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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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## PART IV (A) — PROVINCIAL COUNCILS

### Provincial Councils Notifications

#### SOUTHERN PROVINCE PROVINCIAL COUNCIL

#### STATUTE OF COOPERATIVE SOCIETY BEARING No. 06 OF 2019 UNDER THE SOUTHERN PROVINCIAL COUNCIL

I, Udalamaththa Gamage Dayawansha Ariyathilaka, Minister of Agriculture, Agrarian Development, Irrigation, Water Supplying and Drainage, Food Supplying & Distribution and Trade & Cooperative Development of Southern Provincial Council hereby inform to the General Public that the Statute of Cooperative Society No. 06 of 2019 which had already been approved dated 01.04.2019 by the Hon. Governor of Southern Province followed by the approval made dated 26.03.2019 by the Southern Provincial Council is enacted since 01st of April in 2019.

UDALAMATHTHA GAMAGE DAYAWANSHA ARIYATHILAKA,  
Minister of Agriculture, Agrarian Development,  
Irrigation, Water Supplying and Drainage,  
Food Supplying & Distribution and Trade &  
Cooperative Development of Southern Provincial Council.

01st April, 2019,  
4th Floor, Dakshinapaya,  
Labuduwa, Galle,  
At the Minister's Office,  
Ministry of Agriculture, Southern Province.



**Statute of the Cooperative Society bearing No. 06 of 2019 under the  
Southern Provincial Council**

A Precept, to provide ways and means to organize, to register, to supervise, to Regulate, to Audit, to provided cooperative education and propagation and to develop the cooperative societies within the Southern Provincial Council, to proclaim the written statute relating to the establishment and administering Cooperative societies and, to provide for connected and related matters.

This precept will replace the Cooperative Act, No. 5 of 1972 amended by cooperative Act, No. 32 of 1983 and No.11 of 1992 except the sentences 9(4), 9(5), 24, 24(c) 25, 26, 28(1), 28(2), 29(1), 29(2), 44(2)(1)(a), 53(2), 58(1)(e), 61(2)(g), 61(2)(i), 71, 75, “bank” means - (a)(b)(c).

The Provincial Council of the Southern province of the Democratic Socialist Republic of Sri Lanka will hereby enact as herewith.

Short Title and the  
date of activation

1. This precept will be known as the Southern Provincial Council’s No. 06 of 2019 Cooperative Society Precept and will come in to effect from the date sanctioned by the Governor of the Southern Provincial Council.

1<sup>ST</sup> PARAGRAPH

**Registration**

Appointments  
and the power of  
those appointed

2. (1) It is required to appoint a Cooperative Development Commissioner and a Cooperative Registrar for the Southern Province. Similarly, as may be necessary, the appointment of Provincial Deputy Registrar and Registrars, Assistant Commissioner and a number of Registrars may be appointed.
- (2) The Minister in charge of the subject of Cooperative in the Southern Provincial Council may, by a special or general order, bestow, in part or in whole, powers vested in the Provincial Commissioner and Registrar as per this precept, or as per the regulations enacted in accordance with this precept, upon the Provincial Deputy Commissioner and the Registrar or the Assistant Commissioners and the Registrars.
- (3) The person who functions currently as the Provincial Cooperative Development Commissioner or the Cooperative Development Commissioner, the person who currently function or appointed to function within the Southern Province, should bestow the same powers by the regulations enacted, or said to have been enacted, by this precept as bestowed on the Cooperative society registrar and that he/she should exercise that power.
- (4) Each of those persons who have been appointed to assist the Provincial commissioner of Cooperative should be delegated with certain specific powers of the Registrar, by regulations enacted or said to have been enacted under this precept, as determined by the Registrar by a special or general order made under this article and such persons so empowered may exercise such authority.

Societies that can  
be registered

3. Subject to provisions hereinafter included
  - (1) A society voluntarily organized in line with the policies and benevolent principles of the cooperative movement while preserving the identity and the entrepreneurship of the said movement with the intention of facilitating the thrift of economic, educational, social and cultural skills of its members

or

a society comprising of societies registered as own members, established to facilitate the activities of the societies named in paragraph (1) above could be registered under this precept with or without the responsibility of limited liability. However, the liability of a society where there is membership of a society, is limited in responsibility.

- (2) In a situation where the liability of the membership of a society is limited, no member except a registered society should hold a greater proportion than what the share capital regulations of the society prescribe, subject to a maximum limit of 1/5<sup>th</sup> of the society's share capital.

4. (1) (a) In a situation where the society comprise only of individual members, Unless it comprises a minimum of 20 members, who are above 18 years of age, who reside, renders a service or owns immobile property within the purview of the operational area of the society and have the potential to avail of the services of the society; or
- Conditions of  
Registration
- (b) (i) In a situation where the society comprises of registered societies Unless there are a minimum of either five societies or 50 % of the societies formed for a particular trade, whichever is higher, and that there is no other society formed for the purpose within the district:
- (ii) In an instance where an Area society or an Association is formed with the membership of registered societies, unless there are at least three registered societies forming an Area Society:
- (c) Unless a report of recommendation is obtained from a person or institution named by the Commissioner stating that
- (i) The activities the societies intend to be engaged in are economically compatible;
- (ii) The constitutions proposed by the societies are in accordance with this precept and regulations prepared or considered to have been prepared under this precept:
- (d) Unless the proposed constitutions have been ratified by the membership of the societies at a properly summoned and constituted General meeting with regard to their current activities:
- (e) Unless the membership that signed the application for registration of the Societies have paid in full all the membership fees and other legitimate dues payable to the society:
- (f) Unless, in a situation where there is another society with similar entrepreneurial intentions registered within the purview of the subject society, that registered society has obtained consent at a General meeting of the other society, expressing consent to register the subject society:
- (g) Unless the constitution of the subject society states that, two members of the proposed Executive committee of the society should be between eighteen and thirty-five years of age and accordingly they have been duly elected and are functioning as stipulated:

(h) Unless the functional and financial feasibility of the proposed society has been substantiated for the past 6 months:

(i) Unless the information prescribed for the purpose of registration, by the Registrar, has been complied with by the subject society;

no society shall be registered under this precept.

However, the Cooperative Development Commissioner and the Registrar has discretionary power to exempt or change the regulation concerning age, stipulated in paragraph (g) above, while registering the subject society or society comprising of societies.

(2) **Notwithstanding what is stated in clause 1. above, in a situation where the Registrar is not satisfied with the position of registering a subject society for whatever reason, such a society will not be registered under this precept.**

(3) In the event where an issue arises with regard to the contents of this article as to whether the subject society has fulfilled the conditions stated in this precept for registration, the Registrar is required to decide on such issue and thus his decision will be final.

(4) This precept permits the registration of a society, with or without, the responsibility of LIMITED. In the case of societies that register with the responsibility of LIMITED should carry the term LIMITED at the end their title (name), or in the alternative, the Sinhala or Tamil term for LIMITED should be a part of their title.

Application for  
Registration

5. (1) The registration procedure should be done according to a prescribed procedure in presenting the application to registrar

(2) The application-

(a) In the case of society, where there is no registered society as a member, it should be signed by not less than 20 persons who are eligible to sign as per article 4 paragraph (a) above.

(b) In the case of a society where there is a registered society/societies as a member/ members, it should be signed by a person duly authorized to do so on behalf of every one of those societies.

(3) The following documents should accompany the application-

(a) Two copies of the proposed Constitution of the society

(b) A report on the feasibility of the economic activity the society intends to be engaged in

(c) Certified copies of the minutes of the General meeting where the proposal to apply for registration was proposed and the minutes of the General meeting where the Constitution was approved with certified reports of attendance at those meetings.

- (d) A certificate signed by the executive committee of the society where they certify that the members who have signed the application have subscribed to the stated shares of the society and that the monies so paid are lying in the custody of the executive committee of the society.
- (e) Any other information or report that the Registrar may request in relation to the registration of the society.
6. If, in the opinion of the registrar, a particular society has acted in accordance with the rules, regulations and provisions of this precept, the economic objectives it intends to be engaged in are feasible, its constitution does not contradict the values and principles of the precept and that the society has been active for at least 6 months preceding the application for registration, the registrar upon receiving the application may proceed to register the subject society within 60 days of the receipt of the application accompanied by a copy of the society's constitution. However, if the Registrar wishes to decline to register a particular society, he should inform the applicant, within that 60 days period, of his inability to register that society. Upon such rejection, the subject society may make an appeal to the Minister within 60 days of the date of the registrar's intimation by any person who was a signatory to the application for registration. **The Minister in turn may give a ruling on such appeal within 60 days of the date of that appeal.** Registration.
7. (1) Once a society is registered, the Registrar may issue a Certificate of Registration for that society. Evidence of Registration.
- (2) The Certificate of Registration issued by the Registrar should be treated as decisive evidence that the society has been duly registered, unless it is proved that the registration portrayed in the registration has been cancelled subsequently.
8. (1) Any amendments to the constitution of a registered society, including the amendment to the constitution that contains the society's name, should be subject to the laws, regulations and provisions of the Corporative precept. Amending the Constitution of a registered Society.
- (2) An amendment to the constitution of any registered society should not be considered duly made unless such amendment is registered under the Corporative precept. For this purpose, a copy of any proposed amendment should be forwarded to the Registrar in duplicate.
- (3) Where a registered Interim constitution of a society requires an amendment, unless such amendment is submitted with copies or reports prescribed in article 4.(1)(c) & (d) together with information and reports requested by the Commissioner, such amendments may not be registered.
- (4) (a) If the Registrar is satisfied that the proposed amendment to the constitution of the society is consistent with the Corporative precept, the Registrar may proceed to register the amendment within 60 days of submission. However, if the Registrar wishes to decline to register a particular amendment, he should inform the respective party, within that 60 days period, of his inability to register. Upon such rejection, the subject society may make an appeal to the Minister within 60 days of the date of the registrar's intimation. **The Minister, may give a ruling on an appeal, so made, within 60 days of the date of that appeal.**
- (b) The procedure to be followed by the Minister in the case of appeals under (a) above should be in accordance with the regulations prescribed in this precept.

- (5) While an amendment that changes the name of a society should have no impact on the rights or obligations of that society or any member/ former member of the society, any legal matter, by or against the society that is institute at present may be continued under the new name.
- (6) When an amendment to the Constitution of a registered society is registered by the Registrar, he should issue a copy of that amendment certified by him to the society concerned. The subject certificate should thereafter may be considered as conclusive evidence that the amendment to the constitution is duly registered.
- (7) The word 'amendment' in this article should include, preparing a new constitution or making changes in the existing constitution.
- (8) Every constitution of a registered society sanctioned by the Corporative Development Commissioner/ Registrar should be subject to the regulations and provisions of this precept.

Incorporating  
Bifurcating &  
transfer of assets  
& credits of  
registered  
societies.

9. (1) A registered society, having obtained the prior approval of the Registrar and by a proposal carried by a 2/3rds majority of the members who attend and vote at a General Meeting of the society,
  - (a) May transfer a part or the entirety of the assets and liabilities of that society to another registered society ; or
  - (b) May bifurcate the society into two or more societies.
- (2) Two or more registered societies, having obtained the prior approval of the Registrar, may form into a single society by a resolution carried by a 2/3rd majority of the members who attend and vote at the general meetings of each of those societies that desire to merge.
- (3) (a) With regard to sanctions obtained by a proposal of a registered society or societies under clause(1) and clause (2) above, the proposal should contain all the arrangements with regard to transfer, split or integration of the concerned societies.
- (b) The Commissioner and the Registrar could call for a report on the suitability of the proposed transfer, bifurcation or the integration and the Commissioner and the Registrar should take a decision on the proposed transfer, bifurcation or the integration. That decision should be decisive and final on the matter.
- (c) If approval is granted to act as per clauses (1) & (2) above, the Registrar may appoint one person or a Board comprising number of persons that he consider as capable of attending to the task and that person or the Board should have powers to accomplish the task.
- (4) In an instance where a registered society has obtained a ratification for a proposal which involves a transfer of assets and liabilities under this article, and if that proposal contradicts whatever provision that is available in the current law prevailing, the proposal should be treated as a proper transfer of assets and liabilities notwithstanding the current law and bestowing such assets to the beneficiaries should be considered as an adequate transfer.

