



GOVERNMENT OF KERALA



THE KERALA CO-OPERATIVE SOCIETIES ACT-1969

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(Act 21 of 1969)

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An Act to consolidate, amend and unify the laws relating to
Co-operative Societies in the State of Kerala.

¹[*Preamble.*-WHEREAS with a view to provide for the orderly development of the co-operative sector in the State, ²[it is essential to organize the Co-operative Societies in accordance with Co-operative principles as self governing] democratic institutions, to achieve the objects of equity, social justice and economic development, as envisaged in the directive principles of State Policy of the Constitution of India, ³[and to promote scientific and technological development, health care, market intervention and management excellence in the Co-operative Sector] it is expedient to consolidate, amend and unify the law relating to Co-operative societies in the State;]

BE it enacted in the Nineteenth Year of the Republic of India as follows:-

1 Substituted by Act 1 of 2000

2 substituted by Act 7 of 2010

3 Inserted by Act 7 of 2010

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*- (1) This Act may be called the Kerala Co-operative Societies Act, 1969.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions.- In this Act, unless the context otherwise requires,-

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

⁴[(aa) “assisted society” means a co-operative society which has received the Government assistance in the form of share capital, loan, grant or any other financial assistance or any guarantee by the Government or from Boards constituted by the Government for repayment of loan, interest or deposits;

(ab) “auditing of accounts of Co-operative Societies” means a close examination of financial transactions, overdue debts, if any, maintenance of books of accounts, documents and other records of a business, preparation of audit report and includes an inquiry into the affairs of the society and subsidiary institutions in order to ascertain the correctness of accounts and the extent to which its activities were useful in promoting the economic welfare of the members in accordance with the co-operative principles;]

⁵[(ac) “Anand Pattern Milk Co-operative Society” means a Primary Dairy Co-operative Society, otherwise known as ‘Kheerolpadaka Sahakarana Sangam’, registered on or after the 1st day of January 1980, and functioning as per the model bye-laws of Anand Pattern, with the principal objectives of procurement and marketing of milk and milk products and pouring marketable surplus of milk to the Regional Co-operative Milk Producers’ Union and for providing inputs to the dairy farmers, within the area of operation of the society;]

(b) “bye-laws” means the registered bye-laws of a co-operative society for the time being in force;

(c) “circle co-operative union” means a circle co-operative union constituted under section 88;

⁶[(d) “central society” means a society having jurisdiction over one or more Revenue Districts but not the whole of the State as its area of operation, and having as its members only other societies and declared as such by the Registrar or the Government;]

⁴ Inserted by Act 8 of 2013

⁵ Inserted by Act 34 of 2021

⁶ substituted by Act 19 of 1987

⁷[(da) “chief executive” means any employee of a co-operative society by whatever designation called and includes an officer of the State Government or an employee of any other institution or co-operative society, who discharges the functions of a chief executive under the Act, the Rules or the Bye-laws;]

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

⁸[(⁹ea)] “ Co-operative Arbitration Court” means a court constituted under section 70A ;]

¹⁰[(eb) “Consortium Lending Scheme” means the Consortium Lending Scheme framed under section 57C;

(ec) “Co-operative Development and Welfare Fund” means the Co- operative Development and Welfare Fund established under section 57A;]

¹¹[(ecc) “Co-operative Ombudsman” means the person or persons appointed under sub-section (2) of section 69 A;]

¹²[(eccc) “co-operative principles” means the co-operative principles listed in Schedule II appended to this Act;]

¹³[(ed) “Co-operative Service Examination Board” means the Co- operative Service Examination Board constituted under section 80B;]

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

⁷ Inserted by Act 8 of 2013

⁸ Inserted by Act 15 of 1997

⁹ Relettered by Act 1 of 2000

¹⁰ Inserted by Act 1 of 2000

¹¹ Inserted by Act 7 of 2010

¹² Inserted by Act 8 of 2013

¹³ Inserted by Act 1 of 2000

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

(i) to the amount, if any, unpaid on the shares respectively held by them; or

(ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;

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

¹⁴[(ha) “Deposit Guarantee Scheme” means the Deposit Guarantee Scheme framed under section 57 B;

¹⁵[(hb) “Director of Co-operative Audit” means the Director of Co-operative Audit appointed under sub-section (1) of section 63 and any officer to whom all or any of the powers of the Director of Co-operative Audit may be delegated by the Government by general or special order under sub-section (3) of section 63 ;]]

(i) “dispute” means any matter touching the business, constitution, establishments or management of a society capable of being the subject of litigation and includes a claim in respect of any sum payable to or by a society, whether such claim be admitted or not;

¹⁶[(ia) “District Co-operative Bank” means a central society having jurisdiction over one revenue district and having Primary Agricultural Credit Societies and Urban Co-operative Banks as its members and the principal object of which is to raise funds to be lent to its members, including nominal or associate members, which existed under this Act immediately before the passing of the orders by the Registrar under sub-section (1) or sub-section (1) (a) of section 74H and has ceased to exist by virtue of such orders:

¹⁴ Inserted by Act 1 of 2000

¹⁵ Substituted by Act 7 of 2010

¹⁶ Substituted by Act 34 of 2021

Provided that if the general body of a District Co-operative Bank has not passed the resolution under section 14A, it shall continue as such for a period of two years from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2021 or till the Registrar completes the process under clauses (a), (b) and (c) of sub-section (1) of section 74H, whichever is earlier;]

¹⁷[(ib) "Federal Co-operative Society" means a society having more than one district as its area of operation and having ¹⁸[the Government,] individuals and other co-operative societies as its members;]

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

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

¹⁹[(ka) "Kerala State Co-operative Bank" means an apex society having Primary Agricultural Credit Societies and Urban Co-operative Banks as its members including nominal or associate members of the District Co-operative Banks who shall continue as nominal or associate members of the Kerala State Co-operative Bank;"]

(l)"member" means a person joining in the application for the registration of a co-operative society or a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal or associate member;

²⁰[(la)"miscellaneous societies" means such societies, as may be prescribed, and which accept deposits from their members only and no deposits shall be accepted from nominal or associate members, and shall undertake business activities for the welfare of its members as per the bye-laws and shall issue loans only to members;

Provided that no agricultural loans or schematic loans shall be issued to the members except the loans for welfare activities;]

¹⁷ Inserted by Act 1 of 2000

¹⁸ Inserted by Act 7 of 2010

¹⁹ Inserted by Act 1 of 2019

²⁰ Substituted by Act 8 of 2013

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

(n)“officer” means the president, vice-president, chairman, vice chairman, secretary, manager, member of committee or treasurer and includes a liquidator, administrator and any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co- operative society;

(o)“prescribed” means prescribed by rules made under this Act;

²¹[(oa) “prescribed period” means the period of limitation specified in Schedule III appended to this Act;]

