

THE HIMACHAL PRADESH CO-OPERATIVE SOCIETIES RULES

1971

CHAPTER - I

1. **Short title** - (1) These rules may be called the Himachal Pradesh Co-operative Societies Rules, 1971.
2. **Definitions** - In these rules, unless there is anything repugnant in the subject or context,-
 - (i) 'the Act' means the Himachal Pradesh Co-operative Societies Act, 1968 (Act No. 3 of 1969);
 - (ii) 'section' means a section of the Act;
 - (iii) 'borrowed capital' means the total of loans, deposits and other borrowings of a Co-operative Society;
 - (iv) 'member' includes delegates of members referred to in the proviso to section 31;
 - (v) 'owned capital' means the total of paid up share capital and accumulated Reserve Fund and other funds and undistributed profits minus accumulated losses of a Co-operative Society;
 - (vi) 'schedule' means the schedule of forms appended to these rules;
 - (vii) 'Secretary' means a person, who, subject to the control of the Managing Committee, has the management of affairs of a Co-operative Society, and includes a member of a Managing Committee or any other person discharging the duties of a Secretary by whatever name called and whether under a contract of service or not. The term Secretary shall also include 'Manager';
 - (viii) 'working capital' means the total owned capital plus the borrowed capital (minus the amount of the owned capital or borrowed capital invested in the fixed assets);
 - (ix) 'share capital' means the subscribed share capital including Government share capital;
 - (x) 'relative' includes any one related to the person concerned or his wife, his son/ daughter or his son's wife or daughter's husband through a common ancestor not more remote than a grand father or any one married to a person so related;
 - (xi) the term 'Chairman' shall also include 'President', and the term Vice-Chairman, the 'Vice-President'
 - (xii) 'decree' means any order, decision or award referred to in section 87;
 - (xiii) 'decree holder' means any person holding a decree as defined in clause (xii) above;
 - (xiv) 'maximum credit limit' means the extent to which a Co-operative Society may receive deposits and loans from members and non-members;
 - (xv) 'paid up share capital' means such portion of the share capital as actually paid up;
 - (xvi) 'Recovery Officer' means a person empowered to exercise the powers of the Registrar under section 87 of the Act.
 - (xvii) 'sale officer' means a person empowered by the Registrar, by general or special order, to attach and sell the property of a judgement debtor or to execute any decree by attachment, and sale of property;
 - (xviii) 'agenda' means a statement of business to be transacted in the general meeting, the Managing Committee (by whatever name called) meeting and Executive Committee meeting;
 - (xix) 'defaulter' means a member of a society who fails to repay any loan, advance, cash, credit limits, sum or interest there on accrued due to the society, financing bank within the time fixed for repayment or the time limit, if any, fixed in the bye-laws;

- (xx) 'secondary society' is a society of which at least one member is a Co-op. Society;
- (xxi) 'primary society' means a society which does not enrol societies as its members;
- (xxii) 'apex society' means a secondary society the area of operation of which extends to the whole of the territory of Himachal Pradesh, or even beyond;
- (xxiii) 'person' shall also include a Co-operative Society registered under the act;
- (xxiv) 'Managing Director', 'Executive Officer/Chief Executive Officer', 'Accounts Officer' and 'Assistant Manager' where elected or appointed in any society shall be officers within the meaning of 'officer' under sub section (11) of section 2 of the act;
- (xxv) 'Judgement debtor' means a person against whom a decree has been obtained;
- (xxvi) 'Near relation' means any one related to the member of a society or his or her spouse being :-
 - (a) brother or sister of either of them; or
 - (b) step-brother or step sister of either of them; or
 - (c) father or mother of either of them; or
 - (d) son or daughter of either of them;
- (xxvii) 'legal practitioner' means a legal practitioner as defined in Section 3 of the Legal Practitioners Act, 1879.
- ¹(xxviii) 'Representative' means a member of the managing committee of a society authorized by it to represent his/her Society in the deliberation of managing committee or general house of other society .

CHAPTER - II

REGISTRATION OF CO-OPERATIVE SOCIETIES AND THEIR BYE-LAWS

3. **Appointment of officers to assist the Registrar -**

- ²(1) Subject to the provisions of sub-section (1) of section 3 of the Act, the State Government may appoint officers of the following categories to assist the Registrar, namely :-
- (a) Additional Registrar Co-operative Societies;
 - (b) Joint Registrar of Co-operative Societies;
 - (c) Deputy Registrar of Co-operative Societies;
 - (d) Assistant Registrar of Co-operative Societies;
 - (e) Such other categories of officers as may be notified by the Government from time to time; and
 - (f) The officers appointed to assist the Registrar shall within such areas as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Registrar by or under the Act and these rules as the State Government may, by special or general order, direct.

4. **Documents accompanying the form of Application for Registration -** The application for registration shall be in the form prescribed in the schedule and accompanied by three copies of by-laws and such other documents as may be prescribed by the Registrar from time to time. Such copies of bye-laws shall bear the signatures of not less than two of the applicants duly authorised by the members of the proposed Co-operative Society.

1. Inserted vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06
 2. Amended -do-

5. Registration of a Society and refusal to register -

- (1) After the Registrar is satisfied, he may register the society, and its bye-laws containing its full postal address. A certificate of registration containing registration number, the date of registration, and the registered name, and address, of the society shall be issued to the society along with a copy of the registered bye-laws.
- (2) It shall also be within the competence of the Registrar, before registering a society, to make such additions or alterations in the draft bye-laws, submitted with the application, for registration as he may deem fit provided that the written consent of two-thirds of the applicants is obtained to such additions or alterations.

6. Person to whom an order refusing the registration of a Co-operative Society may be sent by the Registrar - The applicants of the proposed Co-operative Society shall intimate while sending the application for registration, the name and address of one of the applicants to whom the order passed by the Registrar under Sub-section (4) of the Section 8 shall be communicated through registered post, together with the reasons of refusal.

7. Appeal against refusal of registration - Where an application for registration of Co-operative society is rejected by the Registrar, the appeal, if made, shall be signed by all the persons joining the application for registration :

Provided that where the application for registration has been signed by more than ten persons the appeal shall be signed by at least two-thirds of the persons joining the application for registration.

8. Procedure to be followed for amendment of the bye-laws of a society -

- (1) Bye-laws may be made, altered or abrogated by a resolution passed at a general meeting of the society :

Provided that :-

- (a) due notice of any proposal to make, alter or abrogate the bye-laws is given to all the members in accordance with the bye-laws;
- ¹(b) the resolution is passed by not less than two - thirds of the members present at the general meeting at which a quorum shall be present as per rule 30.
- (c) a copy of existing bye-laws indicating the alterations proposed to be made, and three copies of the proposed amendments signed by two officers of the society, duly authorised, in this behalf are submitted to the Registrar with the copy of the resolution accompanied by :-
 - (i) a statement of the Secretary of the society that the provisions of clauses (a) and (b) above have been fully complied with :-
 - (ii) an application from the Secretary that the change in the bye-laws be registered.
- (2) Notwithstanding anything contained in sub-rule (1) above, the State Government by a general or special order in writing, may alter or modify the conditions laid down above in respect of secondary societies and financing banks.

9. Subject matter of bye-laws -

- (1) A Society shall make bye-laws in respect of the following matters :-
 - (a) name and the registered address;
 - (b) area of operation;

- (c) the objects for which the society is established;
 - (d) the qualifications for membership, and the terms of admission of members;
 - (e) nature and the extent of the liability of members;
 - (f) withdrawal and expulsion of members and the payments if any, to be made to such members;
 - (g) transfer of shares or the interest of such members;
 - (h) manner of raising funds;
 - (i) general meeting and the procedure and the powers of such meeting;
 - (j) appointment, suspension, and removal of the officers of the society and the members of the managing committee or the board of directors;
 - (k) constitution of the committee, or board of directors, or sub-committee and the procedure of holding its meetings, and as regards its powers and duties;
 - (l) powers and duties of the officers of the society;
 - (m) disposal of profits;
 - (n) imposition of fines and penalties on members on consequences of the failure of any member to pay the sum due.
- (2) The bye-laws of the Co-operative Society may further provide for such matters as are incidental to the organisation of the Society, and the management of its business.

10. Change of liability -

- (1) The prior approval of the Registrar for change of liability of a society under sub-section (1) of section 13, shall be obtained by the committee by a resolution.
- (2) When a Co-operative Society resolves to change its form of liability under sub-section (2) of section 13, it shall adopt a proposal for such amendment of its bye-laws, as may be consequential and necessary for the safe conduct of its business, and submit an application in the manner provided in rule 8 for registration of such amendments.
- (3) The notice required under sub-section (2) of section 13 shall be issued under a certificate of posting in the form to be determined by the committee.

CHAPTER - III

MEMBERS OF CO-OPERATIVE SOCIETIES, THEIR RIGHTS AND LIABILITIES

11. Conditions of membership of individuals -

- (1) No person shall be eligible for admission as a member of the society if he :-
 - (a) is an applicant to be adjudicated a bankrupt or an insolvent or is an uncertified bankrupt; or is an undischarged insolvent; or
 - (b) has been sentenced for any offence involving moral turpitude and such sentence has not been reserved, or has not been pardoned; or
 - (c) is a minor, except when he happens to be minor heir, or nominee of a deceased member : or
 - (d) is of unsound mind; or
 - (e) is not resident of the area of operation of the society, for the last six months; or
 - (f) carries on business similar to that conducted by the society of which he wishes to become a member; or
 - (g) does not fulfil such other conditions as specified in the bye-laws of the society;

- (2) A member of a society shall cease to be its member if he;
- (a) applies to be adjudicated, or is an adjudicated bankrupt, or an insolvent; or
 - (b) is sentenced for any such offence as is prescribed in clause (b) of sub-rule (1) above; or
 - (c) becomes of unsound mind; or
 - ¹(d) leaves his residence in the area of operation of the society and the management of the society has informed him about the termination of his membership;
 - (e) begins to carry on the business similar to that conducted by the society of which he is a member; or
 - (f) ceases to fulfill such other conditions as specified in the bye-laws for being a member of the society.
- (3) A member of a society may be expelled from membership for such other reasons also as may be specified in the bye-laws.

12. Restriction on re-admission of expelled members - No member of a society who has been expelled under the provisions of its bye-laws shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of two years from the date of such expulsions :

Provided that the Registrar, may, in special circumstances, sanction the re-admission or admission, within the said period of any such member, as a member of the same society or of any other society, as the case may be.

13. Membership in two credit societies prohibited -

- (1) No person being a member of a credit society, or of a society which advances loans, except a co-operative land development bank, or financing bank, shall be a member of any other credit society or of such society as advances loans to its members without the general or special sanction of the Registrar.
- (2) Where a person has become a member of two societies, as referred to in subrule (1) without the prior sanction of the Registrar, either or both of the societies shall be bound to remove him from membership upon a written requisition from the Registrar to that effect.

14. Admission of members before general meeting of a Co-operative Society - No Co-operative Society shall admit members fifteen days prior to the date of its annual general meeting, or a special general meeting called to hold elections to the Managing Committee.

15. Disposal of application for admission of members -

- (1) A Co-operative Society shall dispose of an application received for admission as a member as early as possible and in no case later than the expiration of a period of 30 days from the date of receipt of the application by the society. In case of refusal to admit, such society shall communicate its decision together with reasons therefore to the applicant.
- (2) If no decision has been taken and communicated to the applicant within the period specified in sub-rule (1) the applicant shall be deemed to have been refused the admission to membership.

- (3) The applicant who has been refused admission under sub-rule (1) or (2) he shall have the right of appeal to the Registrar; whose decision in the matter shall be final.

16. Procedure for admission of joint members - A society may admit joint members, provided they make a declaration in writing that the person whose name stands first in the share certificate, or the member register, and in case of his death person mentioned next in the said certificate or the register, as the case may be, shall have the right to vote, and all the liabilities will be borne jointly and severally by them as provided in the act, rules and bye-laws.

17. Withdrawal of membership -

- (1) Subject to the provisions of the Act, and the rules and the bye-laws of the society, a member may withdraw from the society after giving three months notice to the Secretary of the society as regards his intension to resigns from membership of the society.
- (2) No resignation of membership shall be accepted by the society unless the member has paid in full his dues, if any, to the society, and has also cleared his liability, if any, as surety to any other member or otherwise.
- (3) The withdrawal from membership shall also be subject to such restrictions regarding the maximum amount of share capital that can be refunded in a year, or as may have been provided for in the Act, the rules or bye-laws of the society.
- (4) Any member, whose resignation has been accepted by the society, or a member who has been expelled from membership, or any heir or legal representative of a deceased member, may demand refund, of the share capital held by such member or deceased member and the society shall subject to the provisions of section 23 and 24 and subject to the provisions of the bye-laws, refund the amount within six months from the date of acceptance of the resignation, or expulsion, or as the case may be, or the date of demand made by the heir or legal representative of the deceased member :

Provide further that such withdrawal of shares at any time shall not exceed five per cent of the aggregate paid up share capital of the society, excluding Government contributions as it stood on the 1st "31st March", of the preceding co-operative year.

- (5) Irrespective of what is contained in the foregoing sub-rules of this rule, the share capital subscribed by the State Government in a Co-operative Society or by a Central or Apex Co-operative Financing Institution will be retired in such a manner, and during such period as may be determined by the Registrar from time to time.

18. Procedure for calculating the value of the share or interest of a member-

- (1) Where a Co-operative Society has to make a refund of the value of a share, under the Act and the rules, the value of the share shall be deemed to be equal to the amount paid up on the share:

Provided that where a portion of the assets is estimated to be bad or doubtful in the latest audited balance-sheet, and is not covered by funds created out of profits, the managing committee may, for the purpose of such payment, reduce the value of the share in the same proportion as the aggregate amount of assets which are not bad and doubtful less the amount of outside liabilities, bears to the paid up share capital :

²["Provided further that the member affected shall be given an opportunity of being heard before the reduction of the value of the share as contemplated in the first proviso is made."]

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06
2. Amended on 20th June, 1981 and 8th August, 1981

EXPLANATION TO THE PROVISIO

Value of each share to be refunded.

(Total assets - Bad and doubtful assets) - Outside liabilities

x Face value of a share

Total amount of share capital paid up

- (2) Where a transfer of share or interest is made, the value of share or interest shall be deemed to be the sum actually paid up by the member for the acquisition of such share or interest.

19. Calculations of the sums due other than share and interest - All sums other than share or interest due to a member under section 25 shall not exceed the actual amount received by the society.

20. Nomination -

- (1) Every member of a society shall nominate a person, or persons, to whom his share, or interest, referred to in section 23 of the Act, or such sums out of such interest as may be specified by the member, shall, on the death of the member, be transferred or paid as laid down in the bye-laws.
- (2) Such nomination may from time to time, be revoked or modified by the member.
- (3) The number of persons who may be nominated by a member shall not exceed the number of shares held by the member.
- (4) When a member of a society nominates more than one persons, he shall, as far as practicable, specify the amount to be paid or transferred to each nominee in terms of whole shares, and the interest accruing thereon.
- (5) The record of nominations shall be kept by a society in such manner as may be laid down in the bye-laws.
- ¹(6) the Secretary of the society shall inform the fact of nomination along with factual position of assets and liabilities of the deceased member.”

21. Vote of representatives of societies - A society which is a member of another society may appoint one or more of its members as may be prescribed in the bye-laws, not disqualified for such appointment under any rule or bye-laws to vote in the affairs of such other society.

22. Expulsion of members - Any member who has been persistently defaulting payment of his dues, or has been failing to comply with the provisions of the bye-laws, or other matters in connection with his dealings with the society, or has done other acts detrimental to the interest or proper working of the society, may be expelled from the society. The expulsion from membership may involve forfeiture of shares held by the member.

23. Procedure of expulsion of members -

- (1) Where any member of a society proposes to bring a resolution for the expulsion of any other member, he shall give a written notice thereof, to the Chairman of the society. On receipt of such a notice, or when the committee itself decides to bring in such resolution, the consideration of such resolution shall be included in the agenda for the next general meeting, and a notice thereof shall be given to the member against whom such a resolution is proposed to be brought, calling upon him to represent at the general meeting, to be held not earlier than a period of one month from the date of such notice, and to show cause against expulsion to the general body of members.
- (2) After hearing the member, if he is present, or after taking into consideration any written representation which he might have made, the general body of members shall proceed to consider the resolution.

1. Inserted vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06

- (3) When a resolution passed in accordance with sub-rule (1) is sent to the Registrar, or otherwise brought to his notice, the Registrar may consider the resolution, and after making such enquiries as he may deem fit, give his approval and communicate the same to the society and the member concerned. The resolution shall be effective from the date of such approval by the Registrar.

24. Members to furnish information as to their financial position - For purposes of section 30 of the Act, a member of a society or an applicant for membership of a society as the case may be shall furnish information as to his financial position, and alienation of his immovable property in such form as may be determined by the Registrar.

