

# **LEGAL ENVIRONMENT FOR CO-OPERATIVES**

**FIFTH B.COM CO-OPERATION  
2017 ADMISSION**

**CALICUT UNIVERSITY**

**Prepared by  
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**CPA COLLEGE OF GLOBAL STUDIES**

## **BCM5B11 LEGAL ENVIRONMENT FOR CO-OPERATIVES**

Lecture Hours per week: 4, Credits: 4

Internal: 20, External: 80, Examination 2.5 Hours

Objectives

> To enable the students to acquire knowledge about co-operative legal framework in India and Kerala

. > To understand the formalities for registering co-operatives and the administrative set up.

**Module I** Cooperative Legislation: Features and important landmarks in the history of co-operative legislation in India - Genesis and growth of co-operative movement in India during pre-, postin dependence and after 1991. (8 Hours, 10 marks)

**Module II** Co-operative Legislations in India: Co-operative Credit Societies Act, 1904 - Features -Cooperative Societies Act, 1912 - Features - Kerala Co-operative Societies Act, 1969 -Features - Multistage Co-operative Societies Act, 1984 - Model Cooperative Societies Act, 1991 & 2002 - Features - Recent Trends and Developments - Vaidyanathan Committee Report. (18 Hours, 20 marks)

**Module III** Kerala Co-operative societies Act 1969-Registration of Co-operative Societies : Formalities - Bye Law - Model and its amendment - Formalities - Change of name and liability - Formalities - Membership formalities - Qualifications and disqualifications -Associate or nominal member - Qualifications and disqualifications of members of Board - Election - Procedure - Settlement of disputes - Types and procedure - Enquiry -Inspection - Supervision - Surcharge - Liquidation and its formalities - Board of Directors' meeting - Annual General Body meeting - Minutes - Quorum for the meetings -Removal and expulsion of members - Restrictions on holding shares - Privileges of cooperatives. (18 Hours, 25 marks)

**Module IV** Administrative Set-up of Co-operative Department in Kerala - Delegation of powers -Audit - Procedure - Audit programme - Vouching - Audit classifications - Proceedings -State and the co-operative movement in India - Role of state in the development of cooperatives - Deofficialisation of the co-operative movement - Reconstructing cooperative administration. (12 Hours, 15 marks)

**Module V** Salient Features of Banking Regulation Act 1949 (As applicable to co-operative societies) - Impact of Co-operative Law on co-operative management. (8 Hours, 10 marks)

Reference Books:

1. G.R.Madan, Cooperative Movement in India
2. Goel B.B, Cooperative Legislation, Trends and Dimensions
3. B.S.Mathur, Co-operation in India.
4. T .N.Hajella , Principles, Problems and Practice in Co-operation.
5. Dr.V.BJugale and Dr. P.A.Kohli, Reasserting the Co-operative Movement
6. Co-operative Credit Societies Act ,1904
7. Co-operative Societies Act, 1912
8. Government of India, Multi State Co-operative Societies Act, 2002
9. Government of India, Report of the Committee on Model Act
10. Mohanan P.N., Co-operative Laws in Kerala
11. Bedi R.D., Co-operative Law in India
12. Calvert, The Law and Principles of Co-operation.
13. Rishpal Nainta , The Law of Co-operative Society in India, Deep & Deep Publications Pvt. Ltd., New Delhi.

## **Module I**

### **CO-OPERATIVE LEGISLATION**

Indian cooperative law and cooperative policy have been the most influential factor in determining the direction and the pace of cooperative development.

#### **Features**

It is difficult here to enumerate all the features of Co-operative legislation. broad characteristics can be discussed under the following six headings:

- 1. Creation**
- 2. Legal Status**
- 3. Organizational Framework**
- 4. Control and Assistance**
- 5. Auditing and Accounting**
- 6. Maintaining the True character**

#### **Important landmarks in the history of co-operative legislation in India**

##### **The Rochdale Pioneers**

In 1844 a group of 28 artisans working in the cotton mills in the town of Rochdale, in the north of England established the first modern co-operative business. The weavers faced miserable working conditions and low wages, and they could not afford the high prices of food and household goods. The Pioneers decided it was time shoppers were treated with honesty, openness and respect

#### **The Cooperative Movement in India**

##### **Preamble**

The history of cooperatives in India is more than a hundred years old. **Background**

Even before formal cooperative structures came into being through the passing of a law, the practice of the concept of cooperation and cooperative activities were prevalent in several parts of India

**Cooperative Credit Societies Act, 1904 - The First Incorporation.** The Cooperative Societies Bill, based on the recommendations of this Committee, was enacted on 25th March, 1904.

##### **Cooperative Societies Act, 1912**

With the developments in terms of growth in the number of cooperatives, far exceeding anticipation, the Cooperative Societies Act of 1912 became a necessity and cooperatives could be organized under this Act for providing non-credit services to their members.

### **Maclagan Committee on Cooperation (1914)**

It recommended building up a strong three-tier structure in every province with primaries at the base, the Central Cooperative Banks at the middle tier and the Provincial Cooperative Bank at the apex, basically to provide short-term and medium-term finance. Considerable emphasis was laid on ensuring the cooperative character of these institutions and training and member education,

### **After the 1912 Act**

The first Cooperative Housing Society, the Madras Cooperative Union in 1914, the Bombay Central Cooperative Institute in 1918 and similar institutions in Bengal, Bihar, Orissa, Punjab etc. came up.

### **Government of India Act, 1919**

In 1919, with the passing of the Reforms Act, Cooperation as a subject was transferred to the provinces. The Bombay Cooperative Societies Act of 1925, the first provincial Act to be passed, among others, introduced the principle of one-man one-vote.

### **Multi-Unit Cooperative Societies Act, 1942**

Accordingly, the Multi-Unit Cooperative Societies Act was passed in 1942, which delegated the power of the Central Registrar of Cooperatives to the State Registrars for all practical purposes.

### **In 1944, the Gadgil Committee**

In 1944, the Gadgil Committee recommended compulsory adjustment of debts and setting up of Agricultural Credit Corporations, wherever cooperative agencies were not strong enough.

### **Cooperative Planning Committee (1945)**

The Committee found cooperative societies to be the most suitable medium for democratization of economic planning and examined each area of economic development.

## **Chief characteristics of Co-operative Movement before Independence**

- 1. Official sponsorship of the movement –**  
The movement came as a Government policy rather than as an urge from the people
- 2. Largely confined to credit –** Before independence, the co-operative movement was largely a credit movement.
- 3. Development without much State Aid –** Though the co-operative movement was officially sponsored, it developed without much financial aid.
- 4. Uneven growth –** The growth of the co-operative movement was highly uneven.
- 5. Unplanned expansion –** The co-operative movement passed through various phases before independence but a distinctive feature of the development of the movement was its haphazard growth.

## **Causes of Slow Growth before Independence**

- (1) Lack of knowledge of co-operative principles.
- (2) Lack of careful selection of members.
- (3) Lack of effective supervision and inspection.
- (4) Lack of congenial atmosphere.
- (5) Lack of efficient management.
- (6) Lack of spontaneity.
- (7) Lack of education and inadequacy of training.
- (8) Lack of co-ordination between various co-operative institutions.
- (9) Higher overdues.
- (10) Over emphasis on honorary service.

### **Developments in the Post-Independence Era**

After India attained Independence in 1947, cooperative development received a boost, with cooperatives being given a vital role in the various plans formulated by the Planning Commission

**The First Five Year Plan (1951-56)**, outlined in detail the vision of the cooperative movement in India and the rationale for emphasizing cooperatives and panchayats as preferred organizations for economic and political development. **All India Rural Credit Survey Committee (1951)**

It observed that large parts of the country were not covered by cooperatives and in such areas where it had been covered, a large segment of the agricultural population remained outside its membership.

**The All India Cooperative Congress**, held at Patna in 1956, accepted the principle of state participation and government representation on the Board of Directors of cooperatives

**The Second Five-Year Plan (1956-1961)**, emphasized “building up a cooperative sector as part of a scheme of planned development” as being one of the central aims of National Policy

**The Third Five Year Plan (1961-1969)** stressed that “Cooperation should become, progressively, the principal basis of organization in branches of economic life, notably agriculture, minor irrigation, small industries and processing, marketing,...etc

**The Fourth Five Year Plan (1969-1974)**

The Fourth Five Year Plan (1969-1974) gave high priority to the re-organization of cooperatives to make cooperative short-term and medium-term structure viable.

**The Fifth Five Year Plan (1974-1979)**

The Plan recommended the formulation of Farmers’ Services Cooperative Societies as had been envisaged by the National Commission on Agriculture and stressed the need for professional management of cooperatives.