²²[(aaa) “Primary Agricultural Credit Society” means a Service Co-operative Society, a Service Co-operative Bank, a Farmers’ Service Co-operative Bank and a Rural Bank the principal object of which is to undertake agricultural credit activities and to provide loans and advances for agricultural purposes, the rate of interest on such loans and advances shall be the rate fixed by the Registrar and having its area of operation confined to a Village, Panchayath or a Municipality:

Provided that the restriction regarding the area of operation shall not apply to societies or banks in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999(1 of 2000):

Provided further that if the above principal object is not fulfilled, such societies shall lose all characteristics of a Primary Agricultural Credit Society as specified in the Act, Rules and Bye-laws except the existing staff strength;]

²³[(ob) “primary credit society” means a society other than an apex or central society which has as its principal object the raising of funds to be lent to its members;]

²⁴[(oc) “Primary Co-operative Agricultural and Rural Development Bank” means a society having its area of operation confined to a taluk and the principal object of which is to provide for long term credit for agricultural and rural development activities:

²¹ Inserted by Act 8 of 2013

²² Substituted by Act 7 of 2010

²³ Inserted by Act 29 of 1986 as (oa) and renumbered as (ob) as per Act 8 of 2013

²⁴ Inserted by Act 1 of 2000

²⁵[Provided that no Primary Co-operative Agricultural and Rural Development Bank shall be registered without the bifurcation of assets and liabilities of the existing societies having the area of operation in more than one taluk and the societies shall restrict their operation in the area of the respective society on such bifurcation;]]

²⁶[(od) “Primary Co-operative Society” means a society having jurisdiction over a revenue district as a whole or over any specified area within such revenue district and having individual or individuals and other Co-operative Societies as its members;]

²⁷[(oe) “Primary Tourism Co-operative Society” means a society having its area of operation confined to a taluk and the principal object of which is to promote, organize and assist tourism activities:

Provided that those societies in existence on the 5th day of July, 2018 having more than one taluk as its area of operation shall restrict such area of operation to the taluk where the headquarters of the society is situated, within a period of one year from that date.]

(p)“Registrar” means the Registrar of Co-operative Societies appointed under sub-section (1) of section 3 and includes any person on whom all or any of the powers of the Registrar under this Act are conferred;

²⁸[(pa) “Recruitment Committees” means the committees constituted under section 80BB of this Act;

(pb) “Regional Co-operative Milk Producers’ Union” is a central society having Anand Pattern Primary Dairy Co-operative Societies as their members with the principal objective of undertaking procurement, processing and marketing of milk and milk products and to provide technical, financial and production input assistance to their member societies and dairy farmers within the area of operation comprising two or more revenue districts;]

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

25 Substituted by Act 13 of 2012

26 Inserted by Act 9 of 2009

27 Inserted by Act 39 of 2018

28 Inserted by Act 34 of 2021

²⁹ [(qa) "Scheduled Castes" means the Scheduled Castes in relation to the State of Kerala as specified in the Constitution (Scheduled Castes) Order, 1950;

(qb) "Scheduled Tribes" means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;]

³⁰ [(qc) "Special Officer" means an officer, not below the rank of an Assistant Registrar, appointed by the Registrar to take into custody the assets and liabilities of the society which secured registration without bifurcating the area of operation of an existing society and to register new societies and to constitute committees as provided in section 28 of the Act;]

(r) "State" means the State of Kerala;

³¹ [(ra) "State Co-operative Agricultural and Rural Development Bank" means an apex society having only Primary Co-operative Agricultural and Rural Development Banks as its members and functioning in accordance with the provisions contained in the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984);

³² [(rb)

(rc) "State Co-operative Election Commission" means the State Co-operative Election Commission constituted under section 28B;]

(s) "State Co-operative Union" means the State Co-operative Union established under section 89;

³³ [(sa) "Transferee Bank" means the Kerala State Co-operative Bank;

(sb) "Transferor Bank" means the District Co-operative Bank as defined under clause (ia) of this section;]

(t) "Tribunal" means the Tribunal constituted under section 81;

²⁹ Inserted by Act 29 of 1986

³⁰ Inserted by Act 13 of 2012

³¹ Inserted by Act 1 of 2000

³² Omitted by Act 1 of 2019

³³ Inserted by Act 1 of 2019

³⁴ [(ta) "*Urban Co-operative Bank*" means a society registered under this Act having its area of operation in the Urban areas and which undertakes banking business with the license obtained from Reserve Bank of India;]

³⁵ [(taa) "*Urban Co-operative Societies*" means a co-operative society the principal object of which is to undertake non-agricultural credit activities and to raise funds to be lent to its members with its area of operation confined to a municipality or a corporation:

Provided that the restriction regarding the area of operation shall not be applicable to the existing urban co-operative societies;]

³⁶ [(tb) "*Vigilance Officer*" means the Vigilance Officer appointed under section 68A;]

(u) "*year*" means the period commencing on the ³⁷ [first day of April of any year and ending with 31st of March] of the succeeding year or in the case of any registered society or class of registered societies, the accounts of which are made up to any other date with the previous sanction of the Registrar, the year ending with such date.

³⁴ Inserted by Act 15 of 1997 and substituted by Act 9 of 2009

³⁵ Inserted by Act 7 of 2010

³⁶ Inserted by Act 1 of 2000

³⁷ Substituted by Act 9 of 1997

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar.- (1) The Government may appoint a person to be the Registrar of Co-operative Societies for the State.

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

4. Societies which may be registered.- Subject to the provisions of this Act, a co-operative society which has as its object the promotion of the economic interests of its members or of the interests of the public in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act:

³⁸ [Provided that no co-operative society shall be registered if it is likely to be economically unsound, or the registration of which have an adverse effect on development of co-operative movement.]

5. Registration with limited liability only.- (1) A co-operative society shall be registered only with limited liability:

Provided that this sub-section will not affect the rights and liabilities of societies with unlimited liability which are in existence at the time of commencement of this Act.

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

6. Application for registration of co-operative societies.- (1) An application for the registration of a co-operative society shall be made to the Registrar in such form as may be prescribed and the applicant shall furnish to him such information about the society as he may require.

³⁸ Added by Act 8 of 2013

(2) Every such application shall conform to the following requirements, namely:-

- (a) the application shall be accompanied by three copies of the proposed bye-laws of the society;
- (b) where all the applicants are individuals, the number of applicants shall not be less than twenty-five, each of such persons being a member of a different family.

Explanation. -For the purposes of this clause, the expression "member of a family" means wife, husband, father, mother, grand- father, grand-mother, step-father, step-mother, son, daughter, step- son, step-daughter, grand-son, grand-daughter, brother, sister, half- brother, half-sister and wife of brother or half brother;

- (c) the application shall be signed by every one of the applicants who is an individual ³⁹ [as specified under clause of sub-section (1) of section 16] and by a person duly authorized on behalf of the Government or any society or other body of persons which is an applicant.