CHAPTER - IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

25. Powers of General Meeting -

- (1) Without prejudice to the provisions of section 32 the general meeting shall have the powers to transact the following business :-
- (a) fixing of maximum credit limit of the society, subject to the approval of the Registrar
 - (b) fixing of the M.C.L. of each member;
 - (c) consideration of Audit and Inspection notes;
 - (d) confirmation of the newly admitted, fined, suspended, resigned members on the roll of the society by the committee;
 - (e) review of the working of the managing committee;
 - (f) review of the loans and advances made to and the defaults thereof, if any, made by the members of the committee and their relatives, and the action taken against such defaults by the committee.
- (2) Every resolution at a general meeting shall be decided by a majority of votes of the members present, and as laid down in the Act, and if the votes be equal the Chairman shall have a second or casting vote.
- (3) It shall be incumbent on the Secretary of the society to bring to the notice of the Registrar the names of the defaulter members of the Managing Committee together with the amount outstanding against each, and also the action suggested against them under clause (f) of sub-rule (1) by the general house within 30 days after the holding of general body meeting.

26. Annual General Meeting - A general meeting of every Co-operative society, to be called annual general meeting, shall be held within 15 months from the date of its registration, and thereafter as provided in section 32 of the Act. The original general meeting held for purpose of forming and applying for registration of a proposed society shall be deemed to be a regular general meeting under section 32 of the Act.

27. Power to call Annual General Meeting - If the annual general meeting of a society is not called in accordance with the provisions of section 32 of the Act, the Registrar may authorise any person subordinate to him to call the annual general meeting, and the person so authorised shall have all the powers and functions of the officer of the society authorised to convene such annual general meeting under its bye-laws.

28. Notice of General Meeting-

- (1) A general meeting shall be convened by the Managing Committee or President or under its, or his direction by the Secretary/Manager.
- (2) Unless otherwise provided in the bye-laws a notice of the meeting stating the place date and hour of the meeting together with the agenda shall be given to every

member at least ten clear days before the date of the meeting, in the manner prescribed by the Registrar.

29. Special General Meeting - At a special general meeting, no business other than that specified in the agenda issued with the notice under sub-rule (2) of rule 28 shall be discussed.

30. Quorum of General Meeting -

- ¹(1) The quorum for the general meeting shall be one third of the total number of members subsisting as such on the date of notice of the meeting.
- (2) No business shall be transacted at any meeting unless there is a quorum at the time when the business of the meeting is due to commence.
- (3) If within one hour from the time appointed for the meeting, a quorum is not present, the meeting shall stand adjourned to such suitable date, and time, as the Chairman or in his absence the Vice-Chairman and in the absence of both, the Secretary may declare in the meeting so adjourned provided that :-
 - ²(a) a quorum of one fifth of the total number of members shall be necessary at adjourned meeting and such adjourned meeting shall not be convened before lapse of ten days from pervious meeting and fresh notice for the same shall be issued to all the members”;
 - (b) that a meeting which has been called on requisition under clause (a) of sub-section (1) of section 33 shall not be adjourned but dissolved, and
 - (c) the meeting where the quorum declines after its proceedings have started shall be deemed to be a meeting with appropriate quorum.
- (4) In the general meeting of a society where the Government is not a shareholder, the nominee of the Registrar shall be called to observe the proceedings of such a meeting.

31. Chairman of General Meeting -

(1) The Chairman or in his absence the Vice-Chairman of a Society, or in the absence of both, a member elected by the members present at the meeting, shall preside over the meeting till the general meeting elects a new Chairman.

(2) The Chairman of the general meeting shall maintain order in the meeting, and shall control and conduct the proceedings, in such a manner, as may be conducive to expeditious and satisfactory disposal of business. He shall decide all points of order and his decision on such points shall be final.

32. General Meeting by Delegates -

- (1) A Co-operative society with a membership of 1,000 (one thousand) or more shall, and if the bye-laws so provide a Co-operative Society with a membership of 500 or more, but less than 1,000 may hold its general meeting by calling representatives (hereinafter referred to as delegates) of areas or sections instead of summoning all the members in person.
- (2) One delegate shall be elected for every 10 members or major fraction thereof.
- (3) No person shall be qualified to be elected as a delegate who is not a member, and who is not over 21 years of age.
- ³(4) The delegates shall hold office and attend all general meetings for five years or till fresh delegates are elected in their places whichever is earlier.”
- (5) Each delegate shall have one vote.

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

2. -do-

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- (6) A member shall cease to be a delegate if he :-
 - (a) ceases to be a member of the society, or
 - (b) resigns his office as a delegate.
- (7) A casual vacancy in the office of a delegate in any area, or section, shall be filled by election by members in the area or section concerned.
- “(8) The delegates shall transact business as provided in section 31 of the Act read with rule 25 other than election of managing committee.”

33. Division of area of a society for election of the delegates -

- (1) The managing committee, subject to the approval of the Registrar, shall divide the area of operation of the society into convenient areas or sections for the purpose of election of delegates.
- (2) The division of the area of operation of a society, under sub-rule (1) shall be duly notified to all members, and a member in a particular area, or section, shall be entitled to vote in the election of the delegates only for that particular area or section.

34. Regulations to be framed by Managing Committee - The managing committee shall, subject to the approval of the Registrar make regulations to provide for all matters relating to the election of delegates and in particular for -

- “(a) the manner of nomination, election and removal of delegates” ;
- (b) the total number of delegates to be elected and the number of delegates to be elected from, each area or section in accordance with sub-rule (2) of Rule 33.

35. Minutes of the General Meeting -

- (1) Every Co-operative Society shall keep the minutes of general meetings in a separate book kept for this purpose.
- (2) The minutes of the meeting shall be drawn up and signed by the Chairman at the close of the agenda of the meeting and the same shall be confirmed by the general house then and there.
- (3) Until the contrary is proved, every meeting of a society, in respect of the proceedings whereof minutes have been so recorded, shall be deemed to have been duly called and held.

36. Voting in the General Meeting on resolutions tabled -

- (1) Except as provided in the Act or these rules or the bye-laws the resolution which is put to the vote of the General meeting shall be decided by a majority of votes.
- (2) A member who is a defaulter for any debt, or dues, directly, or indirectly, of the society shall be debarred from exercising the right of vote in the annual or special general meeting including the general meeting called for conducting election to the committee.

37. Election of committee - Notwithstanding anything contained in the foregoing rules, the members of the managing committee of a Co-operative Society shall be elected in accordance with the rules given in Appendix ‘A’.

38. Constitution of Managing Committee -

- (1) The managing committee of a Co-operative society shall be constituted by :-
 - (a) election from amongst the members of the society at the annual/special general meeting;
 - (b) appointment by the Registrar in the manner provided in the Rule 39;
 - (c) nominees of the Government under section 35 of the Act; and
 - (d) nominees of the other Co-operative Societies as provided in the bye-laws.

- (2) The managing committee of the society shall have not less than five nor more than twenty-one members, including the Government nominees, as may be fixed in the bye-laws.
- (3) The terms of the Managing Committees constituted under sub-rule (1) shall be five years.

¹“Provided that if outgoing managing committee fails to initiate election process 90 days prior to completion of its tenure, the Registrar shall appoint Administrator under section 37 of the Act and the Administrator so appointed shall conduct election of managing committee within six months of his appointment.”

- ²(4) The committee shall, as soon as may be possible, elect from among its elected members a President, Vice-President and such other officers as are specified in the bye-laws and only elected members of the committee shall participate in the election or removal process of President/Vice-President :

Provided that only elected members of the committee shall represent the society in the committee or general meeting of other society.”

- (5) A casual vacancy in the office of an elected member shall be filled up by co-option from amongst the members of the society by the managing committee. The managing committee member so co-opted shall qualify all the conditions laid down in the rules for membership of the committee of a society and shall retire within 90 days or at the next annual general meeting, whichever is earlier, and the vacancy thus caused shall be filled up at such meeting by election of a managing committee member in whose place the vacancy originally occurred.
- (6) Any dispute relating to the election to a committee of a member or an officer shall be referred to the Registrar under section 72 of the Act within 30 days from the date of declaration of the result of such election.

39. Appointment of Managing Committee member by the Registrar -

- (1) Notwithstanding any limits prescribed in the bye-laws, in order to represent appropriate interest, the Registrar shall have powers to appoint an additional number of members for the Managing Committee, not exceeding one-third of the number of elected members:

Provided that the total number of committee members so appointed or nominated and elected under clauses (a) (b), (c) and (d) of sub-rule (1) of rule, 38 shall not exceed the maximum limit laid down under sub-rule (2) of rule 38.

- ^{3*}(1-A) Out of the persons appointed under sub-rule (1) one shall be a person belonging to scheduled castes, one belonging to scheduled tribes and the remaining, if any, representing other appropriate interests including the interests of women, unless a member each belonging to the scheduled castes and scheduled tribes and representing other interests has already been elected on such Committee.”

- ^{4*}(2) “The members so appointed under sub-rules (1) and (1-A) shall hold office till the next election of the Managing Committee or till another person is appointed in his place, whichever is earlier and shall have the right to vote. The Registrar shall either confirm their membership to the committee or shall appoint other persons in their place for the next term of the Committee”.

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

2. -do-

3. * Amended on 27th April, 1976.

4. * Amended on 27th April, 1976.

- (3) Managing Committee members appointed under this rule may or may not be the members of the society but should have all the qualifications prescribed for membership of a Co-operative Society and the managing committee.
- (4) If a vacancy occurs in the office of an appointed member on the managing committee the vacancy shall be filled up by an appointment by the Registrar, and not by co-option.

139-A. Qualifications, experience and manner of nomination of Government nominees on the Committees of the Societies** - The State Government or any authority specified by the State Government by a notification under section 35 of the Act, shall nominate members on the Committees of Societies, from amongst the following persons :-

- (i) in case of an Apex Society, sitting MLA's or Ex-MLA's or eminent publicman associated with co-operative movement at least for 5 years in the State or Officers of the State Government not below the rank of Class-I Officers associated with the objectives of the Co-operative Society concerned; for 5 years;
- (ii) in case of a secondary society, sitting MLA's or Ex-MLA's or eminent publicman associated with Co-operative movement atleast for 5 years in the State or Officer to the State Government not below the rank of Class-II Officers associated with the objectives of the Co-op. Society concerned;
- (iii) in the case of Primary Co-op. Society, the persons to be nominated will be eminent publicmen belonging to the area of operation of the society an actively associated with the Co-op. movement or Government Officials associated with the objectives of the society concerned having atleast two years experience on the respective post;

Provided that the members so nominated by the Government through notification, issued from time to time will be entitled to function on the Managing Committee of the society concerned with effect from the date of publication in the official Gazette of their nomination :

Provided further that the persons other than Government Officials so nominated shall cease to be members of Managing Committee after expiry of the tenure of elected Managing Committee unless the Government directs otherwise.

40. Proportion of individuals and societies for constituting committee - In a Co-operative Society, the membership of which is not exclusively confined to individuals, the representation of individuals and societies on the committee and the general body shall be such as may be laid down in the bye-laws of the Co-operative Society.

41. Disqualification for membership of committee -

- (1) No person shall be eligible for appointment, or election as member of the committee of any society, if he :-
 - (a) is an applicant to be adjudicated a bankrupt or is an insolvent or an uncertificated bankrupt or an undischarged insolvent; or
 - (b) has been sentenced for any offence other than an offence of a political character or an offence not involving moral delinquency, such sentence not having been reserved or the offence pardoned; or
 - (c) is of unsound mind; or

1. *Added by Notification No. Co-op. A(3) 1/86(s) dated 8-7-1987, Published in the Rajpatra, Himachal Pradesh, as required under Article 348(3) of the Constitution of India

- 1“(d) a paid employee of the society or of any other Co-operative Society :
Provided that this condition shall not apply for election of a member for the managing committee of the Society of the employees of a Co-operative Society or its representative in other society or”
- (e) is in the same line of business as conducted by the society; provided that if any question arises whether a person is or is not in the same line of business, the question shall be referred to the Registrar and his decision shall be final; or
- (f) is concerned with the profits of any contract entered with the society except in transactions made with the Society as a member in accordance with the objects of the society as stated in the bye-laws, provided that if any question arises whether a person is or is not so concerned with the profits of any contract, the question shall be referred to the Registrar and his decision shall be final; or
- (g) is except with the sanction of the Registrar, already the member of the committee of any other society of the same type; or
- (h) has been sued in arbitration in a society, and award given against him stands unsatisfied wholly or partially; or
- 2* (i) is a near relation of a paid employee of the society, provided that if any question arises whether a person “has associated himself with the appointment of a near relation in the services of the society concerned,” the question shall be referred to the Registrar and his decision shall be final; or
- 3* (ii) deleted.
- (j) is a defaulter of any society; or
- 4* (jj) “is a representative of a defaulter society; or”
- (k) has been debarred from becoming an officer of any society under Rule 58; or
- (l) is under 21 years of age.
- (2) A member of the committee of any society shall cease to hold office as such if he :-
- (a) applies to be adjudicated, or is adjudicated a bankrupt or an insolvent; or
- (b) is sentenced for any such offence as is described in clause (b) of sub-rule (1); or
- (c) becomes of unsound mind; or
- 5“(d) becomes a paid employee of the society or any other society :
Provided that this condition shall not apply for election of a member for the managing committee of the society of the employees of a Co-operative Society, or”
- (e) enters on the same line of business as conducted by the society; or
- (f) becomes concerned with profits of any contract entered into by the society except in transactions made with the society as a member, in accordance with the objects of the society as stated in the bye-laws; or
- (g) becomes a member of the committee of any other society of the same type, except with the sanction in writing of the Registrar; or

1. * Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.
2. * Added by Notification No. Co-op A(3) 1/86 (s) dated 8-7-1987, Published in the Rajpatra, Himachal Pradesh, as required under Article 348(3) of the Constitution of India.
3. * Deleted vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.
4. * Inserted vide H.P. extra ordinary gazette dated 1-3-77.
5. * Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

- (h) becomes a near relation of the paid employee of the society; or
- ¹“(i) is a representative of the society which becomes defaulter;”
- (j) is debarred from becoming an officer of any society under Rule 58; or
- (k) ceases to be a member of the society; or
- (l) is found to be under 21 years of age.

²“41-A Opportunity to surety before declaration as defaulter -

- (1) When the surety is called upon to clear the default of the person to whom he had stood surety and if he fails to discharge the liability he shall be treated as defaulter and denied loan for himself and also the voting right under section 20 of the Act.”
- ³“(2) In case a dispute arises as to whether a member or a society is or is not a defaulter, the matter shall be referred to the Registrar whose decision shall be final and binding”.

42. Term of office of member of committee who is a delegate of another society-

A delegate of one society sitting on the committee of another society shall cease to be a member of such committee :-

- ⁴“(a) If the elected delegate of a society, functioning on the managing committee of another society, completes one term, of the society of which he is a delegate or otherwise ceases to be its member; or”
- (b) in case he was elected as a delegate by a society, on the supersession of the committee of such society under section 37 of the Act, provided that the person or persons appointed by the Registrar under the said section shall have power to nominate himself or one among them or any member of the society, to the committee of another society; or
- (c) if the registration of the society of which he is a delegate, is cancelled; or
- (d) if he ceases to be a member of the society of which he is a delegate; or
- (e) if the society which he represents is ordered to be wound up from the date on which the order of winding up takes effect under sub-section (3) of section 78;

Provided that no individual shall be a member of a managing committee of more than two secondary societies at a time;

Provided further that delegate representing a viable or potentially - viable society shall only be eligible to seek election to the managing committee of a secondary society, the criteria for viable and potentially-viable societies being determined by the Registrar.

43. Removal, expulsion etc. of the Chairman, Committee-members and other elected officers -

- (1) The elected Chairman of a society or any other officer elected under clause (a) of sub-rule (1) of rule 38 may be removed from the office by a resolution of a general meeting specially convened for the purpose.
- (2) The managing committee, with the prior approval of the Registrar, may remove any committee member who fails to attend four consecutive meetings of the committee without previous permission of the Chairman obtained by him in writing.

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.
 2. Inserted vide notification dated 6-3-1978
 3. Inserted vide notification dated 20-1-1979
 4. Added by Notification No. Co-op (A) 1/86(s) dated 8-7-1987, published in the Rajpatra, Himachal Pradesh, as required under Article 348(3) of the Constitution of India.

- (3) Unless otherwise provided in the bye-laws, or in the terms of his appointment and subject to the provisions of section 72 of the Act, any officer of the society appointed by the managing committee, may be removed from his office by the managing committee, subject to the approval of the Registrar.

44. Notice of the committee Meeting - Notice of a meeting of the managing committee shall be sent under certificate of posting by the President, or under his direction by the Secretary in writing, or in such manner as the Registrar may prescribe in respect of any society or class of societies, to every committee-member specifying the place, date and hour of the meeting, together with the agenda to be discussed therein, of not less than three clear days or such other period as may be provided in the bye laws before the date of the meeting.