**The Sixth Five Year Plan (1979-1985)**

The Plan recommended steps for re-organizing Primary Agricultural Credit Societies into strong and viable multi-purpose units

### **NABARD Act, 1981**

The National Bank for Agriculture and Rural Development (NABARD) Act was passed in 1981 and NABARD was set up to provide re-finance support to Cooperative Banks

### **Multi-State Cooperative Societies Act, 1984**

With the objective of introducing a comprehensive central legislation to facilitate the organization and functioning of genuine multi-state societies **The Seventh Five Year Plan (1985-1990)**

The Seventh Five Year Plan (1985-1990) pointed out that while there had been all round progress in credit, poor recovery of loans and high level of overdues were matters of concern

### **Model Cooperatives Act, 1990**

Commission to make a rapid review of the broad status of the cooperative movement, suggest future directions and finalize a Model Cooperatives Act. **Multi-State Cooperative Societies Act, 2002**

The Multi-State Cooperative Societies (MSCS) Act, enacted in 1984, was modified in 2002, in keeping with the spirit of the Model Cooperatives Act. **The Companies Amendment Act, 2002**

Based on the cooperative principles of mutual assistance, it provides an alternative to the institutional form that is presently available to cooperative enterprises. **A. Vaidyanathan Committee, 2004**

The Vaidyanathan Committee has also suggested a model cooperative law that can be enacted by the State Governments

### **High Powered Committee on Cooperatives, 2009**

The World Order, in which cooperatives along with other business organizations are required to function, has indeed changed since the first cooperative law in India was enacted in 1904..

## **Module II**

### **CO-OPERATIVE LEGISLATIONS IN INDIA**

By the beginning of the 20th Century, officials of the colonial government perceived the Indian farmers' dependence on usurious moneylenders to be a major cause of their indebtedness and poverty. At that time the cooperative movement had become well established in Europe and achieved remarkable success there.

#### **Co-Operative Credit Societies Act, 1904**

The object of this Act, as stated in the preamble, was to encourage thrift, self help and co-operation amongst agriculturists, artisans and persons of limited means.

#### **Features of the Co-Operative Credit Societies Act 1904**

1. Any 10 persons living in the same area could form a cooperative society for the encouragement of thrift and self-help among the members.
2. The chief objects of a society would be to raise funds by deposits from members, as well as loans from non-members, government
3. The co-operative credit societies in each province were to be under the control and administration of the Registrar of co-operative societies.
4. The accounts of the societies were to be audited by the Registrar of Co-operative Societies.
5. The rural societies were to be organized on the basis of unlimited liability
6. In the case of rural societies dividends were not to be paid to the members and the surplus funds were to be deposited in the reserve fund
7. No dividend would be paid to the members in the case of urban societies
8. Loans could be advanced only to the members
9. The credit societies were to be exempted from the payment of fees and taxes.

#### **Limitations of the Co-Operative Credit Societies Act 1904**

1. It did not give legal protection to societies formed for purposes other than credit.
2. There was no provision for the formation of a central agency
3. The classification of societies into rural and urban was arbitrary and was found unsuitable.



## **The Co-Operative Societies Act of 1912**

Under this Act any society creditor otherwise may be registered which has its objects, the promotion of the economic interests of its members in accordance with the co-operative principles.

### **The following are the important features of the Co-operative Societies Act 1912**

1. Any society which aimed at the promotion of the economic interests of its members could be now established and registered.
2. The liability of central societies was to be limited
3. Local governments were permitted to use their discretion in making rules and byelaws of the societies.
4. Shares of interest in co-operatives were exempted from attachment
5. Co-operative societies were given priority in regard to the recovery of certain dues.

### **Differences between the Co-Operative Credit Societies Act 1904 and the Co-Operative Societies Act of 1912**

<b>Co-operative Credit Societies Act 1904</b>	<b>Co-operative Societies Act of 1912</b>
It classified the societies into rural and Urban	It classified the societies on the basis of their liabilities into limited and unlimited.
It confined co-operative societies into primary credit societies only.	It provided for the first time for the registration of central societies.
It was silent about the utilization of Profit	suggested that 25% of the net profit must be carried over to the reserve
No provision for organization of societies other than credit	Provision for the registration of noncredit societies also.
No member could hold shares worth more than Rs.1000.	A member could hold shares worth more than Rs.1000
Individual members are organizing a society.	A society can become a member of another society.
No audit fee is charged.	Provision for charging audit fee.

## **Multistate Co-operative Societies Act, 1984**

The Multi Unit Co-operative Societies (MUCS) Act 1942 failed to meet the changing needs and requirement of newly emerging co-operative societies having area of operation in more than one State.

The Objectives of this Act were to

- (i) consolidate and amend laws relating to co-operative societies with objects not confined to one state and
- (ii) serve the interest of members of co-operatives in more than one state.

## **Model Co-Operative Societies Act 1991(Brahm Prakash Committee Model)**

The committee submitted the Report on 20th May 1991. The main objective of this Act

is to promote voluntary formulation and democratic functioning of co-operatives as people's institution based on self help and mutual aid to enable people to promote their economic and social betterment.

### **Salient Features of Model Act 1991:**

1.Procedure for registration of new co-operative society is simplified by removing all

artificial restrictions

2 Given to the concerned societies by allowing freedom to frame rules.

3. Assignment of greater responsibility to Federations: Developmental

4. Equity Participation from Government is prohibited completely.

5. Provisions for the constitution of Co-operative Tribunal has been made.

6. Qualification of Registrar has been prescribed as under:

7. Deputation from government is prohibited.

8.Conferment of Special rights on co-operatives;

9.Special provision imposing disqualification on members of Board of Management

Committee is incorporated.

10.State Aid to Co-operatives: Government nominee is restricted to one without any voting right.

### **Andhra Model**

Andhra Pradesh was the first state passed the new Act on the basis of the Model Act called as Andhra Pradesh Mutually Aided Co-operative Societies Act, 1995 on 4th May 1995 which is the milestone in the history of the Indian Co-operative movement. **Features**

- 1. To rely on the co-operative principles of voluntary, self financing and autonomy and free from the state control.

2. To enable not less than ten individuals belonging to different families to form a company.
3. To enable the co-operative societies to regulate their functioning by framing byelaws subject to the provisions of the Act
4. To enable the co-operative societies to mobilize their own funds.
5. To empower the co-operative societies to provide for the qualifications and disqualifications for membership.
6. To define the powers and functions of the general body.

### **Multi State Cooperative Societies Act 2002:**

The central government is vested with the power to enact law for the cooperatives having area of operation in more than one state. State governments expressed the opinion that the central government should take a lead in this regard by amending its own Multi State Cooperative Societies Act 1984

### **Objective**

- a) to facilitate the voluntary formation and democratic functioning of cooperatives as people's institutions based on self help and mutual aid;
- b) to enable them to promote their economic and social betterment; and c) to provide functional autonomy and freedom to cooperatives.

### **Kerala Co-operative Societies Act, 1969**

Kerala Co-operative Societies Act 1969 (KCSA) is the law relating to the co-operative societies in Kerala State. This Act replaced the Travancore Cochin Co-operative Societies Act 1952 and the Madras Co-operative Societies Act 1932. The Act has consolidated, amended and unified the law relating to the co-operative societies in the state. The objects and intentions of this Act were to provide for the orderly development of the cooperative societies in the state of Kerala by organizing them as self governing democratic institutions, in accordance with the directive principles of the state policy as envisaged in the constitution of India.

### **Recent Trends and Developments**

- In 1990, an Expert Committee, under the chairmanship of Choudhary Brahm Perkash.
- Nine States namely AP (1995), MP (1999), Bihar (1996), J&K (1999), Orissa (2001), Karnataka (1997), Jharkhand (1996), Chhattisgarh (1999) and Uttaranchal (2003), have so far enacted Parallel Cooperative Acts which are enabling and ensure autonomous and democratic functioning of cooperatives.
- Multi-State Cooperative Societies Act, 2002.

- A Committee under the chairmanship of Dr.Y.K.Alagh recommended the amendment of the Companies Act, 1956.
- Government of India constituted a committee under the Chairmanship of A Vaidyanathan, known as Task Force on Revival of Cooperative Credit Institutions. →The centennial year of the Indian cooperative movement [2004].
- High Powered Committee on Cooperatives, 2009.

### **Vaidyanathan Committee Report 2005**

#### **[Task Force on Revival of Rural Co-operative Credit Institutions]**

Vaidyanathan, recommended that any financial restructuring which did not address the root causes of the weaknesses of the system would not result in its sustained revival and would require legal measures. The recommendations of the Task Force in accordance with its Terms of Reference are basically confined to revival of credit cooperatives for which it suggests a financial package.

