any property of the person or the co-operative society against whom the order or award has been made; or(c)by the civil court having jurisdiction over the matter as if the order or award were the decree of that court.

93. Registrar or person empowered by him to be a civil court for certain purposes.

- The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property or when passing any orders on any application made to him for such recovery or for taking steps in aid of such recovery, to be civil court for the purposed of Article 136 of eh Schedule to the Indian Limitation Act, 1963 (Act XXXVI of 1963).

94. Attachment of property before award or order.

- If the Registrar is satisfied on application, inquiry or otherwise that any person, with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act, is about to dispose of , or remove from the jurisdiction of the Registrar, the arbitrator, the board of arbitrators or the liquidator, as the case may be, the whole or any part of his property, he may, unless adequate security is furnished, direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent civil court.

95. Recovery of sums due to Government.

(1)All sums due from a co-operative society or from an officer or member or past member of a co-operative society as such to the State Government or the Central Government society including any costs awarded to any such Government under any provision of this Act, may, on certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of land revenue.(2)Sums due from a society to the State Government or the Central Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability, and thirdly, in the case of other societies, from the members, past members, or the estate of deceased members:Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 25.

95A. Special provision for recovery of certain dues of agricultural society.

(1)The Registrar may, on an application made by society referred to in section 34 or an agricultural credit society for the recovery of arrears of any loan advanced by it or any installment thereof to any member and on its furnishing a statement of accounts in respect of such loan and after making such inquires, if any, as he thinks fit, issue a certificate for recovery of the amounts due.(2)A certificate issued by the Registrar under sub-section (1) shall be final and conclusive proof of the dues which

shall be executable under section 92.

Chapter XIII

Appeal and Review

96. Co-operative Tribunal.

(1)The State Government may constitute a tribunal or tribunals, each to be called co-operative Tribunal, to exercise the functions conferred on the tribunal under this Chapter and where more than one tribunal is constituted, the State Government may fix, by order in writing, the area within which or the class of cases over which each tribunal shall exercise jurisdiction.(2)A Tribunal shall consist of three persons possessing such qualifications as may be prescribed.(3)Where the Tribunal consist of three members, any two members shall form the quorum for the disposal of its business:Provided that in the event of a difference of opinion between them the matter over which there is a difference of opinion, shall be placed before the third member and the opinion with which the third member agrees, shall be deemed to be the opinion of the Tribunal. Where a matter is heard by all the three members of the tribunal and there is a difference of opinion, the majority opinion shall prevail.(4)Any vacancy in the membership of the tribunal shall be filled by the State Government.(5)The procedure for holding the meeting and disposal of business by a Tribunal shall be such as may be prescribed.

97. Appeals against awards of Registrar.

(1)Any person aggrieved by any award of the Registrar made under clause (a) of sub-section (1), or sub section (2) of section 71 may within forty five days after the date on which the award is communicated to such person appeal to the Tribunal.(2)The Tribunal after hearing an appeal under this section may pass such order as it may deem just.

98. Appeal against the awards, orders and decisions.

(1)An appeal against-(a)an order of the Registrar made under sub-section (2) of section 7 refusing to register a co-operative society;(b)an order of the Registrar under sub-section (3) of section 12 refusing to register, or under sub-section (2) of section 14 registering an amendment in the bye-laws of a co-operative society;(c)a decision of co-operative society refusing to admit any person as a member of the society under sub-section (2) of section 26 of expelling any member of the society under sub-section (1) of section 27 or an order passed under sub-section (1) of section 38 for removal of an officer from the office held by him or to disqualify him from holding any office;(d)an order of the Registrar under sub-section (2) of section 27 expelling or removing a member or under sub-section (2) of section 38 removing or disqualifying any officer of a co-operative society;(e)an order of the Registrar superseding the committee of management of a co-operative society under section 35;(f)an order made by the Registrar, under section 67 apportioning the cost of an enquiry held under section 65 or an inspection made under section 66;(g)an order of surcharge made by the Registrar under section 68;(h)an award made by an arbitrator or board of arbitrators under

sub-section (1) or sub-section (2) of section 71;(i)an order made by the Registrar under section 72 direction the winding up of a co-operative society;(j)any order made by the liquidator of a co-operative society in exercise of the powers conferred on him by clause (b) and (g) of section 74;(k)any order made by the Registrar on a question arising between the parties or proceedings under clause (b) of section 92 and of the nature referred to in section 47 of the code of civil procedure, 1908,(Act V of 1908);(l)an order for attachment of any property made by the Registrar under section 94;(m)an order of the Registrar under section 16 (A) direction amalgamation or merger, or under section 16(B) direction division;(n)an order passed by the Registrar under section 126 annulling any resolution or canceling any order, may, within forty five days of the communication of the order, decision or award to be appealed against, be preferred by the aggrieved party to the authorities mentioned in sub-section (2) in the manner prescribed.(2)An appeal under clauses (c), (d), (e), (f), (g), (k), and (i) of sub- section (1) shall be preferred to the Tribunal, and an appeal under clauses (a), (b), (h), (i), (j), (m) and (n) of the said sub-section shall be preferred-(a)if the decision or the order was made by the Registrar, to the State Government;(b)if the decision or order or award was made by any other person or authority, to the Registrar;(c)if the order or award was made on a dispute relating to an election, to the Tribunal.(3)Notwithstanding anything contained in clause (b) of sub-section (2) the State Government may by notification in the Gazette. Direct that appeals against awards mentioned in clause (h) of sub-section (1) shall, in respect of such cases or class of cases, as may be specified in the said notification lie to the Tribunal, and thereupon any person aggrieved by such award, may appeal to the Tribunal.(4)The appellate authority after hearing an appeal under this section may pass such orders as it may deem fit.

99A. Revision by Tribunal.

- The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified annulled or revised, the tribunal may pass such order thereon as it may deem fit:Provided that the Tribunal shall not take any action under this section if-(a)the time for appeal against the decision or order has not expired;(b)the decision or order has been made the subject matter of an appeal:Provided further that no order shall be made under this section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

99B. Review of order of appellate authority.

(1)The appellate authority under section 97 or section 98, as the case may be, may on the application of any party, review its order in any case and pass in reference thereto such order as it thinks fit:Provided that no such application shall be entertained unless the appellate authority is satisfied that there has been a discovery of new and important matter of evidence which, after exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard.(2)An application for review under sub-section (1) by any

party shall be made within thirty days from the date of communication of the order of the appellate authority sought to be reviewed.

99C. Powers of revision of Registrar and Government.