Provided that any other business, though not included in the agenda, may be brought up and considered with the consent of the Chairman.

45. Voting in the meeting of the Managing Committee - A resolution which is put to the vote of the committee meeting shall be decided by a majority of votes and if the votes are equal, the Chairman shall have a second, or casting vote.

46. Chairman of the meeting - The Chairman shall preside over all meetings of the managing committee at which he is present. In the absence of the Chairman the Vice-Chairman and in the absence of both, any member elected from amongst themselves by the committee-members present, shall take the chair.

47. Quorum of the meeting - Unless a larger proportion is provided in the bye-laws, the quorum at a meeting of the managing committee shall be one third of the total number of committee-member, or three, whichever is greater.

48. Requisition for special Committee Meetings -

- (1) Any three committee members, or such larger numbers as may be laid down in the bye-laws, may requisition a special meeting of the managing committee by giving seven clear days notice, provided that no such notice shall be necessary in the case of a special meeting requisitioned by the Registrar, or by an officer duly authorised by him in this behalf.
- (2) The requisition shall specify the object of the meeting and shall be signed by the requisitionists, and should be delivered at the office of the society.
- (3) At such special meeting, no business other than that specified in the notice shall be transacted.

49. Powers of the Managing Committee -

- (1) The managing committee of Co-operative Society shall, subject to the provisions of the Act, the rules made thereunder, and such general or special orders as the Registrar may issue from time to time, exercise all, or any, of the following powers as may be provided in the bye-laws :-
 - (a) to admit new members and to fine, suspend, remove or expel existing members on the roll of the society;
 - (b) to raise funds;
 - (c) to invest funds;
 - (d) to appoint salaried or non-salaried officers for the conduct of the business of the society, in accordance with the provisions of these rules and bye-laws, and to define their duties;
 - (e) to delay to enforce any debt or demand of the society or to institute, defend or compromise legal proceedings and subject to the approval of the Registrar to compromise or abandon any debt or demand of the society;
 - (f) to dispose of applications for shares;

- (g) to dispose of applications for loans and to determine the security to be taken; and
- (h) to appoint sub-committees, as may be deemed necessary from time to time, and delegate to them one or more of its powers for the smooth running of the business of the society.

50. Duties of Managing Committee - The managing committee shall observe in all their transactions the provisions of the Act, rules and bye-laws, and in particular, shall perform the following duties;

- (a) to receive and disburse money;
- (b) to maintain true accounts of money received and expended, and accounts of the assets and liabilities;
- (c) to prepare for submission to the annual general meeting -
 - (1) Receipt and Disbursement Statement ;
 - (2) Balance Sheet ;
 - (3) Trading and Profit and Loss Account ;
 - (4) Appropriation of Profits ;
- (d) to prepare the statements of accounts required at audit and to place them before the Auditor;
- (e) to prepare, and submit all statements and returns, required by the Registrar in such form as he may direct ;
- (f) to enter accounts of the society regularly and periodically in proper books;
- (g) to maintain a register of members up to date;
- (h) to facilitate the inspection of books and audit of accounts of the society by those entitled to inspect/audit them;
- (i) to convene general meetings;
- (j) to convene the annual general meeting in due time;
- (k) to ensure that loans and advances are applied for the purposes for which they are made, and that they are punctually repaid;
- (l) to examine and take prompt action in cases of all arrears and defaults in repayments of loans and advances;
- (m) to perform such other duties as may be entrusted by the general meeting; and
- (n) in general to carry on the business of the society in accordance with its bye-laws.
- ¹(o) to take steps to initiate election process 90 days before the expiry of term of the present committee.”

51. Deputation of a Government servant to manage the affairs of a co-operative Society -

- (1) A Government servant when deputed to the service of a Co-operative Society under section 36 shall be called the Executive Officer of the society.
- (2) Subject to any conditions to the contrary that the State Government may in a particular case think fit to impose, the Executive Officer, shall be under the general control of the managing committee of the society, and shall in the conduct of the business of the society, exercise the following powers, namely :-
 - (i) to have control over the staff of the society with powers to fine, suspend or dismiss any member thereof; provided that the powers of dismissal shall be exercised with the prior concurrence of the managing committee;

- (ii) to institute, defend and conduct legal proceedings in law courts, and other places, and enter into compromise or arbitration with creditors of the society.

52. Duties of the Executive Officer - Unless otherwise directed by the managing committee, the Executive Officer shall perform the following duties namely :-

- (i) to receive all money on behalf of the society, and to issue receipts other than receipts a likely to create fresh obligations on the part of the society in effectual discharge of the money stated to have been received therein;
- (ii) to pay all costs of management and working expenses out of the funds of the society such as salaries of the staff; travelling and other contingent expenses to be incurred in the working of the society.
- (iii) to deposit all money received on behalf of the society and securities and other effects as prescribed under section 53 of the Act;
- (iv) to maintain proper and accurate records and accounts of the society;
- (v) to call meetings of the managing committee as may be necessary for the proper conduct of business;
- (vi) to place, from time to time, before such of its members, or such other authority as the managing committee may direct, statements of receipts and disbursements for examination and approval.

53. Procedure in case of difference of opinion - In the event of a difference of opinion between the Executive Officer and the managing committee of the society, with regard to any matter concerning the business of the society not expressed or covered by the Act, rules and the bye-laws, the Executive Officer, may refer the matter to the Registrar for his decision, and the decision of the Registrar in this regard shall be final.

54. Withdrawal, indemnification and cost of Executive Officer -

- (1) The executive Officer shall be indemnified out of the funds of the Co-operative Society for all costs charges, travelling and other expenses incurred by him in the conduct of the society's business and in the discharge of his duties, and no suit or legal proceedings whatsoever shall lie against him in respect of any thing done in good faith or intended to be done in accordance with the powers conferred on him.
- (2) At any time the State Government may after giving ninety-days clear notice, withdraw from the service of a society, any Government servant deputed it under section 36 of the Act.
- (3) The society may, at any time, by a resolution in the general meeting, apply to the State Government for withdrawing the Government servant so deputed.
- (4) The society shall make such contributions towards the cost of deputation of the officer as the State Government may direct.

55. Appointment of a person to manage the affairs of a society - When the Registrar orders the removal of the managing committee of a society and makes an appointment of a persons to manage the affairs of the society under section 37, he may fix :-

- (1) the date by which a new managing committee is to be constituted.
- (2) the remuneration, if any, to be paid to the person or persons appointed to manage the affairs of the society;
- (3) the security to be furnished by the person or persons to be appointed.

56. Officers and employees of Co-operative Societies -

- (1) Notwithstanding anything contained in the bye-laws of a society, no Co-operative Society shall appoint any person as its paid officer or employee in any category of service unless he possesses the qualifications and furnishes the security, if so

specified by the Registrar, from time to time, for such category of service in the society, or for the class of society to which it belongs. The conditions of service of the employees of the societies shall be specified by the Registrar.

(2) No Co-operative society shall retain in service any paid officer or employee, if he does not acquire the qualification or furnish the security as is referred to in sub-rule (1) within such time as the Registrar may direct.

¹(3) No Co-operative society shall employ a salaried officer or servant with total monthly emoluments exceeding rupees 'one thousand' without the previous permission of the Registrar. The promotion of an employee to a higher post shall be deemed to be an appointment under this sub-rule.

(4) The Registrar may for special reasons to be recorded in writing relax in respect of any paid officer or employee, the provisions of this rule in regard to the qualifications he should possess or the security he should furnish.

²(5) "Where, in the course of an audit under section 61, or an inspection under section 65 or an inspection under section 66, or an inquiry under section 67, it is brought to the notice of the Registrar that the paid officer or servant of the society had committed, or has been otherwise responsible for mis-appropriation, breach of trust or other offence, in relation to the society or has wilfully neglected or failed to discharge his duties and functions as enjoined on him under the Act, rules or bye-laws or is otherwise responsible for any act or omission thereby adversely affecting the interest of the society, the Registrar if in his opinion there is *prima facie* evidence against the paid officer or servant, and suspension of such paid officer or servant is necessary in the interest of the society, direct the committee of the society, pending the investigation and disposal of the matter, as the case may be, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him."

³"Provided that an officer/servant of the society shall be deemed to have been placed under suspension by an order of the competent Authority or the Registrar in the following circumstances :-

- (a) If he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;
- (b) If in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours.

If a servant of the society who has been detained for a period exceeding forty-eight hours is later on released on bail, such release will not affect the deemed suspension which will continue to be in force until revoked by the competent authority or the Registrar."

(6) on receipt of a direction from the Registrar under sub-rule (5), the committee of society shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(7) If the committee fails to comply with the direction issued under sub-rule (5), the Registrar may make an order placing such paid officer or servant under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

(8) The officer or servant suspended under this rule shall be re-instated only after the previous approval of the Registrar.

1. Added by Notification No. Co-op. A (3) 1/86 (s) dated 8-7-1987, Published in the Rajpatra, Himachal Pradesh as required under Article 348 (3) of the Constitution of India.

2. Amended vide extra ordinary gazette dated 27th April, 1976

3. Inserted vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

57. Prohibition against being interested in contracts etc. -

- (1) Without prejudice to the provisions of the bye-laws, no-officer of a co-operative Society shall have an interest directly, or indirectly otherwise than as such officer :-
 - (a) in any contract made with the society ; or
 - (b) in any property sold or purchased or leased by, or the society; or
 - (c) in any other transaction of the society except as an investment made or as a loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.
- (2) No officer of a society shall purchase, directly or indirectly, any property of a member of the society sold for the recovery of his dues to the society.
- (3) The prohibition contained in the rule shall continue to apply for a period of two years after a person ceases to be an officer of the society.

58. Grounds on which a person may be debarred to hold an office in a society-

- (1) Without prejudice to any provisions of the Act or these rules the Registrar may, for the reasons to be recorded in writing, debar any person to hold an office in any society for not more than five years for the reasons to be recorded in writing : when he is satisfied that the person concerned :-
 - (a) has wilfully and without any reasonable cause, failed to comply with any of the provisions of the Act or these rules; or
 - (b) has been found responsible for any misappropriation of the society's funds or for any avoidable loss to it or for its mismanagement as a result of an audit under section 61, or an inspection under section 65 or section 66, or an inquiry under section 67;
 - (c) is responsible for any other misconduct, indiscipline or disorder causing any harm to the smooth functioning of the society or any other society.
- (2) The person debarred to hold office under sub-rule (1) above may appeal against the order of the Registrar to the State Government within 30 days after the receipt of the order and the decision of the State Government shall be final.

59. Powers of the Government nominees to vote in the general meeting - Every Government nominee appointed under section 35, of the Act besides having a right to vote in the managing committee meeting, shall also have the right to attend all general meetings of the society and to exercise the voting power like other members.

CHAPTER - V**DUTIES AND OBLIGATION OF CO-OPERATIVE SOCIETIES****60. Books and registers to be maintained by the society -**

- (1) The following registers and papers shall be maintained, and shall be open to inspection by any member interested in the funds except that no one except an authorised officer of the Himachal Pradesh Government Co-operative Department shall see the deposit account of any other person without that person's consent in writing :-
 - (a) File Board containing :-
 - (i) Registration Certificate issued under section 9 of the Act;
 - (ii) a copy of Act, rules, bye-laws and consecutive amendments to the Act, rules and the bye-laws;
 - (iii) copies of such other circulars, as may be required by the Registrar from time to time, to be maintained;

- (b) a register of members showing the name, age, parentage, address and occupation of every member, the number of shares held by him, the date of his admission to membership and the nominee appointed, where necessary, and in case of past members the date of termination of membership;
 - (c) a cash book showing the receipts, disbursements and balance of each day on which business is done;
 - (d) a ledger account of each member depositor and creditor and contingent income and expenditure;
 - (e) a register showing periodical installments for repayment of loans where necessary;
 - (f) a minute book;
 - (g) a register showing the maximum credit limit of each member;
 - (h) a hand book showing all loans issued;
 - (i) a pass book for each member and depositor;
 - (j) a register containing the day to day position of articles in trade and fixed assets;
 - (k) a visit book containing the particulars of visits made to the society by the Registrar, or a person working under his general or special orders.
- (2) The entries duly authenticated by an officer of the society in the pass books issued to each member or creditor under sub-rule (1) shall have equal evidential value to the entries in the books of accounts of the society.

61. Custody of accounts books and record - The books and record of a society shall be kept in the custody of the Secretary or such other officer as the managing committee may authorise.

62. Preparation of statements at the expense of the society -

- (1) If a society fails to send to the Registrar within the time allowed, any statement or return required by the Act, the rules and the Registrar from time to time, the Registrar may cause such statement or returns to be prepared by employing such staff as he may deem to be necessary and may assess upon the society the cost of such staff.
- (2) The cost assessed under sub-rule (1) if not paid shall be recoverable from the society as laid down in section 90.

63. Publication of the Balance-Sheet -

- (1) Every society shall publish in such manner as the Registrar may direct, its audited balance-sheet within 60 days from the date it is adopted by the general meeting by displaying it in any conspicuous place in the registered office of the society, and in every branch of the society.
- (2) The managing committee of a society shall, in every co-operative year, lay before the general meeting of the society an audited balance-sheet.
- (3) The audited balance-sheet, so published and displayed every year, shall be kept open to inspection in addition to the documents mentioned under section 26 of the Act.

64. Annual Statements - The managing committee of every society, or any officer of the society appointed for the purpose by the managing committee, shall prepare yearly, in such forms as may be prescribed by the Registrar :-

- (a) an account showing the receipt and disbursements of the year;
- (b) a profit and loss account;
- (c) a balance-sheet;
- (d) any other statement prescribed by the Registrar from time to time.

CHAPTER - VI**PRIVILEGES AND POWERS OF CO-OPERATIVE SOCIETIES****65. Proof of entries in society's books -**

- (1) For the purpose of section 44 of the Act, a copy of an entry in the books of a society shall bear a certificate written at the foot of such copy declaring that it is true copy of such entry, and the book containing the entry is still in the custody of the society, such certificate being dated and signed by the Secretary or President of the society.
- (2) Notwithstanding anything contained in sub-rule (1) copy of an entry may also be signed and certified by the Administrator where appointed under section 37, or the Liquidator where appointed under section 79.

66. Form of declaration - A declaration to be made under clause (i) or (ii) of section 47 of the Act shall be in the form set forth in the schedule.

67. Financial assistance by the Government -

- (1) Subject to the provisions of the Act to State Government may :
 - (i) make share capital contribution to a society; or
 - (ii) give loans or financial assistance or any other type of assistance to a society; or
 - (iii) guarantee the payment of the principal or debentures issued by a society; or interest thereon, or both; or
 - (iv) guarantee the payment of the principal and payment of interest on loans and advances given by the Reserve Bank of India, or the State Bank of India, or any other authority or institution constituted under any law for the time being in force; or
 - (v) grant aid in any other form to a society under section 48 on the following terms and conditions, namely ;
 - (a) when the State Government purchases shares in a society, it shall be entitled to dividend on the said shares as is declared by the society concerned and is payment to other members of that society;
 - (b) a society receiving State-aid shall not pay any dividend or distribute or take profit in excess of such percentage of rate upon the amount of the capital of the society as the State Government may, from time to time, fix;
 - (c) a society receiving State-aid shall, with the approval of the Registrar, appoint a paid Secretary or Manager of the society;
 - (d) a society receiving State-aid shall be bound :-
 - (i) to comply with any general or special order of the State Government relative to the inspection of the society;
 - (ii) to permit the inspection of all accounts relative to the society;
 - (iii) to maintain such accounts and to furnish such statements and returns as the State Government or the Registrar, may, from time to time, require; and
 - (iv) to comply with any order or conditions issued or imposed by State Government, as may in its opinion be necessary, or expedient, to safeguard its interest.
- (2) If the society to which State-aid has been given in any form, fails to comply with any order made under the Act, or the rules framed thereunder, or commits any breach of any terms or conditions laid down for the grant of State-aid, or if on inspection of accounts, returns statements or audit report of such society the State Government is of the opinion that the State-aid should be withdrawn, the State

Government may, after considering any representation which the society may make within such times as the State Government may allow in this behalf, make an order directing :-

- (i) that the balance of any loan outstanding shall be recoverable forthwith;
 - (ii) that the guarantee given shall cease from the date of such order;
 - (iii) that the full value of any other State-aid given and enjoyed till the date of the order shall be payable forthwith and the grant of such State-aid beyond such date shall be discontinued.
- (3) An application of a society for a loan, or subsidy, or both from a Government department or a Government sponsored agency shall be made through the Registrar. While forwarding the application, the Registrar shall record his opinion regarding the eligibility of the society for the said loan, or subsidy, or both.
 - (4) The State Government may set out other terms and conditions on which it shall provide State-aid to a society.