7. Registration. - (1) If the Registrar is satisfied—

- (a) that the application complies with the provisions of this Act and the rules;
- (b) that the objects of the proposed society are in accordance with section 4;
- (c) that the area of operation of the proposed society and the area of operation of another society of similar type do not overlap;
- (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and
- (e) that the proposed society complies with the requirements of sound business; he may register the society and its bye-laws ⁴⁰[within a period of ninety days from the date of receipt of the application.]

³⁹ Inserted by Act 7 of 2010

⁴⁰ Added by Act 1 of 2000

(2) Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefore within seven days of such order to such of the applicants as may be prescribed.

(3) An application for registration of a society shall be disposed of by the Registrar ⁴¹[within ninety days] from the date of receipt of the application.

⁴²[(4) Where an application for registration of a society is not disposed of within the time specified in sub-section (3), the applicant may make a representation,--

(a) before the Registrar, if the application for registration is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of section 3; or

(b) before the Government, if the application for registration is made before Registrar, and the Registrar or the Government, as the case may be, shall, within sixty days from the date of receipt of such representation, issue directions to the authority concerned to take appropriate decision on the application for registration and the authority concerned shall comply with such directions.]

8. Registration certificate.- ⁴³[(1)] Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

⁴⁴[(2) Notwithstanding anything contained in sub-section (1), where the Registrar is satisfied that the original registration certificate is irrecoverably lost and a duplicate certificate could not be issued as the files or records regarding the registration of the co-operative society was lost, after registration, the Registrar shall issue a certificate stating the registration number and date of registration of a co-operative society, on the basis of the details available in the audit certificate and the records available with the Registrar, signed and sealed by him, which shall be conclusive proof that the said society is duly registered and it shall be treated as a certificate of registration.]

⁴¹ Substituted by Act 1 of 2000

⁴² Inserted by Act 1 of 2000

⁴³ Numbered as sub-section (1) by Act 8 of 2013

⁴⁴ Inserted by Act 8 of 2013

⁴⁵[8A. *Affiliation to apex Society.*-(1) Every Primary Co-operative Society or Central Co-operative Society may, within such time and in such manner, as may be prescribed, apply for affiliation to the concerned apex society or Central Society, as the case may be.

(2) Where the apex society or central society does not, within sixty days from the date of receipt of the application for affiliation, determine whether such affiliation should be given or not, such affiliation shall be deemed to have been given to the applicant society from the date on which the said period of sixty days expires.

(3) When the apex or central society, as the case may be, rejects an application for affiliation under sub-section (1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order of rejection and the Registrar shall dispose of the appeal within sixty days from the date of appeal.]

⁴⁶[(4) Notwithstanding anything contained in this Act or the rules made thereunder or the bye-laws of a Regional Co-operative Milk Producers' Union, the Anand Pattern Milk Co-operative Societies having a regular elected Managing Committee and doing the business of milk procurement and sales within the area of operation of the Regional Co-operative Milk Producers' Union shall be admitted as members of the Regional Co-operative Milk Producers' Union.]

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

⁴⁷[Provided that the Government and the Registrar shall have power to regulate ⁴⁸[xxx] the working of a society for the economic and social betterment of its members and the general public.]

⁴⁵ Inserted by Act 1 of 2000

⁴⁶ Added by Act 34 of 2021

⁴⁷ Inserted by Act 7 of 2010

⁴⁸ Omitted by Act 8 of 2013

⁴⁹ [9A. *Publication of name by a co-operative society.*-
Every co-operative society,-

- (a) shall paint or affix its name, register number and the address of its registered office and keep the same painted or affixed in conspicuous position, in letters easily legible to members in vernacular language and in English language, on the outside of every office or place in which its business is carried on;
- (b) shall have its name engraved in legible characters on its seal with common emblem; and
- (c) shall have its name and address of its registered office, mentioned in legible characters in all its business letters in all its bill heads and letter paper, and in all its notices and other official publications, and also have its name so mentioned in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the co-operative society, and in all bills of parcels, invoices, receipts and letters of credit of the co-operative society.]

10. *Change of name of society.*- (1) A society may, by an amendment of its bye-laws, change its name.

(2) Where a society changes its name, the Registrar shall enter the new name in the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a society shall not affect any rights or obligations of the society or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

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

⁴⁹ Inserted by Act 8 of 2013

(2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member or creditor shall, during a period of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have given his assent to the change.

(4) An amendment of the bye-laws of a society changing the form or extent of its liability shall not be registered or take effect until either—

(a) the assent thereto of all members and creditors has been given or deemed to have been given; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. Amendment of bye-law of society.- (1) No amendment of any bye-law of a society shall be valid unless such amendment has been registered under this Act.

(2) The provisions of section 7 specifying the conditions to be satisfied before registration of the bye-laws of a society by the Registrar shall *mutatis mutandis*, apply also to the registration of amendments to bye-laws:

Provided that the Registrar shall before registering an amendment of any bye-law consult-

(a) the State Co-operative Union if the bye-laws to be amended are that of an apex society or a central society; or

(b) the circle co-operative union if the bye-laws that are to be amended are that of any other society; and

(c) the financing bank if the society is indebted to the financing bank.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate of registration signed and sealed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with the reasons therefore, within seven days of the order to the society.

⁵⁰[(4A) An application to register an amendment of the bye-laws of a society shall be disposed of by the Registrar within ninety days from the date of receipt of the same.

(4B) Where an application to register an amendment of the bye-laws of a society is not disposed of within the time specified in sub-section (4A), the society may make a representation,-

- (a) before the Registrar of Co-operative Societies, if the application to register the amendment of the bye-laws is made to a person on whom the powers of the Registrar is conferred under sub-section (2) of section 3; or
- (b) before the Government if the application for registration of the amendment of the bye-laws is made before the Registrar, and the Registrar or the Government, as the case may be, shall within sixty days from the date of receipt of such representation, issue directions to the authority concerned, to dispose of the same.]

⁵¹[(5)xxxx

(6)xxxx

(7)xxxx]

13. *When amendments of bye-laws come into force.*- An amendment of the bye-laws of a society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

⁵²[13A. *Subject matter of Bye-laws.*- Every co-operative society shall make its bye-laws consistent with the provisions of this Act and rules and no provision in the bye-laws of a co-operative society shall be contrary to the provisions of the Act and the Rules.]

⁵⁰ Inserted by Act 1 of 2000

⁵¹ Omitted by Act 8 of 2013

⁵² Inserted by Act 8 of 2013

14. Amalgamation, transfer of assets and liabilities and division of societies.- (1) A society may, ⁵³[xxx] by a resolution passed by a two-third majority of the members present and voting at a general body meeting of the society,-

(a) transfer its assets and liabilities in whole or in part to any other society;

(b) divide itself into two or more societies.

(2) Any two or more societies may, ⁵³[xxx] by a resolution passed by a two third majority of the members present and voting at a general body meeting of each such society, amalgamate themselves and form a new society.

(3) The resolution of a society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) When a society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding the provisions of section 24 or any bye-law or contract to the contrary, any member or creditor shall, within a period of two months from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have given his assent to the proposals contained in the resolution.