(1)The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him being an officer exercising the powers of the Registrar, and the Government may of their own motion or on an application call for and examine the record of the Registrar including any officer exercising the powers of the Registrar in respect of any proceeding, not being a proceeding in respect of which an appeal to the Tribunal is provided by section 98 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made thereon, and if in any case, it appears to the Registrar or the Government that any such decision or order should be modified annulled reversed or remitted for reconsideration he or they may pass orders accordingly: Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within three months from the date on which the proceeding decision or order to which the application related was communicated to the applicant. (2)No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation. (3)The Registrar or the Government as the case may, be any, suspend the execution of any decision or order pending the exercise of his or their power under sub-section (1) in respect thereof. (4)The Registrar or the Government may award costs in proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.

100. Interim orders.

- Where an appeal is preferred under section 97 or section 98, the appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal as it may deem fit.

101. Transfer of appeals.

(1)The State Government may, on the application of any party and after affording an opportunity to the other party of being heard, transfer an appeal filed under section 97 from one Tribunal to another Tribunal. (2)The State Government may transfer to itself an appeal filed under section 98 pending before the Registrar of co-operative societies appointed under sub-section (1) of section 3 and dispose it of. (3)The Registrar of co-operative societies appointed under sub-section (1) of section 3 may transfer an appeal pending before one officer exercising the powers of Registrar under sub-section (2) of section 3 to any other officer exercising similar powers, or transfer an appeal pending before any such officer to himself and dispose it of.

102. Finality of orders and decisions.

- Every award made under section 71 and every order of the nature referred to in sub-section (1) of section 98 where no appeal has been preferred against such award or order under section 97 or section 98, as the case may be, and every decision in appeal under the said sections, shall, subject to section 99, be final and binding on the parties concerned and shall not be questioned in any court.

Chapter XIII

A Uttarakhand State Co-Operative Council

102A. Constitution of State co- operative Council, its functions etc.

(1) There shall be a council to be called the Uttarakhand State co-operative Council consisting of such number of members including the Chairman and the Vice-chairman, as the State Government may determine and nominate from time to time. (2) The State Government shall appoint a Secretary in the council. (3) The functions of the council constituted under sub-section (1) shall be as follows, namely---(a) to advise the State Government on all matters relating to co-operative movement; (b) to revive the co-operative movement and to suggest ways of co-ordinating the activities of co-operative societies in the State; (c) to suggest ways and means to remove the difficulties experienced by the co-operative societies; (d) to report to the State Govt. on such matters as may be referred to it by the State Government; (e) to recommend the plans and policies for the development of co-operative movement in the State; (f) to evaluate existing schemes and suggest new schemes for co-operative development especially for the development of backward classes and economically weaker sections of the society; (g) to advise the State Govt. for the implementation of special scheme of economic development through co-operative methods; and (h) to undertake studies for any of the purposes aforesaid either through department or specialized bodies. (4) The State Government may by general or special order provide for---(a) the calling of the meetings of the council and the procedure at such meetings; (b) duties of the Secretary to the council; (c) sub-committee or committees of the council; and (d) the term of office of members of the council and traveling and daily allowances admissible to the members of the council---(i) State co-operative council's term will be 3 years; (ii) There will be maximum eleven members of the State co-operative council; (iii) The State co-operative council's Secretary will not be below the rank of Additional Registrar co-operative societies.

Chapter XIV

Offences and Penalties

103. Offences and penalties under the Act.

(1) It shall be an offence under this Act, if---(A) A committee of management of a co-operative society or a member or an officer thereof fails without reasonable cause to submit any return, report or information required under the provisions of this Act by the Registrar or by a person of a rank not below that specified by the State Government duly authorized by the Registrar in this behalf, or

willfully makes a false return or furnishes false information or fails to maintain proper account; or(B)an officer employee or a member of a co-operative society fraudulently destroys, mutilates, alters, falsifies or abets the destruction, mutilation, alteration, or falsification of any books, papers, or securities, or makes or abets the making of any false entry in any register, book of account or document belonging to the society; or(C)the committee of management of a co-operative society, or an officer in possession of the books, records and property of he society refuses or fails without reasonable cause to hand over the custody of such books, records and property belonging to the society to a person lawfully entitled to receive the same under this Act, the rules or the bye-laws; or(D)the committee of management of a co-operative society or an officer fails, without reasonable cause, to establish a provident fund for its employees as required by section 63;(E)any officer or a co-operative society fails to maintain such accounts and registers as may be prescribed; or(F)an officer or a member of co-operative society who is in possession of information, books and records, fails, without reasonable cause, to furnish such information or produce books and papers or give assistance to the person appointed by the State Government under sub-section (1) of section 64, or any person authorized by him to conduct audit, or to the Registrar or a person authorized or appointed by the Registrar under section 64,65,66,73 or 123;(G)an employer, without sufficient cause, fails to pay to a co-operative society the amount deducted by him under sub-section (2) of section 40 within a period of 14 days from the date on which such deduction is made ; or(H)an officer or member of a co-operative society or any person does any act or omission declared by the rules to be an offence.(2)(a)whoever commits an offence under clauses (i), (iv), (v), (vii), or (viii) of sub-section (1) shall on conviction be liable to be punished with fine which may extend to five thousand rupees :Provided that, any person who does an act in relation to elections which has been made an offence under the rules, shall be punishable with imprisonment for such term not exceeding two years, or with fine not exceeding rupees ten thousand as may be provided in the rules or with both;(b)whoever commits an offence under clause (ii), clause (iii) or clause (vi) of sub section (1) shall on conviction be liable to be punished with imprisonment of either description which may extend to two years and shall also be liable to fine which may extend to five thousand rupees.(c)every offence referred to in clause (b) shall be cognizable and bailable.

104. Penalty for contravention of section 8 or section 106.

- Any person contravening the provisions of sub-section (2) of section 8 or of section 106 shall be punishable with fine which may extend to one thousand rupees and in the case of continuing offence with further fine of one hundred rupees for each day on which the offence is continued after conviction thereof.

104A. Compounding of offences.

(1)the Registrar may, either before or after the institution of the prosecution, compound any offence punishable under this Act on realization of such amount of composition fee as he thinks fit, and where such offence is punishable with fine only then such composition fee shall not exceed the maximum amount of fine fixed for the offence.(2)Where the offence is so compounded-(a)before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty;(b)after the institution of the prosecution, the composition shall

amount to acquittal of the accused.

105. Cognizance of offences.

(1) No court, inferior to that of a stipendiary magistrate shall try any offence under this Act. (2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given without affording to the person sought to be prosecuted an opportunity to represent his case.