CHAPTER - VII

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

68. Investment of funds - In addition to the manner specified in section 53, a Co-operative Society may invest or deposit its funds :-

- (a) with the State Bank of India; or
- (b) in the shares of the Reserve Bank of India; or
- (c) in any other manner permitted by the Registrar.

69. Co-operative Education Fund -

- ¹(1) Every society shall contribute to the 'Co-operative Education Fund', as provided in section 54 of the Act, to be administered by the Himachal Pradesh Co-operative Development Federation (hereinafter mentioned as State Co-operative Development Federation) and in its absence by any other agency duly authorized by the Government in this behalf, at the rate of rupees hundred or three percent of net profit of the year whichever is more but subject to a maximum of Rs. fifteen lacs."
- ²(2) The contributions payable by society shall be a charge on the funds of the society and shall be recoverable in the manner provided in section 90 of the Act as arrears of the land revenue, and the officer of the society wilfully failing to comply with the requirements of this rule shall be personally liable for making good the amount to the State Co-operative Development Federation, or the authorised agency, as the case may be, the amount so assessed shall be remitted to the State Co-operative Development Federation or the authorised agency, within a period of one year after the close of the Co-operative year for which it was assessed. For the utilisation and administration of the fund, the State Co-operative Development Federation or the authorised agency, as the case may be, shall prepare regulations with the approval of the Registrar."
- (3) No part of the Education Fund so administered by the State Co-operative Development Federation or the authorised agency shall be utilised till the permission of the Registrar is obtained, or regulations approved by him.

70. Objects and Investment of Reserve Fund -

- (1) A Reserve Fund maintained society shall belong to the society and is intended to meet unforeseen losses. It shall be indivisible and no member shall have any claim to a share in it.
- (2) A society shall not invest or deposit its Reserve Fund except in one or more of the modes mentioned in section 57 of the Act, or in such modes as are laid down in section 53 read with rule 68.

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.
2. -do- and amended vide extraordinary gazzate dated 1st March, 1997.

Provided that the Registrar may be general or special order permit any society or any class of societies to invest the Reserve Fund, or a portion thereof in its own business:

Provided further that in exceptional circumstances and with the prior approval of the Registrar, the Reserve Fund may be utilised in meeting losses.

- (3) No society whose Reserve Fund has been separately invested or deposited shall draw upon, pledge or otherwise employ such fund except with the sanction of the Registrar obtained in writing.

71. Distribution of profits -

- (1) Save as may be directed by the Registrar, no distribution of profits shall be made in the case of a society with unlimited liability, and save as provided in this rule, no part of the funds of a society shall be divided by way of dividend or loans or otherwise among its members.
- (2) No dividend or loans shall be paid :-
 - (a) otherwise than out of profits certified by the auditor to have been actually realised in accordance with sub-section (1) of section 56; or
 - (b) without the previous sanction of the Registrar, if the auditor reports that any asset is bad or doubtful and also recommends that such sanction is necessary;

Provided that the auditor shall not so recommend if such an asset is adequately covered.

- (3) Subject to the provisions of sub-rule (2) after the proportion required by sub-section (2) of section 57 and sub-rule (1) of rule 69 has been carried to the Reserve Fund, and the Co-operative Education Fund from the net profits of an year, the balance of such profits together with undistributed profits of past years, if any, may to such extent and under such conditions as are laid down in this Chapter, be distributed, as dividend among the members or paid as bonus or remuneration to a member or employee for any specific service rendered to the society.

72. Payment of the dividend, bonus etc-

- (1)¹ "In every society with shares, the dividend may be declared upto a maximum of twelve percent annum on the amount of paid up shares."
- (2) No dividend shall be paid by a society with shares and unlimited liability without the previous sanction of the Registrar.
- (3) No dividend shall be paid in any society unless such dividend is recommended by the managing committee and approved by the general meeting;

Provided that the general meeting may reduce the rate of dividend recommended by the managing committee but shall have no power to increase the same.

- (4) The Registrar may be a general or special order, direct that a society shall not pay dividend or shall pay dividend at a reduced rate so long as it received loans and deposits from non-members.
- (5) Subject to the provisions of any law for the time being in force on the subject, a society may set apart not more than ten per cent of its net profits for the payment of bonus to its salaried officers or employees, if such payment is recommended by the managing committee and approved by the general meeting and the Registrar :

Provided that in case of a salaried officer or an employee, the amount of bonus shall not exceed two months' salary in a year;

73. Contribution to charitable purposes -

- (1) After the proportion required by sub-section (2) of section 57 and sub-rule (1) of rule 69 has been carried to the Reserve Fund and the Co-operative Education Fund, the society may contribute not more than ten percent of such balance for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

1. Amended vide extraordinary gazette dated 27th April, 1976.

- (2) The fund thus constituted under sub-rule (1) shall be utilised by the society with the prior sanction of the Registrar.

74. Provident Fund-

- (1) Subject to the provisions of any law for the time being in force on the subject, a society may establish a Provident Fund for its employees and after there has been carried to the Reserve Fund and Co-operative Education Fund, the necessary proportion of the net profits in any year may make such contribution not exceeding ten per cent of the remaining net profits.
- (2) Such Provident Fund shall not be used in the business of the society but shall be invested or deposited in one or more of the ways specified in sub-section (4) of section 53 read with rule 68.
- (3) The amount of contribution that can be made by an employee in any month shall not exceed such sum as may be fixed by the general meeting, subject to a maximum of 10 per cent of his monthly salary.
- (4) The society may make such contribution every year to the Provident Fund of the employees as may be approved by the general meeting and the Registrar, but such contribution shall not exceed the annual contributions made by the employees concerned.
- (5) The interest accrued on the investment of the Provident Fund of the employees shall be credited to the account of individual employee concerned, in proportion to the balance standing to the credit of each account at the close of the preceding year.
- (6) The fund shall be administered under the rules duly approved by the Registrar.

75. Honorarium -

- (1) No honorarium shall be paid by the society unless a resolution sanctioning the same has been passed by the managing committee and approved by the general house of the society and the Registrar.
- (2) The honorarium to be paid shall not exceed 5 per cent of net profits or Rs. 1,000 in a year, whichever is less.

76. Maximum credit limit of members - The Registrar may, from time to time lay down the limit beyond which a Co-operative Society or class of societies may not advance loans to members.

77. Nature and extent of securities for loans - The Registrar may from time to time issue such directions, as he may consider necessary for regulating the nature and extent of security which a society or class of societies may demand in respect of loans advanced by it.

78. Restriction on borrowing of a Co-operative Society -

- (1) A Co-operative Society may receive deposits and loans from persons and institutions who are not members, provided that the amount so borrowed from such persons and institutions, together with the amount borrowed and deposits received from members, does not exceed the limit fixed from time to time by the Registrar for the society, or for the class of societies to which it belongs.
- (2) Notwithstanding anything contained in sub-rule (1) above, a Co-operative Society may receive deposits from its members exceeding the limit fixed in sub-rule (1), provided that amount in excess of the said limit is invested outside the business of the society.

79. Restriction on grant of loan - No financing bank or credit society other than an agricultural credit society with unlimited liability, or a Land Development Bank, or a society the object of which is to grant long term loans exclusively on the mortgage of immovable properties, shall grant loan for periods exceeding ¹“fifteen” years.

80. Restriction on transactions with non-members - On the application of a member of any society or on his own motion, when it appears to the Registrar that it is necessary in the interest of the working of any particular society, to regulate or restrict transactions of such society with any non-member, the Registrar shall, after giving an opportunity to the society of being heard issue such directions as he may consider necessary for regulating or restricting such transactions.

81. Manner of recalling of loan -

- (1) Notwithstanding anything contained in the agreement entered into with the borrowing member, the committee of a society, shall be entitled, after giving a week's notice to such members, to recall the entire loan amount immediately when it is satisfied that the loan given has not been applied for the purpose for which given or there has been breach of any of the conditions for the grant of such a loan.
- (2) Nothing in this rule shall be deemed to preclude the Registrar from directing the society to recall a loan of his own motion, when it is brought to his notice that the loan given by the society has been misapplied, or conditions thereof have not been followed. The Registrar may make in the matter such enquiries as he may deem necessary and after giving a show cause notice to the society with intimation thereof to the financing bank, issue necessary directions to the society. The directions issued by the Registrar in this respect shall be complied with by the society.

1"81-A. Advancement and recovery of crop loans -

- (1) In addition to the agricultural purposes defined in explanation to section 90-A of the Act, the loans may also be advanced for the purpose of cutting, pruning and spraying the crops, purchase of insecticides, pesticides, spray oils etc. and appliances used for such operations, defraying of expenses on labour charges and transportation charges for the marketing of agricultural produce.
- (2) The loans advanced for the purposes mentioned in explanation to section 90-A of the Act and in sub-rule (1) shall be repayable on or before such dates as may be specified by the State Government, in the orders issued from time to time, in this behalf."

82. Writing off bad debts and assets - No society shall write off in whole or in part all loans including interest thereon and recovery charges in respect thereof which are found irrecoverable and are certified as bad debts in audit and all other dues and accumulated losses or any other loss sustained by the society which cannot be recovered and have been certified as irrecoverable in audit or any of its assets certified as un-workable in audit, without the previous sanction of the general body subject to the approval of the Registrar in writing.

CHAPTER - VIII

AUDIT AND ACCOUNTS

83. Date of audit - Unless the Registrar directs otherwise for any society or class of societies, the audit of every society, except the societies which are audited concurrently, for the preceding co-operative year, shall be completed and the audit report submitted within the current co-operative year but not later than 15 months from the previous date of audit of the society.

84. Audit fee - (1) Audit fee in respect of audit of accounts shall be paid by all, or any types of societies at such rates as may be fixed by the Registrar, from time to time.

Provided that the Government may in special circumstances in its discretion exempt any society, or class of societies from the payment of audit fee assessed, in whole or in part, for such period as it may specify.

- (2) All fees payable under this rule shall be recoverable in the manner specified in section 90 of the Act.

- (3) The audit fee assessed under sub-rule (1) shall be deposited by the society in the Government treasury within a period of one year after the close of co-operative year for which it was assessed.

85. Statements of Accounts- For the purpose of audit under section 61, besides producing the books and the registers maintained by the society under rule 60, the managing committee of the society shall keep ready for audit the following statements in the form specified by the Registrar :-

- (1) list of members, shares, held and the arrear of share subscription, if any;
- (2) list of depositors and creditors;
- (3) list of debtors including outstanding loans and overdues, if any;
- (4) lists of stocks with value of dead stock and stock in trade;
- (5) statement of receipts and disbursements for the period under audit; and such other statements as may be required by the auditor at the time of audit;
- (6) statement of trading, manufacturing and profit and loss accounts and balance sheet.

86. Procedure and principles for the conduct of inquiry and inspection-

- (1) An order authorising inspection under section 66 or inquiry under section 67 shall, among other things, contain the following :-
 - (a) the name of the person authorised to conduct the inspection or inquiry;
 - (b) the name of the society whose affairs are to be inquired into or whose books are to be inspected;
 - (c) the specific point or points on which the inspection or enquiry is to be made, the period within which the inspection or inquiry is to be completed and report submitted to the Registrar.
 - (d) cost of inquiry; and
 - (e) any other matter relating to the inspection or enquiry.
- (2) A copy of every order authorising inspection under section 66 or inquiry under section 67 shall be sent to the society.
- (3) If the inquiry or inspection cannot be completed within the time specified in the order referred to in sub-rule (1), the person conducting the inquiry or inspection shall submit an interim report stating the reasons for failure to complete the inquiry or inspection and the Registrar, if he is satisfied, may grant such extension of time for the completion of the inquiry or inspection to the officer to whom it is entrusted, or hold the inquiry or inspection himself, or entrust it to such other person as he deems fit.
- (4) On receipt of the order referred to in sub-rule (1), the person authorised to conduct the inquiry or inspection shall proceed to examine the relevant books of accounts, and other documents in possession of the society, or any of its officers, members agents or servants and obtain such information or explanation from any such officers, members, agents or servants of the society in regard to the transactions, and working of the society as he deems necessary for the conduct of such inquiry or inspection.
- (5) The person authorised to conduct the inquiry or inspection shall submit his report to the Registrar, on all the points mentioned in the order referred to in sub-rule (1). The report shall contain his findings and the reasons therefor supported by such documentary or other evidence as recorded by him during the course of his

inspection or inquiry. He shall also specify his report the costs of the enquiry or inspection and recommend to the Registrar the manner in which the entire cost, or a part thereof, may be apportioned amongst the parties specified in section 68. The Registrar shall pass such orders thereon as may be considered just after giving a reasonable opportunity of being heard to the person or persons concerned.

- (6) The costs of the inquiry, or inspection, apportioned by the Registrar under section 68 shall be recovered in the manner provided under section 90.

87. Cost of rectification of defects pointed out as a result of inspection, inquiry or audit -

- (1) If the result of an inspection under section 65 or section 66 or inquiry under section 67 discloses any defects in the constitution, working or financial condition or books of a society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.
- (2) The State Government may, in appeal, reverse, modify or confirm the order of the Registrar.
- (3) If a society fails to rectify the defects directed to be remedied under section 64 or fails to rectify the defects as directed by the Registrar under sub-rule (1) of this rule, and where no appeal has been made to the State Government within the time specified in the order, or where on an appeal so, made, the State Government has not annulled, reversed, or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the costs from the officer or officers of the society who in his opinion, has or have failed to rectify the defects.

CHAPTER - IX

SETTLEMENT OF DISPUTES

88. Reference of disputes-

- (1) When a party to the dispute referred to in sub-section (1) of section 72 desires to have disputes determined in accordance with the said section, the party shall apply to the Registrar in writing, stating the substance of the dispute and the names and addresses of the other party in such form as the Registrar may lay down from time to time.
- (2) When the Registrar is satisfied that the reference made under-section 72 of the Act is a dispute, he may make a note of the reference in the 'Register of Disputes' maintained for the purpose.

89. Persons qualified to be appointed as Arbitrators under clause (c) of sub section (1) of section 73

- (1) Following officers shall be competent to decide the disputes with regard to the kind of societies mentioned against each :-
- | | | |
|-------|--|---|
| (i) | Additional*/Joint/Deputy Registrar
Co-operative Societies | Apex Societies |
| (ii) | Assistant Registrar Co-operative Societies (District Co-operative and supplies Officers) | Federal and Secondary Societies other than Apex Societies |
| (iii) | District Inspector/District Audit Officers/Inspectors/Auditors/Sub-Inspectors | Primary Societies |

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

- (2) ¹ “Notwithstanding anything contained in the foregoing rules, the Registrar may, by an order in writing appoint an arbitrator consisting of retired officials of Revenue, Co-operative, Audit and Judicial Departments out of a panel of Arbitrators prepared by the Government for every district.”

90. Cost of arbitration -

- (1) The Arbitrator or the person invested by the State Government to decide the dispute, or the Registrar, while deciding a dispute, as the case may be, shall have the power to order the expenses of determining a dispute or the cost of either party to be borne by such party or parties to the dispute, as he may think fit,
- (2) ² “The Registrar shall have powers to require the person referring a dispute under sub-section (1) of section 72 to deposit in advance the fee or cost of both, if any, to be specified by the Registrar for deciding the dispute.
- (3) The Registrar may, in such cases, as he thinks fit, order the payment of fee or costs or both to the arbitrator.
- (4) No fee shall be payable to an arbitrator till the dispute referred to him is finally decided.
- (5) The Registrar, may, in his discretion, remit the whole or any part of the fee collected under sub-rule (2).”

91. Procedure of disposal of disputes-

- (1) In an arbitration proceeding, the Registrar, or the Arbitrator, or the person invested by the State Government with powers to decide the disputes, as the case may be, shall communicate the date, time and place of hearing the dispute to all the parties concerned in the manner laid down in rule 141.
- ³ (2) The Registrar or the Arbitrator, as the case may be, shall, after giving reasonable opportunity to the parties of being heard, give a decision or award, as the case may be, in accordance with the principles for justice, equity and good conscience. The decision or award shall be reduced to writing, announced to the parties and filed in the office of the Registrar within a period of four months.

Provided that the said period of four months may be extended by the Registrar, Co-operative Societies, from time to time whether before or after the expiry of the said period of four months.”

- (3) In the absence of any party duly summoned to attend, the dispute may be decided ex-parte.

92. Nature of award or decision -

- (1) The award or decision as the case may be shall contain the number of reference, the names and description of the parties, and the particulars of the dispute and shall specify clearly the relief granted, the amount decreed, the future interest allowed, if any, and the costs awarded.
- (2) If no award or decision is made immediately on the conclusion of the hearing of the parties, the person deciding the dispute shall fix the date and place of the delivery of the award and shall except for the reasons to be recorded in writing, deliver the award or decision on the date so fixed.