(6) A resolution passed by a society under this section shall not take effect until either—

(a) the assent thereto of all the members and creditors has been given or deemed to have been given; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

⁵³ Omitted by Act 8 of 2013

(7) Where a resolution passed by a society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

⁵⁴[(8)xxx]

(9)xxx]

⁵⁵[14A.*Provisions regarding transfer of assets and liabilities of District Co-operative Banks to the Kerala State Co-operative Bank.*—

(1) Notwithstanding anything contained in this Act or in any other law for time being in force, the District Co-operative Banks may by a resolution passed by a simple majority of the members present and voting at the special general body meeting of the members, transfer its assets and liabilities in whole to the Kerala State Co-operative Bank and such transfer shall take effect from the date on which the Registrar approves the resolution.

(2) The resolution shall contain particulars of the assets and liabilities to be transferred.

(3) When a District Co-operative Bank has passed any such resolution, under sub-section (1), it shall give notice thereof in a writing to all its members within 7 days from the date of resolution, notwithstanding anything contained in the provisions of section 24 or any Rules or any byelaws and sub-rules or any contract to the contrary, any member shall, within a period of 30 days from the date of issuance of the said notice, have the option of withdrawing his shares, deposits or closing loans, as the case may be:

Provided that any other debtor or creditor shall be informed of such a resolution through publication of notice in two leading daily newspapers in vernacular language within 7 days from the date of resolution that they have the option to withdraw deposit, loans, as the case may be, within a period of thirty days from the date of publication of notice.

⁵⁴ Omitted by Act 8 of 2013

⁵⁵ Inserted by Act 1 of 2019

(4) Any member or creditor or debtor who does not exercise his option within the period specified in sub-section (3) shall be deemed to have given his assent to the proposals contained in the resolution.

(5) On and from the date of approval of transfer of assets and liabilities of each District Co-operative Bank by the Registrar, all the assets and liabilities as it stood immediately before the transfer shall without any further act, instrument or deed, stand transferred to and vested in the Kerala State Co-operative Bank.

(6) On and from the date of approval of transfer of assets and liabilities of each of the District Co-operative Bank by the Registrar, all pending suits or legal proceedings by or against such Banks shall be continued by the Kerala State Co-operative Bank.]

⁵⁶[⁵⁷[14AA]. *Promotion of subsidiary institutions for the economic welfare of members.*-(1) A co-operative society may by a resolution passed at general body meeting by a majority of members present and voting, promote one or more subsidiary institutions, which may be registered under any law for the time being in force, for the furtherance of its stated objects with the prior approval of Registrar.

(2) Any subsidiary institution promoted under sub-section (1) shall exist only as long as the general body of the co-operative society deems its existence necessary:

Provided that a co-operative society, while promoting such a subsidiary institution shall not transfer or assign its substantive part of business or activities undertaken in furtherance of its stated objects to such subsidiary institutions.

Explanation: For the purpose of this section,-

(a) An institution shall be deemed to be a subsidiary institution where the co-operative society,-

(i) controls the management or board of directors or members of governing body of such institutions; or

(ii) holds more than half in nominal value of equity shares of such institutions.

(b) a subsidiary institution shall not include a partnership firm.

⁵⁶ Inserted by Act 8 of 2013

⁵⁷ Existing Section 14A renumbered as 14AA by Act 1 of 2019

(3) The annual reports and audited accounts of any such subsidiary institution shall be placed each year before general body meeting of the promoting co-operative society.

14B. Partnership of Co-operative Societies.- (1) Any two or more Co-operative Societies with prior permission of the Registrar, may by resolution passed by the majority of the members present and voting at a general body meeting of each of such co-operative societies, may enter into partnership to carry out any one or more specific business. Written notice of the general body meeting shall be given to each member before fifteen clear days of such meeting.

(2) The partnership shall be in the interest of the members of the co-operative society or the co-operative societies or shall be in the public interest or shall be in the interest of the co-operative movement in general and it does not mean to be a partnership firm registered under Indian Partnership Act, 1932 (Central Act 9 of 1932)]

15. Cancellation of registration certificates of societies in certain cases.- (1) Where the whole of the assets and liabilities of a society are transferred to another society in accordance with the provisions of section 14, the registration of the first mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more societies are amalgamated into a new society in accordance with the provisions of section 14 the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each amalgamating society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a society is divided into two or more societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. *Persons who may become members.*- (1) No person shall be admitted as a member of a society except the following, namely:-

(a) an individual—

(i) who has attained the age of eighteen years:

Provided that this sub-clause shall not apply in the case of a society formed exclusively for the benefit of the students of any school or college;

(ii) who is not of unsound mind;

(iii) who is a resident within, or is in occupation of land in, the area of operation of the society;

(b) any other society;

⁵⁸[(ba) a local self government;]

(c) the Government; and

(d) any body of persons, whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order:

⁵⁸ Inserted by Act 1 of 2000

Provided that in a society formed for the promotion of the economic interests of members through a specified activity no person other than one who is likely to be benefited directly by such activity may be admitted as a member of such society unless such admission is permitted specifically by rules:

Provided further that where a society is formed exclusively for the benefit of persons engaged in any particular industry, no person who is not an actual worker in the industry shall be admitted in excess of such percentage of the total membership of the society as may be prescribed:

Provided also that the Coffee Board, the Rubber Board and any other statutory or non-statutory Board, Committee or Corporation constituted for the purpose of the development of an industry, may be admitted as a member of a society engaged in marketing and processing of the products of the industry concerned and formed for the workers and growers of such industry, so however that no such Board, Committee or Corporation shall be admitted as a member of a co-operative credit society:

⁵⁹[Provided also that in the case of Anand Pattern Milk Co-operative Societies, no dairy farmers other than those who own or more milch cows or buffaloes and residing within the area of operation of the society or running dairy farms in their own land or in leased land within the area of operation of the society and pouring milk not less than ninety days within a period of one hundred and twenty days in a year to the society, shall be admitted as members.]

⁵⁹ Added by Act 34 of 2021

⁶⁰[Provided also that in the case of hospital co-operative societies, industrial and commercial establishments and other organizations registered under any other law may be admitted as members.

Explanation:- For the purpose of this sub-section 'hospital co- operative society' means a society, the main object of which is to run a hospital or to conduct medical or paramedical courses or to run medical shops;]

(2) Membership in any society other than a society formed for the benefit of the Scheduled Castes or the Scheduled Tribes shall not be refused merely on the ground that a person belongs or does not belong to a particular religion, race, community, caste, sect or denomination. A decision on an application for membership shall be taken within two months from the date of receipt of the application.