10. (1) In an instance where the entirety of a registered society's assets and liabilities have been transferred to another society in keeping with the provisions of this precept, the registration of the first society should be cancelled and while that society is considered dissolved it should also cease to function as a corporation. Instances of cancellation of registration of registered Societies.
- (2) In an instance where two or more registered societies have amalgamated in keeping with the provisions of this precept the registration of each of those amalgamated societies will cease to be effective from the day the new society came into existence and further those societies will be considered as dissolved and their corporate status will also cease on that date.
- (3) In an instance where a single society is bifurcated into two or more societies in accordance with the provisions of this precept, the registration of that preceding society will cease to be effective on the date the succeeding societies are registered and that preceding society will be considered as dissolved and its corporate existence will also cease on that date.

## 2nd CHAPTER

### Members of Registered Societies and their Rights and Responsibilities

- 11 (1) No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by laws. Members not to exercise rights till due payments made.
- (2) Where a member of a registered society has not made such payment to the society or acquired such interest in the society as is referred to in subsection (1), it shall be lawful for the society, from any sum of money due from the society to such member in respect of the purchase of any scheduled agricultural product under the statutory organization to deduct any sum of money due to the society from such member in respect of such payment or such interest as is referred to in subsection (1).
- (3) (a) The minimum value of one share purchased by a member of a registered society is Rs. 500/ and this value should be paid by the member within one year of becoming a member. However, this may not apply to School Corporative Societies where provisions enacted by rules may apply.
- (b) A member may commence purchasing a share of a society with the minimum initial payment of Rs. 50/ and then increase that amount to Rs. 500/ within an year of that initial payment. The minimum value of a share could be increased on agreement and could be paid even in one instalment.
- (4) (a) All the registered corporative societies of the Southern Province Provincial Council should make the minimum value of their shares to Rs. 500 within one year from the date of this precept by making necessary amendments to their constitutions. However, these provisions may not apply to School Corporative Societies and what is applicable would be provisions enacted by rules.
- (b) These provisions may not apply to members who have obtained membership, on or before the effective date of this precept.

(c). Further, a member may not enjoy his right to exercise his vote or his right to hold office until he has completed one year since paying his share money in full. However, this period of one year may not apply to members whose names appear in the application for new registration forwarded by the societies and members who are of registered societies.

(5) A member may enjoy the right to exercise his vote or his right to hold office after he becomes a full member of the society.

(6) (a) A person who is a Member of, Parliament, Provincial Council, Municipal Council, Town Council or Pradeshiya Sabha may not be eligible to be chosen to function as a member of the executive body of a registered society and if the election to the legislative body is subsequent, such elected member should cease to function in that capacity of the society from the date of such election. Further, unless sanctioned by the Commissioner or the Registrar, no officer of the Southern Corporative Development Department should function as an executive body member of a registered society. This rule however may not apply to an office of corporative societies that comprise of only officers of the Southern Corporative Development Department.

(b) An employee of a Southern Province Cooperative Society, unless appointed by the Commissioner or the Registrar, may not be eligible to be appointed or to function as a member of the executive body of a corporative society. However, this article may not be of relevance to corporative societies where only officers of corporative societies are members.

(7) Unless appointed by either the Registrar or the Commissioner, if a person chosen as the President of a registered society is also the President of another society on the date that he is chosen, that person is not eligible to be the President of the society where the objectives are different from those of the first society. However, these provisions may not be applicable when appointing a President for the District Corporative society.

Associate  
Members.

12 (1) A registered society may admit any person who enters into an agreement to pursue trade objectives consistent with the objectives of the constitution of the society as an Associated member. That agreement however, should be beneficial to the society.

(2) An Associate member should have no rights either to any part of the society's Assets or profits and for voting at the conduct of society affairs.

(3) Other than the limitations imposed by this article, an Associate member may enjoy all other privileges and rights as per the constitution of the society and he shall be subject to the responsibilities specified therein.

Agreements &  
Transactions  
entered in to  
with minor  
members.

13. The minor status, or the incomplete adult age status of a person, duly accepted as a Member of a registered society under this precept should not be a constraint from Signing in to the laws, legal documents and enjoying exemptions as per the rules of this precept. Further, such status should not be a reason for that member to evade responsibility or to claim exception and therefore cancellation of an agreement he/she has entered in to with a society. Similarly, it should be possible to enforce the law in cases where he has taken part in agreements with the society, either as a principal stakeholder or as a guarantor, notwithstanding the fact that he/she is a minor.



14. A subsequent discovery of a defect or an ineligibility in the appointment of an officer should not be a reason for that society to disassociate itself from the responsibilities that officer has entered into during his tenure. Agreements Entered in to by officers
  
15. A member of a registered society should enjoy only one vote in the conduct of society affairs at its General and Executive committee meetings. However, in a situation where there is tie in voting on a particular issue, the Chairman of the meeting could exercise his vote to be decisive. Voting right of members  
  
However, in the event of electing officers and executive committee members of the society, a tie in voting should be resolved by resorting to a raffle draw.
  
16. (1). A member of a primary society, should not exercise his vote unless done on personal basis by being present at the meetings of the society. The manner of exercising the vote  
  
However, where there is provision in the constitution to permit voting by an Agent, such arrangements may be acceptable.  
  
(2). A society who is a member of another society, however could appoint a member of that society to exercise its voting rights on its behalf in the conduct of that other society's affairs.
  
17. (1). The transfer of the shares of capital or other obligations/ privileges of, a member, an ex-member or a deceased member, should be subject the maximum amount a member is entitled to as per the rules and conditions prescribed in this precept. Limits on transfer of Shares & Relationships  
  
(2). In the case of societies 'Unlimited' in their responsibility, members of such societies may not transfer a share of the capital or other rights/responsibilities unless;  
  
(a) He/she has held that share or responsibility for a period exceeding one year and  
  
(b) the transfer is to the society, to a person who is either a member or a person whose application for membership has been accepted by the executive committee of a society.

### 3<sup>RD</sup> PARAGRAPH

#### Responsibilities of Registered Societies

18. Every society registered under this precept should have an address registered according to the rules of this precept and to which notices and correspondence could be addressed to, and in the event where there is a change in that address such changes should be notified to the Registrar within seven days of such change. Address of the Society
  
19. Every registered society upon a request from a member, should make available for inspection for a reasonable time, without levying a fee, copy of this precept, its rules, a copy of the interim constitution of the society, copies of its executive committee order and a copy of the list of its members by making such documents available for the members at its registered address. Accessibility To precept rules and the constitution

4<sup>TH</sup> PARAGRAPH**Rights, Obligations and Privileges of Registered Societies**

Society is a  
Corporate body

20. Upon registration of a society that society should accrue the personality of a corporation with the right under its name to have Perpetual succession with a Common seal to possess property, to enter into agreements and to have recourse to law and to be prosecuted with the right to forward matters in its defense, and with powers to attend to all matters for which the corporative society was established.

Selling goods to  
the society of  
through society

21. (1) A society that has the sale of livestock, agricultural or an item, produced by an industry, as one of its objectives, may include provisions in its constitution or reach an agreement with its members to say that;

(a) every member of the society who produces such items should dispose the entirety or an agreed part, proportion of that produce or brand through the society and

(b) member who is deemed, or proven to have violated the society constitution or an agreement entered in to, according to the rules of this precept, should pay to the society an amount determined and assessed in proportion to the loss sustained by the society as a result of that violation.

However, it is possible for a member to cause changes in the provisions of the constitution in this regard, or come to an agreement with among the members of the society

- (2) A registered society, in keeping with clause (1) above, should enter into an agreement that is to the society's advantage with regard to goods produced or about to be and likely to be produced.

- (3) The legal implications arising out of clause (1) above, should not be construed by any member of a registered society as an 'embargo on trade and industrial produce'.

- (4) If a member of a registered society by reason of an agreement he/she has entered into prior to becoming a member, continues to dispose his produced to an outsider in keeping with that agreement, such disposal should not be considered as a violation of a clause in the constitution of the society that makes it mandatory for the member to sell produce to the society.

- (5) In this respect, if a society requires a member to disclose all agreements he has entered in to, before he became a member, at the time he becomes a member, in his membership application, that member should accordingly comply with the requirement of the society.

Instances  
of mandatory  
sale of goods  
through the  
society

22. (1) In the event where a registered society is covering a certain area, province or district within the southern provincial council by selling a particular produce made by the members of that society and where the Minister concerned is satisfied that such produce is being made in the area, the Minister may by an order, require a particular producer of those items in the area, irrespective of whether he/ she is a member or not of the society, to hand over such part of their produce, after taking over the part of the produce that he/ she requires for his own consumption, to the society.

- (2) Any such order that the Minister may decide to make under clause (1) above, should be published in the *Gazette* and carry specific details of the particular product, the area in which the order is to be carried out, and the basis of payment to the producer of that product.
- (3) All such orders should be effective from the date such orders are published in the *Gazette* notification and should be in force until rescinded according to the provisions of clause (5) herein.
- (4) All such orders, after coming in to effect should be forwarded to the Southern Provincial Council for ratification.
- (5) Any such order that is declined to be approved by the Southern provincial council should be considered as an order rescinded and it should not have an impact on any activity permitted between the day of the order and the day rescinded. The day the ratification of the order is declined by the Southern Provincial Council should be considered as the day the order was rescinded and such rescinded date should be published in the *gazette* notification.
- (6) (a) By an order *gazetted* by the Minister (Hereinafter known as the amended order), the Minister could change any order at any time *gazetted* under clause (1) before. Thus, every amended order should be effective from the date it is published in the *gazette* notification.
- (b) An amended order that has changed an order made under clause (1) above, should last a period of time that the first subject order could have lasted, if it had not been amended, and not any further than that
- (c) Every mended order should be forwarded to the Southern Provincial Council for Ratification. Yet however, if an amendment made under clause (1) above is further amended by an amendment or amendments before the original amendment is forwarded to the Southern Provincial Council under clause (4), the forwarded amendment should include the changes effected by all the amendments listed and in such a situation forwarding all the amendments one by one to the Southern Provincial council may not be necessary.
- (d) The declining to approve an order for amendment forwarded to the Southern Provincial Council under clause (1) should be considered as the termination of that amendment order and with regard to such amendments that have been declined, the activities should move forward from that date of such termination as if no amendment order has been received.
- (e) The Minister could subsequently withdraw an amendment order made under clause (1) and in the event of such a withdrawal, that fact should be published in the *Gazette* and would be effective from the date that is so published.
- (7) All amendment orders sanctioned by the Southern Provincial Council should be treated as enacted, valid and in force here.
- (8) All notifications published in the *Gazette* under this article should be published with the signature of the Minister.

- (9) In the event where the provisions of a directions made under this article is considered contradictory with provisions of certain other existing legislation such contradiction should have no bearing on the implementation of this particular direction during the period prescribed in the direction as the provisions of this precept should supersede any other provisions.
- (10) Any producer of goods who is not a member of a registered society, but his produce has been sold by a registered society under an order made by clause (1) above, should abide by the conditions and obligations of the society for that particular sale, just as a member of the society would in the course of the transaction.
- (11) In the event where an order is made under clause (1) above, to sell the products of a certain producer who is not a member of the society and when that producer has made an application to be admitted as a member of the society:
- (a) the society may retain such amount that is necessary to meet his membership, in full or in part, from the proceeds of such sales with the consent of the producer and
- (b) after settling his proceeds in full, subject to recovery as stated above, should be admitted as a member.

Those who  
Prompt others  
To breach  
Agreements.