93. Disposal of records -

- (1) The original record of dispute, and of proceedings thereon, after the decision or award has been delivered shall be kept in such place and manner as the Registrar may direct.
- (2) Any document or record rendered by a party may, on application, be returned to the party after the disposal of the appeal, if any, or after the period of appeal.

94. Certified copies - A copy of the decision or award shall on application be given to a party by the Registrar, duly certified, on payment of such fees as prescribed under rule 151.

1. Amended vide H.P. gazette dated 20-6-1981 and 8-8-1981

2. Amended vide H.P. gazette dated 20-6-1981 and 8-8-1981

3. Amended vide H.P. extra ordinary gazette dated 27th April, 1976

95. Attachment before award under section 69- If the Registrar is satisfied on affidavit, enquiry or otherwise that any person with intent to delay or obstruct the enforcement of any order that may be made against him under section 69 :-

- (a) is about to dispose of the whole, or any part of his property; or
- (b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar.

He may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if made by a competent civil court.

96. Procedure for attachment of property under section 74 and rule 95-

- (1) Where the property to be attached is movable, other than agricultural produce, in the possession of the debtor the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody, or in the custody of one of his subordinates or a Receiver, if one is appointed under sub-rule (2), and shall be responsible for the due custody thereof;

Provided that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once by open auction.

- (2) Where it appears to the officer ordering conditional attachment under section 74 or rule 95 to be just and convenient, he may appoint a Receiver for the custody of movable property attached under sub-rule (1) and his duties and liabilities shall be identical with those of a Receiver appointed under order XL of schedule 'I' to the Code of Civil Procedure, 1908.
- (3) (a) Where the property to be attached is immovable, the attachment shall be made by an order prohibiting the debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge.
(b) The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode and a copy of the order shall be fixed at a conspicuous part of village crossing. Where the property is land, paying revenue to the Government, a copy of the order shall be affixed in the nearest office of the Assistant Collector/District Collector having local jurisdiction.

97. Application for compromise between Co-operative Societies and its creditors-

- (1) An application to the Registrar under section 77 shall contain the proposed terms and conditions of the compromise, or arrangements, and where the applicant is a society, shall be accompanied by a resolution of the general meeting proposing the compromise or arrangement.
- (2) On receipt of such an application, the Registrar may, if he is of opinion that the proposed terms and conditions of the compromise, or arrangement, shall be beneficial to the parties, give directions as to the following matters viz :-
 - (i) the date or dates when the scheme of compromise or arrangement shall be placed before the creditors;
 - (ii) the time and the place where the meeting (or meetings) of the creditors shall be held;
 - (iii) the preparation by a person duly authorised by him of a statement containing the names of the creditors likely to be affected and the amount due by the society to each of them; and
 - (iv) the time within which the Chairman of the meeting shall forward his report to the Registrar.
- (3) Together with the direction to be given under sub-rule (2), the Registrar may refer any question touching the compromise or arrangement for consideration and decision of the meeting and the Chairman of the meeting shall put such question to the meeting.

98. Notice of meeting to creditors -

- (1) On receipt of the order of the Registrar, the society or the Liquidator, as the case may be, shall before 30 clear days of the date fixed for the meeting issue a notice :-
 - (a) of the date, time and place of the meeting;
 - (b) of the proposals for compromise; and
 - (c) to every creditors who is likely to be affected thereby.
- (2) The notice shall be sent by registered post or through a messenger in which case the signatures of the Receiver shall be taken as proof of service.
- (3) Any creditor desirous of moving an amendment to the proposed compromise or arrangement shall send to the Secretary of the society or to the Liquidator or, if any, a copy of this amendment at least fifteen days before the date fixed for the meeting, and the Secretary or the Liquidator, as the case may be, shall send copies of such amendment by ordinary post to each creditor to whom the notice under sub-rule (1) has been sent.
- (4) The proceedings of any meeting, held under this rule, shall not be invalid by reason only of the fact that the notice prescribed was not received by any person entitled to receive it where proof of dispatch is satisfactory.
- (5) Any officer of the society, or a Liquidator, or a person authorised in writing in this behalf by the Registrar, may attend the meeting, and if so requested by the Chairman of the meeting may take part in the discussion, but shall not be entitled to vote.

99. Appointment of Proxy by a creditor unable to attend the meeting-

- (1) A creditor who is unable to be present in the meeting may appoint another person as his proxy, in writing, in the form set forth in the Schedule.
- (2) The appointment of proxy shall not be valid unless the form duly filled is deposited at the office from which the notice of the meeting is issued, at least 48 hours before the time fixed for holding the meeting.

100. Procedure to be followed at meeting-

- (1) On the date, time and place appointed for the meeting the creditors present shall choose a person to be Chairman of the meeting.
- (2) Immediately after the Chairman has been elected, he shall read out a statement duly authenticated by an officer authorised in this behalf by the Registrar, containing the names of those creditors to whom notices under sub-rule (1) of rule 98 have been issued, and the amount due by the society to each.
- (3) If as many creditors as are required by sub-section (2) of section 77 are present, the Chairman shall read to the meeting the terms of the proposed compromise or arrangement and shall put to the meeting, the question whether proposed compromise or arrangement be accepted.
- (4) Any creditor present may move an amendment to the compromise or arrangement proposed, if he has given notice of such amendment in accordance with sub-rule (3) of rule 98 provided that :-

The Chairman may put to the meeting any amendment proposed by a creditor of which such notice has not been given if a majority of the creditors present agree that such amendment may be considered by the meeting.

- (5) Every amendment shall be put to the meeting in such order as the Chairman may consider convenient for the purpose of discussion.
- (6) The person present at the meeting may speak on the motion put by the Chairman or any amendment moved thereto in such order as the Chairman may direct. The Chairman may fix a time limit for speeches.

101. Minutes of the meeting

- (1) The Chairman shall cause minutes to be prepared of the proceedings of the meeting, and shall sign them before leaving the meeting.

- (2) The minutes shall contain the names of all creditors present at the meeting and if a poll is demanded the name of each creditor voting for or against the motion, or any amendment moved thereto.
- (3) The Chairman shall forthwith forward to the Registrar a copy of the minutes of the proceedings of the meeting, together with a copy of the terms of the compromise, or arrangement, if any, duly signed by him.

102. Dissolution of meeting if required number of creditors are not present- The Chairman shall dissolve the meeting, if the number of creditors required under sub-section (2) of section 77 is not present and shall report the fact to the Registrar.

103. Publication of compromise or arrangement - A compromise or arrangement sanctioned by the Registrar shall be published by the society :-

- (i) displaying if for thirty days in a conspicuous place at the registered office of the society;
- (ii) displaying it at such other conspicuous place in the area over which the society operates and in such other manner as the Registrar may direct; and
- (iii) sending copies of the same to all creditors to whom notices have been issued under sub-rule (1) of rule 98.

CHAPTER - X

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

104. Order of Winding up -

- (1) When the Registrar is satisfied that a Co-operative Society :-
 - (a) has not commenced working within a period of twelve months from the date of registration; or
 - (b) has not carried on business during the previous eighteen months, he may, after giving the society a show-cause notice and an opportunity to hear in the manner he deems fit, by an order in writing direct that society be wound up.
- (2) The Registrar may also issue a memorandum of liquidation together with the order of winding up containing :-
 - (a) statement of reasons for placing the society under liquidation;
 - (b) time to be taken by the Liquidator to complete the winding up process from the date on which the order of winding up takes effect.
 - (c) guidelines to the Liquidator, for the beneficial winding up, or revival, of the society.

105. Communication of order of winding up- When the Registrar passes an order under section 78 of the Act directing the winding up of a co-operative society, he shall :-

- (a) publish the order, if the liability of the society exceeds rupees twenty-five thousand, either in the official gazette, or the local/regional newspaper, as the Registrar may deem fit;
- (b) communicate the order to the society by registered post; and
- (c) send a copy of the order to the society, and to the financing bank, if any, of which the society is a member.

106. Appointment and removal of Liquidator -

- (1) The appointment and removal of a Liquidator shall be published in the manner as the Registrar may deem fit.
- (2) The appointment and removal as published under sub-rule (1) above shall also be communicated in writing to the society.

107. Power of Liquidator under sub-section (1) of section 80 - The whole of the assets of the Co-operative Society in respect of which an order for winding up has been made shall vest in the Liquidator from the date of his appointment under rule 106.

108. Procedure to be adopted by the Liquidator -

- (1) The Liquidator on appointment, shall prepare an up-to-date list of :-
 - (a) members;
 - (b) past-members, with dates of their withdrawal, who are subject to liabilities under section 29; and
 - (c) deceased members, with dates of their death, names of their legal heirs who represent their estate, and who are subject to liability under section 29.
- (2) The Liquidator shall, as soon as the order of winding up of the society takes effect, publish in such manner as the Registrar may direct a notice set forth in the schedule, requiring all claims against the society the winding up of which has been ordered, to be submitted to him within 45 days of publication of the notice. All liabilities recorded in the account books of the society shall be deemed *ipso facto* to have been duly submitted to him under this clause.
- (3) The Liquidator shall after ascertaining the assets and liabilities of the society as they stood on the date of his appointment under rule 106, proceed next to determine the contributions (including debts due) to be made by each of its members or by the estates of the nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society under section 80. If, necessity arises, he may also frame a subsidiary order, or orders, regarding such contributions and such orders and the original orders shall be enforceable under section 88. Every order issued by the Liquidator under this rule shall be called the contribution order and shall be enforceable under section 88 of the Act.
- (4) The Liquidator shall submit to the Registrar such periodical reports, and statements, showing the progress made in the liquidation proceedings as the Registrar may require.
- (5) Subject to the approval of the Registrar, the Liquidator may appoint staff to assist him in the discharge of his duties.
- (6) The Liquidator may empower any person from among the members of the liquidation committee, if any, or from among the staff appointed under sub-rule (5) of this rule, or in its absence, any other person by general or special order in writing to make collections and grant valid receipts on his behalf.
- (7) The remuneration of the Liquidator fixed under sub-section (1) of section 79 and also that which is to be given to the staff appointed under sub-rule (6) of this rule shall be included in the cost of winding up which shall be payable out of the assets of the society in priority to all other claims.
- (8) All funds in the charge of the Liquidator shall be deposited with such institution or person and in such manner as the Registrar may approve.
- (9) The Liquidator may, at any time, call such meetings of the members or of the creditors, or joint meetings of the members, and creditors; and such meetings shall be called, held and conducted at such time and place and in such manner as the Liquidator thinks fit.
- (10) The Liquidator shall call the annual general meeting of the society during each co-operative year to consider the Annual Audit Report or any other point which may be specified by the Registrar or he may desire to bring into the notice of the House.
- (11) All the meetings called under sub-rule (9) and (10) shall be presided by a Chairman of the meeting, especially elected for the purpose, from among the members present.

109. Issue of summons, notice etc. by a Liquidator -

- (1) The Liquidator may issue summons to persons where attendance is required either to give evidence or to produce documents.
- (2) The Liquidator shall himself arrange for the service of summons, and shall send warrants, if any, for execution to the competent Magistrate having local jurisdiction.

The said Magistrate shall execute the warrants, as if issued by himself.

110. Liquidator to keep record of depositions whose evidence he takes -The Liquidator shall keep record of the deposition of persons whose evidence he takes.”

111. Distribution of assets -

- (1) The audit fees due and all costs, charges and expenses incurred in the winding up of the society, including the remuneration of the Liquidator, shall be payable in priority to all other claims.
- (2) After the liabilities, other than the owned capital, as they stood on the date of order of winding up are paid up, the assets, if any, left with the Liquidator may be employed subject to the approval of the Registrar for the following purposes in order of priority :-
 - (i) proportional refund to members of any contributions realised from them in addition to their own personal debts;
 - (ii) prorate refund of share capital; and
 - (iii) prorata payment of dividend on the share, if any, at the rate not exceeding six percent per annum for the whole period for which it has not been paid including the period of liquidation.

112. Remove of the Liquidator - When the Liquidator has been removed under section 79 he shall on such removal hand over all the property and documents relating to the society ordered to be wound up to such person as the Registrar may direct.

113. Liability due to claimants whose whereabouts are not known- If any liability cannot be discharged by the Liquidator owing to the whereabouts of the claimants not being known or for any other cause, the amount, covered by such undischarged liability may be deposited in financing bank having jurisdiction over the area in which the society was functioning and shall remain at the disposal of the claimant for a period of three years, after which the undrawn amount, if any, may be transferred to the State Co-op. Development Federation for credit to the Co-operative Education Fund.

114. Meeting of members at the conclusion of liquidation proceedings -

- (1) At the conclusion of the liquidation proceeding the Liquidator shall call a general meeting of the members and place before such meetings :-
 - (i) a summary of his proceedings;
 - (ii) a report on the cause of the failure of the society.
- (2) The members at such meeting after due consideration of the report placed by the Liquidator may by a resolution request the Registrar to cancel the registration or the order for the winding up of the society, as they think fit.

115. Final report of the Liquidator and termination of proceedings -

- (1) After the liquidation proceedings of a society have been closed, the Liquidator shall submit a final report to the Registrar together with a copy of his report and the resolution referred to in rule 114.
- (2) On receipt of the final report from the Liquidator the Registrar shall terminate the liquidation proceedings by cancelling either the registration or the order for the winding up of the society.

116. Maintenance of accounts by the Liquidator - The Liquidator shall keep such books and accounts as may be laid down by the Registrar from time to time. The accounts of the society so maintained shall be audited at least once in each co-operative year at such time and in such manner as the Registrar may determine.

117. Term of liquidation proceedings - Subject to the period fixed in memorandum of liquidation under rule 104 the liquidation proceedings of a society shall be closed within a period of five years from the date on which the order of winding up takes effect, unless the period is extended by the Registrar.

118. Disposal of record -

- (1) All the documents, books and records of the society whose registration has been cancelled shall be deposited with the Registrar, or such person, or institution, as the Registrar may direct.
- (2) After the expiry of three years from the date of the order of cancellation passed under sub-rule 115 (2), the documents, books and records deposited under sub-rule (1) of this rule may be destroyed under the order of the Registrar :

¹“Provided that a precise description of each of the documents, books and records destroyed is maintained on record”.

CHAPTER - XI

EXECUTION OF DECREES

119. Application for execution to recovery officer -

- ²(1) Any decree holder requiring the provisions of section 87 to be applied, shall apply to the recovery officer in whose jurisdiction the cause of action arose, and shall deposit the necessary cost on a scale fixed by the Registrar. If the judgement-debtor resides, or the property to be proceeded against is situated outside the jurisdiction of such recovery officer, the recovery officer shall transfer the application to the recovery officer in whose jurisdiction the judgement - debtor resides or the property is situated.
- (2) Every such application shall be made in the form specified by the Registrar and shall be signed by the decree-holder. The decree-holder may indicate whether he wishes to proceed in the first instance, against the immovable property mortgaged to the decree-holder or other immovable property or to secure the attachment of movable property.
- (3) On receipt of the application, the recovery officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar setting forth the name of the judgement-debtor, and the amount due, and forward it to the sale officer.

120. Procedure in execution - Unless the decree-holder has expressed a desire that proceedings would be taken in a particular order as laid down in sub-rule (2) of rule 119 execution shall ordinarily be taken in the following manner :-

- (i) Movable property of the judgement-debtor shall be first proceeded against, but shall not preclude the immovable property being proceeded against simultaneously in case of necessity;
- (ii) If there is no movable property, or if the sale proceeds of the movable property or properties attached and sold are insufficient to fulfil the demand of the decree-holder, the immovable property belonging to the judgement-debtor may be proceeded against.