#### **Conditionalities relating to Reform measures [Recommendations]**

1. The Revival Package for the CCS entails assistance for financial restructuring of the cooperative societies, provided of course their State Governments agree to participate in the package.
- 2.Release of funds will be linked to the progress in actually implementing the Revival Package
- 3.Extensive direct or indirect interference by State Governments have been a major cause for the deterioration of the cooperative credit system
- 4.States should formally agree, through an explicit MOU with the Reserve Bank of India, to be formalized by appropriate amendments to their cooperative laws.
- 5.The release of assistance should, however, be linked to progress in fulfilling the agreed sequence of reforms, within a clear time frame

#### **Main features of the Proposed Legal and Regulatory Reforms**

- 1.The changes meant to redefine and limit the role of RCS to registration, conducting regular elections and annual general meetings, ensuring independent audit and liquidation proceedings....etc
- 2.Since a new enactment is a time consuming process, the Task Force has identified and recommended specific parameters on actions that can be initiated, by participating State Governments, by means of Executive Orders issued under the extant CSA 3.It has concluded that the opposition was because of apprehension that the proposed amendments sought to bring in improvements in the governance of the banking cooperatives...et c

4.The Task Force has, therefore, recommended that while professionalism is necessary in the governance and management of financial cooperatives  
5.As cooperative banks are at present, being concurrently supervised by the NABARD, the Task Force also recommends that NABARD be empowered suitably to improve the effectiveness of its supervision.

### **Module III**

## **THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969**

### **Preamble:**

The Act was passed with a view to provide for the orderly development of the Co-operative sector in the State

### **Short title, extent and commencement [Sec. 1]**

This Act may be called the Kerala Co-operative Societies Act, 1969 and extends to the whole of the State of Kerala

### **Definitions [Sec. 2]**

(a) “Apex society” means a society having the whole of the State as its area of operation and having as its members only other societies with similar objects and declared as such by the Registrar;

(b) “bye-laws” means the registered bye-laws of a co-operative society for the time being in force; (c) “circle co-operative union” means a circle co-operative union constituted under section 88;

(d) “central society” means a society having jurisdiction over one or more Revenue Districts but not the whole of the State as its area of operation

(e) “committee” means the governing body of a co-operative society by whatever name called, to which the management of the affairs of the society is entrusted

(f) “co-operative society” or “society” means a co-operative society registered or deemed to be registered under this Act;

(g) “co-operative society with limited liability” means a society in which the liability of its members for the debts of the society in the event of its being wound up is limited by its bye-laws

(h) “co-operative society with unlimited liability” means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society

(i) “dispute” means any matter touching the business, constitution, establishments or management of a society

(j) “financing bank” means a co-operative society having as its members only other cooperative societies and the main object of which is to raise money and lend the same to its members;

(k) “general body meeting” means a meeting of the members who are entitled to vote in the affairs of the society

(l) “member” means a person joining in the application for the registration of a Cooperative society

(m) “nominal or associate member” means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the bye-laws;

(n) “officer” means the president, vice-president, chairman, vice chairman, secretary, manager, member of committee empowered under the rules or the bye-laws to give directions in regard to the business of a cooperative society;

(o) “prescribed period” means the period of limitation specified in Schedule III appended to this Act

(p) “Registrar” means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom all

(q) “rules” means the rules made under this Act

(r) “State” means the State of Kerala

(s) “State Co-operative Union” means the State Co-operative Union

established under section 89 (t) “Tribunal” means the Tribunal constituted

under section 81

(u) "year" means the period commencing on the first day of April of any year and ending with 30th of March of the succeeding year or in the case of any registered society

## **THE KERALA CO-OPERATIVE SOCIETIES RULES 1969**

(a) "Act" means the Kerala Co-Operative Societies Act 1969. (b) "Default" means the failure on the part of any person to repay the financing bank or to any other society a loan

### **Registration of Co-operative Societies**

#### **Registrar [Sec. 3]**

(1) The Government may appoint a person to be the Registrar of Cooperative Societies for the State.

(2) The Government may by general or special order confer on any person all or any of the powers of the Registrar under this Act

#### **Societies which may be registered [Sec. 4]**

Subject to the provisions of this Act, a cooperative society which has as its object the promotion of the economic interests of its members

#### **Registration with limited liability only [Sec. 5]**

1. A cooperative society shall be registered only with limited liability

2. The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a society registered under this Act with limited liability

#### **Application for registration of cooperative societies [Sec. 6]**

1. An application for the registration of a cooperative society shall be made to the Registrar in such form as may be prescribed

2. Every such application shall conform to the following requirements, namely

a. the application shall be accompanied by three copies the proposed byelaws of the society

b. where all the applicants are individuals, the number of applicants shall not be less than twenty-five, each of such persons being a member of a different family

c. the application shall be signed by every one of the applicants who is an individual and by a person duly authorized on behalf of the Government or any society

### **Registration [Sec. 7]**

(1) If the Registrar is satisfied –

(a) that the application complies with the provisions of this Act and the rules;

(b) that the objects of the proposed society are in accordance with section 4

(c) that the area of operation of the proposed society and the area of operation of another society of similar type do not overlap (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rule

(2) Where the Registrar refuses to register a society, he shall communicate the order of refusal

(3) An application for registration of a society shall be disposed of by the Registrar [within ninety days] from the date of receipt of the application.

### **Registration Certificate [Sec. 8]**

Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

### **Affiliation to apex society [Sec. 8A]**

1. Every Primary Co-operative Society or Central Co-operative Society may within such time and in such manner, as may be prescribed, apply for affiliation to the concerned apex society

2. When the apex or central society, as the case may be, rejects an application for affiliation under sub section

(1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order



## **Co-operative Societies to be bodies corporate [Sec. 9]**

The registration of a society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal and with power to hold property

## **Changes of name of society [Sec. 10]**

(1) A society may change its name by an amendment of its bye-laws and the Registrar shall enter the new name in the register of co-operative societies

(2) The change of name of a society shall not affect any rights or

obligations of the society **Change of liability [Sec. 11]**

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

(2) When a society has passed a resolution to change the form or extent of its liability it shall give thereof in writing to all its members and stake holders

## **Bye Law**

Bye-laws means a set of rules governing the relationship between the society and its members and provide guidance for general administration, conduct of business Any alteration or amendment in any of the provisions of the bye-laws shall be carried out only with the approval of the general body and sanction of the Registrar

## **Model Bye-laws**

Rule 6 of Kerala Co-operative Societies Act states that it shall be competent to the Registrar to frame model byelaws for each class or classes of societies and to suggest modifications there to from time to time

## **Amendments to byelaws of a society**

Section 12 and 13 and Rule 9 of the Rules under the Kerala Co-operative Societies Act, 1969 lay down the provisions and procedure for the amendment of bye-laws of a society

## **Registration of amendments**

In the event of registration of the amendments, the Registrar shall forward to the society, a copy of the registered amendment together with a certificate of registration signed and sealed by him.

## **Membership**

Section 2 (1) of the Act defines a member. 'Member' means a person joining the application for the registration of a Co-operative society

### **Associate or nominal member**

- (1) A society may admit any individual as a nominal or associate member. (2) A nominal or associate member shall not be entitled to any share, in the assets or profits of the society
- (3) Associate member shall have such privileges and rights of a member and be subject to such liabilities of a member

### **Conditions to be complied with for membership [Qualifications and disqualifications]**

- (1) No person shall be eligible for admission as a member of a Co-operative society (a) he has not attained the age of 18 years
- (b) he is not a resident of the place or does not own or possess land within the area of operation of the society
- (c) he has applied to be adjudicated as an insolvent
- (d) he is a paid employee of the society or of its financing banks or of any society for which it is the financing bank
- (e) he is unsound mind.
- (2) No person shall be admitted as a member of a society unless
  - (a) he has applied in writing in the form if any laid down by the society
  - (b) his application is approved by the committee of the society;
  - (c) he has fulfilled all other conditions laid down in the Act, Rules and Bye-laws

### **Removal and expulsion of members [Sec. 17]**

- 1) Any member of a society, who has acted adversely to the interests of the society, may be expelled upon a resolution of the general body

2) No member shall be expelled under sub-section (1) without being given an opportunity of making his representation.

3) A copy of the resolution expelling a member shall be communicated to the member within a period of fifteen days from the date of passing of the resolution.

### **Restrictions on holding shares [Sec. 22]**

(a) hold more than such portion of the total share capital of the society, not exceeding one fifth thereof, as may be prescribed

(b) have or claim any interest in the shares of the society exceeding five

thousand rupees

## **Management of Co-Operative Societies**

### **Final authority in a society [Sec. 27]**

(1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a society shall vest in the general body of its member

(2) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the bye-laws. (3) Provided that the representative general body shall not alter any provision in the byelaws relating to its constitution or powers.

### **Appointment of committee [Sec. 28]**

(1) The general body of a society shall constitute a committee, for a period not exceeding five years, in accordance with the bye-laws and entrust the management of the affairs of the society to such committee

(2) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for appointment as, or for being, a member of a committee— a. if he is member of the committee of another society of the same type b. if he is member of the committees of two or more societies of a different type

(3) The members of a committee may be paid honorarium at such rates as may be prescribed.

(4) The quorum for a meeting of a committee shall be such number of members just above fifty per cent of the total number of members of that committee.