- 23 (1) In the event where an outside party has agreed to sell his produce through a registered society under sentence 21 or has been bound by an order issued under sentence 22, it is an offense for any person, having the knowledge of such arrangement, to prompt or persuade that person to dispose his produce through an alternative source by breaching that agreement or by disobeying that order. In such an event if and when that person is found guilty of that offense in a summary trial by a Magistrate Court, he should be subject to a fine not exceeding rupees five thousand.
- (2) In the event where the offense stated in clause (1) above in this article has been committed by a corporate body, every member of the Board of Directors and officers of that corporate body at the time the offense was committed is considered guilty of that same offense unless they prove that they were not aware of that arrangement or have taken every possible precaution in their capacity to prevent that offense from being taking place.

Transferring  
The rights &  
obligations of a  
deceased member

- 24 (1) In the event of the death of a member of a registered society, the society could transfer the share and other relevant relationships to a person nominated by the member in keeping with the rules of this precept, and where no such member has been nominated the society could transfer to a person, who the society in the opinion of its executive committee, consider to be the legitimate heir of that member. On the other hand, the society could also pay to either the nominated party or to the inheritor according to the rules of the constitution, an amount equivalent to the value of shares and other relevant relationships of the member. However,
- (a) In the case of an Unlimited society, either the nominated person or the heir of the deceased member could claim in cash, an amount determined as equivalent to the value of share and other affairs connected of the deceased member.
- (b) In the case of a society registered as limited, the society could within 6 months of the death of the particular member could transfer the share and other connected

affairs of the deceased member in keeping with the rules of the precept and the constitution of the society, to a nominated person, to a heir or to a person as detailed in a request made by the member.

- (2) A registered society, should settle all other monies due to the deceased member to the nominated person, to the heir or to an appointed agent.
  - (3) All payments and transfers made by the registered society upon the death of a member and in keeping with the provisions of this article, should overpower any other claim made by another person who makes a claim against the deceased member's estate.
25. (1) (a) It is the responsibility of the executive committee of every registered society to maintain an updated membership register, in keeping with the rules of the precept and of the provisions in the constitution of the society. Register of members.
- (b) The subject register should contain the following details.
- (i) The full name, address, national Identity card number, the employment of the member and the number of shares owned by the member.
  - (ii) The signature or the thumb impression of the member.
  - (iii) If there are persons nominated by a member, the full name, date of birth, address and NIC number of that nominated person/s.
- (2) In order to make it evidently clear that a membership register is being maintained by the society in keeping with the rules of the precept it should contain the following details:
- (a) the date on which a particular members name was introduced to the register or list of names.
  - (b) The date on which a particular member obtained his/her membership.
  - (c) The date on which a member terminated his/her membership.
- (3) It is the responsibility of the Chairman of the registered society on behalf of the society's executive committee to forward a certified copy of the membership register prepared as above to the Commissioner and the registrar;
- (a) within three months since the sanctioning of this precept.
  - (b) within three months from the commencement of every calendar year together with all the changes effected to the membership register such as introductions, deletions and alterations in the status of members, during the preceding year.
26. (1) A copy of the notes of a book of transactions, properly maintained by a registered society, certified according to the rules of certification, should be admissible as a *prima facie* evidence in a civil or criminal legal matter. Further at every instance that content is considered admissible, a copy of that content subject to the rules of authentication should be considered as admissible evidence with regard to the subject issues and transactions to the same degree that original content is considered admissible. Proof of entries in books of society

- (2) in a legal matter where the registered society is not a party, unless ordered by the Courts under special reasons, no officer of the society influenced or is bound to appear as a witness to produce the books and contents of the society therein or to testify on their behalf under sentence (1) above.

Deposits of  
securities as  
pledges by a  
society

27. A registered society, notwithstanding any written or implied current law that may stand in the way;
- (1) may use the security deposits in the possession of the society to balance its accounts.
- (2) could bestow the right to the creditor to sell, part or whole of the security deposits, and to credit the proceeds to balance the accounts, on account of amounts the society has failed to pay after having received the notice issued by the Courts, without presenting itself in courts.

Possessing  
Property

28. A registered society is entitled, to come to possess or dispossess, mobile and immobile property, by purchasing, selling, constructing, receiving as gifts or acquiring by other means, or by giving or taking on lease, transferring, mortgaging or exchanging, for the purpose of accomplishing its set objectives.

However, a registered society, except in the case of trading stock, cannot enter in to such transactions on property unless, it obtains the approval of the general body when the value of a property exceeds two hundred thousand and obtains prior approval in writing from the general body and the Registrar, when the value of property exceeds five hundred thousand.

Accordingly, a registered society in possessing and dispossessing immobile property should obtain the written approval of the society's general body and the Registrar as detailed above.

Compulsory  
acquisition of  
land and  
buildings

29. (1) When the need arises for a registered society to come to possess property for the purpose of accomplishing its objectives, such need should be considered as a public need and therefore the Government may permit the society to acquire such property under the Land Acquisition act.
- (2) Where a particular property or land is to be acquired by the government on behalf of a registered society under the land acquisition act, the subject society, before an order is made with regard to that property under the provisions of that act, should pay the government, the amount specified as compensation for the land as per the act and the connected expenses born by the government in acquiring the property.

However, In the event where a particular property is required urgently for the purpose of accomplishing the objectives of a registered society, the society has to pay the government, an amount determined by the acquiring officer as compensation, prior to the issuing of the acquisition order, and the balance amount if there is, has to be paid after deciding on the amount of compensation.

## 5<sup>TH</sup> CHAPTER

### General Provisions relating to Interim Constitutions

30. (1) A registered society, having registered its constitution, should bound its membership by the provisions of the constitution in such a way, as if every member of the society has signed against every provision of the interim constitution and that every member has pledged in person to uphold the provisions of the interim constitution. By-laws of a society to bind members.
- (2) In a situation where it is required to define particular provisions of the constitution of a registered society, due to some ambiguity with regard to the expressions therein, such dispute should be forwarded to the registrar for resolution and the decision taken by the registrar should be decisive and final.
31. A constitution enacted on a particular issue by a registered society empowered by a particular rule should not be questioned based only on the premise that the enactment is an agreement to prohibit an industry or business. Power to make by-laws in restraints of trades.
32. A registered society, should compose its own constitution and having composed it, is permitted to incorporate provisions to impose fines against the members of the society who breach the constitution. Power to make by-laws for the imposition of fines on members.
- However, no society should impose fines against its members on this count unless that member,
- (1) is informed by the society that a fine is to be imposed against him and the reason for that imposition, and
- (2) has failed to give reasons as against the allegations within the time specified in the rules of the precept.

## 6<sup>th</sup> Chapter

### Property and Funds of Registered Societies

33. (1) A registered society, having registered its constitution on behalf of its members, is bound by its provision to each and every member of the society as if every member of the society has taken an allegiance individually to be bound by the same. Loans granted By registered Societies.
- (2) Goods can be supplied on credit as per an agreement entered in to with an Associate member.
- (3) Subject to the provisions of the constitution of the society, the society can grant loans to members having accepted that members immobile property as security guarantee against loans.
- (4) Subject to the provisions provided in the constitution of the society, the society can grant loans having mobile or immobile property with two personal guarantors.
34. (1) A registered society, can accept deposits and loan monies from persons who are not members of the society, subject to the provisions and rules of the society's constitution. Deposits & Loans accepted By registered Societies.

- (2) In an instance where a bank has granted a loan to a registered society having obtained a mortgage on a mobile or immobile property, such transaction should bound that property, on a priority basis from the date and subsequent to that mortgages over and above any other transaction entered in to against that property except those already registered as per the Document registration ordinance against that property or in a manner having a bearing on that property.

Restriction on other transactions with non-members.

35. Transactions entered in to by a registered society with persons who are not a members of the society should be subjected to the provisions of articles 33 and 34 of this precept and the limitations and prohibitions contained in the rules.

Investing the Society funds.

36. (1) (a) A registered society could deposit or invest the society's funds either with securities which are not the 1<sup>st</sup> mortgages of specific properties under article 20 of the Custody Ordinance or with a banker or a person who functions as a banker as approved by the Registrar or with any other registered society or on guarantee as sanctioned by the Registrar, or in any other way as permitted by the rules.
- (b) Re-investment of deposits and properties obtained from members and none members should be done according to the standards specified by the registrar.
- (c) The society should seek the prior approval of the registrar when obtaining advances and loans against deposits and property securities from external institutions.
- (d) A society registered under this precept should not invest its funds in a business or industry outside its stated objectives without obtaining approval from the Registrar.
- (2) However, this precept does not render invalid a particular investment, made prior to the commencement of this precept but yet may not have been acceptable had this precept been effective. yet, such agreements should not be renewed after the expiry of the current period of the agreement except under the provisions of this precept.

Appropriation of profits.

37. (1) Every registered society, in every financial year, as determined by the Auditor as per article 39 of this precept should;
- (a) (i) pay an amount not less than 50 % of the profit before appropriation to the credit of Southern Province Cooperative Development fund established by this precept. This money should be paid within a period not less than 90 days of the receipt of the Audit report to the society. In the event of failure to make that payment, the Registrar in order to recover this money will issue a certificate to the magistrate. The Magistrate is empowered to recover this money by way of a fine imposed on the society and credit same to the cooperative fund.
- (ii) As per the legal aspect under paragraph (i) above, this article should not Empower the Magistrate to question, to examine, or to determine on, the correctness of the certificate issued by the Registrar.
- (b) An amount not less than 25% of the Net profit should be transferred to the Statutory fund of the Society, similarly
- (c) although certain societies may lose money, at least Rs. 50/ should be paid by each society towards the Cooperative development fund. The School Cooperative societies are however, exempted from this rule.



- (d) Provisions should be made by rules to administer the Cooperative Development Fund.
- (2) (a) The excess of profits of the society, after making contributions to the Corporate development fund and to the Statutory fund, should be utilized for the purpose of accomplishing one or more of the following events, with the approval of the registrar :
- (i) To pay as dividends to the members, either 10 % of the balance profit or 10% of the value of fully paid shares, whichever is less in value
  - (ii) To reward the members in accordance with the value of transactions they have entered in to with the society as permitted by the provisions of the constitutions.
  - (iii) To appropriate a maximum of 10% of the balance monies to funds determined by the Interim Constitution.
  - (iv) To appropriate a certain sum, to pay bonus to the employees of the Society and for their welfare activities.
  - (v) To appropriate a certain sum to funds clearly specified by the society's constitution.
  - (vi) To contribute not more than 10 % of the balance monies to a common welfare fund, for the purpose of disbursing on social, cultural or recreational activity or for achieving a wider public objective in the province or area.
- (b) The monies lying to the balance after appropriating as per (a) above should be transferred to the statutory fund account.

## 7<sup>TH</sup> CHAPTER

### **Accounts, Income/Expenditure, Audit, Inspection & Investigation**

- 38 (1). Every registered society should maintain accounts in accordance with standards specified by the registrar with regard to the society's income/expenditure, assets/ liabilities and all other transactions of the society. Accounts & Audits of a society
- (2). Every registered society should maintain its books of accounts in a manner that represents a true and fair view of its transactions during a particular financial year in keeping with the standards laid down by the registrar or a person appointed by the registrar. The society should prepare a statement of Accounts at the end of every financial year and the statement of accounts so prepared should include the profit & Loss statement and the Assets and Liabilities statement for the particular year, and it should be presented to the Registrar or a person appointed by the registrar within three months from the end of the particular financial year. The financial statement so prepared should be certified and signed mentioning the date of signature by either the Chairman or the Deputy Chairman and by two other Executive committee members of the society. If the financial statement duly signed and presented to the Registrar is found to be erroneous or fraudulent, the officers of the society are liable to be prosecuted under the Penal code for preparing fraudulent documents.