1. Amended vide H.P. gazette dated 20-6-1981 and 8-8-1981

2. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

121. Attachment and sale of specific movable property including crops on land - In the attachment and sale of movable property, the following rules shall be observed:-

- (a) The sale officer, shall, after giving previous notice to the decree holder, proceed to the village where the judgement-debtor resides, or the property to be attached is situated and serve a demand notice upon the judgement-debtor if he is present. If the amount due together with the expenses be not at once paid, the sale officer shall make the attachment by seizure or otherwise and shall immediately deliver to the judgement debtor a list or inventory of the property attached and an intimation of the place and the day, and hour at which the attached property will be brought to sale, if the amounts due are not previously discharged. If the judgement-debtor is absent, the sale officer shall serve the demand notice on some adult male member of his family, or on his authorised agent, or where such service cannot be effected shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the attachment and shall fix the list of property attached on the usual place of residence of the judgement-debtor, endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.
- (b) After the attachment is made, the sale officer may arrange for the custody of the property attached, with the decree-holder or otherwise. If the sale officer requires the decree holder to undertake the custody of the property, he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is livestock, the decree-holder shall be responsible for providing the necessary fodder therefore. The sale officer may, at the instance of the judgement-debtor, or of any other person claiming an interest in such property, leave it in the village or place where it was attached in the charge of such judgement-debtor or person, if he enters into a bond in the form specified by the Registrar with one or more sureties for the production of the property when called for.
- (c) No attachment shall be made after sunset and before sunrise.
- (d) The attachment shall not be excessive, that is to say, the property attached shall be in value as nearly as possible proportionate to the sum due by the judgement-debtor, together with interest and all expenses incidental to the attachment and sale.
- (e) If crops or ungathered products of the land belonging to a judgement-debtor are attached, the sale officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in a proper place until sold. In the later case, the expenses of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from proceeds of the sale in the event of its being sold.
- (f) The sale officer shall not work the bullocks or cattle, or make use of the goods or movable property attached, and he shall provide the necessary fodder for the cattle or livestock, the expenses attending which shall be defrayed by the owner of upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.
- (g) It shall be lawful for the sale officer to force upon any stable, cow house, granary, godown, out-house or other building, and he may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a judgement-debtor and lodged therein, provided always that it shall not be; lawful for him to break open or enter apartment in such dwelling-house appropriate for the ZANANA or residence of women, except as hereinafter provided.
- (h) Where the sale officer may have reason to suppose that the property of a judgement-debtor is lodged within a dwelling-house, the outer door of which may be shut or

within any apartment appropriated to women, which by custom or usage are considered private, the sale officer shall report the fact to the officer-in-charge of the nearest police station. On such report the officer-in-charge of the said station shall send a police officer to the spot in the presence of whom the sale officer may force open the outer door of such dwelling-house, or break open the door of any room within the house except the room appropriated by women. The sale officer may also in the presence of the police officer after due notice is given for the removal of women with in a ZANANA, and after furnishing means for their removal in a suitable manner, if they be women of rank who, according to the custom or usage can not appear in public, enter the ZANANA apartments for the purpose of attaching the judgement-debtor's property, if any, deposited therein but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

- (j) The sale officer shall cause proclamation of the time and place of the intended sale to be made by the beat of drum in the village in which judgement-debtor resides, and in such other place or places as the sale officer may consider necessary, to give due publicity to this sale, No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or affixed in the manner prescribed in clause (a) :

Provided that where the property attached is subject to speedy and natural decay, or where the expenses of keeping it in custody are likely to exceed its value, the sale officer may sell it at any time before the expiry of the said period of fifteen days, unless the amount due is paid earlier.

- (k) At the appointed time, the property shall be put up for sale in one or more lots, as the sale officer, may consider advisable, and shall be disposed of to the highest bidder :

Provided that it shall be open to the sale officer to decline to accept the highest bid where the price offered appears to be unduly low, or for other reasons. Where the property is sold for more than the amount due the excess amount, after deducting the interest and the expenses of process and the other charges shall be paid to the judgement-debtor:

Provided further that the recovery officer or the sale officer may, in his discretion, adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where the sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (i) shall be made unless the judgement-debtor consents to waive it.

- (l) The property sold shall be paid for in cash at the time of sale, or as soon thereafter as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. If the purchaser fails in the payment of purchase money, the property shall be resold.
- (m) Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been attached under these rules has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the sale officer.
- (n) Where prior to the day fixed for sale, the judgement-debtor or any person, acting on his behalf or any person claiming an interest in the property attached, pays the full amount due, including interest, *bhatta* and other costs incurred in attaching the property, the sale officer shall cancel the order of attachment, and release the property forthwith.
- (o) The movable properties exempted from attachment by the proviso to section 60 of the Code of Civil Procedure, 1908, shall not be liable to attachment or sale under these rules.

122. Attachment of other movable property -

- (1) Where the movable property to be attached is the salary or allowance or wages of a public officer or a railway servant, or a servant of a local authority or a firm or a company or any other person or institution, the recovery officer may, on receiving a report from the sale officer, order that the amount shall, subject to the provisions

of section 60 of the Code of Civil Procedure, 1908 (5 of 1908), be withheld from such salary or allowance or wages, direct and upon receipt of an order, the officer or other person whose duty is to disburse such salary or allowances or wages shall withhold and remit to the sale officer, the amount due under the order, or the monthly instalments, as the case may be.

- (2) Where the property to be attached consists of the share or interest of the judgement-debtor in movable property belonging to him and another co-owners, the attachment shall be made by a notice to the judgement-debtor prohibiting him from transferring the share on interest or charging it in any way.
- (3) Where the property to be attached is a negotiable instrument not deposited in a court, not in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the recovery officer ordering the attachment and be held subject to his further orders.
- (4) Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer, requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the recovery officer issuing the notice :

Provided that where such property is in the custody of a court or any other recovery officer, any question of title or priority arising between the decree-holder and any other person, not being the judgement-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such court or recovery officer, as the case may be.

Explanation - In this rule, a public officer includes a Liquidator appointed under section 79.

- (5)
 - (i) Where the property to be attached is a decree, either for the payment of money, or for sale in enforcement of a mortgage or charge, the attachment shall be made if the decree sought to be attached was passed by the Registrar or the person to whom a dispute has been transferred for disposal under section 73, by the order of the Registrar.
 - (ii) Where the Registrar makes an order under clause (i) he shall, on the application of the decree-holder, who has attached the decree, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.
 - (iii) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in clause (i) shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner for the holder thereof.
 - (iv) Where the property to be attached in execution of a decree is a decree other than decree of the nature referred to in clause (i), the attachment shall be made by issue of a notice by the recovery officer to the holder of such a decree prohibiting him from transferring or charging the same in any way.
 - (v) The holder of the decree attached under this sub-rule, shall give the recovery officer executing the decree such information and aid as may reasonably be required.
 - (vi) On the application of the holder of a decree sought to be executed by the attachment of another decree, the recovery officer making an order of attachment under this sub-rule, shall give notice of such order to the judgement-debtor bound by the decree attached, and no payment, or adjustment, of the attached decree made by the judgement-debtor in contravention of such order after receipt of notice thereof, either through the said recovery officer or otherwise, shall be recognised so long as the attachment remains in force.

- (6) Where the movable property to be attached is :-
- (a) a debt due to the judgement-debtor in question;
 - (b) a share in the capital of a corporation or a deposit invested therein; or
 - (c) other movable property not in the possession of the judgement-debtor, except property deposited in or in the custody of any civil court, the attachment shall be made by a written order signed by the recovery officer prohibiting:-
 - (i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof,
 - (ii) in the case of a share or deposit, the person in whose name the share or the deposit may be standing from transferring the share or deposit or receiving any dividend or interest thereon, and
 - (iii) in the case of any other movable property except as aforesaid, the person in possession of it from giving over to the judgement-debtor.

A copy of such order shall be sent in the case of the debt to the debtor, in the case of the share or deposit, to the proper officer of the corporation and in the case of the other movable property except property deposited in or in the custody of a Civil Court, to the person in possession of such property. As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) matures, the recovery officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable the said recovery officer shall arrange for its sale through a broker.

Where the share is withdrawable, its value shall be paid to the recovery officer or to the party referred to in clause (c), the person concerned shall place it in the hands of the recovery officer as it becomes deliverable to the judgement-debtor.

123. Attachment and sale of immovable property -

- (1) Immovable property shall not be sold in execution of a decree unless such property has been preciously attached :

Provided that where the decree has been obtained on the basis of a mortgage of such property, it shall not be necessary to attach it.

- (2) In the attachment and sale, or sale without attachment of immovable property, the following procedure shall be observed :-
- (a) The application presented under sub-rule (2) of rule 119 containing a description of the immovable property to be proceeded against, sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement or survey, the specification of such boundaries or numbers and the specification of the judgement-debtor's share or interest in such property to the best of the belief of the decree-holder and so far as he has been able to ascertain it.
 - (b) The demand notice issued by the recovery officer under sub-rule (3) of rule 119 shall contain the name of the judgement-debtor, the amount due, including the expenses, if any, and the **BHATTA** to be paid to the persons who shall serve the demand notice, the time allowed for payment and in case of non payment, the particulars of the properties to be attached and sold or to be sold without attachment, as the case may be. After receiving the demand notice, the sale officer shall serve or cause to be served a copy of the demand notice upon the judgement-debtor or upon some adult male member of his family at his usual place of residence, or upon his authorised agent, or, if such personal service is not possible, shall affix a copy thereof on some conspicuous part of the immovable property about to be attached and sold or sold without attachment, as the case may be :

Provided that where the recovery officer is satisfied that a judgement-debtor with intent to defeat or delay the execution proceedings against him is about to dispose of the whole, or any part, of his property, the demand notice issued by the recovery officer under sub-rule (3) of rule 119 shall not allow any time to the judgement-debtor for payment of the amount due by him and the property of the judgement-debtor shall be attached forthwith.

- (c) If the judgement-debtor fails to pay the amount specified in the demand notice within the time allowed, the sale officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immovable property specified in the demand notice for execution.
- (d) Where the attachment is required before sale, the sale officer, shall if possible, cause a notice of attachment to be served on the judgement-debtor personally. Where personal service is not possible the notice shall be affixed in some conspicuous part of the judgement-debtors' last know residence, if any. The fact of attachment shall also be proclaimed by a beat of drum, or other customary mode of announcement, at some place on or adjacent to such property, and at such other place, or places, as the recovery officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that unless the amount due with interest and expenses be paid within the date therein mentioned the property will be brought to sale. A copy of the notice shall be sent to the decree holder. Where the sale officer so directs, the attachment shall also be notified by public proclamation in a local newspaper, if any.
- (e) Proclamation of sale shall be published by affixing a notice in the office of the recovery officer, nearest office of the financing bank, and in the tehsil office, at least thirty days before the date fixed for the sale. It shall also be published by beat of drum in the village. Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the decree-holder and the judgement-debtor. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible the following particulars :-
 - (i) the property for sale;
 - (ii) any encumbrance to which the property is liable;
 - (iii) the amount for recovery of which the sale is ordered; and
 - (iv) every other matter which the sale officer, considers material for a purchaser to know in order to judge the nature and value of the property;
- (f) (i) Where any immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The decree-holder shall, where the amount for the realisation of which the sale is held, exceeds Rs. 100 furnish to the sale officer within such time as may be fixed by him or by the recovery officer an encumbrance certificate from the registration department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (1) prior to the date of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the sale officer or the recovery officer, as the case may be. The sale shall be by public auction to the highest bidder :

Provided that it shall be open to the sale officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons :

Provided further that the recovery officer, or the sale officer may in his discretion, adjourn the sale to a specified day and hour, recording his reasons for such adjournment. Where sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the judgement-debtor consents to waive it.

- (ii) The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the recovery officer. The time and place of sale shall be fixed by the recovery officer and the place of sale shall be the village where the property to be sold is situated, or such adjoining prominent place of public resort as may be fixed by the said recovery officer :

Provided that in cases, where encumbrance certificate is not obtainable, owing to the destruction of the connected records, an affidavit from the village Patwari with regard to the encumbrances known to him, supported by a certificate from the registration department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in the place of an encumbrance certificate.

- (g) A sum of money equal to 25 per cent of the price of which the immovable property is purchased in auction shall be paid by the purchaser to the sale officer at the time of the purchase, and in default of such deposits, the property shall forthwith be resold :

Provided that where the decree-holder is the purchaser, and is entitled to set off the purchase money under clause (k) the sale officer shall dispense with the requirements of this clause.

- (h) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within fifteen days from the date of sale:

Provided that the time for payment of the cost of the stamp may for good and sufficient reasons, be extended at the discretion of the recovery officer upto thirty days from the date of sale ;

Provided further that in calculating the amounts to be paid under this clause, the purchaser shall have the advantage of any set off to which he may be entitled, under clause (k).

- (i) In default of payment of the purchase money within the period mentioned in clause (h), the deposit may, if the recovery officer thinks fit, after defraying the expenses of the sale, be forfeited to the State Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.
- (j) Every resale of immovable property in default of payment of the amount mentioned in clause (h) within the period allowed for such payment, shall be made after the issue of a fresh proclamation, in the manner and for the period herein before prescribed for the sale.
- (k) Where a decree-holder purchases the property, the purchase money, and the amount due on the decree shall be set off against one another, and the sale officer shall enter upto satisfaction of the decree in whole or in part accordingly.

- (3) Where prior to the date fixed for sale, the judgement-debtor or any person acting on his behalf of any person claiming an interest in the property sought to be sold, tenders payment of the full amount due, together with interest, **BHATTA** and other expenses incurred in bringing the property to sale, including the expenses of attachment, if any, the sale officer shall forthwith release the property after cancelling, where the property has been attached, the order of attachment.

- (4) (i) Where immovable property has been sold by the sale officer, any person either owing such property or holding an interest therein, by virtue of a title acquired before such sale, may apply to have the sale set aside on his depositing with the recovery officer :-

- (a) for payment to the purchaser a sum equal to five per cent of the purchase money, and
 - (b) for payment to the decree-holder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered, together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount, less the amount which may, since the date of such proclamation, have been received by the decree-holder.
- (ii) If such deposit and application are made within thirty days from the date of sale, the recovery officer, shall pass an order setting aside the sale and shall repay to the purchaser, the purchase money so far it has been deposited, together with the five per cent deposited by the applicant :

Provided that, if more persons than one have made deposits and application, under this sub-rule, the application of the first depositor to the recovery officer, shall be accepted.

- (iii) If a person applies under sub-rule (5) to set aside the sale of immovable property, he shall not be entitled to make an application under this sub-rule.
- (5) (i) At any time within thirty days from the date of the sale of immovable property, the decree-holder or any person entitled to share in a rateable distribution of the assets or whose interests are affected by the sale, may apply to the recovery officer to set aside the sale on the ground of a material irregularity, or mistake, or fraud, in publishing the proclamation or conducting the sale ;

Provided that, no sale shall be set aside on the ground of irregularity, or fraud, unless the recovery officer is satisfied that the applicant has sustained substantial injury by reason of such an irregularity, mistake or fraud.

- (ii) If the application be allowed, the recovery officer shall set aside the sale and may direct a fresh one.
- (6) (i) On the expiration of thirty days from the date of sale, if no application to have the sale set aside is made, or if such application has been made and rejected, the recovery officer shall make an order confirming the sale :

Provided that, if he shall have reasons to think that the sale ought to be set aside, notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may after recording his reasons, in writing, set aside the sale :

- (ii) Whenever the sale of any immovable property is not so confirmed or is set aside the deposit or the purchase money, as the case may be, shall be returned to the purchaser.
 - (iii) After the confirmation of any such sale, the recovery officer shall grant a certificate of sale bearing his seal and signature to the purchaser, and such certificate shall state the property sold, and the name of the purchaser and it shall be conclusive evidence of the fact of the purchase in all courts and tribunals, where it may be necessary to prove it, and no proof of the seal or signature of the recovery officer shall be necessary unless the authority before whom it is produced shall have reason to doubt its genuineness.
 - (iv) An order made under this sub-rule shall be final, and shall not be leable to be questioned in any suit, or other legal proceeding.
- (7) Where any lawful purchaser of immovable property is resisted and prevented by any person other than a person (not being the judgement-debtor) claiming in good faith to be in possession of the property on his own account, from containing

possession of the immovable property purchased, any court of competent jurisdiction on application and production of the certificate of sale provided for by sub-rule (6) shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the immovable property purchased had been decreed to the purchaser by a decision of the court.

- (8) It shall be lawful for the sale officer to sell the whole or any portion of the immovable property of judgement-debtor in discharge of money due :

Provided always that so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment, if any, and sale.

124. Effect of attachment on private alienation - Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein and any payment to the judgement-debtor of any debt, dividend or other moneys, contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation - For the purpose of this rule, claims enforceable under an attachment include claims for the rateable distribution of assets under rule 111.

125. BHATTA, costs and receipts for payment made -

- (1) Persons employed in serving notices or other processes under these rules shall be entitled to BHATTA (Travelling Allowance), at such rates, as may, from time to time, be fixed by the Registrar.
- (2) Where the cost and charges incurred in connection with the attachment, and sale of movable property, or the attachment and sale, or sale without attachment, or immovable property under these rules exceeds the amount of the cost deposited by the decree-holder, such excess shall be deducted from the sale proceeds of the property sold, or the moneys paid by the judgement-debtor, as the case may be, and the balance shall be made available to the decree-holder.
- (3) Every person making a payment towards any money due, for the recovery of which an application has been made under these rules, shall be entitled to a receipt for the amount, signed by the sale officer, or other officer empowered by the recovery officer in that behalf; such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made.

126. Investigation of claims to property attached -

- (1) Where any claim is preferred to, or any objection is made to the attachment of any property attached under these rules on the ground that such property is not liable to such attachment, the sale officer shall investigate the claim, or objections, and make an order either rejecting the claim, or objection, as the case may be and dispose it on merits :

Provided that the sale officer, for reasons to be recorded in writing, may refuse to investigate the claim or objection, if he considers that the claim or objection is frivolous.