⁶¹[(2A) Where an application for membership in a society is not disposed of within the time specified in sub-section (2), the Registrar shall be bound, on the written request of the applicant, to determine whether such membership shall be given or not;

(2B) Where the Registrar does not, within one month of the date of receipt of such written request, determine whether such membership should be given or not, the applicant may make a representation,-

- (a) before the Registrar if the request referred to in sub-section (2A) is made to a person on whom, the powers of the Registrar is conferred under sub-section (2) of section 3; or
- (b) before the Government, if the request referred to in sub- section (2A) is made to the Registrar, and the

⁶⁰ Added by Act 1 of 2000

⁶¹ Inserted by Act 1 of 2000

Registrar or the Government, as the case may be, shall, within thirty days from the date of receipt of such representation determine whether such membership should be given or not.]

(3) Where a person is refused admission as a member in a society, the decision refusing admission together with the reasons thereof shall be communicated by the society to that person within a period of fifteen days from the date of the decision.

⁶²[⁶³[16A. xxx]

⁶⁴[16B. *Eligibility conditions to continue to be as active member of Anand Pattern Milk Co-operative Societies.*- (1) No member shall be eligible to continue to be active member of an Anand Pattern Milk Co-operative Society if he/she-

- (a) is not pouring milk not less than five hundred liters to the society for one hundred and eighty days during the proceeding twelve months; and
- (b) is not owning at lease on milch cow or buffalo, by rearing them in a cattle shed or in a farm setup either in his / her own land or in a leased land, within the area of operation of the society.

(2) Only an active member referred to in sub-section (1) shall be eligible to become a member of the committee of an Anand Pattern Milk Co-operative Society and to continue as a member of such committee.]

⁶² Inserted by Act 8 of 2013

⁶³ Omitted by Act 14 of 2017

⁶⁴ Inserted by Act 34 of 2021

17. *Expulsion of members.*- (1) Any member of a society, who has acted adversely to the interests of the society, ⁶⁵[or has failed to comply with the provisions of the bye-laws] may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of members present and voting at the meeting.

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

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

⁶⁶[(4) The expulsion from membership may involve forfeiture of shares held by the member.

(5) No member of the society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, for a period of one year from the date of such expulsion.]

18. *Nominal or associate members.*- (1) A society may admit any individual as a nominal or associate member:

⁶⁷[xxx

xxx]

⁶⁵ Inserted by Act 8 of 2013

⁶⁶ Added by Act 8 of 2013

⁶⁷ Omitted by Act 13 of 2012

⁶⁸[Provided also that a Hospital Co-operative Society may admit any other society as nominal or associate member.

Explanation.-The term 'hospital co-operative society' shall have the same meaning as in the Explanation to the fourth proviso to sub-section (1) of section 16.]

⁶⁹[xxx

xxx]

(2) A nominal or associate member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society or to be elected to the committee of a society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

19. Member not to exercise rights till due payment made.- No member of a society shall exercise the rights of a member unless he has made such payments to the society in respect of membership or has acquired such interest in the society, as may be prescribed by the rules or the bye-laws.

⁷⁰[⁷¹[19A. xxx]

19B. Right of a member to get information.- Every society shall keep open to inspection for its members, free of charge, at all reasonable times, at the registered address of the society,-

(a) an up-to-date copy of the Kerala Co-operative Societies Act, 1969;

⁶⁸ Inserted by Act 1 of 2000

⁶⁹ Omitted by Act 1 of 2019

⁷⁰ Inserted by Act 8 of 2013

⁷¹ Omitted by Act 14 of 2017

- (b) an up-to-date copy of the Kerala Co-operative Societies Rules, 1969;
- (c) an up-to-date copy of the bye-laws of the society;
- (d) a register of members;
- (e) the latest audited balance sheet of the society; and
- (f) the accounts of the society in so far as they relate to his or her transaction.]

⁷²[20. *Vote of members.*- Notwithstanding anything contained in any other provision of this Act or any other law, ⁷³[every member] of a society shall have one vote in the affairs of the society:

Provided that,-

(a) a member admitted within sixty days immediately prior to the date of election shall not have the right to vote;

(b) a nominal or associate member shall not have the right to vote;

(c) Where the Government is a member of a society, each person nominated by the Government on the committee of the society shall have one vote each including the right to vote for election of office bearers of the society;

(d) an ex-officio member of the committee of a society shall have one vote but shall not have right to vote for election of office bearers of the society;

(e) in the case of an equality of votes, the Chairman shall have and exercise a second or casting vote.

⁷⁴[xxx]]

21. *Manner of exercising vote.*- (1) Every member of a society shall exercise his vote in person.

(2) Notwithstanding anything contained in sub-section (1), a society or corporation or a statutory or non-statutory Board, Committee or other body of persons which is a member of another society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

⁷² Substituted by Act 1 of 2000

⁷³ Substituted by Act 3 of 2002

⁷⁴ Omitted by Act 1 of 2000

⁷⁵[22. *Restriction on holding shares.*- In any society, no member other than the Government, any statutory or non- statutory Board, Committee or Corporation approved by the Government in this behalf or any other society, shall hold more than such portion of the total share capital of the society, not exceeding one fifth thereof, as may be prescribed:

Provided that the Government may, by notification in the Gazette, specify in respect of any class of societies a higher maximum than one fifth of the share capital.]

23. *Restrictions on transfer of shares or interest.*- (1) The transfer of a share or interest of a member in the capital of a society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 22.

(2) No transfer by a member of his share or interest in a society shall be valid unless-

(a) the member has held such share or interest for not less than three years; and

(b) the transfer is approved by the committee of the society.

24. *Restriction on withdrawal of shares.*- Subject to the other provisions of this Act, no withdrawal by a member of his share in a society shall be valid unless-

(a) the member has held such share for not less than three years; and

(b) such withdrawal is in accordance with the bye-laws of the society.

25. *Transfer of interest on death of members.*- (1) On the death of a member of a society, the society shall transfer the share or interest of the deceased member to the person or persons nominated in accordance with the rules or the bye-laws or, if no person has been so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member:

⁷⁵ Substituted by Act 1 of 2000

Provided that such nominee, heir or legal representative, as the case may be, is admitted as a member of the society:

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a society.

(2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules or the bye-laws and the society shall pay the amount to the nominee, heir or legal representative, as the case may be, on receipt of such requisition.

(3) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

26. *Liability of past member or of estate of deceased Member.*- (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a society for the debts of the society as they existed-

- (a) in the case of a past member, on the date on which he ceased to be a member;
- (b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Where a society is ordered to be wound up under section 71, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceeding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member, or death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

27. *Final authority in a society.*— (1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a society shall vest in the general body of its members:

Provided that nothing contained in this sub-section shall affect the exercise by the committee or any officer of a society of any power conferred on such committee or such officer by this Act or the rules or the bye-laws.

(2) Notwithstanding anything contained in sub-section (1), where the area of operation of a society is not less than such area as may be prescribed, or where the society consists of not less than such number of members as may be prescribed, the society may provide by an amendment of its bye-laws for the constitution of a smaller body consisting of such number of the members of the society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws except the power to conduct election of members of the committee, and any reference, by whatever form of words, in this Act to the general body or a meeting thereof shall, where a representative general body has been constituted under this sub-section, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be:

Provided that the representative general body shall not alter any provision in the bye-laws relating to its constitution or powers.