(3). In the event where a registered society has not complied with provisions of clause

(2) above, every member of the executive committee of that society is found to have committed an offense and when found guilty of the offense at a summary trial before a Magistrate court should be subject to a fine, a minimum & maximum of which, should be Rs. 10,000/ and Rs. 50,000/ respectively. In addition, the executive committee should be subjected to a directive that requires the committee to produce the annual accounts statement within 3 months of that directive. However, if a member could prove that the offense committed was done without his full awareness of the offense and that he has made every effort within his means to prevent the offense from taking place, such member may be exonerated from such conviction.

(4) (a). In the event where the statement of Annual Accounts is not produced before the Registrar as prescribed in clause (3) above, the Registrar should take steps to dissolve the current executive board of the subject society and appoint a suitable administrative board to administer the society.

(b). The administrative board appointed as in paragraph (a) above should prepare the accounts of the previous year before the end of the current financial year and should forward the accounts to the registrar and should proceed to call a general meeting of the society within the time laid down by the registrar and take action to appoint an executive committee of the society to conduct its affairs for the rest of the period of office. In such a situation the members who were present in the previous executive committee of the society as in (a) above are not eligible to seek office.

(c). In the event where the books and accounts and financial reports are prepared by the registrar as in (b) above the society should act to recover such expenses incurred in the preparation from the executive board found to be wanting in its duty, collectively and individually.

Preparation  
of Income &  
expenditure

(5) (a). Every registered society should prepare a budgeted Income & Expenditure statement that includes revenue targets, capital and recurrent expenditure, fund sources, fund investments and profit and loss statements and a balance Sheet for every financial year.

(b) These statements, should be prepared and forwarded for the approval of the general membership two months in advance of every financial year.

(c) In the event where there is an injunction against the summoning of the general meeting of the society by courts, the Secretary of the society should give reasons to the courts by way of a motion and obtain permission to hold a special general meeting only for the purpose of approving the annual estimates of income and expenditure and the development program of the society. Accordingly, the commissioner should convene a general meeting of the society.

(d) A copy of the subject income & Expenditure statement should be made available to the Registrar one month before the subject financial year.

(e) The structure and the manner of the subject income & Expenditure statement and the information contained therein should be determined by the registrar.

39 (1). The audit of a registered society may be performed by an officer of the Corporative Development Department empowered by the registrar or any other Certified Accounts examiner, appointed by the Registrar. For the purpose of this article, a certified Accounts examiner would be, Audits.

(a) A Chartered Accountant or a firm of Chartered Accountants ;

(b) A person or a body of persons whose name is included in the list of Accounts examiners maintained by the registrar.

(2). The period of audit as per this precept should commence from the last date of the preceding audit period and end with the last date of the subject financial year or with a date ordered by the Registrar, as the case is.

(3) (a). In the event where an audit is required on account of a criminal case or an investigation, the Registrar has the power to order a person suitably empowered in accordance with article 39(1).

(b). When an audit is warranted on account of a criminal case, the Registrar has the power to order an Accounts examiner to conduct a special audit covering a period not exceeding 12 months.

(4) An Accounts examiner should forward the report to the Registrar in duplicate, in a manner specified by the Registrar. The report, in addition to other information, should include the following points of information,

(a) Whether all relevant information required for the purpose was made available ;

(b) Whether the books of accounts have been maintained by the society regularly and in a timely manner ;

(c) Whether the financial declarations and financial status declarations are in keeping with the books of accounts.

(5) The Accounts Examiner should enclose with the accounts report all lists and registers specified by the registrar. The accounts Examiner should forward a certified full financial status report in a structure specified by the Registrar.

(6) The Audit performed as per clause (1) above should have -

(a) An assessment and a ..... of the Assets and Liabilities of every registered society.

(b) An examination on whether the books, reports, other registers, work procedures, information forwarding systems and the organization of certifying procedure are adequate, productive and enable a continuous evaluation of the state of affairs of the society's financial control.

(c) An examination whether the conduct of the society's affairs have been done in accordance with the rules and regulations of the corporative precept and those of the constitution of the society and whether the administration of the society has complied with the provisions of the precept and those of the constitution.

- (d) An examination whether the funds of the society have been transacted in an efficient and a prudent manner.
  - (e) An examination whether there exists a satisfactory system to protect the properties and funds that are under the administration/management of the registered society.
  - (f) An examination whether the accounts, investments and assessments have been carried out according to accepted principals relevant to those activities and whether the audited accounts have been planned to give a true and fair view of the financial position of the society.
  - (g) Any other matter relevant or material to the subject under consideration .
  - (h) The audit activity underclauses (1) and (6) above of this article should be carried out in keeping with conditions, procedures and structures detailed by the Corporative Development Commissioner and accordingly, the subject reports should comply with such requirements as prescribed.
- (7) The Registrar of the person appointed by the Registrar, to carry out the financial audit of the registered society should have the power to,
- (a) Call any person, an officer who is presently or formerly employed, an agent, a member or an outsider, who in the opinion of the Registrar or the person appointed by the registrar, is capable of providing material information with regard to the management and financial transactions of the registered society.
  - (b) Call for any document, register, a security deposit certificate, funds or any other property that is in the possession of any person, an officer who is presently or formerly employed, an agent, a member or an outsider, which in the opinion of the Registrar or the person appointed by the registrar, is material to the conduct of the registered society and the financial audit.
  - (c) To take into personal custody any books or documents that is deemed necessary for the time being.
  - (d) To enter into any premises, to examine and to take a physical count of goods, that is relevant to the conduct of the affairs of the subject society.
- (8) The Registrar or person appointed in writing by the registrar has the power to call for, inspect any books, registers, documents or cash in hand of a registered society maintained by that society, at any time that is deemed necessary. Further all such materials should be forwarded to the registrar or his nominee by the person or officer in charge of that material or in the alternative should provide such information relevant to the conduct of the society as ordered by the registrar or his nominee in charge of the inspection.
- (9) The Registrar and a person nominated by him/her for an audit or an inspection of the registered society should be considered as a Public servant in the definition of the Penal Code.
- (10) (a) If a person, currently or formerly engaged in the organizing, management, as an Officer, employee or in any other capacity in a registered society, has made or authorized a payment or has appropriated the society funds, before or during the conduct of the audit, in violation of, either the rules of this precept, the constitution,

rules and practices advocated by the registrar, the provisions issued by the Corporative Service commission, and orders and procedures adopted by the executive committee of the society or any other rule or law that is relevant to the registered society, such payment should not be permitted by the Registrar and the person who caused, made or authorized that payment or appropriation of funds should be surcharged. Further the person responsible for such improper/ negligent authorization or payment should be made accountable for the loss suffered due to the particular authorization or payment. However, when no such accountability is forthcoming that loss should be recovered from the dues of that person responsible. Further the monies recoverable from that person, at each instance, should be communicated to him in writing.

(b) The registrar or the person authorized by the registrar should offer a reasonable period of time in the context of the case to the person held accountable to give reasons for his action in making the said payment or authorization but if no such opportunity is afforded, and the surcharge is imposed, the registrar or the person authorized by the registrar is bound to give reasons, if requested by the person accountable, for not offering an opportunity to give reasons in writing.

(c) On occasions where conduct has not followed the directions of the registrar, article 65 of this precept, with suitable changes, may become relevant.

40. (1) In the event where certain shortcomings in the conduct of a registered society is revealed at an audit performed under this precept, the registrar should take action to inform the members of the society of that position, and if another society is a member in this, to inform that other society as well.

Communication of defect in audit to societies

(2) In such an event, the registrar may issue an order specifying a particular course of action to remedy the shortcomings reported or to specify a time period within which to be acted upon to remedy the situation.

(3) If action is not taken as per clause (2) above, the option would be to act as per Paragraph (a) of clause (2) in article 56.

41. (1) The Registrar could conduct, in his own direction, an inspection with regard to a registered society's composition, financial status and to its conduct or its books of accounts. Further, the registrar upon requested by the majority of the executive committee or members amounting to not less than 1/3<sup>rd</sup> if the general membership, should order an inspection of the composition, financial status and the conduct, or to the books of accounts of the subject society. A person authorized in writing by the registrar could order an inspection of the registered society's composition, financial status, conduct and the books of accounts. However, as provided under this article, before such an inspection on books or an examination commences or is ordered; the registrar has the power to conduct or order a preliminary inspection to determine whether there are reasonable grounds to warrant such an examination.

Preliminary Enquiry Examination & enquiry

(2) For the purpose of conducting an examination as mentioned in (1) above, the registrar or the person appointed by the registrar should have the power to,

(a) Call any person, an officer who is presently or formerly employed, an agent, a member or an outsider, who, in the opinion of the Registrar or the person appointed by the registrar, is capable of providing material information with regard to the administration and financial transactions of the registered society.

- (b) Call for any document, register, a security deposit certificate, funds or any other property that is in the possession of any person, an officer who is presently or formerly employed, an agent, a member or an outsider, which in the opinion of the Registrar or the person appointed by the registrar, is material to the conduct of the registered society and to the financial audit and to order that a certified copy of those books, document, security deposit, or any other such item is made available when required, suggested and by the relevant party.
- (c) to summon an executive committee meeting or a general meeting of the society on a date and time decided by him to determine on matters suggested and offered by him
- (d) to take into custody the books of accounts when it is felt during the inspection that there is sufficient reason to believe that a fraud has taken place.
- (e) To enter into any premises, to examine and to take a physical count of goods, that is relevant to the conduct of that investigation and to the affairs of the subject society.

Suspension  
Of Executive  
Committee &  
Appointing an  
Interim Board  
Of management

- (3) Before the finalization of an inspection carried out by the registrar as per this clause (1) of the article 41 above, and upon the Interim report obtained on that inspection, if the registrar forms the opinion that the current executive committee of the subject society is incapable, inefficient or unable in any other way to discharge its duties, the registrar has power to suspend the existing executive committee by a period of six months and to appoint an Interim Administrative Board to manage and administer the affairs of the society. Thereafter the registrar has to conclude the investigation within 6 months of the date of suspending the executive committee and decide upon the contents of the final report, whether to dissolve or not, the existing executive committee of the society.

Investigation  
On legitimacy  
Of Membership  
Office/post &  
meetings

- (4) The registrar or a person appointed by the registrar in writing could inquire in to whether an officer of the registered society is appointed duly, whether an officer has ceased to function duly or whether the general meetings or the executive committee meetings of the registered society are held properly,

Impromptu  
& emergency  
Investigations

- (5) In the event where it is felt necessary to examine, the financial position or the stock position through a physical verification or when it is felt necessary to examine on the transactions, books of accounts and registers maintained by the society, the Registrar has powers to commence an examination, to mobilize necessary officers for the purpose or to order such an examination without prior notice

Investigators are  
Public servants

- (6) The Registrar and persons appointed by him with delegated authority should be considered as Public servants in the definition of the Penal Code.

- 42. Upon an audit, an examination, an inspection on books of accounts or an impromptu inspection, carried out under this precept, the Registrar should direct the executive committee that is to continue to take remedial action where necessary based on the findings of the report. Thus, the executive committee is bound to take action, as directed by the registrar within three months of that direction and failure to do so may make the executive committee guilty of an offense.

## 8<sup>TH</sup> CHAPTER

### **Dissolution of the Executive committee or Removal of Members of the Executive Committee of a Registered Society**

43. (1) Consequent to an examination, or an investigation on books carried out as per article 41 of the precept, if the Registrar is of the opinion that a particular member or members of the executive committee or the executive committee as a whole, is not discharging his/her/their duties as they should, the registrar should proceed to remove the member/ members or to dissolve the executive committee. However, if there are objections from a member, members or the subject executive committee on the proposed removal, the registrar, after having offered time for such objections, should convene a meeting of the general body of the society in keeping with the rules and regulations of the constitution and the precept. If the investigation was conducted by the registrar he may summon a general body or on the other hand if the investigation was conducted by the executive committee or the membership, a meeting summoned with the consent of 1/3<sup>rd</sup> of the membership and reveal the findings of the investigation and express his opinion on the issues involved to the general membership :

Dissolution of  
the executive  
committee

- (a) Accordingly, the general meeting should remove the member or members of the executive committee who have been found guilty at that meeting and take necessary steps in keeping with the constitution to fill the vacancies so created with members from among the members other than the ones removed,
- (b) In a situation where the executive committee becomes invalid as in clause (1) above, the membership could dissolve the executive committee and appoint a new Executive committee comprising of persons not served in the previous committee.