Chapter XV

Miscellaneous Provisions

106. Prohibition against the use of word or "co-operative".

- No person other than a co-operative society shall trade or carry on business under any name or title of which the word "lgdkjh" or its equivalent in English, co-operative; forms part.

107. Address of co-operative society.

(1) Every co-operative society shall have an address registered in the prescribed manner and all notices and communications to the society may be sent at such address the society shall send to the Registrar notice of any change of such address within thirty days of the change. (2) Every co-operative society shall, at every office or place where it carries on business, display its name and address of its registered office along with the words "Registered" under this Act in legible character at a conspicuous place and shall also mention the same-(a) in all notices and other publications authorized by it; (b) in all business contracts, business letters, order for goods, invoices, statements of accounts, receipts and letters of credits; and (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf.

108. Copies of Act etc. to be open for inspection.

- Every co-operative society shall keep a copy of this Act, the rules made thereunder, its bye-laws, last audited annual balance-sheet, profit and loss account and minutes of the general meetings open to inspection, free of charge at the registered address of the society.

109. Powers of civil court to Tribunals, Arbitrators and others in certain matters.

(1) while deciding a dispute, making an enquiry or inspection, hearing an appeal or investigation any claim, the Registrar, the arbitrator, the board of arbitrators, the tribunal or the liquidator shall have all the powers of a civil court while trying a suit under the code of civil procedure, 1908, in respect of the following matters namely-(a) summoning and enforcing the attendance of any person and

examining him on oath;(b)requiring the discovery and production of any document;(c)proof of facts by affidavits; and(d)issuing commissions for examination of witnesses.(2)An affidavit to be filed under sub-section (1) may be sworn before the Registrar, the arbitrator, the board of arbitrators, the Tribunal or the liquidator, as the case may be, or before an officer appointed in this behalf by the Registrar or the Tribunal.

110. Bar of jurisdiction of court.

- Save as expressly provided in this Act, no civil or revenue court shall have any jurisdiction in respect of -(a)the registration of a co-operative society or its bye-laws or of an amendment of a bye-law;(b)the super session or suspension of a committee of management;(c)any dispute required under section 70 to be referred to the Registrar;(d)Any other order or award made under this Act.

111. Power to exempt society from conditions of registration.

- Notwithstanding anything contained in this Act, the State Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this Act as to registration.

112. Service of notice under the Act.

- Except where otherwise provided by or under this Act, every notice or order issued or made under this Act may be served on any person by properly addressing to the last known place of residence or business of such person and posting by registered post, a letter containing the notice or order, and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

113. Notice necessary in suits.

- No suit shall be instituted against a co-operative society or any of its officers in respect of any act relating to the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left & the Registrar has passed orders on that.

113A. Control of expenditure in litigation in certain cases.

- No expenditure from the funds of a society shall be uncured without prior sanction in writing of the State Government for the purposes of defraying the costs of any proceedings filed or instituted in any court by any officer or committee of management of the society against any order made or purporting to be made by the Registrar or the State Government under section 29, section34, section 35 or section 35-A.

114. Act of co- operative societies not to be invalidated by certain defects.

- No Act of a co-operative society or any committee of management or of any officer of a co-operative society shall be deemed to be invalid by reason only of the existence of any defect in the constitution of such society or committee or in the appointment or election of such an officer or on the ground that such officer was disqualified for such appointment or election.

115. Indemnity.

- No suit prosecution, or other legal proceeding shall lie against the trustee appointed under this Act, the Registrar or any person subordinate to him or acting on his authority, a liquidator, an arbitrator, the board of arbitrators, the Tribunal or any member thereof in respect of anything in good faith done or purporting to have been done under this Act.

116. Partnership and joint ventures.

(1)Partnership of societies:--Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses Provided that each member has had clear ten days written notice of the resolution and the date of the meeting Nothing in the Indian Partnership Act 1932 shall apply to such partnership.(2)Joint venture by societies:-(1)any society or societies may with the prior approval of the State Government enter into joint venture with any Government or Private undertaking for carrying on any specific business or businesses including industrial investment financial aid or marketing and management expertise;(2)Before approving any such scheme of joint venture by any society or societies under sub-section (1) the State Government shall have due regard to the following matters namely---(a)that the scheme is economically viable;(b)that it can be implemented without any way, eroding the co-operative character of the society or the societies concerned, and(c)that the scheme is in furtherance of the interests of the members of the society or societies concerned, or is in public interest and in the interest of the co-operative movement in general.

117. Promotion of subsidiary organization.

(1)Any co-operative society may, by a resolution passed at general meeting by a majority of members present and voting promote one or more subsidiary organization or organizations may be registered under any law for the time being in force, as agreed to by general body.(2)The annual reports and accounts of any such subsidiary organization shall be placed before the general meeting of the promoting co-operative society each year.

118. Board of reconstruction.

- When central/Apex co-operative societies are continuously in loss and where loses are so much that they have eaten the entire share capital and caused deficiency in assets to the extent that the

same exceed liabilities, before winding up, such societies their cases can be referred by the Registrar to the board of reconstruction for examining if such societies can be revived by infusing capital & Technological support or by any other manner. The board or reconstruction will be composed of the following members-

- | | |
|--|--------------------|
| (1) Managing Director of Uttarkhand Stateco-operative Bank | -Chairman |
| (2) One nominee of Directorate of Institutional finance not below Dy. Director | - Member |
| (3) One representative of Audit Department not below the rank of class I officer | - Member |
| (4) One representative of Lead Bank not below the rank of Asstt. General Manager | - Member |
| (5) One representative of State Govt.co-operation Department not below the rank of Deputy Secretary | - Member |
| (6) One representative of State finance Department not below the rank of Dy. Secretary | - member |
| (7) Deputy or Assistant Registrar, co-operativesocieties at the head quarter of Registrar, co-operativesocieties to be nominated by Registrar, co-operative societies as | -member-Secretary. |

The board will consider cases referred to it and send its duly considered recommendations in detail to the State Govt. through Registrar, co-operative societies whether the society should be wound up or its affairs could be reorganized or reconstructed. In the latter course full package containing recommendations about infusion of capital, technology, managerial and other support from Government and other institutions will be proposed by the Board and send to Government for decision. Action will follow after Government decision at the level of Registrar, co-operative societies. For revival of primary co-operative societies, which are incurring losses continuously, the Registrar will make a district level reconstruction committee and ensure. The revival of such societies in accordance with the decisions of the said committee.