### **Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the committee [28A]**

- (1) Notwithstanding anything contained in this Acts the rules or the bye-laws, there shall be reserved in the committee of every society, one seat for a woman member and one seat for a member belonging to the Scheduled Castes or the Scheduled Tribes.
- (2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non reserved seats in the committee.
- (3) (3) Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes in the committee of any apex or central society at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, the Government or the Registrar, respectively, may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the committee.
- (4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be.

### **State Co-operative Election Commission [28B]**

1. The Government may, by notification in the Gazette, entrust the superintendence, directions and control of the conduct of election to the committee of any other society or any other class of societies to the State Co-operative Election Commission.
2. The State Co-operative Election Commission shall be an officer not below the rank of Secretary to Government appointed by the Government for a period of five years
3. The State Co-operative Election Commission shall, in consultation with the Government, designate or nominate officers and employees of the Government to assist the Commission in the conduct of election to the committee of such society
4. Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee of a society

### **Board of Director's meeting**

- (1) The president of a cooperative may, at any time, call a meeting of the board of directors
- (2) The president shall hold a special board meeting within fifteen days of the date of receipt of a requisition from

- a) not less than one hundred members or one-tenth of the members, having the right to vote, whichever is less;
  - b) at least one-third of the directors;
  - c) the auditor; or d) the registrar
- (3) An individual who ceases to be president under sub-section (3) shall not be eligible to hold the office of president for a period of six years from the date of such cessation. (4) The quorum for a board meeting shall be as specified in the articles, but shall be more than half of the total number of directors on the board
- (5) The procedure to convene and conduct the board meetings shall be such as specified in the articles

### **First General Body Meeting [Rules 8]**

- (1) Within three months from the date of registration of a Society the Chief Promoter thereof, shall convene the first general body meeting
- (2) At the first general body meeting, the following business shall be transacted
  - a) Election of a President for the meeting
  - b) Admission of members and allotment of shares;
  - c) Receiving a statement of accounts and reporting all transactions entered into by the Chief Promoter;
  - d) Passing budget for the working of the society for the year, if any;
  - e) Any other matters connected with the working of the society.

### **Annual General Body meeting [Sec 29 (1)]**

I. A general body meeting of a society shall be held once in a year for the following purposes: Approval of the budget

- 1. Elections
- 2. Consideration of the audit report and the annual report
- 3. Disposal of the net profit
- 4. Consideration of any other matter which may be brought forward in accordance with the bye-laws

II. The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society.

### **Special General Body Meeting [Sec. 30]**

- (1) The committee of a society may at any time, call a special general body meeting of the society and shall call such meeting within one month after receipt of a requisition in writing from the Registrar or from such number of members or a proposition of the total number of members, as may be prescribed
- (2) The Registrar or any person authorized by him in this behalf shall have power to call such meeting and that meeting shall be deemed to be a meeting called by the committee.
- (3) the Registrar or any person authorized by him in this behalf may, at any time, call a special general body meeting of the society in such manner and at such time and place within the area of its operation as he may direct and such meeting shall be deemed to be a meeting called by the committee.
- (4) The Registrar or any person authorized by him in this behalf may, at any time summon a meeting of the committee of the society and that meeting shall be deemed to be a meeting called in accordance with the bye-laws of the society
- (5) The Registrar or any other person deputed by him shall have the right to attend the committee

### **Minutes**

The minutes of a meeting are a written record of the proceedings of the meeting. Minutes are prepared by the secretary after the meeting is over. A separate book is kept by the societies for recording the minutes. Each page of such book must be signed and the last pages of the record of each meeting must be dated and signed.

### **Quorum for the meetings**

The quorum for a meeting of a committee of a society to which Sec. 31 (1) applies - shall be such number of persons just above 50% of total number of members of committee consisting of elected members in terms of Sec. 28 (1) and nominated members in terms of Sec. 31 (1).

### **Supersession of committee [Sec. 32]**

- (1) If the Registrar, after an inquiry by himself or through his subordinates or on a report of the financing bank, or the Vigilance, and Anticorruption Bureau of the Government or the Vigilance Officer or otherwise, is satisfied that the committee of any society

- (2) The Registrar shall consult the financing bank and circle co-operative union or State Cooperative Union, as the case may be, before passing an order under sub-section (1)
- (3) The committee or administrator or administrators so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give have power to exercise all or any of the powers and functions
- (4) The committee or administrator or administrators shall, before the expiry of its or his or their terms of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.
- (5) Every order made by the Registrar under sub-section (1) shall be communicated to the circle co-operative union

### **Securing possession of records, etc. [Sec. 34]**

On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorize any Police Officer, not below the rank of Sub-Inspector, to enter and search any place where the records and the property of the society are kept or are believed to be kept and to seize such records and property

### **Privileges of co-operatives**

#### **A. First charge of society on certain assets [Sec. 35]**

1. Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue any debt or outstanding demand owing to a society by any member or past member or deceased member shall be a first charge

a. upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the Society by such member

b. upon any cattle, fodder for cattle, agricultural or industrial implements, or machinery, or raw materials for manufacture, supplied, or purchased in whole or in part out of any loan given, by the Society

2. No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the society which holds the charge

3. Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void

4. The charge created under sub-section (1) shall be available as against any claim of the Government arising from any loan granted by them after the grant of the loan by the society.

**B. charge on land owned or held by members borrowing loans from certain societies (Sec. 36)**

a member who makes an application for a loan to a society of which the majority of the members are agriculturists shall, if he owns any land or holds any land as a tenant entitled to fixity of tenure, make a declaration in the prescribed form, which shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein, for the payment of the amount of the loan which the society may make to the member on the application

**C .Charge on movable or immovable property of borrower by creating**

**Gehan [Sec. 36 A]** Deduction from salary to meet society's claim in certain cases [Sec. 37]

1. Notwithstanding anything contained in any law for the time being in force, a member of a society may execute an agreement in favour of the society providing that his employer or the officer disbursing his salary

2. On the execution of such an agreement, the employer or the officer disbursing the salary or wages of any such member as is referred to in subsection (1)

**D. Charges and set-off in respect of shares or interest of members in the capital of a society [Sec.38]**

A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member or deceased member outstanding demand owing to the society and may set-off any sum credited or payable to a member, past member or the estate of a deceased member in or towards payment of any such debt or outstanding demand:



### **E. Shares or interest or reserve fund not liable to attachment [Sec. 39]**

The share or interest of a member in the capital of a society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by him

### **F. Exemption from certain taxes, fees and duties [Sec. 40]**

### **G. Exemption from compulsory registration of instruments [Sec. 41]**

## **State Aid to Co-Operative Societies**

### **Direct partnership of Government in societies [Sec. 42]**

- (1) The Government may subscribe directly to the share capital of a society with limited liability.

### **Indirect partnership of Government in societies [Sec. 43]**

The Government may provide moneys to a society for the purchase of shares in other societies with limited liability.

### **Principal State Partnership Fund [Sec. 44]**

- (1) An apex society which is provided with moneys by the Government under section 43 shall, with such moneys, establish a fund to be called the “Principal State Partnership Fund”. (2) (2) An apex society shall utilize the Principal State Partnership Fund for the purpose of— (a) directly purchasing shares in order societies with limited liability

- (b) )providing moneys to a central society to enable that society to purchase shares in order societies with limited liability

- (c) making payments to the Government in accordance with the provisions of this Chapter, and for no other purpose

### **Subsidiary State Partnership Fund [Sec. 45]**

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

### **Approval of Government for purchase of shares [Sec. 46]**

No shares in a society shall be purchased from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund except with the previous approval in writing of the Government

### **Liability to be limited in respect of certain shares [Sec. 47]**

Where any shares in a society are purchased by—

(a) the Government; or

(b) the apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society being wound up

### **Restrictions on amount of dividend [Sec. 48]**

An apex society which has purchased shares in other societies from the moneys in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Partnership Fund shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share-holders of that society.

### **Indemnity of apex and central societies [Sec. 49]**

- (1) If a society in which shares are purchased from the moneys in the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase
- (2) If a society in which shares are purchased from the money in the Subsidiary State Partnership Fund is wound up or is dissolved neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase

### **Disposal of share capital and dividend, etc. [Sec. 50]**

- (1) All moneys received by an apex society in respect of shares of other societies purchased from moneys in the Principal State Partnership Fund on redemption of such share or by way of dividends or otherwise shall be credited to that Fund.
- (2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares

- (3) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 43.
- (4) Any amount to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund and the investments thereof shall not form part of the assets

### **Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society [Sec. 51]**

- (1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the Government.
- (2) If a central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 44.