(3) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the bye-laws.

28. *Appointment of committee.*— (1) The general body of a society shall ⁷⁶[constitute a committee, for a period ⁷⁷[of] ⁷⁸[five years]] in accordance with the bye-laws and entrust the management of the affairs of the society to such committee;

⁷⁶ Substituted by Act 5 of 1992

⁷⁷ Substituted by Act 8 of 2013

⁷⁸ Substituted by Act 1 of 2000

⁷⁹[*Explanation:* Notwithstanding anything contained in the bye-laws, for the purpose of calculating the term of committee, five years from the date of election will be taken to be the term of the committee.]

Provided that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary, but the committee appointed under this proviso shall cease to function as soon as a committee has been constituted in accordance with the bye-laws:

⁸⁰[Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the first committee, including the president or chairman, for a period not exceeding ⁸¹[twelve months.]]

⁸²[Provided also that the election to the committees of the societies shall not be conducted on ward basis irrespective of any provisions to the contrary contained in the bye-laws of any society.]

⁸³[xxx]

⁸⁴[(1A) Notwithstanding anything contained in the bye-laws of the Society, the number of the members of the committee shall not be less than seven and shall not exceed ⁸⁵[fifteen] in the case of Primary Co-operative Societies and ⁸⁵[twenty one] in the case of all other types of co-operative societies.]

⁸⁶[(1AA)
[xxx]]

79 Added by Act 8 of 2013

80 Substituted by Act 19 of 1987

81 Substituted by Act 5 of 1992

82 Substituted by Act 14 of 2017

83 Omitted by Act 7 of 2010

84 Inserted by Act 5 of 1992 and substituted by Act 7 of 2010

85 Substituted by Act 8 of 2013

86 Omitted by Act 1 of 2000

⁸⁷[Provided that in the case of committees of Primary Co-operative Societies constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2010 the maximum number of members shall be fifteen:]

⁸⁸[Provided further that this section shall not be applicable to the committees of Primary Co-operative Societies and all other types of Co-operative Societies constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2013:

Provided also that this section shall not be applicable to the societies where election notification was issued and election procedure was started on the basis of the existing provisions of the Act, prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2013;]

⁸⁹[(1B) Notwithstanding anything contained in the bye-laws of any Federal Co-operative Society, the number of individuals in the society and the Committee thereof shall not exceed twenty five percent of the total number of members in the society or in the Committee, as the case may be, ⁹⁰[subject to the limit specified in sub-section (1A) of section 28;]]

⁹¹[(1C) Notwithstanding anything contained in the bye-laws of a Primary Credit Society or an Urban Co-operative Bank, one seat in the committee of each such society shall be reserved for the members having a deposit of ten thousand rupees and above.]

⁹²[(1D) Notwithstanding anything contained in this Act or in any Judgment, decree or order of any court, the registration of any Primary Co-operative Agricultural and Rural Development Bank without the bifurcation of area, assets and liabilities of the society and the constitution of the committee pursuant to any such a registration without such bifurcation shall be void and the Registrar shall appoint Special Officer for each of such societies which were registered without bifurcation of area, assets and liabilities.

87 Inserted by Act 7 of 2010

88 Added by Act 8 of 2013

89 Substituted by Act 1 of 2000

90 Inserted by Act 8 of 2013

91 Inserted by Act 7 of 2010

92 Inserted by Act 13 of 2012

⁹³[(1DA) Notwithstanding anything contained in this Act or in any Judgment, Decree or Order of any court the registration of any Primary Tourism Co-operative Society without bifurcation of area, assets and liabilities of the society and the constitution of the committee pursuant to any such registration without such bifurcation shall be void and the Registrar shall appoint a Special Officer for each of such societies.]

(1E) The Special Officer so appointed shall ,-

(i) take into custody or bring under his control, the property, effects and actionable claims to which the erstwhile society is, or appears to be entitled to and shall take steps as may be necessary or expedient to prevent loss or deterioration of or damage to, such property, effects and claims;

(ii) take such steps for the bifurcation of area, assets and liabilities of the society and also shall take steps to register new society with the members of the society so bifurcated and constitute the committee;

(iii) such bifurcation shall be completed within a period of one year from the date of commencement of the Kerala Co-operative Societies (Amendment) Ordinance, 2012 (9 of 2012).

⁹⁴[(1F) xxxx]

⁹⁵[(1G) Notwithstanding anything contained in the bye-laws of a society, the committee in office shall co-opt two persons or representatives who are having experience in the field of banking, management, finance or specialization in any other field, relating to the objects and activities undertaken by the Co-operative society as members of the Board of such society:

Provided that number of such co-opted members shall not exceed two in addition to maximum limit specified in sub-section (1A):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member and is not eligible to be elected as office bearers of the board;

Provided also that such co-opted members of a co-operative society shall also be members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in sub-section (1A).]

⁹³ Inserted by Act 39 of 2018

⁹⁴ Omitted by Act 1 of 2019

⁹⁵ Inserted by Act 8 of 2013

⁹⁶[(1H)xxxx]

⁹⁷[(1I)xxxx]

⁹⁸[(1J) Notwithstanding anything contained in the bye-laws of the society, casual vacancy of an elected member of the committee shall be filled up by nomination by the Committee out of the same class of members, if the term of office of the board is less than half of its original term.]

(2) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for appointment as, or for being, a member of a committee—

(a) if he is a member of the committee of ⁹⁹[more than one society of the same type, or]

(b) if he is a member of the committees of ⁹⁹[more than two societies of different types]:

Provided that nothing contained in this sub-section shall be deemed to disqualify a person for election as, or for being, a delegate of a society.

(3) Nothing contained in clause (a) of sub-section (2) shall be deemed to disqualify a member of the committee of a society for appointment as, or for being, a member of the committee of the apex or central society of the same type:

Provided that no member of a committee shall be the president or chairman of more than one society of the same type.

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

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

96 Omitted by Act 1 of 2019

97 Omitted by Act 14 of 2017

98 Added by Act 8 of 2013

99 Substituted by Act 7 of 2010

100 Inserted by Act 19 of 1987

¹⁰¹[(1K) Notwithstanding anything contained in this Act or Rules made thereunder or bye laws in a Regional Milk Producers' Union having jurisdiction over more than one revenue district, the members of the Committee representing each revenue district shall be elected by the member societies of that particular revenue district itself from among themselves.]

¹⁰²[(6) Notwithstanding anything contained in this Act or the Rules made thereunder or the bye-laws of a Regional Co-operative Milk Producers' Union or in any other law, Judgement or Decree or Orders of any court or Tribunal for the time being in force, no President of an Anand Pattern Milk Co-operative Society which is a member of a Regional Co-operative Milk Producers' Union shall be eligible to hold office as a member of the committee of the Regional Co-operative Milk Producers' Union for more than three terms or fifteen years whichever is higher:

Provided that the provisions of this sub-section shall not apply to members of the committee of the Regional Co-operative Milk Producers' Union holding office as such on the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2021 till the completion of their original term of five years:

Provided further that the provisions in the above proviso shall not apply to the members of the committee whose tenure was extended beyond their original term of five years.]