119. Functions of apex society.

- An apex society may, for servicing its constituents and in accordance with its bye-laws, perform the following functions, namely---(a)to take measures for the observance of co-operative principles;(b)to promote and organize co-operative societies and for this purposes frame model bye-laws, issue guidelines for making regulations and policies for consideration;(c)to provide co-operative training, education and information and promote co-operative principles;(d)to undertake research and evaluation and assist in preparation of perspective development plans of member co-operative societies;(e)to promote harmonies relations amongst member co-operative societies;(f)to represent the interest of member co-operative societies and to make efforts for policies and legislation favorable to co-operative societies;(g)to provide business services on behalf of its members;(h)to provide co-operative and management of development services to member co-operative societies including participation in board meetings where such member societies are invited;(i)to assist member co-operative societies in regular conduct of general meetings;(j)To evolve code of conduct for its members;(k)To evolve the viability norms for its members;(l)To provide legal aid and advice to its members;(m)to provide any other service in the interest of its

members.

120. Qualifications.

(1) No person shall be appointed by a co-operative society as a Chief Executive for appointment as secretary, manager, etc. of co-operative societies (other than managing director of apex society who will be a Govt. nominee) secretary, manager, accountant or as any other officer to be paid or remunerated by the society unless he possesses such qualifications and furnishes such security, if any, as may be specified by the Registrar from time to time in respect of any co-operative society or class of societies. (2) Any person appointed in contravention of the provisions contained in sub-section (1) shall be liable to removal from his office by the Registrar.

121. Power of Registrar to determine terms of employment of society.

(1) The Registrar may, from time to time, frame regulations to regulate the emoluments and other conditions of service including the disciplinary control of employees in a co-operative society or a class of co-operative societies and any society to which such terms are applicable, shall comply with those regulations and with any orders of the Registrar, issued to secure such compliance. (2) The regulations framed under sub-section (1) shall be published in the Gazette and take effect from the date of such publication.

122. Authority to control employees of co-operative societies.

(1) The State Government may constitute an authority or authorities, in such manner as may be prescribed, for the recruitment, training and disciplinary control of the employees of co-operative societies, or a class of co-operative societies, and may require such authority or authorities to frame regulations regarding recruitment, emoluments, terms and conditions of service including disciplinary control of such employees and, subject to the provisions contained in section 70, settlement of dispute between an employee of a co-operative society and the society. (2) The regulations framed under sub-section (1) shall be subject to the approval of the State Government and shall, after such approval, be published in the Gazette, and take effect from the date of such publication and shall supersede any regulations made under section 121. (3) Direct recruitment of employee of class III and IV at district level shall be made by the committee constituted by the Registrar and procedure laid down by Registrar co-operative societies. (4) In the Direct recruitment of employees of class I and II the Chairman of the concerned society shall be a member of selection Board/committee.

122A. Centralization of certain services.

(1) Notwithstanding anything contained in this Act, the State Government may by rules provide for the creation of one or more services of such employees of such cooperative societies or class of a cooperative societies as the State Government may think fit, common to such co-operative societies and prescribe the method of recruitment, appointment, removal and other conditions of service of

persons appointed to any such service;(2)When any such service is created, all employees of such societies existing on the date of creation of such service on the posts included in such service, shall be deemed to have been provisionally absorbed in the service with effect from the date of creation of such service :Provided that any such employee may, by notice in writing to the prescribed authority within the prescribed period, intimate his option of not becoming a member of such service, and in that event his services in the society shall stand determined with effect from the date of such notice and he shall be entitled to compensation from the society which shall be-(a)in the case of a permanent employee, a sum equivalent to his salary (including all allowances) for period of three months or for the remaining period of his service, whichever is less;(b)in the case of a temporary employee, a sum equivalent to his salary (including all allowances) for a period of one month or for the remaining period of his service, whichever is less.(3)An employee provisionally absorbed under sub-section (2) may be absorbed finally in the service if found suitable after screening in accordance with the instructions issued by the Registrar; and the services of any such employee as is not found suitable for absorption in the service shall stand determined with effect from the date of issue of orders in that behalf by the prescribed authority and until such authority is prescribed, by the officer specified by the Registrar in that behalf in such instructions and he shall be entitled to compensation as laid down in clause (a) or clause (b) of sub-section (2) according as he was a permanent or a temporary employee.

123. Constitution or recognition of co-operative federal authority to supervise working of co- operative societies.

(1)The State Government may constitute or recognize one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government may impose, for the supervision of co-operative societies or a class of co-operative societies and may grant loans of subsidies to such authority or authorities in the manner prescribed.(2)The State government may, by general or special order, require a co-operative society or a class of co-operative societies to make contribution of such a sum every year as may be fixed by the Registrar, towards the full or partial recoupment of expenditure incurred or likely to be incurred in respect of supervision of societies by the federal authority or authorities mentioned in sub-section (1).(3)A co-operative society to which sub-section (2) is applicable shall pay to such authority or authorities within such time as may be fixed by the Registrar, the contribution as may be fixed under the sub-section, and if it fails to make such payment within such time, the amount shall be recovered as arrears of land revenue on a requisition made by the authority or authorities through the Registrar to the Collector of the district in which the registered office of the defaulting co-operative society is situate.(4)Any officer or officers of the federal authority or authorities mentioned in sub-section (1) may be authorized by the Registrar by general or special order in writing to conduct inspection of a co-operative society or class of co-operative societies, the supervision of which has been entrusted to the federal authority or authorities under sub-section (1), provided that such officer or officers shall work under the general guidance, superintendence and control of the Registrar in exercise of such powers and report the result of inspection to the Registrar.

124. Registrar and other officers to be public servants.

- The Registrar, or any person appointed, or authorized to conduct audit under section 64 or to hold enquiry under section 65 or to make inspection under section 66, or authorize under section 123 to conduct inspection, an arbitrator or a member of the board of arbitrators to whom any dispute is referred under section 71, or a member of the Tribunal or a liquidator, or any person authorized by the Registrar under section 93 to make attachment and sale (or any officer of a co-operative society) shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, (Act XIV of 1860).

125. Writing off non- recoverable as sets.

- A co-operative society may, with the previous approval of the Registrar, write off such of the assets as are bad and cannot be recovered. The Registrar shall give his approval with two months from the date of the receipt of proposal or in case of the refecton proposal, the reason thereof shall be communicated to the concerned society.

126. Registrar's power to annual resolution of a co-operative society or cancel order passed by an officer of a co-operative society in certain cases.