### **Agreement by Government and apex societies [Sec. 52]**

- (a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 43
- (b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund

### **Other forms of State aid to societies [Sec. 53]**

Notwithstanding anything contained in any law for the time being in force, the

Government may (a) give loans or make advances to societies

(b) guarantee the repayment of principal and payment of interest on debentures issued by a

(c) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government

(d) guarantee the repayment of principal and payment of interest on loans and advances to a society

e) guarantee the repayment of deposits received by the society and payment of interest on such deposits

### **Provisions of sections 43 to 52 to over-ride other laws [Sec. 54]**

The provisions of sections 43 to 52 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

### **Properties and Funds of Co-Operative Societies**

#### **Funds not to be divided [Sec. 55]**

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

#### **Disposal of net profit [Sec. 56]**

(1) A society shall, out of its net profits in any year

(a) Transfer an amount not being less than fifteen per cent of the net profits to the reserve fund

(b) Credit such portion of the net profits, not exceeding five per cent, as may be prescribed, to the Co-operative Education Fund

(c) pay, in the case of a Central Society, including a District Cooperative Bank, dividend to its members, on their paid up share capital such rate not exceeding twenty per cent

(2) The balance of the net profits may be utilized for all or any of the following purposes, namely

(a) payment of dividends to members on their paid-up share capital at such rate not exceeding twenty per cent as may be prescribed

(b) Payment of bonus to members on the amount or volume of business done by them with the society, to the extent and the manner specified in the bye-laws

(c) Constitution of, or contributions to, such special funds as may be specified in the bye-laws

(e) Payment of bonus to employees of the society to the extent and in the manner specified in the bye-laws or in the Payment of Bonus Act, 1965

### **Investment of Funds [Sec. 57]**

A society may invest or deposit its funds—

- (a) in Government Savings Bank
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act 2 of 1882)
- (c) in the shares or securities of any other society approved for the purpose by the Registrar by general or special order
- (d) in any bank approved for the purpose by the Registrar
- (e) in any other prescribed manner

### **The Co-operative Development and Welfare Fund [Sec. 57A]**

(1) **The** Government may, by notification in the Gazette, frame a scheme to be called the Co operative Welfare and Development Scheme for the establishment of a Fund under this Act (2) **A society** may contribute to the Fund at such rates, as may be specified in the scheme (3) **b** to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilized for payment of grant or loans to societies

(4) **Subject** to the provisions of this Act the scheme may provide for the following matters, namely

- the time and manner in which contribution shall be made to the Fund by the societies; ;
- conditions under which the Fund may be expended for payment of reliefs to the societies;

(5) **There shall be credited to the fund,**

- (a) the contribution to be paid by the society under sub-section (2); and
- (b) any other amount which, under the provisions of the scheme shall be credited to the Fund

### **Deposit Guarantee Scheme [Sec. 57B]**

(1) The Government may, by notification in the Gazette, frame a scheme to be called “the Deposit Guarantee Scheme” specifying the purpose of the scheme and shall be administered in such manner, as may be specified therein.

(2) A society may contribute to the Deposit Guarantee Scheme at such rates as may be provided in the said scheme.

### **Consortium Lending Scheme [Sec. 57C]**

The Government may, by notification in the Gazette, frame a scheme to be called the “Consortium Lending Scheme” for the purpose of providing loans for infrastructure development, to societies, local authorities, development authorities or similar institutions, on government guarantee subject to such terms and conditions, as may be specified in the said scheme.

### **Restriction on borrowings [Sec. 58]**

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

### **Restrictions on loans [Sec. 59]**

(1) A society shall not make a loan to any person or a society other than a member: (2) ) “A provident fund, whether contributory or not,” established by a society under subsection (1)

(a) shall not be used in the business of the society

(b) shall not form part of the assets of the society;

(c) shall not be liable to attachment or be subject to any other process of any court or other authority;

(d) shall be deposited in the financing bank of the area

### **Gratuity [Sec. 62]**

The employees of a society shall be entitled to gratuity at such rates and on such conditions as prescribed.

### **Inquiry [Sec. 65]**

(1) The Registrar may hold an enquiry by himself or by a person authorized by him by order in writing, into the constitution, working and financial condition of the society, if he is satisfied that it is necessary so to do

(2) The Registrar or the person authorized by him under sub-section (1) shall, for the purpose of an inquiry under this section have the following powers, namely:

a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society b) he may summon any person who, he had reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society

(3) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated (4) When an inquiry made under this section reveals only minor defects which in the opinion of the Registrar, can be remedied by the society

(5) The enquiry under this section shall be completed within a period of six month. (6) There is major defect in the constitution or working or financial condition of the society, he may initiate action in accordance with the provisions of Sec. 32

### **Supervision and Inspection [Sec. 66]**

1. The supervision under this sub-section may include an inspection of the books of the society.
2. The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorized by him by order in writing in this behalf to inspect the books of the society:
3. Where the inspection under sub-section (2) is made on the application of the creditor, the Registrar shall communicate the result of such inspection to such creditor.
4. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose
5. The circle co-operative union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2)
6. A financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.
7. An officer of a financing bank inspecting the books of a society shall at all reasonable time have free access to the books, accounts, documents, securities.....etc
8. The financing bank may also report to the Registrar about the action to be taken against the society as a result of the inspection by its officers.

### **Surcharge [Sec. 68]**

1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organization or management of such society or willful negligence or has misappropriated or fraudulently retained any money, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorized by him by an order in writing in this behalf, to inquire into the conduct of such person

2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being heard, by order in writing, require him to repay 3) Where the money, property, interest, cost or compensation is not repaid or restored as per sub-section (2), the Registrar shall take urgent steps to recover such amounts

### **Vigilance Officer [Sec. 68A]**

(1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to enquire into and investigate the cases of misappropriation

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Co operative Societies.

### **Settlement of Disputes**

Disputes to be decided by Co-operative Arbitration Court and Registrar [Sec. 69]

(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises

- a) among members, past members and persons claiming through member
- b) between a member, past member or person claiming through a member, a past member
- c) between the society or its committee and any past committee any officer, agent or employee or any past officer, past agent or past employee
- d) between the society and any other society
- e) between a society and the members of a society affiliated to it
- f) between the society and a person, other than a member of the society



- g) between the society and a surety of a member, past member, deceased member or employee
- (2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely:
  - a) a claim by the society for any debt or demand due to it from a member b) a claim by a surety against the principal debtor, where the society has recovered from the surety any amount in respect of any deb
  - c) any dispute arising in connection with the election of the Board of management or any officer of the society
  - d) any dispute arising in connection with employment of officers and servants of the different classes of societies specified in sub-section (1) of section 80, including their promotion and inter se seniority.
- (3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Co-operative Arbitration Court unless it is referred to it within one month from the date of the election.

### **Co-operative Ombudsman [Sec. 69 A]**

- (1) The Government may, by notification in the official Gazette, frame a scheme to be called the "Kerala Co-operative Ombudsman Scheme" with the object of enabling redressal of complaints relating to deficiency in banking or other services rendered by co-operative societies dealing with banking business. (2) The Government may appoint one or more persons as Ombudsman or Ombudsmen to carry out the functions entrusted to them by or under the scheme.
- (3) The term of office of the Ombudsman or Ombudsmen, as the case may be, shall be three years from the date of their entering office or sixty five years, whichever is earlier.
- (4) The Ombudsman or Ombudsmen so appointed under sub-section (2) shall be a person or persons having experience and expertise in banking or co-operative field and shall have a degree in management or law.
- (5) The functions, powers, duties etc. of the Ombudsman shall be such, as may be specified in the scheme.
- (6) The Ombudsman shall be under the control of the Government.

### **Award on disputes [Sec. 70]**

- (1) The Co-operative Arbitration Court may, pending award of dispute referred to it under section 69, make such interlocutory orders as it may deem necessary in the interest of justice
- (2) The Co-operative Arbitration Court shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908
- (3) The Registrar may withdraw any reference transferred under clause (b) of sub-section (4) or referred under clause (c) of that sub-section and he may elect to decide the dispute himself or transfer it to any other person under clause
- (4) (The Registrar or the person invested with powers in this behalf shall, decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision

### **Co-operative Arbitration Courts [Sec. 70A]**

- (1) The Government shall constitute such number of Co-operative Arbitration Courts as are necessary to exercise the powers and discharge the functions conferred on it under this Act.
- (2) The qualifications, term salary and allowances and other conditions of service of the person to be appointed as the Co-operative Arbitration court shall be decided by the Government from time to time.
- (3) The Government shall make rules for regulating the procedure and disposal of business of the Co-operative Arbitration Court
- (4) The Registrar or the Government shall lend the service of such number of officers and employees as may be necessary to assist the Co-operative Arbitration Court
- (5) The officers and employees referred to in sub-section (4) shall continue to be Government servants for all purposes

### **Provisions as to pending proceedings [Sec. 70B]**

On the constitution of Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar,

Liquidation and its formalities

### **Winding up of Societies [Sec. 71]**

If the Registrar, after an inquiry has been held under Section 65 or an inspection has been made under Sec. 66 or an receipt of an application made by not less than

three fourths of the members of a society, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representation and in consultation with the financing bank to which the society is affiliated and the Circle Cooperative Union, by order in writing direct it to be wound up.

### **Liquidator [Sec. 72]**

Section 72 of the Act deals with the appointment of the liquidator for winding up of the society.