¹⁰³[28A. *Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the committee.-*

¹⁰⁴[(1) Notwithstanding anything contained in this Act, the rules or the bye-laws, there shall be reserved in the committee of every society ¹⁰⁵[three of the total seats for woman members] and one seat for a member belonging to the Scheduled Castes or the Scheduled Tribes.

¹⁰¹ Inserted by Act 59 of 2018

¹⁰² Added by Act 34 of 2021

¹⁰³ Inserted by Act 29 of 1986

¹⁰⁴ Substituted by Act 1 of 2000

¹⁰⁵ Substituted by Act 7 of 2010

(2) Nothing contained in sub-section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee.]

¹⁰⁶[(3) Where there is no representation of women or members belonging to Scheduled Castes or Scheduled Tribes in the committee of a Society including those of the societies formed exclusively for the benefit of women and for persons belonging to Scheduled Castes or Scheduled Tribes, the Government or the Registrar shall nominate women and persons belonging to Scheduled Castes or Scheduled Tribes, to the elected committee from among the members of such societies.]

¹⁰⁷[(4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be.]

¹⁰⁸[28AA. *Reservation for persons with banking experience or professional qualification in the committees of Urban Co-operative Banks.*- Notwithstanding anything contained in the bye-laws of any Urban Co-operative Bank, there shall be reserved not less than two seats in the committees of such banks for members who possess experience in banking or professional qualifications:

Provided that this section shall not be applicable to the committees of Urban Co-operative Banks constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2010.

Explanation:- For the purpose of this section,-

(i) "members who possess experience in banking" means members who are or were in paid service of a Commercial Bank, State Co-operative Bank, District Co-operative Bank, an Urban Co-operative Bank or a Service Co-operative Bank in the managerial cadre.

¹⁰⁶ Sub-section(3) inserted by Act 5 of 92 and substituted by Act 7 of 2010

¹⁰⁷ Inserted by Act 5 of 1992

¹⁰⁸ Inserted by Act 7 of 2010

(ii) "Professional qualifications" means membership in the Institute of Chartered Accountants of India or Masters Degree in Business Administration or Membership in the Institute of Cost and Works Accountants of India or Masters Degree in Commerce with experience in banking or experience in the inspection or audit of banks, including Co-operative Bank.]

¹⁰⁹[28AB. *Election and Removal of President, Vice-President etc.-* (1) A committee constituted under sub-section (1) of section 28 shall elect from themselves a President, a Vice-President, a Treasurer or any other officer, by whatever name he is designated, in the manner as may be prescribed.

(2) A committee shall remove from office the President, Vice-President or the Treasurer or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.]

¹¹⁰[(3) Notwithstanding anything contained in this Act or the Rules made there under or the bye-laws of a Regional Co-operative Milk Producers' Union or any other law, Judgement or Decree or Orders of any court or Tribunal, for the time being in force, no President of an Anand Pattern Milk Co-operative Society shall be eligible to hold office as President or Chairman of a Regional Co-operative Milk Producers' Union for more than two consecutive terms, whether in full or in part.

(4) Notwithstanding anything contained in this Act or the Rules made thereunder or the bye-laws of an Anand Pattern Milk Co-operative Society or in any other law, Judgment or Decree or Orders of any court or Tribunal, for the time being in force, either the President or the Vice President of Anand Pattern Milk Co-operative Societies shall be women members.]

¹⁰⁹ Inserted as 28AA by Act 3 of 2002 and renumbered as 28AB by Act 7 of 2010

¹¹⁰ Added by Act 34 of 2021

¹¹¹[28B. *State Co-operative Election Commission.-*

¹¹²[(1) Notwithstanding anything contained in this Act or in the Rules, the Government shall by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, directions and control of the preparation of electoral rolls and for the conduct of all elections to Co-operative Societies including election to the President/Vice-President and Representative General Body.]

¹¹³[xxx]

¹¹² [(2) The State Co-operative Election Commission shall consist of not more than three members, one among them shall be the State Chief Co-operative Election Commissioner and others shall be Commissioners. The State Chief Co-operative Election Commissioner shall be an officer not below the rank of Special Secretary to Government. The commissioners shall be persons, who are or have been Officers of the Department of Co-operation, not below the rank of Additional Registrar of Co-operative Societies. The appointment of State Chief Co-operative Election commissioner and the commissioners shall be for a period of five years from the date of assumption of office or sixty two years, whichever is earlier :

Provided that in the case of officers in service, the Chief Election Commissioner and the commissioners shall vacate their offices on their date of superannuation:

Provided further that,

(i) the State Co-operative Election Commission shall in consultation with the Registrar have power to fix, alter or revise the maximum and minimum limit of election expenses to be spent by different classes of societies by special or general order;

¹¹¹ Inserted by Act 1 of 2000

¹¹² Substituted by Act 8 of 2013

¹¹³ Omitted by Act 8 of 2013

(ii) the Election Commission may fix fee or cost for election process, in accordance with rules made in this behalf;

(iii) the procedure for payment of election fee or cost shall be such, as may be prescribed.]

(3) The State Co-operative Election Commission shall, in consultation with the Government ¹¹⁴[and the Registrar], designate or nominate officers and employees of the Government to assist the Commission in the conduct of election to the committee ¹¹⁴[and Representative General Body] of such society.

(4) Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee ¹¹⁴[and Representative General Body] of a society.]

29. Annual general body meeting.- (1) A general body meeting of a society shall be held ¹¹⁵[within a period of six months of the close of the financial year] for the purpose of-

- (a) approval of the budget with reference to the programme of the activities of the society prepared by the committee for the ensuing year;
- (b) election, if any, in the prescribed manner of the members of the committee other than nominated members;
- (c) consideration of the audit report ¹¹⁶[and the report and follow up action of the committee thereon] and the annual report;

¹¹⁷[(ca) review of operational deficit/loss, if any, and programme to reduce such deficit or loss;

(cb) approval of the programme of activities of the society prepared by the committee for the ensuing year;

(cc) review of annual report and accounts of any subsidiary organization, if any;

(cd) amendment of bye-laws;

¹¹⁴ Inserted by Act 7 of 2010

¹¹⁵ Substituted by Act 8 of 2013

¹¹⁶ Inserted by Act 8 of 2013

¹¹⁷ Added by Act 8 of 2013

- (ce) declaration regarding date of holding of its general body meeting and conduct of elections when due ; and
- (cf) any other information required by the Registrar in pursuance of the provisions of the Act;]
- (d) disposal of the net profit; and
- (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

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

¹¹⁸[(3) Where the board of a co-operative society fails to convene the annual general meeting within the period specified in sub-section (1), the Registrar or the person authorized by him in this behalf shall be competent to convene such annual general meeting within a period of ninety days from the date of expiry of the period mentioned in sub-section (1) and the expenditure incurred on such meeting shall be borne by the co-operative society.