- The Registrar may-(1)annual any resolution passed by the committee of management, or the general body of any co-operative society; or(2)cancel any order passed by an officer of a co-operative society;If he is of the opinion that the resolution or the order, as the case may be, is not covered by the objects of the society, or is in contravention of the provisions of this Act, the rules or the bye-laws of the society, whereupon every such resolution or order shall become void and inoperative and be deleted from the records of the society :Provided that, the Registrar shall before making any order, require the committee of management, general body or officer of the co-operative society to reconsider the resolution, or as the case may be , the order, within such period as he may fix but which shall not be less than fifteen days, and if he deems fit may stay the operation of that resolution or the order during such period.Applicability - the Registrar can annual a resolution of the General body if he is of opinion that the resolution is in contravention of the provisions of the Act. A party aggrieved by such resolution is entitled to invoke the powers of the Registrar and request him to annul the resolution.

127. Registrar power to permit a co- operative society to function as an agency for disbursement of developmental Loans for Agriculture and Rural Development Schemes and Allied activities.

-It shall be competent for the Registrar to permit any co-operative society or societies carrying on the business of banking to disburse developmental loans for Agriculture & Rural Development scheme & allied activities laid down in Chapter XVI.

128. Power to make rules.

(1)The State Government may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the power under sub-section (1), the rules to be made under this section may provide for all or any of the following matters-

1.

- the applicant to whom, and the manner in which, the order refusing the registration of a co-operative society may be communicated by the Registrar under sub-section(2) of section 7;

2.

- the matters in respect of which a co-operative society shall or may make bye-laws;

3.

- the procedure and conditions for change in the form and extent of the liability of a co-operative society;

4.

- the procedure to be followed for amendment of bye laws by a co-operative society;

5.

- constitution committees of management;

6.

- the appointment of co-operative society of one or more of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;

7.

- rights and liabilities of ordinary members and the proportion of members who are individuals and other members in the constitution of the general body or the committee of management of a co-operative society having other co-operative societies also in its membership;

8.

- the exercise of the right of vote where a share is held jointly by more than one person;

9.

- the procedure for the nomination by a member of a person to whom the share or interest of such member on his death may be transferred or the value thereof may be paid;

10.

- the mode in which the value of the share of a deceased or past member shall be ascertained and its payment;

11.

- the election of the members and Chairman and Vice-chairman of the committee of management of a co-operative society, including delimitation of constituencies, reservation of seats for women and members belonging to weaker sections, settlement of election disputes, and levy of fees in respect of any such matter;

11.

-A- the nomination of women and members belonging to weaker sections in the committee of management of a co-operative society;

12.

- the calling of a general meeting or a meeting of the committee of the management of a co-operative society and the quorum and procedure at such meetings;

13.

- the remuneration payable to a committee or administrator or administrators appointed in place of a committee of management superseded or suspended by the Registrar;

14.

- the qualification or disqualification for membership of committee of management of a co-operative society;

15.

- the restrictions against officers of co-operative society being interested in contracts with the society;

16.

- the matters connected with the direct and indirect partnership of the State Government in co-operative societies;

17.

- determination of distributable profits out of net profits for purposes of payment of dividend and bonus, and allocation to funds of a society;

18.

- the establishment and control of co-operative Education Fund, payment to be made to the Fund by a co-operative society out of its net profits and the mode of investment of the fund and its disposal;

19.

- the mode and conditions of investment of funds of a co-operative society and of establishment and investment of Provident Fund;

20.

- the object of reserve and other funds of a co-operative society may receive deposits and take loans;

21.

- the mode of disposal of reserve funds of a co-operative society, their utilization and mode of investment;

22.

- the extent and conditions subject to which a co-operative society may receive deposits and take loans;

23.

- the restrictions on transactions by a co-operative society with non members;

24.

- the restrictions on grant of loans by a co-operative society;

25.

- the form and standard of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits;

26.

- conducting of audit and levy of audit fees on co-operative societies;

27.

- procedure to be followed in various proceedings under this Act including proceedings before the Registrar, an arbitrator or board of arbitrators or before Tribunals or other authorities in entertaining and disposing of appeals and reviews;

28.

- the fees and expenses that may be charged in proceedings under this Act;

29.

- the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society;

30.

- the procedure for recovery of amounts due or payable to a co-operative society;

31.

- the mode of making attachment before judgment and the procedure for sale of property in proceedings under this Act;

32.

- the qualifications of members of the Tribunal;

33.

- the manner of registering the address of a co-operative society;

34.

- the account books and registers to be kept by a co-operative society and power of Registrar to direct the account books and registers to be written up;

35.

- the manner of certification of copies of entries in the books and of documents kept by a co-operative society in the course of business;

36.

- the statements, reports and returns to be furnished by co-operative societies to the Registrar;

37.

- restrictions on persons appearing as legal practitioners in proceedings under this Act;

38.

- inspection of documents and levy of fees for granting certified copies thereof;

39.

- the maximum rate of interest to be charged by a central bank from the co-operative societies;

40.

- the levy of supervision fees to be realized from the co-operative societies;

41.

- duties and functions of honorary organizers and honorary managers and payments of allowances and honorarium to them and to the office bearers, delegates and other members of co-operative societies;

42.

- method of communicating or publishing any order, decision or award required to be communicated or published under the Act or the rules; and

43.

- the other matter which may be or is required to be prescribed.

129. Provisions in regard to existing societies and their bye-laws.

(1) Any co-operative society existing on the date of coming into force of this Act and registered under the U.P. co-operative societies Act 1965 or under any other law relating to co-operative societies in force in the State of Uttarakhand shall be deemed to be registered under this Act, and its bye-laws shall, so far as the same are not inconsistent with the express provisions of this Act (or the rules made thereunder) continue in force until altered or rescinded according to the provisions of this Act (and the rules made thereunder). (2) Any co-operative society to which sub-section (1) applies and which conforms to the requirements of section 77 shall be deemed to be a co-operative farming society for the purposes of Chapter XI. (3) Every co-operative society covered by sub-section (1) shall, within a period of one year from the date of coming into force of this Act, delete or amend such bye-laws as are inconsistent with the provisions of this Act and the rules and shall make such further bye-laws as may be necessary having regard to the provisions of this Act and the rules. (4) In default of action on the part of any co-operative society as required by sub-section (3), the Registrar may make necessary amendment including deletions and additions in the bye-laws of the society. (5) Every co-operative society shall within a period of one year from the date of coming into force of this Act or such further period as the Registrar may, for reasons to be recorded in writing, allow for any co-operative society, adjust its membership according to the classification of members under this Act: Provided that any existing member who cannot be adjusted into one or the other kinds of membership shall be deemed on the expiry of the period of one year or the extended period, if any, to have withdrawn from the membership of the society with the same rights and liabilities attached as if he had withdrawn from membership before the coming into force of this Act. (6) Where a co-operative society fails to adjust membership as specified in sub-section (5), the Registrar may make the adjustment and direct as to who, if any, of the existing members shall be deemed to have withdrawn their membership under the provisions of sub-section (5). (7) Every co-operative society shall within one year of the coming into force of this Act constitute its committee of management in accordance with the provisions of this Act and the rules and in default thereof the Registrar shall in the manner prescribed constitute the committee of management. (8) Notwithstanding, anything in this Act no act or proceeding of a co-operative society or its committee of management shall be invalid or questioned in court merely on the ground that up to the time of adjustment of membership or re-constitution of the committee of management in accordance with the provisions of this section the membership of the society or the constitution of its committee of management was inconsistent with the provisions of this Act or the rules.