However, if the general membership is not taking action to remove member found guilty and appoint new members, the Registrar should order the removal of guilty members and appoint new members. On occasions where the executive committee ceases to function the Registrar could appoint an administrative body to administer the society. An administrative body that is so appointed should have all the powers, as per the constitution, of the general membership.

- (c) As a consequence of an examination or an investigation on books of accounts of a registered society carried out as per article 41, if the registrar forms the opinion that the executive committee in its entirety, is not performing as it should, the registrar, having offered time for the executive committee to give reasons as to why the committee should not be dissolved, should proceed to call a general meeting as per the rules and regulations and reveal the findings of the examination and the opinion formed by him and notify the general body to appoint to replace the subject executive committee with an alternative executive committee. However, when the general body does not act to appoint a new executive committee the registrar has the power to appoint an Administrative Board to take the affairs of the society forward. The official period of a Board or Committee so appointed will be in accordance with the provisions of article 43 (2).

- (d) The executive committee members so removed from office as per article 43.(1) (a), 43.(1) (b), 43.(1)(c), shall not be entitled to hold office or to be appointed to an office in any corporative society for a period of seven years.
- (e) (i) If an executive committee member is removed from a motion of no confidence in a general meeting of a registered society such members should not be entitled to hold, to be elected or to be appointed to any office of a registered society for a period of 7 years.
- (ii) Similarly when an executive committee member or members have been found guilty after an examination or an investigation under article 41, the registrar has powers to make an order on the accusations. If such an order is to be announced the registrar should grant an opportunity to the accused person or persons to give reasons as to why such an order should not be issued. Accordingly, an executive committee member found guilty of misconduct is not permitted to hold office, to be elected to office or to be appointed to an office for 7 years from the date of issuing such an order. Further if such person or persons are currently holding other office, they will cease to hold such office by reason of this order.
- (f) An Executive committee member removed from office due to a financial misappropriation as per (a),(b),(c) or (e) (i) &(ii) above, is not entitle to hold office or to be elected or appointed to an office in any registered society. The names of such persons should be entered in the blacklisted register and Gazetted every year and also, should be included in the Corporative Society's website by the registrar.
- (2) (a) The executive committee, person or persons, appointed as per articles (1) (a) and (b) above should function in that capacity till the end of the time period of the Current executive committee he/they composed.
- (b) While the executive committee so appointed under such circumstances have a period as mentioned in (2) (a) above, they should enjoy all the power, rights and privileges just as an executive committee duly appointed.
- (3) The executive committee, person or persons, appointed as per articles (1) (a) and (b) above should exercise all the power, rights and privileges just as an executive committee duly appointed.
- (4) If a person or a body of persons appointed as a result of circumstances described in 43(1) (a) and (b), causes a loss to the society by conducting in violation of the rules of the precept and the constitution of the society such persons are individually and severally responsible for the losses caused to the society.
- (5) A person or a body of persons appointed to take charge of the management of a society under this article and whose period expires as detailed in article 43.(2) (a) above, is responsible for ensuring the appointment of a new executive committee to take over the affairs of the society as per the rules of the constitution of the society.
- (6) In considering the contents of this article it should not be presumed that the activities described herein should have any bearing on the powers vested in the Registrar to cancel the registration of a registered society as per article 45.



- (7) In the event where an executive committee of a registered society has become inactive, and as a result, if the general body at a duly summoned general meeting, passes a resolution to request the registrar to appoint an administrative body to manage the society's affairs and makes a request to the registrar accordingly, the registrar is empowered to appoint an administrative board comprising not less than 3 persons. The Administrative board so appointed should function in keeping with the provisions in article 43. (2) (a) and the registrar has the power to name the Chairman and the Deputy Chairman or both, as the case may be, in such an instance.

## 9<sup>TH</sup> CHAPTER

### **Dissolution of an Executive Committee of a Registered Society**

44. (1) As a result of an examination or an investigation into the books of accounts of a registered society as per article 41(1) or due to any other reason, having received a request from 2/3rds of the general membership for dissolution of the society, and also having afforded time for objections against the requested dissolution by the members and creditors of the society, if the registrar is of the opinion that the particular society should be dissolved, the registrar by an order under his signature could dissolve the society. Dissolution
- (2) Upon the issue of an order as in clause (1) above, a member, or a creditor, of the subject society could appeal to the Minister within 60 days of the date of issue of that order. Upon receiving such an appeal, the Minister is bound to make a ruling on that appeal within 60 days of the receipt of that appeal.
- (3) When an order is issued cancelling the registration of a society, that order becomes effective within 60 days of such issue in the absence of an appeal made against that order. In the event of an appeal against that order, that order does not become effective until the order is duly confirmed.
- (4) When an order is made cancelling the registration of a society under article 44(1) above, the Registrar could appoint one or more persons to be in charge of the books and affairs of the society, until, either that order becomes effective or that order is confirmed/ not confirmed by the minister in case of an appeal against that order. In such an event the executive committee or the person in charge of books and registers should hand over all such matters to the person or persons appointed by the registrar and thereafter, until the order becomes effective or otherwise, as the case may be, the executive committee should remain inactive.
45. Other than under the circumstances detailed in article 44 above, the registrar may cancel the registration of a registered society when one or many of the following situations exist with regard to a registered society in the manner describe therein. Further, the registrar may not be bound by any claims made by any party against the subject society after the registration is effectively cancelled. Cancelling the  
Registration of  
a society
- (a) When it is a condition for registration that the society should have at least 20 members for the society to register and when the number of members falls below 20, the society automatically becomes unregistered.

- (b) When a registered society has not commenced its activities after one year of its registration or when it has been inactive for two years up to the date before the order of cancellation is issued under this article. In this situation the registrar may cancel the registration by issuing an order in writing.
- (c) When no person, member or executive committee member appears on behalf of a registered society to claim ownership for the books, registers or any other matter that is available. In this situation the registrar may cancel the registration by making a *gazette* notification after giving a 3 months period through a public press advertisement. Further, the Registrar should not be bound by any claim made against a society once its registration is canceled.
- (d) Also, in situations when :
- (i) there is obstructions to a person appointed by the Commissioner for the purpose of inspecting the books of accounts of the registered society,
  - (ii) there is obstructions for holding executive committee or general meetings of the society,
  - (iii) the annual audit is not updated as it should,
  - (iv) the responsibilities as regards the society's depositors are not discharged properly,
  - (v) there is a request made to the registrar by not less than 2/3rds of the society's general membership.

the registrar in his own conviction has power to seek the recommendation of the Minister to obtain a ruling from the Provincial Board of Ministers, to either incorporate the subject society in to another registered society, to cancel the registration of the society or to strike the society off the registration list of the Cooperative department. Having obtained the ruling the subject society should be either incorporated in to another registered society, undergo a cancellation of its registration or face a striking off from the registration list of the Cooperative department, depending on the ruling of the Board of Ministers.

The effect  
Cancelling the  
registration

46. When the registration of a registered society is cancelled as per the provisions of article 44 or article 45, that society, from the date that cancellation becomes effective, hereinafter known as the 'Dissolution date' should cease to function as a corporation.

However, it should be noted that the registrar as per this precept or as per other legal provisions, has incorporated the privileges of the society to a Liquidator or to Liquidators, appointed on behalf of the society.

Liquidation of  
a registration

47. The Registrar may appoint one or more Liquidator when the registration of a registered society is cancelled as above except under article 44 or sub articles (C ) and (d) under article 45. Accordingly, all the property of the subject society should be duly handed over to the liquidator on the date such cancellation becomes effective.

Powers of a  
Liquidator

48. (1). The liquidator or liquidators appointed as per article 47 should have the following powers, subject to the direction and supervision of the registrar and the limitations imposed under article 49,

- (a) To determine from time to time the dues to the society's assets from the members, former members and from the estates of deceased members.
  - (b) To announce the date, by a declaration or by notice, before which, the Creditors whose names have not been entered in the books of the society should forward their claims to be entered in the books or the date before which the creditors are disowned through a distribution of assets prior to such claims are confirmed.
  - (c) To determine the priority basis on settlements to creditors as per the provisions of this precept.
  - (d) To refer any detail or any dispute as per article 53(having understood that reference to the society as a reference made to the auctioneer) to be arbitrated under that article, and to file action on legal matters under his own name or title and to present counter arguments on legal matters.
  - (e) To determine the quantum of the Liquidator's fees and the proportion of that costs each party should bear.
  - (f) To issue directives on the disbursement after compiling the assets as may be required in the closure of a society after settling the dues.
  - (g) To arbitrate on the claims made for and against the society if the prior approval of the registrar has been granted for the purpose.
  - (h) To convene a general meeting of the subject society that may be required to conduct a proper liquidation.
  - (i) To take in to his personal custody, the books, registers and assets of the society.
  - (j) To auction the properties of the society.
  - (k) To maintain the affairs of the society to an extent required to settle productively the dues and close the society. However, nothing contained herein should be stow power to an auctioneer of a Loan granting society to grant a particular loan.
  - (l) To organise activities to feasibly distribute the assets of the society once the registrar has approved a proposal to distribute the assets.
- (2) A Liquidator appointed under this precept, subject to the provisions made for the purpose, may enjoy powers as may be required to conduct duties under this article and as detailed in the provisions of the Civil Procedure Code (as required) to summon the stake holders and witnesses, to compel them to attend, and also to compel them to produce books and registers as required.
49. While the liquidator may exercise his powers subject to the management and directives of the registrar, the registrar has powers to;
- (a) rescind, change or even issue a completely new directive with regard to the directives issued by the liquidator.
  - (b) remove the auctioneer from the post.

Power of  
registrar  
over  
liquidation

- (c) direct to forward all books, registers and assets of the society.
- (d) limit the powers of the auctioneer as per article 48 of the precept by issuing a written directive.
- (e) Direct the liquidator to forward accounts, if and when the registrar feels necessary.
- (f) arrange and audit of the liquidator's accounts and to delegated powers to disburse the assets of the society.
- (g) issue directions to pay the liquidator for his efforts.
- (h) arbitrate on a dispute between the liquidator and a third party, a dispute that cannot be forwarded for arbitration under article 48(1)(c), and when the stake holder expresses agreement to be bound by a decision of such an arbitration.
- (i) establish a fund titled Corporative Excess Fund account and direct all collections made by the auctioneer to be credited to this account. Further this account should be made to function according to the rules by the Registrar.

Executing the  
Directives

50. (1) On an issue forwarded to an arbitrator under article 49, the parties are bound by the decision of the arbitrator and that decision should be enforced as if it is an order issued by the registrar under the said article.
- (2) While a directive issued by the registrar or the arbitrator under article 49 or article 48 should not be questioned in any civil courts, it should be enforced as if it is a ruling issued by a Civil Courts within whose jurisdiction the location of the registered office of the society falls. However, a bank, who is a creditor of a society whose registration has been cancelled should have the right to appeal to the Minister against the directive issued by the registrar or the arbitrator as per article 48 or 49, within 60 days of the issuance of that directive. **The Minister should give a ruling on an appeal so made within 60 days from the date on which that appeal was made.**

Civil Courts  
& limiting  
The court's  
authority

- (3) In a situation where no appeal is made to the Minister within 60 days after a ruling is issued by the Registrar or by the arbitrator as per article 48 or article 49, such ruling of the registrar or the auctioneer, after the lapse of the said period, should become effective. Similarly, where an appeal has been made against that ruling to the Minister within the stipulated time the directive of the registrar or the auctioneer should not become effective until the ruling on the appeal is made by the Minister.