127. Loss caused by resale due to default by purchaser at first sale -

- (1) Any deficiency of price which may arise on a resale held under clause (1) of rule 121 or under clause (g) or (j) of sub-rule (2) of rule 123 by reason of the purchaser's default, and all expenses attending such resale, shall be certified by the sale officer to the recovery officer, and shall at the instance of either the decree-holder or the judgement-debtor, be recoverable from the defaulting purchaser. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.
- (2) Where the property may, on the second sale sell for a higher price than at first sale, the defaulting purchaser at the first sale, shall have no claim to the difference or increase.

128. Dismissal of application for execution for default of decree-holder- Where any property has been attached in execution of a decree, but by reason of the decree-holder's default, the recovery officer is unable to proceed further with the application for execution, he shall either dismiss

the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such an application, the attachment shall cease.

129. Distribution of assets when there are claims under several decrees-

- (1) Where the sale officer attaches, or has attached under these rules, any property not in the custody of any court, which is already under attachment made in execution of a decree of any court, such court shall receive and realize such property; and shall determine claims thereto and any objection to the attachment thereof :

Provided that where property is under attachment in the execution of decrees of more courts than one, the court which shall receive or realise such property and shall determine any claim thereto, and any objection to the attachment thereof, shall be the court of highest grade, or where there is no difference in grade between such courts, the court under whose decree the property was first attached.

- (2) Where the assets are held by the sale officer and before the receipt of such assets demand notices in pursuance of applications for execution of decree against the same judgement-debtor have been received from more than one decree-holder and the decree-holders have not obtained satisfaction, the assets after deducting, the costs of realisation shall be rateably distributed by the recovery officer among such decree holders in the manner provided in section 73 of the Code of Civil Procedure, 1908.

130. Death of judgement-debtor - Execution against legal representative-

- (1) Where a judgement-debtor dies before the decree has been fully satisfied, an application under sub-rule (1) of rule 119 may be made or continued against the legal representative of the deceased, and thereupon all the provisions of this chapter shall, save as otherwise provided in this rule, apply as if such legal representative were the judgement-debtors ;

Provided that a show cause notice shall be issued to such legal representative, and his objection heard, before execution is proceeded against him.

- (2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands, the recovery officer executing the decree may, of his own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as he thinks fit.

131. Fees for processes issued under these rules - Where, in connection with the proceeding under clause (c) of section 87, any person requires the issue of any process or objects to any process issued, or objects to any order passes, he shall pay such fee as may be specified by the Registrar, in this behalf.

CHAPTER - XII

APPEAL, REVIEW AND REVISION

“132. Constitution of Co-operative Appellate Tribunal -

- (1) The Co-operative Appellate Tribunal under section 108 of the Act, shall be called the Himachal Pradesh Co-operative Appellate Tribunal.
- (2) The Tribunal shall consist of the President and not more than three other members to be appointed by the Government, who shall possess the following qualifications :-
- (a) The President of the Tribunal, shall be a person who is qualified to be a judge of any High Court in India or is retired District Judge, or who has held the office of the Registrar, **“or Additional Registrar”* or Joint Registrar of Co-operative Societies for not less than five years under any State Government *or a member of Indian Administrative Service who has been borne on the State Cadre for a period of not less than five years.*
- (b) The other members of the Tribunal shall be persons who have held the office of the Registrar **“or Additional Registrar”* or Joint Registrar of Co-operative Societies for not less than three years under any State

1. 1. Amended vide H.P. extra ordinary gazette dated 27th April, 1976

* Inserted vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

Government or a member of Administrative Service who has been borne on the State Cadre for a period not less than five years or as non-officials closely associated with the co-operative movement who possess legal qualification (*a recognised degree in law*) and experience.

- (3) Notwithstanding anything contained in sub-rule (2) a person shall be disqualified for being appointed as or for continuing as, President or a member of the Tribunal if he is, or becomes, a member of the committee of any society other than an educational society, a propagandist society or a federal society which is not a business institution.
- (4)
 - (a) The President and each of the other members of the Tribunal shall hold office for such period not less than two years, as the State Government may by notification in the Official Gazette specify in his case, and shall be eligible for re-appointment.
 - (b) Notwithstanding anything contained in clause (a), no person shall be eligible to continue to hold office of the President or a member of the Tribunal after he attains the age of sixty-five years.
 - (c) The President or a member of the Tribunal may at any time resign his office.
 - (d) The President or a member of the Tribunal may, with the previous permission of the State Government hold any other office, appointment or employment not inconsistent with his position on the Tribunal.
- (5) Notwithstanding anything contained in sub-rule (4), the State Government may terminate at any time, the appointment of the President or a member, if, in its opinion, such President or member is unable or unfit to continue to perform the duties of his office :

Provided that no appointment shall be terminated under this sub-rule unless the person whose appointment is proposed to be terminated is given a reasonable opportunity of showing cause against such termination.

- (6)
 - (a) If any vacancy in the membership of the Tribunal occurs by leave or absence, deputation, death, resignation, expiry of the period of appointment, termination of the appointment or for any other cause whatsoever, such vacancy shall be filled by the State Government by a person qualified for appointment under sub-rule (2) of this rule.
 - (b) Till the vacancy in the office of President is filled on regular basis the Registrar, shall have the power to appoint the Chairman out of the existing members of the Tribunal :
- (7) The headquarters of the Tribunal shall be at Shimla or at such other place as may be notified by the State Government in the official Gazette.
- (8) The powers and functions of the Tribunal may be exercised and discharged by benches constituted by the President from amongst the members of the Tribunal including himself ;

Provided that any inter-locutory application may be heard by one or more members who may be present.

- (9) The Benches of the Tribunal shall consist of two or more members.
- (10) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members the opinion of the President shall prevail and in other cases the matter shall be referred to the President, and shall be decided in accordance with his decision.
- (11) Subject to the previous approval of the State Government, the Tribunal shall frame regulations consistent with the provisions of the Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(12) The regulations made under sub-rule (11) shall be published in the Official Gazette.”

1¹132-A. Powers of the Co-operative Appellate Tribunal - The Tribunal shall exercise all the appellate or revisional powers which the State Government exercises under sections 93, 94 and 95 of the Act, except for the matters referred to in clauses (a) to (d) and (i) and (f) of section 93 (i) of the Act.”

²“Provided that the State Government shall continue to exercise the powers under section 93, 94 and 95 of the Act till the constitution of the Tribunal :

Provided further that the appeals which lie to the State Government under the Act may be heard by the Secretary Co-operation to the State Government if the impugned order has been passed by an officer not below the rank of the Registrar, Co-operative Societies :

Provided further that in case the impugned order or decision has been passed by some other officer subordinate or junior to the Registrar, Co-operative Societies but exercise the powers of the Registrar, Co-operative Societies, such appeals may be heard by the Deputy/Joint Secretary (Co-operation) to the State Government.”

3³132-B Tribunal to have powers of civil court -

(1) In exercising the functions conferred on it by or under the Act and the rules framed thereunder, the Tribunal shall have the same powers as are vested in a civil court in respect of :-

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

(2) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.”

4⁴132-C. Pay and allowances of the president and other members of the Tribunal - The President and other member of the Tribunal shall be entitled to receive such pay and allowances as may be specified by the State Government in the orders issued from time to time in this behalf.”

133. Procedure of appeal -

- (1) Every appeal under section 93 shall be in the form of memorandum, which shall :-
 - (a) be either type written or written legibly in ink in Hindi or English ;
 - (b) specify the name and address of the appellant and also the name and address of the respondent or the opponent, as the case may be ;
 - (c) state whether the order complained of was made by the Registrar or by any person other than the Registrar on whom the powers of the Registrar are conferred;
 - (d) clearly state the grounds on which the appeal is made;
 - (e) state precisely the relief which the appellant claims;
 - (f) state the date of the order or decision appealed against;
- (2) Every appeal shall be accompanied by a copy of the order appealed against and shall be presented in person by the appellant, or by his duly appointed agent, to the appellate authority during office hours, or sent by registered post.

134. Procedure after presentation of appeal -

- (1) On receipt of an appeal, the appellate authority shall examine it, and if it is found that it is in order as provided in sub-rule (1) of rule 133, it shall be registered in the appropriate register maintained for this purpose.
- (2) If the appeal is found to be defective in certain respects, the appellate authority may call upon, within such time not exceeding 15 days in any case, to remedy the formal defects pointed out in the appeal.

1. Inserted vide H.P. extra ordinary gazette dated 27th April, 1976

2. Inserted vide notification dated 31st August, 1977.

3. Inserted vide H.P. extra ordinary gazette dated the 27th April, 1976.

4. Inserted vide extra ordinary gazette dated the 27th April, 1976.

- (3) If the party concerned or his agent fail to remedy the defects within the prescribed time, the appellate authority shall fix a date for preliminary hearing of the appeal of which due notice shall be given to the party concerned.
- (4) On the date fixed under sub-rule (3), the appellate authority shall hear the party or his agent, if present, and pass orders either directing that the appeal be admitted or rejecting the appeal. Where the appeal is rejected the appellate authority shall record its reasons for doing so.
- (5) After an appeal is admitted, a notice shall be delivered or sent by registered post to the respondent, or opponent, calling upon him to appear before the appellate authority on the date specified in the notice. The notice shall also declare that if he does not appear before the appellate authority, either in person or through an agent on the date specified in the notice, or on any subsequent date to which the hearing may be adjourned, the appellate authority shall hear and decide the appeal *ex-parte*.

135. Procedure at the hearing -

- (1) On the date fixed for hearing or on any other date to which the hearing may be adjourned the appellant or his agent, or if permitted by the appellate authority, his pleader shall ordinarily be heard first in support of his appeal. The respondent or the opponent or his agent, or if permitted by the authority, his pleader, shall if necessary be heard next; and in such case the appellant or his agent or his pleader shall be entitled to reply.
- (2) If, on the date fixed for hearing or on any other day to which the hearing may be adjourned, the appellant does not appear either in person or by his agent or pleader when the appeal is called for hearing, the appellate authority may dismiss the appeal or may decide it on merits, after hearing the respondent or opponent or his agent or pleader, if present.
- (3) If, on the day fixed for hearing or any other day to which the hearing may be adjourned, the respondent or opponent does not appear either in person or through his agent or pleader if permitted, when the appeal is called for hearing, the appellate authority may decide the same on merits after hearing the appellant or his agent or pleader if he be present.
- (4) If any of the parties was absent at the date of hearing and the appeal was heard and decided *ex-parte*, the party concerned may apply for restoration of appeal and if the party satisfies the appellate authority that it had no notice of the date of hearing or if it was prevented for any sufficient cause from appearing when the appeal was called for hearing, the appellate authority may restore the appeal to its file :

(Provided that where the other party has appeared in the appeal, such party shall be given notice and an opportunity of being heard before the order for restoration of appeal is made.)

- (5) The appellate authority may on such terms as it thinks fit and at any stage adjourn the hearing of an appeal.

136. Fresh evidence and witnesses -

- (1) No party to an appeal shall be entitled to adduce fresh evidence, whether oral or documentary before the appellate authority. The appellate authority may accept documents tendered by a party or call for the same if it is of opinion that they are necessary for deciding the appeal, provided that the other party shall in that case be entitled to produce rebutting evidence.
- (2) If the appellate authority is of opinion that any witness should be examined, it may do so, if it is necessary for deciding the appeal.
- (3) Where fresh evidence has been adduced under sub-rule (1) or a witness has been examined as provided in sub-rule (2) the parties may if they so desire address the appellate authority on points arising out of the fresh evidence or the deposition of the witness.

137. Procedure in case of death etc -

- (1) If an appellant dies, while the appeal is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal, the appellate authority shall adjourn further proceedings to enable his legal representative to appear and apply for being made a party. If the legal representative fails to do so within 90 days from the date on which the appellant dies, the appeal shall abate as regards the deceased and if he be the sole appellant, the appeal shall be dismissed. It shall be proceeded with as regards the remaining appellant.
- (2) If the respondent or opponent dies while the appeal is pending, and it cannot be proceeded with unless his legal representative is made a party to the appeal, the appellant shall apply to the appellate authority for making the legal representative of such a respondent or opponent a party to the appeal within 90 days from the date on which the respondent or opponent died. If the appellant fails to do so, the appeal shall abate as regards the deceased. If the deceased be the sole respondent or opponent, the appeal shall be dismissed. In any other case it shall be proceeded with as regards the remaining respondents or opponents.
- (3) Notwithstanding anything contained in sub-rule (1) and (2) there shall be no abatement by reasons of the death of any party, between the conclusion of the hearing and the pronouncement of the judgement, but the judgement may in such case be pronounced notwithstanding the death, and shall have the same force and effect as if it had been pronounced before the death took place. No legal representative need be made a party in such a case.
- (4) If a question arises in any appeal as to whether a person is or is not a legal representative of a deceased party, such question may be determined by the appellate authority, in a summary way, after taking evidence, if necessary.

138. Procedure in case of assignment, insolvency etc -

- (1) In any case where the business of a party to an appeal before the appellate authority is, during the pendency of appeal, assigned or devolves wholly or in the part to or upon some other person or society, the appeal may, by leave of the appellate authority, be continued by or against such person or, society as the case may be.
- (2) A person claiming to be a legal representative of a deceased appellant or assignee or receiver of an insolvent may apply within 60 days from the date of abatement or dismissal of the appeal to have the abatement or dismissal set aside, and if it is proved to the satisfaction of the appellate authority that he was prevented by sufficient cause from appearing within time, the abatement or dismissal shall be set aside by the appellate authority and the appeal proceeded with.
- (3) If a party to an appeal becomes insolvent and its estate becomes vested in the assignee or receiver, the later may, by leave of the appellate authority, be made a party to the appeal.

139. Pronouncement of judgement and cost of appeal -

- (1) When the hearing of the appeal is complete, the appellate authority shall pronounce its judgement forthwith, or shall fix a date for the same. Such date shall be notified on the notice board of the appellate authority.
- (2) Every judgement of the appellate authority shall be written in either Hindi or English.
- (3) The appellate authority shall, in its judgement, state at the end, whether the appeal is dismissed, or allowed, wholly, or in part, and mention the relief, if any, granted to the appellant.
- (4) The costs of the appeal shall be at the discretion of the appellate authority in its final order. The appellate authority shall state who shall bear the cost, and in what proportion, if any.

140. Supply of certified copies - Certified copies of the judgement shall be supplied on application to the parties concerned on payment of requisite fee as prescribed under rule 151.

CHAPTER - XIII**MISCELLANEOUS****141. Mode of service of summons -**

- (1) Every summons issued under the Act or these rules shall be in writing and shall be authenticated by seal, if any, of the officer by whom it is issued and shall be signed by such officer or by any person authorised by him in writing in that behalf. The summons shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes; and any particular document, the production of which is required, shall be described in the summons with reasonable accuracy.
- (2) Any person may be summoned to produce a document without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.
- (3) The service of summons under the Act or these rules on any person, may be effected in any of the following ways :-
 - (a) by giving or tendering it in person; or
 - (b) if such person is not found, by leaving it at least at his last known place of abode or business or by giving or tendering it to some adult member of his family; or
 - (c) if the address of such person is known to the Registrar or other authorised person, by sending it to him by registered post with acknowledgment due; or
 - (d) if none of the means aforesaid is available by affixing it in some conspicuous part of his last known place of abode or business.
- (4) Where the serving officer delivers or tenders a copy of the summons to the defendant personally, or to an agent, or other person, on his (defendant's) behalf, he shall require the signature of the person to whom the copy is so delivered or tendered as an acknowledgment of service endorsed on the original summons.
- (5) The serving officer shall in all cases in which the summons have been served under sub-rule (4), endorse or annex, or cause to be endorsed or annexed, on or to the original summons a return stating the time when and the manner in which the summons was served and the name and address of the person, if any, identifying the person served and witnessing the delivery or tender of the summons.
- (6) Where the person to be summoned is a public officer, or is the servant of a company or a firm or a local authority or an institution or any other person, the officer issuing the summons may, if it appears that the summons may be conveniently so served, send it by registered post acknowledgment due for service on the party to be summoned to the head of the office in which he is employed together with a copy of the summons to be retained by person concerned.
- (7) The summons under sub-rule (3) (a) of this rule may be served through the Tehsildar or an employee of the Co-operative Department, or the Chairman or the Secretary of the society of which the person summoned is a member.

141 A. Manner of service of notice - The notice under the provisions of section 86 shall indicate the substance of the demand or debt due to the co-operative society and shall be served in the manner laid down for service of summons in sub-rule (3) of Rule 141. No order under section 86 shall be made until a period of thirty days has expired from the date of service of notice”

142. Registrar and other officers to be public servants - The Registrar, a person exercising the powers of the Registrar, a person entrusted with the supervisory functions of a society by the Registrar, a person authorised to audit the accounts of the society under section 61 or to make inspection under section 65 or section 66, a person to hold inquiry under section 67 or section 69, a

1. Inserted vide H.P. extra ordinary gazette dated 29th July, 1975.

person appointed an administrator under section 37, person to whom the dispute has been referred or transferred for disposal under section 73, a liquidator appointed under section 79, recovery officer and sales officer appointed under Chapter XI of these rules, process server appointed under rule 141; returning officer, chairman, manager and registration officer appointed under rule 37 and all the members of appellate tribunal, if any, shall be deemed to be public servants within meaning of section 21 of the Indian Penal Code, 1860.