130. Other provisions in regard to existing societies.

(1) Any suit, other proceeding, enquiry or inspection instituted or commenced under the U.P. co-operative societies Act 1965, shall so far as may be, be deemed to have been instituted or commenced under this Act and may be continued accordingly. (2) Any power, function or duty required to be exercised, performed or discharged under this Act by an authority different from the

authority provided for that purpose under the U.P. co-operative societies Act 1965, shall until such authority is constituted or appointed under this Act, continue to be exercised, performed or discharged by the Registrar who will have the power to take measures in the manner prescribed for the early constitution or appointment of the authority under this Act.

131. Power to remove difficulties.

(1)The State Government may from time to time, by notification make such incidental and consequential order as may appear to it to be necessary or desirable for the removal of any difficulty in any matter under the provisions of this Act or rules made thereunder.(2)An order made under sub-section (1) shall be laid, as soon as may be, before the House of the State Assembly.

132. Repeals amendment and construction of enactments.

(1)The co-operative societies Act 1965 amended from time to time in its application to Uttarakhand is hereby repealed and the provisions of section 6 and 24 of the U.P. General Clauses Act 1904, shall apply to the repeal of the U.P. co-operative societies Act 1965.(2)All references to U.P. co-operative societies Act 1965, occurring in any enactment made by any authority in India and for the time being in force in the State of Uttarakhand shall, in its application to the said State, be construed as reference to the relevant provisions of this Act.

Chapter XVI

Term Loans For Agriculture and Rural Development

133. Advancement of Term Loans for Agriculture & Rural Development.

- This Chapter shall apply to advancement of Term loans for Agriculture & Rural Development by the Uttarakhand State co-operative Bank-Explanation. - Expression Agriculture & Rural Development will mean any work, construction or activity pertaining to Agriculture and Rural Development which includes the following-(1)Construction of well and Tubewells.(2)Installation of Machinery including oil Engines, Pumpsets & Electric Motors.(3)Purchase to Tractors and power Tillers.(4)Animal Husbandry & dairy farming such as purchase of Milch Cattle, searing of cross Breed female scarves, cattle breeding, sheep and Goat rearing, Piggery, poultry farming and purchase of Rabbit and transportation bulks and Mules.(5)Horticulture and Herbs.(6)Forestry.(7)Pisciculture, including fisheries and all activities connected therewith or incidental therets.(8)Sericulture.(9)Bio-gas plants.(10)Setting up of cottage and village industries.(11)Construction of Dwelling houses in Rural Areas.(12)Such other purposes as the State Government may, from time to time, by notification in the official Gazette declare to be Agricultural of Rural Development purposes and(13)All other activities of Agriculture & Rural Development permitted by theNABARD and approved by the State Government.

134. Procedure of advancement of Agriculture and Rural Development Loans, extent and security.

- Extent and procedure of disbursement of Agriculture & Rural Development Loans under this Chapter will be such as specified by the committee of management of Uttarakhand State co-operative Bank from time to time in consultation with Trustee as referred to in section 135. Loans will be advanced against the mortgage of or the charge on immovable property or on hypothecation of movable property or against the guarantee of the State Government.

135. Appointment of Trustee.

- Registrar, co-operative societies or any other officer appointed by the State Government shall be the trustee for the purpose of securing the fulfillment of the obligations of the Uttarakhand State co-operative Bank to the holders of debentures issued by the Bank.

136. Powers & functions of Trustee.

- The powers and functions of trustee shall be governed by the provisions of this chapter and by the instrument of Trust executed between Uttarakhand State co-operative bank and the Trustee as modified or substituted from time to time by their mutual agreement with the approval of State Government.

137. Trustee to be a corporation sole.

- The Trustee appointed under section 135 shall be a corporation sole by the name of the Trustee and shall have perpetual succession and a common seal and in his corporate name may sue and be sued.

138. Issue of Debentures.

(1) With the previous sanction of the State Government and the Trustee and subject to such terms and conditions as the State Government may impose, Uttarakhand State co-operative Bank may from time to time, issue debentures of one or more denominations, for such period or periods as it may deem expedient, against the guarantee by the State Government for repayment in full of the principal and payment of interest thereon or on the security of mortgages, charge or hypothecations partly held and partly to be acquired and the properties and other assets of the bank. (2) Such debentures may contain a term fixing a period not exceeding twenty years from the date of issue during which period they shall be irredeemable, reserving to the Bank the right to call in at any time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holders concerned not less than three months notice in writing. (3) The total amount due on debentures issued by the bank under sub-section (1) outstanding at any time shall not exceed the aggregate of—(a) the amounts due on the mortgages or charges on hypothecation and other assets of Uttarakhand State co-operative Bank; (b) the accumulations in the debenture Redemption

Fund;(c)the cash in hand and the balances with the banks and the book value or market value of securities under general funds, whichever is less; and(d)such percentage of the amounts mentioned in clauses (a), (b) and (c) as may be prescribed.

139. Vesting of property in Trustee and debenture holders charge on the assets.

- Upon the issue of debentures under section 138 the benefit under the State Government guarantee and the mortgaged properties and other assets referred to in sub-section (3) of the said section and held by the Bank, shall vest in the Trustee and the holders of the debentures shall be entitled to the benefit of the guarantee of the State Government and shall also have a floating charge on all such mortgage and assets and amounts paid under such guarantee or mortgages and remaining in the hand of the Uttarakhand State co-operative bank or of the Trustee.

140. Guarantee by State Government of principal and interest on debentures.

(1)The principal of and interest on the debentures issued under section 138 shall in respect of such maximum, amount as may be fixed by the State Government in this behalf, and subject to such conditions as it may think fit to impose therein, carry the guarantee of the State Government.(2)The State Government may, subject to such conditions as may be prescribed increase the maximum amount of any guarantee given under sub-section (1).

141. Borrowings from Govt. & other financial institutions.

- Notwithstanding anything contained in this Act, the Bank, may borrow money from the State Government or Govt. of India or National Bank for Agricultural and Rural Development & other financial institutions, as may be approved by the Trustee.