51. Unless as expressed in the provisions of this precept on prior occasions, no civil courts should have jurisdiction over matters concerning the dissolution of a society registered under this precept.

Concluding  
Liquidation

52. (1) When liquidating a society whose registration has been cancelled, the funds, including the reserve fund, subject to the provisions of this precept, should be used, first against the liquidating fees, then against debts guaranteed by the society towards the Government and the Provincial Government, then in meeting other trading obligation of the society and thereafter to pay the share capital. Any further excess of funds available should be used, provided the constitution of the society permits, to pay dividends not exceeding 10% of share value for periods in which no dividends have been declared and paid, and then to pay a donation to the members for the period before dissolution for which no suitable arrangement has been made on profits.

- (2) If any creditor has not made a claim against the liquidator of the society for what is due to him and thus if no payments were made, that fact should be published in the *gazette* notification. Further, any legal matter (case) against the dues from a dissolved society may not be entertained unless made within 90 days of that *gazette* notification.
- (3) After settling the obligations as listed in clause (1) above of this article and settling any claim made through law as stated in clause (2), any excess available may be credited to an Excess Fund account established under this precept.

## 10<sup>TH</sup> CHAPTER

### Disputes

- 53 (1) A dispute relating to the trade or industry of a registered society are disputes -

Resolution  
of disputes

- (a) between, a member/ former member Vs a person who makes a claim for a member, former member or a deceased member, or present and former officers/employee or an heir or a legitimate agent of an officer/ employee,
- (b) between member/former member/members /former members or a person who claims for a deceased member Vs the society, its executive committee or a present and former employee/officer or an heir or a legitimate agent of an employee/officer,
- (c) between the society or its executive committee Vs a present or former officer/employee or an heir or an agent of a deceased officer/ employee,
- (d) between the society or its executive committee Vs a person who has transferred a business or part of it to the society,
  - (i) who happens to be a former employee/officer of another society,
  - (ii) who happens to be a member former member or a person who claims on behalf of a deceased member,
  - (iii) who happens to be an officer/employee or a heir or a legitimate agent of an employee/officer,
- (e) between the society Vs another registered society (in which case the dispute should be referred to the registrar for a ruling),
- (f) between a present/former employee/Officer/employee/a heir or an agent of a deceased member/officer/employee Vs the society where the society has to recover a loan granted or a loss suffered, whether such recovery is accepted or not, as defined by this sub article.

- (2) The Registrar, having received a reference under clause (1) -

- (a) may settle the dispute on his own accord or
- (b) may refer to an arbitrator or arbitrators to do as suitable.

(3) (a) A party that is not satisfied with the ruling of the arbitrator or arbitrators can make an appeal to the registrar against that ruling. Such an appeal to the registrar should be made within 60 days of the issuance of that ruling, with reasons in writing as to why that party is not satisfied with the ruling. If such an appeal is made by an accused in a decisive case against a ruling given against him/her, 10% of the amount so ruled and if the appeal is made by the complainant, 10% of the amount demanded in a decisive case should be sent along with the appeal. However, the amount so required to be submitted as a deposit for an appeal, by one party or the other, should not be less than Rs. 1000/ and should not be more than Rs. 50,000/.

(b) The registrar should decline any appeal not made in compliance with sub article 3(a) above.

(4) A party that has made an appeal to the registrar under clause (3) above may make a request and obtain permission to present him/her self before the registrar through an agent and make a presentation on the dispute to the registrar.

(5) The registrar's ruling under either clause (2) or clause (3) of this article should be final and it should not be questioned in a Civil Court of law.

(6) If no appeal is made to the registrar as per sub article (3) above against the ruling issued by an arbitrator as per sub article (2) above, or if such facility to appeal is renounced or withdrawn, the ruling issued should be final and it may not be questioned in a Civil Court of law.

(7) Provisions of the Statute barred ordinance should not be applicable to a claim which is the subject of a dispute under this article.

(8) If a doubt surfaces as to whether the dispute referred to the registrar is a dispute on trade and industry of the particular society, the ruling of the registrar on the matter will be final and it may not be questioned in a Civil Court of law.

(9) The term 'Member' under this article may include Associate members as well.

(10) As per this article the registrar and the umpire appointed to arbitrate should be defined as a public servant as per the Penal Code.

Executing a  
decision or  
a directive

54 (1) If no appeal is made against a ruling (hereinafter referred to as 'the ruling') made either by the registrar or by an arbitrator on matters duly referred to them under article 53 and if no appeal is duly made to the registrar against that ruling as provided in the article, known as a ruling and the conclusion in such ruling involves payment of money from one party to the other and in a situation where such payment together with the fees and interests is not paid, the registrar, having termed that party who has not paid as the 'Evader' as per this article and may subject that party to -

(a) an issuance of a certificate to a District Courts that has jurisdiction over the district that the 'evader' is either residing or has immobile and mobile property, giving the name of the evader together with particulars of monies due, having added the interest and charges if any,

(b) an issuance of a certificate, giving the name and address of the evader and particulars of the monies due, to a Magistrate of a division that has jurisdiction over the last known place of residence or place of business of the evader,

- (2) In an instance where a certificate has been issued to a District Court as in clause (1) paragraph (a) of the article, the District Court, having received that certificate and in order to recover the dues stated in the certificate, should be directed to issue a writ of the Court (askeesi) to the Fiscal officer empowering him/her to seize the whole, or part, of the evaders mobile and immobile property, or a portion that the Fiscal officer considers to be adequate to recover the stated amount. In disposing the property so seized article No's from No. 226 to 297 of the Civil Procedure Code may be invoke as relevant with suitable alterations.
- (3) In an instance where a certificate has been issued to a Magistrate as in paragraph (b) in clause (1) above, the magistrate, having received that certificate and in order to recover the dues stated in the certificate, should summon the evader before him/her to ascertain reasons as to why further action should not be taken against the evader to recover the dues. If the evader fails to forward satisfactory reasons the Magistrate in a situation where it could not be penalised by a term of imprisonment but only a by a fine, may penalise the evader for an offence that could be penalised only by imposing a fine. In this, the provisions of the article 291 of Criminal Procedure Code No. 15 of 1979 (except its paragraphs (a) and (b) of clause No. (1) should be relevant and the Magistrate could make an order within his powers at the time such criminal punishment is imposed. When the evader agrees to pay a fine in place of the dues, the Magistrate may order the evader to pay by depositing funds to an account specified by the Registrar or in any other manner and when the legitimacy of the receipt is established, a directive may be issued by the magistrate treating the monies as being paid to the courts.
- (4) An evader punished with imprisonment for not paying a fine as per article 291 of the Criminal Procedure Code No.15 of 1979 may not be discharged for paying an amount of money specified in the certificate as per article 54(1)(b)
- (5) The Registrar, when issuing a certificate under this article, by sending that message, personally, by registered post or by telegram, has to ensure that the message reaches the evader. Yet, the non-receipt of that message by the evader is not a reason to do away with the legal provisions available under this article.
- (6) On legal matters and provisions under this article, a District court or a Magistrate should have no powers to, question the veracity, examine the truthfulness and to sit on judgement on the certificated issue and the statements made by the registrar.
- (7) Monies collected by sale under clause (2) or collected on account of a fines paid or recovered under clause (3) should, be remitted to the Registrar by the District Courts or the Magistrate. The registrar may appropriate the money as directed by the rules and orders of the situation.

## 11<sup>TH</sup> CHAPTER

### **Special Provisions relevant to Registered Societies.**

- 55 (1) When an application for membership of a registered society by a prospective member is declined by that society, that prospective member may make an appeal to the Registrar against that rejection. The registrar may decide on that appeal within 60 days of receiving that appeal and that decision should be final for all intends and purposes and the subject society is bound to act accordingly.

certain  
other matters  
registrar has  
to decide on

- (2) When an issue crops up as to whether a member of a registered society has been appointed to a particular office of the registered society duly, whether a particular officer of the society has ceased to function in that capacity, whether the executive committee meetings and the general meetings of the society have been held duly or on any other similar administrative matter, the registrar should give a ruling on all such matters and the decision of the registrar should be considered as final.

Special  
conditions

56. When a registered society, obtains an advance, loan or a grant from the Government or From the Provincial Government, or obtains such facility from a Government institution or a Government associated institution with the recommendation of the registrar, or obtains any other similar grant, loan or an advance such receipts should be subject to the following conditions :

Suspension  
Of officers  
& employees  
and terminations

- (1) When it is required for a registered society, in order to achieve its stated objectives, to possess a building, land or any other mobile or immobile property by way of, a purchase, a lease, a gift, or in any other way, or similarly when it is necessary to dispossess a land, building or any other property by way of sale, lease, mortgage, in exchange, or in any other way, the prior approval of the registrar should be obtained in writing by that society.
- (2) (a) if a member, who is found guilty under article 41 where, an examination is made in to the affairs of the society, or where an investigation was done in to the books of accounts, or who is expelled or suspended under clause (2) of article 40, has been re-elected in a subsequent period since the above examinations/enquiries/ investigations were concluded, such member should be removed from office as, he/ she is not permitted to hold office for a period of seven years. Similarly, a member on whom a decision has been made under articles 43(1)(a) or 43(1)(b) is not entitled to hold office in any corporative society.
- (b) If an officer of a registered society, in the opinion of the registrar, is found to be not performing his/her duty as he/she should or as efficiently and productively as required, or found wanting in duty in any other way under an inspection or an investigation done under article 41, irrespective of what is stated in this precept or in any other written law, that officer may be suspended from his post by a written directive, pending an inquiry, after having afforded time for that officer to submit reasons in his defence. If the officer is found guilty at the investigation mentioned that officer cannot present himself for election to any office in a registered corporative society. Further such an officer is ineligible to be appointed to any office of a registered society within 7 years from the date that officer is removed from office.
- (c) If an officer of a registered society, in the opinion of the registrar, is found to be not performing his/her duty as he/her should or as efficiently and productively as required or found wanting in duty in any other way under an inspection or an investigation done under article 41, irrespective of what is stated in this precept or in any other written law, that officer may be suspended from his post by a written order, pending an inquiry, after having afforded time for that officer to submit reasons in his defence. If the officer is found guilty at the investigation mentioned that officer cannot present himself for election to any office in a registered corporative society. Further such an officer may not be appointed to any office of a registered society within 7 years from the date that officer is removed from office. However, if the subject officer is not satisfied with the investigation that resulted in his removal from office, the officer concerned may make an appeal to the Sothern Province Cooperative Commission within 30 days of that removal. In such a situation the ruling given by the Southern Provincial Cooperative Commissioner should be final.



57. If the Registrar is of the opinion that the management of a particular registered society requires some additional adequacy as to its capacity to ensure the protection of its depositor's deposits, the rights of its members, the security of the investments and deposits made by the government/ the Provincial Government or the deposits made in goods and trade arrangements, and therefore forms the opinion that more members need to be nominated to the society's executive committee, the registrar may so appoint a number of members that he considers is necessary. However, this should be subject to the rule that the number of members in the executive committee should be less than half the number of members in the society. The registrar also has powers to appoint the Chairman and the Deputy Chairman or both to the executive committee and when that happens the members who presently function in those capacities may cease to function by virtue of those appointments. Thus, irrespective of whatever is mentioned in written law, after such appointments are made, the quorum of the executive committee should be any number more than half the number in the executive committee (including the number appointed).

## CHAPTER 12

### Rules

58. (1) The Minister in charge of the subject could enact all rules regarding the formulation of the policies, the enactment of provisions and the empowerment of work procedures under this precept.
- (2) Such rules may, without affecting the generality of the powers bestowed specially or by article (1)
- (a) determine the conditions under which a registration of a society is made and the procedure required to apply for a registration.
  - (b) determine, the eligibility of the persons who could become members and the conditions the members should follow in the conduct of the society, the procedure in enlisting and electing members to the society from time to time and enact provisions for the duties the members should perform, including their contributions, before they could exercise their rights as members.
  - (c) enact provisions, for the resignation and expelling of members and for the payments to be made to expelled and resigned members and for the responsibilities of the former members.
  - (d) determine the number of members in a registered society and the limit that society could impose on such membership.
  - (e) make provisions to determine value of the relationship of deceased members and to decide on the heir of the deceased member and the method of transfer of that value.
  - (f) determine the maximum number of shares or share in capital of the society a member of a registered society may hold subject to the provisions in clause (3) of this article.