- (1) Where the Registrar has made an order under Sec. 71 for the winding up of a society, he shall appoint a liquidator for the purpose and may fix his remuneration
- (2) The liquidator shall, on appointment take into his custody or under his control all the property, effects and actionable claims to which the society
- (3) Where an order of winding up of a society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

### **Powers of Liquidator [Sec. 73]**

- (1) Subject to any rules made in this behalf, the whole of the assets of a society in respect of which an order of winding up has been made shall vest in the liquidator
- (2) The liquidator shall also have power, subject to the control of the Registrar a)
  - a) to institute and defend suits and other legal proceedings on behalf of the society by the name of his office;
  - b) to determine from time to time the contribution including debts due to be made or remaining to be made by the members or past members
  - c) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimant
  - d) to pay claims against the society including interest upto the date of a winding up according to their respective priorities
  - e) to determine whether persons and in what proportions the costs of the liquidation are to be borne
  - f) to determine whether any person is a member, past member or nominee of a deceased member
  - g) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same
- (3) Where the affairs of a society have been wound up, the liquidator shall make a report to the Registrar

## **Procedure to be adopted ]by liquidators [Rules 69**

- (1) The appointment of the liquidator shall be notified by the Registrar in the official gazette. (2) The liquidator shall publish by such means as he may think proper a notice requiring all claims against the society, the winding up of which is ordered, to be submitted to him within two months of publication of such notice
- (3) The liquidator shall settle the assets and liabilities of the society as it stood on the date on which the order for winding up was made.
- (4) The liquidator shall submit to the Registrar a quarterly report in such form as the Registrar may specify, stating the progress made in the winding up of the society. (5) All funds in the charge of the liquidator shall be deposited in the post office savings bank (6) The liquidator shall have power to call for meetings of members of the society under winding up from time to time
- (7) At the conclusion of the winding up proceedings, a general meeting of the members of the society shall be called
- (8) If any liability remains undischarged by the liquidator for any reason, the amounts undischarged may be deposited in a financing bank for meeting such claims.

## **Disposal of records of a society ordered to be wound up [Rules 70]**

All the books and records of a society, the affairs of which have been wound up, shall be retained by the liquidator in his office for a period of three years from the date of the report referred to in sub-section (3) of Sec. 73

Execution of Awards, Decrees, Orders and Decisions

## **Enforcement of charge [Sec. 75]**

Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within thirty days from the date of such service.

## **Execution of orders, etc. [Sec. 76]**

On a certificate signed by the Registrar or any person authorized by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court. Where the order is for the recovery of money, be executed according to the law and under this rules for the time being in force for the recovery of arrears of public revenue due on land

**Registrar or person empowered by him to be a civil court for  
certain purposes [Sec. 77]**

The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property

**Attachment of property before award or order [Sec. 78]**

If the Registrar is satisfied on an application, report, inquiry or otherwise that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act

**Recovery of sums due to Government [Sec. 79]**

All sums due from a society or from an officer or member or past member or deceased member of a society as such to the government the same manner as arrears of public revenue due on land.

**Officers, etc. of co-operative societies [Sec. 80]**

- (1) The Government shall classify the societies in the State according to their type and financial position
- (2) The Government shall, in consultation with the State Co-operative Union, make rules [either prospectively or retrospectively] regulating the qualification, remuneration, allowances and other conditions of service of the officers
- (3) Notwithstanding anything contained in sub-section (1) of sub-section (2), ten per cent of the posts of employees of every society shall be reserved for appointment from persons belonging to the Scheduled Castes and Scheduled Tribes

Appeals, Revision and Review

**Tribunal [Sec. 81]**

- (1) The Government shall constitute a single member Tribunal to exercise the powers and discharge the functions conferred on the Tribunal under this Act.
- (2) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been holding the post of a District Judge in the State.

- (3) The term, salary and allowances and other conditions for service of the member shall be such as may be decided by Government from time to time
- (4) The Government shall make rules for regulating the procedure and disposal of the business of the Tribunal.

**Provisions as to certain pending Proceeding [Sec. 81A]**

Every proceeding pending before the Tribunal immediately before the commencement of this Act shall stand transferred to and will be decided by the Tribunal constituted under this Act

- (1) Any person aggrieved by – (a) an award of the Co-operative Arbitration Court under sub section (1) of section 70
- (2) An order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of subsection (9) of section 14
- (3) Any decision of the Registrar made under sub-section (6) of section 70 (4) Any decision under sub-section (6) of section 70 of the person invested with powers in that behalf by the Government

**Appeals to other authorities [Sec. 83]**

- (1) An appeal shall lie under this section against
  - (a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a society
  - (b) an order of the Registrar made under sub-sections (4) and (6) of section 12 refusing to register an amendment of the bye-laws of a society
  - (c) a decision of a society refusing to admit any person as a member of the society or expelling any member of the society
  - (d) an order made by the Registrar under section 67 apportioning the cost of inquiry held under section 65 or an inspection made under section 66
  - (e) an order of surcharge made by the Registrar under section 68
  - (f) an order made by the Registrar under section 71 directing the winding up of a society (g) any order made by the liquidator of a society in exercise of the powers conferred on him by section 73
  - (h) any order made under section 76
  - (i) an order for attachment of any property made by the Registrar under section 78
- (2) An appeal under sub-section (1) shall be made within sixty days from the date of the order or decision

### **Revision by Tribunal [Sec. 84]**

The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified

### **Review of orders by Tribunal [Sec. 85]**

- (1) The Tribunal may, either on the application of the Registrar or on the application of any party interest, review its own order in any case and pass in reference there to such order as it think fit:
- (2) An application for review under sub-section (1) by any party shall be made within ninety days from the date of communication of the order of the Tribunal.

### **Interlocutory orders by Tribunal [Sec. 86]**

Where an appeals made to the Tribunal under section 82 or where the Tribunal calls for the record of a case under section 84, it may, in order to prevent the ends of justice being defeated, make such interlocutory order pending the decision of the appeal or revision as it may deem fit.

### **Powers of revision of Registrar and Government [Sec. 87]**

- (1) The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him not being an officer exercising the powers of the Registrar
- (2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity or making his representation.
- (3) The Registrar or the Government, as the case may be, may suspend the execution of any decision
- (4) The Registrar or the Government may award costs in proceedings under this section to be paid either out of the funds of the society

### **Offences [Sec. 94]**

- (1) No person other than a society shall trade or carry on business under any name or title or which the word „co-operative
- (2) Any person carrying on any trade or business in contravention of sub-section (1) shall be punishable with fine which may extend to two thousand rupees
- (3) Any member or past member or the nominee, heir or legal representative of a deceased member of a society who contravenes the provisions of section 35

by disposing of any property in respect of which the society is entitled to have a first charge under that section

(4) The committee of a society or an officer or member thereof willfully making a false return or furnishing false information or failing to produce cash balance on demand (5) If any person collecting the share money for a society in formation does not deposit the same in the State Co-operative Bank, a Central Co-operative Bank, a Postal Savings bank or in any other bank approved by the Registrar within fourteen days of its receipt, he shall be punishable with fine which may extend to five thousand rupee

(6) If any person collecting the share money for a society in formation makes use of the funds so raised for conducting any trade or business in the name of the society to be registered

(7) If any officer or member of a society misappropriates or unauthorized or illegally keeps any money belonging to that society he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees

#### **Cognizance of offences [Sec. 95]**

No court inferior to that of a Magistrate of the first class shall try any offence under this Act and no prosecution shall be instituted under this Act without the previous sanction of the Registrar

### **Module IV**

#### **ADMINISTRATIVE SET-UP OF CO-OPERATIVE DEPARTMENT IN KERALA**

The Department of Co-operation is headed by the Registrar of Co-operative Societies. At the Headquarters, the Registrar of Co-operative societies is assisted by four Additional Registrars of co-operative societies, two Joint Registrars, one Law Officer and one finance officer and a Research Officer.

1. Establishment-A (EA)
2. Establishment-B (EB)
3. Accounts
4. IT Division
5. Fin A
6. Fin B



7. Employees Matters of Co-operative Institutions (EM)

8. Marketing and processing- I

9. Marketing and processing –II

10.H V/M T

11.Consumer (CS

12.Inspection Cell

13.General

14.Vigilance

15.Publication and Training (PT)

16.Scheduled Caste/Tribes (SCT)

17.Credit Long Term (CLT)

18.Credit general (CG)

19.Credit banking (CB

0.Credit primaries (CP)

21.Integrated co-operative development Project (I C D P)

22.Planning & Monitoring (P&M)

3.Statistics (ST).

24.Co-operative Information Bureau

- A Co-operative Information Bureau is functioning at the head office and a monthly publication Sahakarana Veedhi is published regularly by the Bureau
- The Statistical Wing is manned by the staff from the Department of Economics and Statistics.
- A directorate of co-operative audit is constituted which is headed by director of Cooperative Audit who is an IAS/IAAS officer
  - A Co-Operative vigilance office is constituted to investigate all cases of misappropriation, corruption and major irregularities in Co-Operative

societies · In the district there are two wings, i.e., General and Audit. One Joint Registrar (General) and one Joint Director (Audit) are headed the above two wings respectively · One Assistant Registrar of Co-operative Societies is working as Liaison Officer attached to the Joint Registrar (General) Ernakulam, to liaison the work with the Advocate General in respect of O.P s filed before the Hon. High Court of Kerala.