142. Priority of mortgage over certain claims.

- A mortgage executed in favour of the Uttarakhand State co-operative Bank after the introduction of this chapter under the Act shall have priority over any claim of the Government arising from a loan granted, after the execution of such mortgage, or creation of such charge.

143. Right of Uttarakhand State co-operative Bank to purchase mortgaged property.

(1)Notwithstanding anything contained in any law for the time being in force, it shall be lawful for Uttarakhand State co-operative Bank to purchase any property sold under this Act and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.(2)Nothing in any other law for the time being in force, fixing a maximum limit of agricultural holding shall apply to the acquisition of land or other immovable property by Uttarakhand State co-operative Bank under sub-section (1).(3)If the bank has to lease out any land

acquired by it under sub-section (1) pending sales thereof the period of lease shall not exceed one year at a time and the lessee shall not acquire any other interest in that property, notwithstanding any provisions to the contrary in any other law for the time being in force.

144. Powers of sale when to be exercised.

(1)Notwithstanding anything contained in the Transfer of property Act 1882, where a power of sale without the intervention of court is expressly conferred on Uttarakhand State co-operative Bank by a declaration of charge made or mortgage deed executed before or after the commencement of this Act, the managing committee of the bank or any person authorized by such committee in this behalf shall, in case of default in payment of the money due under the mortgage or charge, or any part thereof, have power, in addition to any other remedy available to the bank, to sell the property (subject to any mortgage or charge) without the intervention of court.(2)No such power shall be exercised unless---(a)A notice in writing requiring payment of such money has been served upon-(i)the mortgagor or each of the mortgagors;(ii)any person who has to the knowledge of the bank any interest in or charge upon the property mortgaged or right to redeem the same;(iii)any surety for the payment of the mortgage debt or any part thereof, and(iv)any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property;(b)default in payment of such mortgage money or part thereof continues beyond three months after such service, and(c)the Bank has after hearing the objection if any, of the mortgagor or any other person mentioned in clause (a) authorized the exercise of such power.(3)A sale under this section shall be conducted in such manner, as may be prescribed.(4)Where any property sold under this Act, is in the occupancy of any person creating mortgage or charge or of some person on his behalf, or some person claiming title subsequent to the creation of such mortgage or charge in favour of Uttarakhand State co-operative Bank, the Collector shall on the application of the purchaser order delivery to be made by putting such purchaser or any person appointed by him in this behalf, in possession of the property.(5)A sale under this section of an agricultural holding or any other immovable property or any interest therein shall be subject to the provisions of Land law prevailing in Uttarakhand State.

145. Power of Uttarakhand State co- operative Bank where mortgaged property is destroyed or security becomes insufficient.

- Where any property mortgaged to Uttarakhand State co-operative Bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the managing committee of Uttarakhand State co-operative Bank of providing further security so as to render the security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under this Act or any other law for the time being, in force for the recovery thereof.Explanation. - A security shall be deemed to be sufficient within the meaning of this section if the value of the mortgaged property does not exceed the amount for the time being due on the mortgage by such proportion as may be specified in the rules or the regulations made by the Uttarakhand State co-operative Bank.

146. Title of purchaser not to be questioned on grounds of irregularity etc.

- Where any property is sold in the exercise or purported exercise of a power of sale under section 144, the title of the purchaser shall not be questioned on the ground that-(a)the circumstances required for authorizing the sale had not arisen, or(b)due notice of the sale was not given, or(c)the power of sale was otherwise improperly or irregularly exercised, but any person who has suffered any damage by an unauthorized, improper or irregular exercise of any such power shall have the right to claim damages against the Uttarakhand State co-operative Bank.

147. Mortgage not to be questioned on insolvency of mortgagor.

- Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of Uttarakhand State co-operative Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Uttarakhand State co-operative Bank a preference over other creditors of the mortgagor.

148. Appointment of receiver and his powers.

(1)The Bank may, on its own motion under circumstances in which the power of sale without the intervention of court may be exercised under section 145 by the Bank, appoint in writing, a receiver of the mortgaged property or any part thereof and such receiver shall be entitled to take possession of the property, to collect its produce and income, to retain any money realized by him for the expenses of management including his remuneration, if any, as fixed by the Bank, and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of property Act, 1882 so far as applicable.(2)The Bank may, either on its own motion or on an application made by the mortgagor, remove a receiver appointed under sub-section (1).(3)A vacancy in the office of the receiver may be filled up by the Bank.(4)Nothing in this section shall empower the Bank to appoint a receiver where the mortgaged property is already in possession of a receiver appointed by a civil court.

149. Vesting of right of alienation on agriculturists not having such rights.

- The State Government may, by notification, vest, subject to such restrictions as may be specified in the notification all Bhumidhars with transferable rights and the Government lessees, with rights of alienation in land held under their tenure or any interest in such land including the right to create a charge on mortgage on such land or interest in favour of Uttarakhand State co-operative Bank for the purpose of obtaining loan from the bank, and upon the issue of such notification, such Bhumidhars and Government lessees shall notwithstanding anything contained in any law for the time being in force or any contract, grant or other instrument to the contrary, or any custom or tradition, have a right of alienation in accordance with the terms of the notification.

149A. Creation charge in favour of Uttarakhand State co-operative Bank.

(1) A person desirous of securing financial assistance from Uttarakhand State co-operative Bank by hypothecation of movable property owned by him may make a declaration in writing on a duly stamped paper that he thereby hypothecates such property in favour of the Bank. (2) When a person desirous of securing financial assistance from Uttarakhand State co-operative Bank does not possess property of sufficient value to secure the loan financial assistance may be provided to him by the bank on furnishing sureties to the satisfaction of the bank subject to such condition if any, as may be prescribed. (3) The provisions of this Act and rules made there under relating to charge and mortgage made under this Act shall mutatis mutandis apply to hypothecation of movable property made under this Act.

150. Mortgagors.

- Notwithstanding anything contained in the Transfer of property Act, 1882 power to lease or to create other rights in the mortgaged any charged property or any other law for the time being in force, no property in respect of which a charge, hypothecation or mortgage has been made in favour of Uttarakhand State co-operative Bank shall be sold or otherwise transferred by the person making the charge hypothecation or mortgage until the entire amount of loan or advance taken by him from the Uttarakhand State co-operative Bank together with interest thereon is paid to the bank and any transaction made in contravention of this section shall be void: Provided that, if a part of the amount borrowed by a member is paid, the Uttarakhand State co-operative bank may, on application from the member release from the mortgage charge or hypothecation created or made in favour of the Bank, such part of the property or interest therein as it may deem proper with due regard to the security of the balance of the amount remaining outstanding from the member.