143. Certain proceedings under the Act and the rules to be judicial proceedings - Proceedings of inspection under section 66 and inquiry sections 67 and 69, proceedings under section 73, 74, 93, 94, 95 and execution proceedings under section 87 shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code, 1860.

144. Recovery or receipt of societies dues by an officer or a member of the society-

- (1) Unless otherwise provided in the bye-laws, an officer or a member of the society shall deposit with the society, any cash recovered or received on behalf of the society within a period not exceeding 20 days from the date of such recovery or receipt by him :

Provided that for specific reasons the managing committee of the society may relax the above time limit by a resolution passed in this behalf and approved by the Registrar.

- (2) Any contravention of sub-rule (1) shall constitute an offence of criminal misappropriation under the Indian Penal Code, 1860.

145. Code of Civil Procedure to operate in certain matter - Where the Act, or these rules, have not laid down any procedure for any matter arising during the course of proceeding under section 73, 74, 87, 93, 94 and 95 the procedure laid down under the Code of Civil Procedure, 1908 for such matter shall be applied in the same manner as if the person conducting the proceeding is a civil court.

146. Bye-laws of a society not to contravene the Act and rule -

- (1) Where it is found that any provisions in the bye-laws of a society is contrary to the Act and the rules, the fact shall be brought to the notice of the society by the Registrar requiring such society to amend the same in accordance with the provisions of section 11, within the time specified.
- (2) The provisions of the bye-laws referred to in sub-rule (1) shall cease to operate from the date of receipt of the said notice by the society and any action under the said provisions thereafter shall be void.

147. Breach of mandatory provisions to be culpable negligence punishable under section 109 - Save as provided in the Act and the rules, the wilful breach of any mandatory provisions of the Act and the rules by any society or an officer of the society shall be deemed to be a culpable negligence on the part of such society or the officer as the may be, and shall be punishable in accordance with sub-section (3) of section 109.

148. Restriction on legal practitioners - Except with the permission of the Registrar or the person deciding a dispute under clause (b) and (c) of sub-section (1) of section 73, or the appellate authority, as the case may be, no legal practitioner in his capacity as a legal practitioner, or a person holding a power of attorney (except where the legal practitioner or attorney is a near relative to the party or is himself a party to the dispute), shall be permitted to appear on behalf of any party at the hearing.

149. Fees for inspection of public documents filed in the office of the Registrar -

Any member of the public shall be permitted on payment of a fee of two rupees for two hours, or fraction thereof, of inspecting, to inspect for any lawful purpose any public document (exclusive of public documents privileged under section 123, 124 and 131 of the Indian Evidence Act, 1872) filed in the office of the Registrar, and in particular the following documents namely :-

1. The registration register.
2. The registration certificate of a society.
3. The registered bye-laws of a society and amendments effected in such bye-laws.
4. An order cancelling the registration of a society.

5. An order directing the liquidation of a registered society.
6. The annual statement of the society.
7. Any decision of the Registrar or award of an arbitrator under rule 92.

150. Fees of certified of society's documents - Subject to the provision of rule 60, a member may get certified copies of the society's documents on payment of the fee to the society as mentioned below :-

- | | | | |
|-----|-------------------|-----|--|
| (1) | Books of Accounts | ... | Re. 0.50 per entry |
| (2) | Other documents | ... | Re. 1.00 per hundred words or fraction thereof to a minimum of Re. 1 |

151. Fees for certified copies of public documents - The fees prescribed for certified copies of any public documents, which any person has under the preceding rule, a right of inspection are as follows :-

- | | | |
|---------------------------------|-----|-------|
| For registration certificate | ... | Rs. 5 |
| For other documents:- | | |
| for the first two hundred words | | |
| for every additional hundred | ... | Rs. 2 |
| words or fraction thereof | ... | Re. 1 |

152. Power of the Registrar to issue directives/instructions -

- (1) It shall be in the competence of the Registrar to give any directive or issue any instructions for the smooth and beneficial running of any society or class of societies and the directives or instructions so issued shall be binding on the society or class of societies as the case may be.
- (2) Where any society considers that any directive or instruction issued under sub-rule (1) above is not conducive to its smooth and beneficial running, it may go in appeal to the State Government; against such directive or instruction within 45 days of the receipt of such directive or instruction and the decision of the State Government shall be final in the matter.

153. Language for proceedings under the Act - Every report made under section 63, 65, 66, 67 and 69 and every award or decision made under section 73 and every judgement made in appeal under section 93, and every order passed under sections 94 and 95 shall be in Hindi and Devnagri script or in the English language.

154. Repeal and savings -

- (1) These rules shall replace the previous rules made under the Himachal Pradesh Co-operative Societies Act, 1956 and the Punjab Co-operative Societies Act, 1961 (as applicable to Himachal Pradesh in accordance with the Punjab Re-organisation Act, 1966).
- (2) All appointments and order made, all notifications and notices issued, all transactions entered into, and all suits and proceedings instituted under the previous rules shall be deemed, so far as may be, to have been made, issued, entered or instituted under these rules.

APPENDIX 'A'

RULES OF ELECTION TO THE COMMITTEE

1. Definitions - In this Appendix unless the context otherwise requires :

- (a) "Election" means the election of the Committee;
- (b) "Chairman" a person appointed by the Registrar to preside over a general meeting held for the purpose of election, and if no such person is appointed, then the President/Chairman and in his absence the Vice-President/Vice-Chairman and in the absence of both, the person elected by the members present to preside over that meeting ;
- (c) "Manager" means any person appointed as such by the Registrar for the purpose of the rules contained in this Appendix and if no such person is appointed then the

heard of office of a co-operative society by whatever name called, to whom the management of the office of the society is entrusted ;

- (d) "Returning Officer" means the Registrar, Joint Registrar, Deputy Registrar or Assistant Registrar (by whatever name called), Co-operative Societies and shall include the person authorised by the Registrar in this behalf by a general or special order ; and
- (e) "Registration Officer" means a person appointed by the Registrar under rule 3 of the Appendix.

2. Qualifications of candidates - No person shall be eligible for election as a member of the Committee if he is subject to any disqualification mentioned in rule 41.

3. Preparations of voters' list -

1. In the case of every Primary Society, the Registration Officer shall intimate every member of the society through authorized person or through registered notice of his being eligible or ineligible to vote as per Rules/bye-laws. The member shall be at liberty to inspect the tentative voter list maintained for the purpose of registration of voters. In addition, notice shall be pasted at conspicuous places such as Head Office and Branch office(s) of the society, office of the Registrar, Inspector Co-operative Societies concerned, Panchayat Ghar, Mahila Mandal Ghar or village temple etc. Such notice may be published in two dailies (one Hindi & one English) and such notice/intimation shall be given one month prior to the date fixed for finalization of voter list.
2. In the case of every Secondary/Federation society, the Registration Officer shall intimate all members the last date by which name of persons authorized to vote on behalf of the member societies are to be intimated to the Registration Officer concerned such intimation shall be given one month prior to the date fixed for finalization of voter's list. In addition, such notice may be published in two dailies (one Hindi and one English). In case a society does not send the name of its nominee before the said date as indicated above, the said society shall have no right to vote in the election.
3. Following procedure shall be carried out in all kind of Societies after registration of voters :-
 - (a) A list of voters indicating the name of the member society, authorized nominee and other voters shall be published at the office of the society by the Registration Officer and objection thereon shall be heard by him.
 - (b) Three clear days shall be given for hearing objections. The decision of the Registration Officer thereto shall be final.
 - (c) The official list shall thereafter be published at the office of the society not later than one month prior to the date of poll by the Registration Officer."

4. Election -

- (1) The Manager shall draw up a detailed programme of election in accordance with the instructions issued by the Registrar from time to time.
- (2) The Manager, shall, when so required by the Registrar for the purpose of such election, divide the area of operation of the co-operative society into such number of zones, as there are members to be elected, or into such lesser number as may be specified by the Registrar and communicate the zones so constituted to the Registrar for his prior approval. The members residing in the zone concerned shall from the general body for purpose of election of the Committee member/members for that zone and one third of the membership of the zone or 30 whichever is less, shall form the quorum for such general meeting.

²"Provided that the zones shall be constituted in such a way that members from contiguous areas are included in a particular zone and where such contiguity is not discernible, the zones shall be constituted as per Sr. No. of the members in the membership register."

1. Amended vide notification No.Coop. A(3)-1/99-Vol.-I dated 25-7-2006 published in Rajpatra dated 27-7-06.

- (3) Notwithstanding anything contained in rule 28, the notice of the general meeting for the election together with the zones constituted, if any, shall be exhibited not less than 10 days before the date fixed for such general meeting at the registered office of the society and at some common place in the area of operation of the co-operative society for intimation of all the members of the co-operative society indicating :-
- (a) the number of members to be elected zone-wise if any;
 - (b) the date, hour and place of holding the general meeting and polling;
 - (c) the last date of making nominations, which shall not be later than seven days before the date fixed for holding the said meeting;
 - (d) the date on which, the place at which, and hours between which the scrutiny of nomination papers shall be made; and
 - (e) the last date for the withdrawal of candidatures.

This could be in addition to any other mode of notice which may be laid down these rules, or the bye-laws of the society, or laid down in a resolution of the Committee, or as may be specified by the Registrar by a general or special order.

- (4) The nomination papers duly completed on the forms prescribed by the Registrar and supplied by the co-operative society to its members on demand shall reach the head office of the society by such date and time as may be specified by the Manager in the programme drawn up in sub-rule (1) or this rule.
- (5) A candidate shall not be entitled to file his nomination paper for more than one office of the Committee. If nomination paper, for more than one office are filed, the nomination paper filed for the first office shall only be considered, and the nomination papers for the other office/offices shall be deemed to be rejected.
- (6) The person who is to receive the nomination paper under sub-rule (4), shall on receiving the nomination paper, enter thereon the serial number of its receipt and shall endorse thereon the date on which, and the hour at which the nomination was delivered to him. Nomination papers received after the date and time fixed under clause (b) of sub-rule (3) shall not be valid. The person submitting nomination paper shall be entitled to a receipt in writing from the person who is to receive nomination papers as an acknowledgement of having it received by the later.
- (7) After the nomination papers are scrutinised by the Returning Officer, the list of the validly nominated candidates for election shall be announced, where necessary zonewise, four days before the general meeting is held.

5. Admission to general Meeting -

- (1) Admission to the general meeting shall, if so desired by the Returning Officer, be on production of an admission card to be issued by the co-operative society, under postal certificate. The representatives of member societies, shall, in addition produce resolutions of their respective co-operative societies authorising them to represent the co-operative society in the general meeting.
- (2) If any difficulty arises with regard to the identification of individual members official or representatives of the member societies, the Manager may call upon one or more official the Co-operative Department to assist him.
- (3) The Manager shall make such arrangements with regard to the admission and seating of members and others invited by the society as he may consider necessary.
- (4) The general meeting shall be presided over by the Chairman.

6. Voting -

- (1) Voting shall be exercised by secret ballot. The Registrar may by general or special order grant exemption from this rule to any co-operative society or any class of co-operative societies.
- (2) The candidates who secure a majority of votes shall be declared elected by the Returning Officer. If the number of votes in favour of two or more candidates are equal, the Returning Officer shall decide the matter by lot.

- (3) The Returning Officer shall, immediately after the declaration of the result of the election, communicate the names of persons elected, to the offices of the concerned Assistant Registrar and the Deputy Registrar, Co-operative Societies and the Registrar Co-operative Societies, Himachal Pradesh and also to the Chairman of the house. He shall also direct the Manager, to exhibit a list of names of the persons elected at some conspicuous place at the registered office of society for a minimum period of seven days after the date of the close of the general meeting for election.

7. Maintenance of law and order - If the Returning Officer is of the opinion that there may be some trouble from any quarter to hamper the smooth conduct of elections, he may requisition such help as he considers necessary.

8. Exemption - The Registrar may by general or special order grant exemption from the provisions of the rule 3 and 4 to any co-operative society or any class of co-operative societies.”

SCHEDULE

FORM A

APPLICATION FOR REGISTRATION OF A SOCIETY

(See rule 4)

(To be submitted in Duplicate)

1. Name of the proposed society with headquarters
2. Address (village, post office, block, tehsil and district)
3. Form of liability
4. Area of operation
5. Objects
6. Share Capital :-
 - (a) Authorised
 - (b) Value of different category of shares
7. Number of persons who have agreed to join as members.
8. Full name and address of the person authorised to correspond with the Registrar regarding registration of the society and to whom the order of refusal to register if any, shall be communicated by the registrar under rule 6.
9. The applicants have elected the following persons to the Provisional Committee which is to conduct the affairs of the society for a period of three months, from the date of registration of the society or for such further period as the Registrar may permit in writing.

(1)	(2)	(3)	(4)
(5)	(6)	(7)	

Under section 7 of the Himachal Pradesh Co-operative Societies Act, 1968, we, the undersigned being persons possessing the qualifications proposed for election to membership according to the bye-laws three copies of which are enclosed, request that the society may be registered.

We declare that we belong*/do not belong to different families as defined in clause (b) of sub-section (2) of section 7.

Serial No.	Name	Father's name	Age	Profession	Place of residence	No. of shares purchased
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1	2	3	4	5	6	7
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Value of shares subscribed	Value of shares paid up	Signature or thumb impression	Attestation of thumb-impressions if any
8	9	10	11

FORM B
FORM OF DECLARATION

(See rule 66)

I, son of..... age..... residing at..... having been admitted to the membership of Society, Limited/with Unlimited liability being desirous of borrowing loan from the society/and having borrowed loan from the society before..... the date of the coming into force of the Himachal Pradesh Co-operative Societies Act, 1968 (Act No. 3 of 1969) make this declaration as required by section..... of the said Act that I own land specified in the form given below and I hereby create a charge on the said land in favour of the society of the payment of the amount of the loan which the society may make/has made and for all future advances, if any, which the society may make to me subject to the maximum amount of Rs..... together with interest on such amount of the loan and advances.

FORM

Name of village	Name of Tehsil	Name of District	Survey No
			Plot No/Khata No.

Area		Assessment	Encumbrances, if any		Remarks if any
Big.	Bis.	Approximate value	Nature	Amount	

In witness whereof I, Shri..... hereunder set my hand. This day of in the year one thousand nine hundred and..... signed and delivered by the above named in the presence of :

Witness :

- (1)
- (2)

Applicant's/Borrower's signature
ATTESTED BY :

Forwarded with compliments to the Halka Patwari with a request to include the particulars of the charge created under declaration in the Record of Rights and to return to the Secretary for its record.

Chairman
Secretary
Society

Returned with compliments to the Chairman..... Society Limited/Unlimited. The charge created under the declaration is duly included in the Record of Rights on the day of 19..... and the land charged is free from any previous encumbrance.

Patwari

FORM C
FORM OF PROXY
(Rule 99)

The..... Co-operative society (Limited).

I..... of..... in the district of being a member of the..... Co-operative Society (Limited) hereby appoint..... as my proxy to vote for me and on my behalf at the (ordinary or extra ordinary) general meeting of the Co-operative society to be held on the..... day of..... and at any adjournment thereof.

Signed this..... day of

Signature..... (20 paise revenue stamp)

Witness :

Name

Address.....

FORM D
FORM OF LIQUIDATOR'S NOTICE
(Rule 108 (2))

In the matter of Co-operative Society..... in the District of..... under orders of winding up.

Notice is hereby given that the above mentioned society has been placed under liquidation in order No..... dated..... 19....., and the undersigned has been appointed as Liquidator of the above society under section..... of Himachal Pradesh Co-operative Societies Act, 1968 (Act No. 3 of 1969), all creditors of the above Society are hereby required within one month from the date of this notification, to send their names and addresses and the particulars of their claims to the undersigned as the Liquidator of the society.

Dated.....

Signature of Liquidator

CO-OPERATION DEPARTMENT
NOTIFICATION

Shimla-2, the 26th July, 2006

No. Co-op. A(3)1/99-I. - In exercise of powers conferred under Section 100 of the H.P. Co-operative Societies Act, 1968 (Act No. 3 of 1969), the Governor of Himachal Pradesh is pleased to exempt such Co-operative Societies from the provision of rule 38 (4) of the H.P. Co-operative Societies Rules, 1971 amended *vide* notification of even number dated 25-7-2006, in which President/Vice President have been elected from amongst nominated members of the Managing Committee till the completion of present tenure of such Managing Committees.

By Order,

Sd/-

Principal Secretary (Co-op.)