- (g) determine, the conditions under which the dividends of a registered society could be declared and the maximum quantum of such dividends that could be paid out from society funds.
- (h) determine, on the General meetings and its conducting procedures, the powers to be exercised at such meetings and the circumstances under which a particular person may not be eligible to become a member of the executive committee or the regional or branch executive committee of a registered society
- (i) make provisions with regard to the, appointment, suspension and dismissal of the executive committee and other officers of the registered society, on the work ethics of the executive committee and of other officers and on the powers to be exercised and the duties to be performed by the Executive committee members and other officers.
- (j) determine why and how a society should have a constitution and the procedure to be followed in making, amending and rescinding a constitution and the conditions associated with the making, amending and rescinding a constitution.
- (k) determine the books of accounts to be maintained by a registered society and to order the publication of a Balance sheet depicting the society's assets and liabilities at periodic intervals.

such audits, to administer and support existing societies, to propagate corporative activities, to promote corporative education and local and foreign training, to work towards the development of the corporative movement, to meet the requirements of the registrar in attending to legal matters, to make arrangements to obtain contributions from all societies to the Southern Provincial Council Corporative development fund established under this precept, to prevent the evasion of corporative fund payments and to administer and manage the funds of the registered societies.

- (m) determine the reports to be submitted to the registrar, their manner, regularity and the persons who should prepare such reports.
- (n) make provisions to arrange the manner and as to who should certify copies of contents of a registered society's books of accounts when issued as required.
- (o) make provisions to prepare and maintain a list of members in relation to their shares when the responsibilities of each member to the society is dependent on the quantum of shares they hold.
- (p) make provisions to create and maintain a reserve fund pronouncing the objectives such funds may be utilised and to facilitate investment of funds of registered societies.
- (q) determine the method and manner in which a trading dispute could be solved and when there is a breach of a trading agreement, constitution or violation of ethics in selling goods through a society and the method of assessing the loss in such situations.
- (r) determine the method and manner in appointing arbitrator or arbitrators and the procedure of conducting arbitrations as against the implementation of the decisions

of arbitrators vs. the decision of the registrar and the monies to be deposited with the registrar on account of appeals made.

- (s) determine the period within which a dispute could be referred to the registrar.
  - (t) determine the conditions and the procedure under which an executive committee of a registered society could be elected.
  - (u) determine the procedure to be followed in purchasing acquiring, selling and disposing property.
  - (v) determine the practices and procedures to be followed in requesting financial aid from the Government or the Provincial Council.
  - (w) While it is possible to make an appeal to the Minister against rulings given by the registrar, this precept may determine on issues that are expressly not stated.
  - (x) **determine the circumstances under which it would be possible to make appeals against the directives issued and the procedure followed, by the liquidator as per article 47.**
  - (y) make provisions to establish and maintain a Corporative development fund account as per article 37(1) (a) and determine the manner in which and the items on which those funds could be dispensed.
  - (z) make provision to establish and maintain an Excess fund account as per article 53(3) and determine the manner in which and the items on which those funds could be disbursed.
  - (a<sub>1</sub>) **issue directives to make provisions to hold election to all area executive Committees of Multi-Purpose Corporative Societies and to hold the Annual General meetings of all other registered Corporative Societies together with activities associated with those events.**
  - (b<sub>1</sub>) determine on the rules and the specimen structures under which appeals could be made, cases examined, and suitable action taken under this precept and also on the fees to be charged, the procedure to be followed together with associated activities.
- (3) No rules shall be enforced unless approved by the Southern Provincial Council.
- (4) Once published in the *gazette* after having obtained the Provincial Council approval with notification as per Clause (3) above, all the rules as per this precept should be legitimate and enforceable as if enacted here.

## CHAPTER 13

### Debts due to the Government and the Provincial Council

Provisions  
To recover  
Loans due  
To government  
& Provincial C.

59. (1) Monies due on debts/loans or on guarantees, to the Government or to the Provincial Council by a registered society or a member, former member or an officer of a registered Society, should be recovered as per the provisions of the Government Creditors ordinance and as per article 39(2) of this precept, such debts should receive priority over other dues of the Society in situations described in Article 39.
- (2). Monies due from a registered Society to the government or to the Provincial Council may be recovered first from the assets of the Society. Secondly, with regard to a Society limited by liability, it is recoverable from the members subject to the limits applicable on liability and thirdly, with regard to unlimited Societies, it is recoverable from members with no limit on liability.

## CHAPTER 14

### Fund Accounts

#### Cooperative Development Fund Account & the Excess Fund Account

Cooperative  
Development  
Fund  
Management  
Account

60. (1) An Account titled Southern Province Cooperative Development Fund (hereinafter called the 'Cooperative Development Fund Account') will be established with the objective of developing the corporative development activities within the Southern Province.
- (2) This fund account should be in compliance with Section iii of the Provincial Council Act, No.47 of 1987.
- (3) The following monies should be credited to this Fund account
- (a) Monies received from registered Societies under Article 37(1) of this precept,
  - (b) Monies received as funds or as donations, contributions, from the government or the Provincial Council,
  - (c) Donations and contributions received from Cooperative Societies or from individuals or institutions.
- (4). The registrar may expend the monies of this fund accounts on account of either one or many of the following purposes subject to the conditions specified hereinafter :
- (a) On Cooperative Educational extension work, propagation work and Training,
  - (b) To increase the efficiency of the Cooperative Societies,
  - (c) To support Cooperative Societies,
  - (d) To meet all legal expense in managing the Cooperative Development Fund account,
  - (e) To meet all legal expenses incurred by the Southern Provincial Council Cooperative Development Department in the course of implementing this precept.

- (f) To meet legal expense of an officer who may have been subjected to legal action while performing his duties under the corporative law, when Government legal assistance is not available.
  - (g) To meet expenses that may be incurred in performing the audits of corporative societies and in meeting expenses connected to development work.
  - (h) **To meet expenses incurred in updating the Cooperative society member's list and the voters list.**
  - (i) To bear the expenses in connection with persons and institutions directly engaged in the corporative movement such as the society member, executive committee member, employee ect..
  - (j) To meet expenses in the administration of the Corporative Development Fund Account.
- (5) To administer the Cooperative Development Fund Account, the Commissioner should appoint a committee of seven persons and that committee will be the Fund Administering Committee. The committee will consist of,
- (a) The Registrar as the chairman of this committee while Deputy Cooperative Development Commissioner ( Administration), an officer nominated by the Secretary to the subject Minister, Assistant Commissioner of Cooperative Development (Development), One Assistant Commissioner to represent the 3 districts, The Accountant of the department and one representative from the three District Director boards of the district corporative societies to represent the corporative societies.
  - (b) The quorum of a committee meeting is 4 and the committee will meet when required, consider the claims made and decide on the payments.
- (6) (a) The Financial year of the Fund Account should be the normal calendar year; from January to December.
- (b) Within three months from the end of every financial year, the Registrar should forward a report to the Provincial Council through the Secretary to the Minister of Cooperative Development.
- (c) The provisions of article 154 of the Constitution which deals with the auditing of state institution accounts and the Sothern Provincial council rules should be relevant in the auditing of the Corporative Fund account.
61. (1) Southern province's this excess fund account (hereinafter known as the Excess Fund account) whose tasks is settle the liabilities and close down the societies whose registration has been cancelled should be consistent with section 111 of No. 42 of the Provincial Council Act, of 1987. Excess Fund.
- (2) This excess fund account should be credited with the following funds;
- (a) The amount lying to the credit of bank accounts and the cash in hand of the societies whose registration has been cancelled, at the time of cancellation of the registration.

- (b) Amounts recovered by the liquidators.
  - (c) Any type of funds that are due on transactions performed prior to cancellation
  - (d) Amounts realised in disposing the assets.
- (3) The Registrar could expend funds on account of expenses as per clauses (1) and (2) of article 52 of this precept. However, the total amount of such expenses paid on behalf of a particular society should not exceed the total of funds collected against that society.
- (4) If an excess of funds remains, after having met the expenses mentioned in clause (3) above, the registrar may authorize the use of such excess funds on one or more of the following tasks :
- (a) To purchase shares in any registered primary society or to support such a society in any other way as ordered by the registrar.
  - (b) To assist a registered society to purchase its non-mobile assets required in its operations.
  - (c) To help a liquidator when a civil case has been instituted against him on corporative society liquidations carried out by him/her.
  - (d) To contribute to any other organisation with the objective of helping any particular society or societies in general, registered under this precept.
  - (e) To meet expenses incurred in administering the Corporative Development fund.
- (5) The Commissioner will appoint a committee of five persons to administer the excess fund account and that committee will be the 'Excess fund management Board'. That committee will consist of;
- (a) The Registrar as the chairman of the committee, Deputy Commissioner of Cooperative Development (Administration), an officer of the Ministry nominated by the Secretary of the Ministry, an Assistant Commissioner of Cooperative Development and the Accountant of the Cooperative department.
  - (b) The Quorum of the committee is three and the committee may meet as required, consider the claims made and take decisions to pay or not to pay as the case may be.
- (6) (a) The financial year of the Excess Fund Account should be the calendar year from January to December.
- (b) Within three months after the end of every financial year, the registrar through the Secretary to the Minister of Cooperative should submit a report of the Excess Fund account to the Provincial Council.
- (c) The provisions of the article 154 of the Sri Lanka Government Constitution on state institution Audits and the Southern province's rules should be applicable to the Excess Fund account audits.

## 15<sup>TH</sup> CHAPTER

### Miscellaneous Matters

62. Irrespective of what is stated in this precept, the Minister may, as required in a situation by a special order, subject to the conditions declared by him, exempt a particular society from a particular rule stated in this precept. Minister's special power to exempt a society from registration/ prescriptions.
63. The Minister may, by a special or general order, announce the exemption of a particular society or a group of societies registered under the provision of this precept or declare that a particular society or group of societies is subject to a change in the provisions as from a particular date specifically mentioned in the directive issued. Minister's Power to Exempt a Society from Precept's provisions.
64. (1) No organisation, except with expressed permission from the Minister, should use the words, 'Eksath sahakara' or 'Samupakara' in Sinhalese, 'Aikkiya' or 'Kutturav' in Tamil or 'Cooperative' in English, wholly or in part, or as a title other than by a registered Cooperative society in the conduct of its business or industry. However, a person or an organization that has been conducting its business or industry under whatever name or title before 22<sup>nd</sup> September 1921, that person, organization or his/her/its heir will not be affected by what is stated in here. Limiting the use of 'corporative'
- (2) Whoever the person who acts in contravention of this article, once found guilty at a Summary trial in a Magistrate Court, will be subject to a maximum fine of rupees ten thousand and in a situation where the offence continues to be committed after conviction, an additional fine of Rs.100/ would be imposed for every single day that the offence is continued to be committed after having found guilty.
65. (1) In the event of, an audit under article 39, an examination under article 41, an investigation in to the books of accounts or on a closure of books of accounts at a liquidation of a registered society, if it could be observed that certain monies or assets are due to the society from a person or a group of persons, a current officer/employee or an ex officer/employee, who had been engaged in the formation or in the management of that registered society, due to the use of society funds in violation of the provisions of, either this precept or any other precept, or rules enacted under such provisions, or as per the provisions of the constitution of the society, or the executive orders of the society, or the financial regulations sanctioned by the registrar or the common provisions issued by the registrar or by the Cooperative Employees Commission, the Registrar, upon a request made either by himself/herself, the executive committee, a member, a creditor, the liquidator or a contributor, should inquire in to the conduct of such person/ group of persons and order as appropriate to;
  - (a) recover the full amount or a part of it together with an interest element the registrar may consider appropriate,
  - (b) reposes such property or part of it to the society, or
  - (c) contribute an amount of money determined to be sufficient as compensation towards the assets of the society.