151. Registration of documents executed in favour of Uttarakhand State co-operative Bank.

(1) Notwithstanding anything contained in the Registration Act, 1908 or any other law for the time being in force a deed creating charge or mortgage in any land or interest therein or other immovable property executed by a borrower member in favour of Uttarakhand State co-operative Bank for the purpose of securing repayment of loan, shall be deemed to have been duly registered in accordance with that Act with effect from the date of its execution provided the bank has sent to the sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged, or mortgaged in situated within a period of three months from the date of execution, by registered post or hand delivery under acknowledgement a copy of the document creating such charge or mortgage duly certified to be a true copy by an employee of the bank authorized to sign on its behalf, and the sub-registrar concerned shall file such copy or copies, as the case may be in his book no.1 prescribed under section 51 of the Registration Act, 1908. (2) Where the sub-registrar is of the opinion that the said document is not duly stamped or suffers from any defect arising out of the accidental slip or omission, he shall send the copy or the copies as the case may be, of the documents to the bank requiring it to get the deficiency in stamp duty made good on the original or to get the

defect removed within thirty days or within such extended time as the sub-registrar may allow in that behalf. The bank shall get the deficiency made good or the defect removed, notwithstanding anything contained in the Indian Stamps Act, 1899.(3)After the deficiency in stamp duty has been made good or as the case may be, the defect has been removed, the bank shall send the copy of the document again to the Sub-Registrar in the manner laid down in sub-section (1), and there upon the sub-Registrar shall file the copy in Book no.1 in accordance with the provisions of sub-section (1).(4)Notwithstanding anything contained in the Registration Act, 1908 it shall not be necessary for the borrower member, the Trustee or for any officer of Uttarakhand State co-operative Bank to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of the said Act.

152. Revenue Register for noting of charge of mortgage.

- Where a copy of the document creating charge, or mortgage has been sent for registration under section 151, the bank shall also send a copy of such document to the Tehsildar or such other official as may be designated in this behalf by the State Government. The Tehsildar or other official shall make a note of the particulars of such charge, or mortgage in a register maintained for this purpose. The Register shall be in such form and inspection thereof shall be allowed and copies or extracts there from issued in such manner and on payment of such fee as may be prescribed.

153. Section 102, 103, 104 of the Transfer of Property Act, 1882, to apply to notices this Act.

- The provision of section 102 and 103 of the Transfer of property Act, 1882 and of any rules made by the High Court under section 104 of the said Act for carrying out the purposed of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Act.

154. Mortgages executed by manager of Joint Hindu Families.

(1)Where a mortgage executed in favour of Uttarakhand State co-operative Bank, whether before or after the commencement of the Act, is called in question on the ground that it was executed by the manager of a Joint Hindu Family for a purpose not binding on the member thereof whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such mortgage in question.(2)For the purpose of this section the following shall be regarded as purposed binding on members of a Joint Hindu Family-(a)the improvement of agricultural land or of the methods of cultivation or for financing any other means to raise the productivity of land;(b)the purchase of land;(c)construction of rural dwelling houses for the family.

155. Modification subject to which section 8 of the Hindu Minority & Guardianship Act, 1956 shall apply to the mortgages under this Act.

- Section 8 of the Hindu Minority and Guardianship Act, 1956 shall apply to mortgages in favour of Uttarakhand State co-operative Bank, subject to the modification that reference to the court therein shall be construed as reference to the collector or his nominee and the appeal against the order of the collector or his nominee shall lie to the commissioner.

156. Reference to Uttar Pradesh Sahkari Gramya Vikas Bank to be construed as a reference to Uttarakhand State co-operative Bank.

- A reference to the Uttar Pradesh Sahkari Gramya Vikas Bank in any law or statutory instrument shall, with effect from the commencement of the Uttarakhand State co-operative societies Act be construed as Uttarakhand State co-operative Bank.

157. Power of the Board of Uttarakhand State co-operative Bank to make regulations.

- The Board of Uttarakhand State co-operative Bank, may subject to the approval of Trustee, make regulations not inconsistent with the provisions of this Act, the rules and the bye-laws of Uttarakhand State co-operative bank, providing for all or any of the following matters----(a)fixing the period of debentures and the rate of interest payable thereon;(b)calling the debentures after giving notice to debenture-holders;(c)issue of new debentures in place of debentures damaged or destroyed;(d)converting one class of debentures into another bearing a different rate of interest;(e)valuation of properties offered as security for loans;(f)investment of moneys realized from mortgagors; and(g)generally for any other matter in respect of which the Board considers that the provisions should be made for carrying out the purpose of this Chapter:Provided that the regulations framed under section 157 shall be subject to the approval of State Government.

158. Power of State Government to make rules.

(1)The State Government may, after publication in Gazette, make rules generally for carrying out the purposes of this Chapter, including any rules prescribing fees in respect of any proceedings under this Chapter.(2)In particular and without prejudice to the generality of the power under sub-section (1) the State Government may make rules providing for all or any of the following matters-(a)the procedure for the distraint and sale of produce of land mortgaged to Uttarakhand State co-operative Bank;(b)the procedure for sale of property mortgaged to Uttarakhand State co-operative Bank;(c)fixing the percentage under clause (c) of sub-section 3 of section 136 for determining the limit of the debentures issued by the Bank;(d)laying conditions under which the maximum amount of guarantee given by the State Government may be increased, withdrawn restricted or modified;(e)any other matter which has to be, or may be prescribed.(3)All rules made under this section shall as soon as may be, after they are made, be laid before the State Legislature while it is in session, for a total period of not less than 14 days and shall take effect from the date of their

publication in the Gazette.

159. Trustee and others to be public servants.

- The Trustee, the Registrar or any person authorized by the Registrar to distrain and sell property or a Receiver appointed under section 148 shall be deemed to be a public servant within the meaning of section 21 of the Indian penal Code.

160. Public servants not to bid at sale.

- No public Servant referred to in section 159 shall purchase or bid for any movable or immovable property sold under the provisions of this Act.

161. Guarantee funds to meet certain losses.

(1) It shall be competent for the State Government to constitute one or more Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the Uttarakhand State co-operative Bank on titles to immovable property subsequently found to be defective or for any other purpose under this chapter, for which in the opinion of the State Government, it is necessary to provide for or create a separate Guarantee fund. (2) The Uttarakhand State co-operative Bank shall contribute to such funds at such rate as may be prescribed, and the constitution maintenance and utilization of such funds shall be governed by such rules, as may be made by the State Government in this behalf.