- Services of 9 Deputy Registrars of Co-operative Societies and 23 Co-operative Inspectors are rendered to the State Co-Operative Union for working as Principals and Lecturers respectively in the 9 Co-operative Training Centers run by State Co-operative union on free services.
- A vigilance wing is functioning in the Department and 1 Deputy Registrars all over the state look after/conducts Inspections in the Co-operative Societies
- A Co-operative Tribunal is also functioning as an appellate authority on the awards issued by the Departmental Arbitrators.
- A Co-operative Election commission constituted vide G.O (Ms) 109/01/co-op DT. 9.11.01 comprising of the following staff is functioning at the Headquarters at Thiruvananthapuram for conducting election in the credit co-operative societies in the state.

## **Delegation of Powers**

### **Registrar of Co-operative Societies**

The registrar is empowered with the right to exercise all of the powers as provided in the Kerala Co-operative societies Act, 1969 and the Rules thereon. 3 The main powers are registration of co-operative societies, amendment of byelaws of co-operative societies, conduct of elections in societies, providing state aid to co-operatives, audit of co-operatives...etc

### **Joint Registrars**

(General) in the districts are delegated with all the powers of Registrar mentioned in Para 2.1 above, within the districts

### **Joint Registrars**

(Audit) in the districts are delegated with the powers of Registrar mentioned in para 2.1 above within the districts

## **Assistant Registrars**

In the circles are delegated with all the powers of the Registrar mentioned in para 2.1 above within the circles, provided under Sections 29(2), 30,63,64,65,66,67,69,70,75 and 76 of the Act.

## **Co-operative Inspectors**

working in the circle offices are under the immediate control of Assistant Registrars (General), who are authorized to conduct inspection and inquiry under Section 65 and 66 of the Act, to dispose off arbitration cases and to work as Sale Officers

## **Audit [Sec. 63**

- (1) The Registrar shall audit or cause to be audited by a person authorized by him by general or special order in writing in this behalf, the accounts of every society at least, once in each year.
- (2) The audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed.
- (3) For the purpose of audit, the Director of Co-operative Audit or the person authorized by him under section 63
- (4) The financial statement and other details required for the completion of audit shall be prepared by the society, within three months from the date of completion of the year
- (5) The audit shall be commenced within one month from the date of receipt of the report under sub-section (4) by the Director of Co-operative Audit
- (6) The amount of fee for the audit of accounts of society for each year shall be such, as may be fixed by the Director of Co-operative Audit, in accordance with the rules made in this behalf.
- (7) The procedure for payment of the fee shall be such, as may be prescribed.
- (8) The Director of Co-operative Audit may, by order in writing, direct the society or its officers to take such action, as may be specified in the order, under intimation to the Registrar.

## **Audit Report [Rule 64 B]**

- (1) The auditor shall submit an audit memorandum in the form specified by the Director of Co-operative Audit on the accounts examined by him and on the

balance sheet and final accounts as on the date for the period up to which the accounts have been audited and shall state whether in his opinion and to the best of his information

(2) The audit memorandum shall state

(a) whether the Auditor had obtained all the information and explanation which to the best of his knowledge and belief were necessary for the purpose of his audit;

(b) whether in his opinion, proper books of accounts, as required by the Act, these rules and the bye-laws of the society have been kept and regularly maintained by the society (c) whether the balance sheet and the final accounts, examined by him are in agreement with the books of accounts and returns of the society

(3) Where any of the matters referred to in sub-rule (2) are answered in the negative or with a qualification, the person who does the audit shall specify the reasons for the answers in the audit memorandum.

(4) The audit memorandum shall also contain schedules with full particulars of:—

(i) all transactions which appear to be contrary to the provisions of the Act, the rules or the bye-laws of the societies

(ii) all sums which ought to have been, but have not been brought into account, by the society;

(iii) any material impropriety or irregularity in the expenditure or in the realisation of moneys due to the society;

(iv) any money or property belonging to the society which appears to the auditor to be bad or doubtful debt;

(5) Within three months from the date of receipt of the audit report the Director of Cooperative Audit shall issue the audit certificate and a copy of the audit memorandum specified in sub-rule (1) duly signed by him.

(6) The society shall publish or exhibit in the Notice Board of the society

(i) the copy of audit certificate;

(ii) the statement showing the receipts and disbursements for the year

(iii) the profit and loss account

(7) The Director of Co-operative Audit shall have powers to issue directions to the societies to prepare and submit any other statements

### **Qualifications of an Auditor [Rule 64 A]**

Auditor means an officer under the Director of Co-operative Audit, possessing graduation or post-graduation and a Higher Diploma in Co-operation

- (i) A Chartered Accountant means Chartered Accountant, defined in the Chartered Accountants Act, 1949 (Central Act No. XXXVIII of 1949) who have a fair knowledge of the functioning of the co-operation and shall have an experience of at least two years in auditing
- (ii) Auditing firm means a firm of more than one Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, who or which shall have a fair knowledge of the functioning of the co-operation
- (iii) An officer who had retired from the service of the department of Co-operation as Auditor or Inspector of Co-operative Societies or an officer who had acquired the educational qualifications and working experience of minimum five years in Cooperative Audit shall be appointed as Auditor
- (iv) The general body meeting of society/societies shall appoint departmental auditor under the control of Director of Co-operative Audit from among the panel prepared by him
- (v) It has been made obligatory for an auditor to submit the report within 30 days from the date of completion of the audit of the society

### **Levy of Audit Fees [Rule 65]**

The Audit fee shall be calculated at the rate of 50 paise for every 100 rupees or part thereof, on the working capital, the value of sales or on the gross income, as the case may be, provided that the maximum audit fee payable by the society shall not exceed Rs. 100,000.

### **Exemption [Rule 65 (3)]**

The following classes of societies are exempted from the payment of audit fees

- (a) All co-operative societies of which all or a majority of the members are belonging to Scheduled Caste or Scheduled Tribes.
- (b) All Farming Societies.
- (c) All Social Welfare Societies.
- (d) An society or group of societies which has its accounts audited as its own expense by an officer appointed by Director of Co-operative Audit
- (e) Any society for the 1ST year of audit, irrespective of the date of commencement of business

### **Audit programme**

The audit programmes will not only record the exact details of the work to be performed by the auditor and his assistants, but will also have columns for the initials of the persons performing each part as and when they complete

## **Vouching**

The term —vouching‖ is used to describe the examination of a document or a series of documents for the purpose of verifying a transaction which is recorded in the book and in appropriate cases ensuring that the system of internal control relating to the transaction has been duly followed. Vouching is the very essence of auditing and the whole success of an audit depends upon this intelligence and thoroughness with which this part of audit work is carried out

### **As regards receipt:**

- (i) that all moneys due to or receivable by the business have been duly brought into account and there has been no impropriety or irregularity in the realization of moneys due to the business.
- (ii) (ii) All moneys received by the business have been properly accounted for and credited to their proper heads of account.

### **As regards payment:**

- (iii) that all payments made and liabilities incurred are regular, properly authorized and payable out of the funds of the business
- (iv) No fraudulent or unauthorised payments have been debited which reduce the cash balance of the and
- (v) The daily closing balances have been correctly extracted and carried forward.

## **Audit classifications**

At the conclusion of his audit, the auditor is required to award an audit classification to the society. The auditors put all societies in one or other of the following classes.

### **Audit classification Remarks**

**A Excellent**

**B Satisfactory**

**C Poor**

**D Very bad**

## **Broad principles**

The broad principles for awarding audit classification to different types of societies, where specific instructions have not been issued, are as under:

- (1) Co-operative vitality.
- (2) Administrative Efficiency
- (3) Operational Efficiency.
- (4) Financial stability.
- (5) Staff.
- (6) Internal control.
- (7) Accounts and Records.
- (8) Rectification of audit objections.

## **State and Role of State in the Development of Co-operative Movement in India**

Co-operation is a form of organization, in which persons voluntarily associate together on a basis of equality for the promotion of their economic interests. In a country like India where a majority of the people are poor, many co-operative organizations must necessarily consist of persons with limited means, and these cannot be expected to get on their feet unless a minimum amount of resources is placed at their disposal. It was for this reason that State entered into partnership with co-operatives and started providing loans and subsidies. If the mere provision of share capital, loans and subsidies could yield the result, they should have been evident by now, considering the enormous assistance poured out by the Reserve Bank. On the contrary massive aid provided by the State to the co-operative movement has brought about a number of unhealthy trends in the movement

## **De-officialisation of the co-operative movement**

The official co-operators widely acclaimed that without State aid the co-operative movement would not have reached present level and if the State patronage is withdrawn, the movement will not be able to survive long. It has been lately argued by non-official cooperators that on the whole Registrar has shed his

original role of a 'friend, philosopher and guide' of the societies; he has become the Inspector General of Co-operative Police in charge of erring and suspect bands of non-official co-operators.