However, before such an order is issued, the registrar should offer some reasonable time to the person or group of persons so alleged to furnish reasons as to why such an order should not be issued against them. If that member is an employee, the executive committee could order the termination of his services.

- (2) In the event where an order has been made under clause (1) above to recover certain monies or to make a contribution as compensation towards the assets of the registered society, and when such order has been disregarded an application may be made with a certificate as per article 54(1)(a) of this precept to a Magistrate in whose purview the place of business of the society is registered or in case when the order is made against a person, a group of persons, an officer or an employee, the area where that person or that group of persons, that officer or employee resides. Thereafter, that amount may be recovered by way of a fine imposed on that person, group of persons, officer or employee as a punishment for an offence not liable to be punished by a term of imprisonment but by an offence liable to be punished by imposing a fine. This recovery should be in line with the article 291 (except its (a) and (c) paragraphs of clause (1)). Further, the Magistrate may also execute any other order relevant to this punishment at the time of imposing this fine. However, the provision in this article may not bestow any right or power on the Magistrate to examine, verify or judge the legitimacy or the appropriateness of the registrar's action with regard to this recovery.
- (3) The contents of this article however should not be interpreted to mean or imply that a person or group of persons encountered under clause (1) above, stands exonerated of all other legal action brought against him/her/them under a different provision in law, simply because an order has been made under this provision.

Assets and  
Liability  
Statements  
& Affidavits.

66. (1) The Chairman and every member of the executive committee of a registered society should forward to the registrar, a personal assets and liability statement in the prescribed format every year by registered post. The subject statement should reflect the status of the members assets and liabilities for a particular year as at 31<sup>st</sup> March of that year in the following detail;
  - (a) All assets and liabilities of his/ her own self,
  - (b) All assets and liabilities of his/her heir,
  - (c) All assets and liabilities of his/ her every child.
- (2) The declaration as above under clause (1) should be made by the Chairman and every member of the executive committee of a registered society and should be made within three months of such election or appointment and unless he/she ceases to continue in office, on the 1<sup>st</sup> day of June in every year on a continuous basis from the day of the first declaration.
- (3) A member elected or appointed to the executive office of a registered society or to the District or Pradeshiya Executive committee, should within 14 days of such appointment forward by registered post an affidavit to the registrar declaring that he/ she is not ineligible to be elected/ appointed to such office.
- (4) A person who does not comply with provisions in clauses (2) and (3) above will be considered to have renounced his/her office by virtue of that act alone. Thereafter that person/member may not be eligible to hold any office till the end of the remainder of that office period.



(5) If a declaration made under the above clauses (2) and (3) is found/proved to be false a person/member who made that declaration will not be eligible to hold any office of a corporative society for a period of seven years from the date such declaration was confirmed.

67. Subsequent to an audit or an inspection of the books of accounts of a registered society as provided in article 39 of this precept, if an employee, a member or an officer in his/her capacity, having been in charge of, having had the proprietorship over or having had the custody of, a certain asset, property or monies of the registered society, were found to have misappropriated such asset, property or monies or are unable to account for some monies as per the books kept or signed and certified by that officer, member or employee in their respective capacities, it would be legitimate for the registrar to order such member, officer or employee to reimburse or forward the value of such assets properties or monies.

Penalties for  
Breach of trust

Further, if that officer, employee or the member has failed to reimburse or forward the value of subject assets, properties or monies as detailed in the direction issued by the registrar, that officer, employee or member would be guilty of the offence of criminal breach of trust and upon pronouncing guilty at a summary trial before a Magistrate would be penalised in two ways, by imprisonment for a period not exceeding ten years and also, by way of a fine. This penalty should be enforced irrespective of whether such imposition exceeds the general judicial power of the Magistrate.

68. (1) (a) It is the responsibility of the current executive committee of every registered society to make arrangements to elect a new executive committee to office within three months of the expiry of the period of office of the current executive committee.

Power to  
Appoint a  
Board of  
Management

(b) If that responsibility is not discharged as stated, the registrar may consider the current executive committee as dissolved and appoint a Board of Management to administer the society. That Board of management will enjoy the powers, privileges and rights of an executive committee duly appointed by the society.

(c) That board of management should summon a general meeting of the society as per the constitution and elect an executive committee within a period of 6 months of their appointment.

(2) (a) Further the Registrar has the power to appoint a Board of management for a registered society under any of the following circumstances.

(i) In a situation where the executive committee has resigned, and it is not possible to elect a succeeding executive committee.

(ii) When the general meeting has either evaded its responsibility or have not taken steps to appoint an executive committee.

(iii) When the general body has proposed and sanctioned that the management of the society should be done by a Board appointed by the registrar for a prescribed period.

(b) The Board of management when appointed under above circumstance should call for a general meeting and facilitate the election of an executive committee within six months of their appointment. The Board of management so appointed, may exercise the rights powers and privileges of an executive committee duly appointed.

(3) (a) Further, in a situation where it is not permissible to comply with article 68(1) such as when the Courts have issued an interim injunction or in a situation where the General body or the executive committee has been rendered inoperative by an interim or final order of the judiciary, the Commissioner should present facts to the Courts through a motion and obtain permission to appoint a Board of management. Such a Board may exercise the power privileges and the rights of an executive committee duly appointed.

(b) The said board of management may, unless ordered otherwise by the Courts, facilitate the election of an executive committee within six months of its appointment.

(4) In addition to this article, the registrar has been conferred with the power to appoint a Board of management also by articles 38, 43, 56 and 57.

(5) The Commissioner must get the consent of the Minister when appointing a Board of Management under the Article 38, 43, 56, 57 and 68.

As to who  
Who should  
File & prosecute  
Cases

69. It is legitimate for an officer of the Cooperative Development Department to investigate or to conduct an examination or to direct prosecution under chapter XV11 of the Criminal Procedure Code No. 45 of 1979, on a particular issue of a registered society.

to obtain bank  
information

70. Irrespective of whatever is available in any other written law, the registrar may, at any time he/she considers opportune,

(1) request information on a bank transaction entered in to by any registered society.

(2) Request the copy of a ledger account maintained by the bank on behalf of a registered society, as it is.

(3) order a bank to forward a cheque paid by the bank to the credit of the society with the counter sanctioning of the society.

Company's Act  
& Trade Union  
Ordinance

71. The provisions of the Companies act and the Trade Union Ordinance or provisions of the precepts that amend those Acts should not be applicable to the societies registered under this precept.

Power to execute  
And amend  
current  
laws and the  
way forward

72. (1) The Cooperative societies registered under Cooperative Act, No. 5 of 1972, amended By the Cooperative Amendment Act, No.32 of 1983 and Cooperative Amendment Special Provisions Act, No.11 of 1992 and those registered under Cooperative societies (special provisions) Act, No. 34 of 1970, are considered as Cooperative societies registered under this precept and therefore, should follow this precept. The members and officers of such societies should treat their legal, constitutional, executive committee orders, disputes and appeals procedures *etc.* as procedures enacted under this precept.

(2) All the rules in force at the time of commencement of this precept, to the extent that those rules fall in line with the provisions of this precept, should be considered as rules

that are made under this precept and such rules should be in force, until new rules are enacted in place under article 58.

- (3) Prior to the establishment of this precept, any appointments made or directives issued, notices and notifications issued or considered to have been issued, verdicts issued or considered to have been issued by arbitrators, civil and other Court cases filed or considered to have been filed and disputes that have arisen, should be considered as far as possible as accomplished, issued and arisen under this precept.

73. (1) As per this precept, any member, officer or employee of a registered society, who wilfully evade or refuse to abide by an order or to supply an item of information requested by the registrar or by a person duly authorised by the registrar, Penalty for not adhering to the precept
- or
- any person who disobey summons, or a legitimate written order issued under this precept, deliberately or without a reasonable excuse,
- or
- any person who refuses to supply certain information that has been prescribed by a person empowered to do so under this precept
- or
- a member, Officer or employee of a registered society who submits false information, is guilty of having committed an offence under this precept.

- (2) A person who has committed an offence under clause (1) above, having found guilty at a summary trial before a Magistrate, should be subjected to an imprisonment for a period not exceeding 2 years in one of the two ways or to a fine not exceeding Rs. 50,000/ or to the fine and the imprisonment both. The person should be subjected to Penalty, irrespective of whether it exceeds the general judicial power of a magistrate.

- (3) A person penalised under clause (2) above should be disqualified from holding Office, or being appointed to an office, of a registered corporative society.

74. (1) In an instance where a registered society has committed an offence and if an obligation has been breached in the process, the officers concerned is bound by the constitution to discharge that obligation or in the absence of such an officer, the entire membership of the executive committee, unless proved that the subject member has been either unaware that he/she was committing an offence or has taken every conceivable effort to prevent that offence from taking place, would be subjected to the same penalty that the officer concerned would have been subjected to.

- (2) It is not permissible under this precept, to file civil or criminal action, either against the Registrar, against the Deputy commissioners, against the Senior Assistant Commissioners, against the Assistant Commissioners or any other person empowered by the Registrar as per the provisions of this precept, on an issue that has arisen during the course of duty performed with good intentions by any of the above officers. Indemnity of The Registrar etc.

75. A registered society will have no authority to incur or sanction any expenses for the purpose of maintaining a Court case against any action taken by or, the decisions arrived at, by the registrar, in accordance with the provisions of this precept.

76. Unless the terms used in this precept are called for definition, the term 'constitution' should mean the constitutions currently registered and the amendments registered there to, and in force within the Southern Provincial Council.

The term 'Executive Committee' should mean the management body that has assumed to manage the affairs of the cooperative society, the Board of Directors of a registered society and includes persons appointed by the registrar under articles 43,44 and 55.

The term 'officer' should mean the Chairman, Deputy Chairman, the Secretary, Treasurer or other executive committee members who have been elected by the membership or duly appointed to the office of a registered society or branch.

The term 'Provincial Council' should mean the Southern Provincial Council.

The term 'Minister' should mean the Minister in charge of the subject of cooperative in the Southern Provincial Council .

The term 'Primary Society' should mean a registered society, other than a society formed for a particular purpose or to accomplish a task as per paragraphs 36(1)(b), (c) and (D).

The term 'Rule' should mean the rules enacted or considered to have been enacted under this precept.

The term 'Employee' should mean a person employed by and being a paid a salary or wages from the cooperative society's funds.

The term 'Government fund' should include all loans, advances, donations, grants or other such contributions made by the Government or the Southern Provincial Council, the advances, donations, grants and subsidies made as per articles 59 and 60 of the precept, monies and loans obtained from other institutions with the recommendation or the sanction of the registrar and monies payable by the registrar.

The term 'Registrar' should mean the Southern Provincial Council cooperative Development Commissioner appointed to discharge the duties of a Corporative society registrar under this precept.

The term 'Officer of the Cooperative Department' should include the Deputy Cooperative Development commissioner or registrar, Senior Area Assistant Commissioner of Cooperative development, Assistant Commissioner of Cooperative Development, District Development officers, Head Quarter Development officers and Cooperative development officers.

The term 'Registered society' should mean a society or association registered or considered to have been registered under this precept.

The term 'Member' should mean the persons who caused the application to be registered as a society and those who have been enrolled as members subject to the rules and the constitution subsequent to the registration.

The term 'Full Member' should mean a member who has paid up the share capital prescribed by the constitution and who has completed one year after being sanctioned by the membership. The share capital has to be completed within a year to be admitted as a full member.

The prevalence  
of Sinhala  
version  
In case of an  
inconsistency

77. In the event of an inconsistency in the meaning expressed between the Sinhala language and the Tamil language versions of this precept, the meaning of the Sinhala language version will prevail.