**The Co-operative Planning Committee**, it may be recalled, attributed the main cause of the failure of the Co-operative movement to the Laissez-faire policy of the State and not to the acts of commission on the part of the officials of the State.

### **Reconstructing Co-operative Administration**

Following four possible options emerge regarding revamping of Co-operative administrative machinery:

- (a) The Indian Federal Structure, of late, is losing its weight as the successive ruling Governments on one flimsy pretext
- (b) State Governments alone are adjudged as the most befitting agencies to frame Cooperative policies, plans, programs and projects and ensure their judicious implementation.
- (c) The main cause for slow progress is that the responsibility for administration of Cooperatives is not only dispersed, but also creates a lot of difficulty in co-ordination and execution.
- (d) Hence, if we really want to bring about modernization and social change, there is a dire need to upgrade the status of present Co-operation Division to at least an independent department of co-operation
- (e) The Co-operative Division would act mainly as a "Nodal Agency", in the ultimate analysis, functional Ministries alone would be primarily responsible for bringing innovative measures for Co-operatives

### **Module V**

#### **THE BANKING REGULATION ACT, 1949 (AS APPLICABLE TO COOPERATIVE SOCIETIES)**

Objectives of the Banking Regulation Act broadly are:

- (i) to safeguard the interest of depositors;
- (ii) to develop banking institutions on sound lines; and
- (iii) to attune the monetary and credit system to the larger interests and priorities of the nation.



## **Section 5 (cci) - Some Definitions A cooperative bank is**

1. a State Cooperative Bank,
2. a Central Cooperative Bank or
3. a Primary Cooperative Bank Section

## **Section 5 (ccv) - A Primary Cooperative Bank is:**

1. a Cooperative Society (other than a Primary Agricultural Cooperative Society)
2. primarily in banking business;
3. with capital and reserves of not less than Rs.1 lakh; &
4. whose byelaws do not permit admission of any other society as a member.

## **Section 5 (b) Banking is the accepting for the purpose of lending or investment of deposits of money from the public repayable on demand**

### **Secured Loan is:**

- a loan made on the security of assets, the market value of which is not at any time less than the amount of such loan

## **Section 6 Business**

The businesses a bank may carry on are summarized into three categories:

- (a) Main business i.e., Banking i.e., borrowing, taking or lending money, dealing in Bills of Exchange, Bills of lading and Debentures,...etc
- (b) Allied business: Acting as agent/trustee/administrator, carrying on guarantee business, providing safe custody
- (c) Dealing in property is restricted to (i) property coming in satisfaction of claims or as security and (ii) property necessary for its own sake

## **Section 9**

A bank is prohibited from doing any business other than those mentioned in Section 6. Section 8 specifically prohibits a bank from engaging in trading.

However, banks, as agents, have supplied registers, articles or have financed hire purchase

### **Section 11 Minimum capital**

The value of paid up capital and reserves should not be less than Rs.1 lakh.

Value is the real value or exchangeable value and decision of RBI on valuation is final.

### **Section 14 and 14A**

A floating charge attaches assets in conditions varying from time to time until the charge crystallizes, when it will be a specific charge

### **Section 18 Cash Reserve Ratio (CRR) and Statutory Liquidity Ratio (SLR)**

- (1) Every Co-operative Bank, not being a State Co-operative Bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), (hereinafter referred to as a Scheduled State Co-operative Bank), shall maintain in India by way of cash reserve with itself of balance in a current account with the Reserve Bank Explanation.—In this section and in Sec. 24
- (a) 'liabilities in India' shall not include
- (i) the paid-up capital or the reserves or any credit balance in the profit and loss account of the Co-operative Bank;
  - (ii) any advance taken from a State Government, the Reserve Bank, the Development Bank, the Exim Bank, the Reconstruction Bank, the National Housing Bank, the National Bank, the Small Industries Bank
  - (iii) in the case of a State or Central Co-operative Bank, also any deposit of money with it representing the reserve fund or any part thereof maintained with it by any other co-operative society within its area of operation
  - (iv) in the case of a primary Co-operative Bank, also any advance taken by it from the State Co-operative Bank of the State concerned
  - (v) in the case of any Co-operative Bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance

(b) fortnight shall mean the period from Saturday to the second following Friday, both days inclusive;

(c) net balance in current accounts shall in relation to a Co-operative Bank, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that Co-operative Bank with the State Bank of India

(d) for the purpose of computation of liabilities, the aggregate of the liabilities of a Cooperative Bank to the State Bank of India by the Central Government in this behalf shall be reduced by the aggregate of the liabilities of all such banks

(2) The Reserve Bank may, for the purposes of this section and Sec. 24, specify from time to time, with reference to any transaction or class of transactions, Sec. 24, as liability in India of a Co-operative Bank, the decision of the Reserve Bank thereon shall be final."

## **Section 20 Restriction on loans and advance**

No cooperative bank shall:

(a) make loans on the security of its own shares;

(b) grant unsecured loans to any Director or to firms / individuals / companies in which a Director is interested or is a guarantor

## **Section 20A Restriction on remitting debts**

A cooperative bank shall not, except with RBI's approval, remit debts due by Directors, past or present, or by others in whom/in which a Director is interested or is a guarantor.

## **Section 21 RBI's power to control advances**

RBI, in the public interest or in the interest of depositors, may determine policy in relation to advances of banks, or a bank in particular, and all banks or the concerned bank shall be bound to follow the policy.

### **RBI may also give directions to:**

(a) purpose;

(b) margin;

(c) maximum amount;

(d) rate of interest; and

(e) other terms and conditions on which advances or other financial accommodation may be given.

## **Section 22 Licensing**

Before granting a license, RBI needs to be satisfied, by an inspection or otherwise, that the following conditions are fulfilled

- (a) that the bank will be in a position to pay its present or future depositors;
- (b) that the affairs of the bank are not being conducted in a manner detrimental to the interest of depositors.
- (c) that the general character of the proposed management will not be prejudicial to the public interest or the interest of its depositors
- (d) that the Bank has adequate capital structure and earning prospects,

## **Section 23 Opening of new offices**

No bank shall open new place of business or change the location of existing place of business without obtaining prior permission of RBI

## **Section 27 Returns**

RBI may direct a bank to furnish it with such statement and information relating to the business and affairs of the bank as may be considered necessary.

## **Section 29 & 31 Accounts and Balance sheet**

The Principal Officer and three Directors should sign the BS and P & L Account. The accounts and BS, together with auditor's report, should be published in a local newspaper and three copies thereof submitted to RBI within six months from the end of the year.

## **Section 35 Inspection**

RBI may on its own, and on a direction from the Govt. of India, inspect, through its officers, any UCB and its books and accounts. RBI shall supply to the bank a copy of its report.

## **Section 35A RBI directions**

RBI may

- (a) in the public interest;
- (b) in the interest of banking policy; or
- (c) to prevent affairs detrimental to the interest of depositors; or
- (d) to secure proper management of the business of the bank issue directions and an UCB shall be bound to comply

## **Section 36 Further powers of RBI**

RBI may

- (a) caution or prohibit a bank against any transaction
- (b) give assistance of loan;
- (c) In order to ensure reorganization or expansion of cooperative credit on

sound lines

## **. Section 45 Suspension of Business**

RBI may apply to the Central Government for issuing an Order of moratorium in respect of any UCB, where it feels that there is a good reason to do so.

## **Section 45ZA Nomination**

- (1) In the case of a joint deposit account, the nominee's right arises only after the death of all the depositors
- (2) Any person leaving any article in Safe Custody may nominate, in the prescribed manner, one person to whom, in the event of death, the article may be returned.
- (3) On the removal of the contents of any locker jointly by the nominee and the survivor/s, the liability of the Bank in relation to the contents of the locker shall stand discharged.

## **Section 46 Penalties**

- (a) false statement/data furnished in any return, balance sheet etc., or for the purpose of any provisions of this Act (3 years imprisonment and fine).

- (b) Failure to produce books of accounts, documents etc. for inspection. (A fine up to Rs.2, 000 for each failure + Rs.100 for every day the failure continues)
- (c) Deposits received in contravention of Sec. 35(4) (A fine up to twice the amount of deposit received).
- (d) Contravention or non-compliance with the provisions of the Act, Rule, order or direction made under the Act. (A fine up to Rs.50, 000@ for each failure or twice the amount involved in such contravention or default + Rs.2500/-@ for every day the failure continues).

### **Impact of Co-operative Law on Co-operative Management**

International Cooperative Alliance (ICA) had requested all nations to bring necessary changes in their co-operative laws in such a manner that ensure democratic management and autonomy of co-operative societies. International Labor Organization had also suggested that Governments should provide a supportive policy and legal framework guided by the cooperative values and principles.