(4) Members of the board who, in the opinion of the Registrar, were responsible for not convening the annual general meeting within the stipulated period shall be disqualified for one term for being elected as committee members and to continue as members of a society in addition to being liable for any other provisions under this Act:

Provided that the Registrar shall, before passing order under this sub-section, afford a reasonable opportunity of being heard to each such person, who in his opinion were responsible for not convening the annual general meeting within the specified period.

(5) A notice of the general meeting stating the place, date and hour of the meeting together with the agenda shall be given to every member, as may be prescribed.]

30. Special general body meetings.- (1) The committee of a society may, at any time, call a special general body meeting of the society and shall call such meeting within one month after receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed.

(2) If a special general body meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorized by him in this behalf shall have power to call such meeting and that meeting shall be deemed to be a meeting called by the committee.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Registrar or any person authorized by him in this behalf may at any time, call a special general body meeting of the society in such manner and at such time and place within the area of its operation as he may direct and such meeting shall be deemed to be a meeting called by the committee.

(4) Notwithstanding anything contained in the bye-laws of a society, the Registrar or any person authorized by him in this behalf may, at any time, summon a meeting of the committee of the society and that meeting shall be deemed to be a meeting called in accordance with the bye-laws of the society and shall have power to transact all business which can be transacted at a meeting of the committee under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar or the person authorized.

(5) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society convened in accordance with the provisions of this section.

¹¹⁹[31. *Nominees of Government on committee of an apex or a central society.* - (1) Where the Government,-

- (a) have subscribed to the share capital of an apex or a central society; or
- (b) have assisted indirectly in the formation or augmentation of the share capital of an apex or a central society; or
- (c) have guaranteed the repayment of principal and payment of interest on debentures issued by an apex or a central society; or
- (d) have guaranteed the repayment of principal and payment of interest on loans and advances to an apex or a central society;

119 Substituted by Act 19 of 1987

¹²⁰[the Government or any other authority shall have the right to nominate not more than two persons to the committee of an Assisted Apex or Central Society.]

(2) A person nominated to the committee of an apex or a central society under sub-section (1) shall hold office during the pleasure of the Government or the specified authority, as the case may be.

¹²¹[(2A) The person nominated under sub-section (1) shall not be eligible to hold the office of the President/Chairman or Vice President/Vice-Chairman of the Apex or Central Society nor will be eligible for being sent as the delegate of the Apex or Central Society.]

(3) A person nominated to the committee of an apex or a central society under sub-section (1) shall not take part in the discussion of any no- confidence motion or vote on any such motion.

¹²²[xxx]]

32. Supersession of committee.- ¹²³[(1) If the Registrar, after an inquiry by himself or through his subordinates or on a report of the financing bank, or the Vigilance and Anticorruption Bureau of the Government or the Vigilance Officer or otherwise, is satisfied that the committee of any society,-

- (a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or does anything which is prejudicial to the interests of the society; or
- (b) willfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules; or
- (c) makes any payment contrary to this Act or the rules or the bye- laws or causes any loss or damage to the assets of the society, by breach of trust or willful negligence; or

120 Substituted by Act 8 of 2013

121 Inserted by Act 8 of 2013

122 Omitted by Act 8 of 2013

123 Substituted by Act 1 of 2000

¹²⁴[(d)misappropriates or destroys or tampers with the records or causes the destruction of records to cover up any misconduct or malpractice, he may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee and, appoint in its place, one administrator or an administrative committee consisting of not more than three individuals, one among them as convener, who need not be members of the society, to manage the affairs of the society for a period not exceeding six months: ¹²⁵{xxx};]

¹²⁶[Provided that in the case of co-operative society, carrying on the business of banking the provisions of the Banking Regulation Act,1949 (Central Act 10 of 1949) shall also apply:

Provided further that in the case of a co-operative society, carrying on the business of banking, appointment of administrator/administrative committee shall not exceed one year in the aggregate:

Provided also that the board of a co-operative society shall not be superseded or kept under suspension where there is no Government share holding or loan or financial assistance or any guarantee by the Government or any Board or Institutions constituted by the Government.]

124 Substituted by Act 7 of 2010

125 Omitted by Act 8 of 2013

126 Added by Act 8 of 2013

¹²⁷[*Explanation I*:-For the purposes of this proviso, financial assistance includes any financial assistance from the Kerala Co-operative Development and Welfare Fund Board, Deposit Guarantee Scheme implemented by the Kerala Co-operative Deposit Guarantee Fund Board, Kerala Co-operative Risk Fund Scheme implemented by the Kerala Co-operative Development and Welfare Fund Board, National Bank for Agriculture and Rural Development, National Co-operative Development Corporation and any other financial institution under the control of the State or Central Government and also any financial assistance guaranteed by the said institutions.]

¹²⁷[*Explanation II*:] A notice and an order given as per this clause to the President, in his absence to the Vice President or any committee member who is holding charge of President or Vice President or to the Chief Executive of a society shall be treated as an order given to the committee of the society.

¹²⁸[(e) Every member of the committee superseded under this section shall from the date of order of such supersession stand disqualified to contest in the election to or to be nominated to the committee of any Society or to be appointed as an administrator in any society for two consecutive terms.]

(2) The Registrar shall consult the financing bank and circle co-operative union or State Co-operative Union, as the case may be, before passing an order under sub-section (1).

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) it shall not be necessary to give an opportunity to the committee to state its objections and to consult the Unions and financing banks, in cases where the Registrar is of the opinion that it is not reasonably practicable to do

¹²⁷ Existing Explanation numbered as Explanation II and new explanation inserted as Explanation I by Act 14 of 2017

¹²⁸ Added by Act 7 of 2010

so, subject however to the condition that in such cases, the period of supersession shall generally be for six months and in case a new committee cannot be constituted or enter upon office in accordance with the bye-laws of the society within the period of supersession the period may be extended for a further period not exceeding six months—

- (a) in the case of a Co-operative society only after consulting the circle co-operative union concerned; and
- (b) in the case of an Apex Society or a Central Society only after consulting the State Co-operative Union.

(4) The committee or administrator or administrators so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, ¹²⁹[have power to exercise all or any of the powers and functions] of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(5) The committee or administrator or administrators shall, before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(6) Every order made by the Registrar under sub-section (1) shall be communicated to the circle co-operative union.

33. Appointment of new committee or administrator on failure to constitute committee, etc..- (1) Where the term of office of a committee has expired and a new committee has not been constituted, or ¹³⁰[where a no-confidence motion is passed by the general body against the existing committee or where the existing committee resigns enbloc or where vacancies occur in the committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied-]

¹²⁹ Substituted by Act 1 of 2000

¹³⁰ Substituted by Act 38 of 1971

(a) that a new committee cannot be constituted before the expiry of the term of office of the existing committee; or

¹³¹[(aa) there is stalemate in the constitution or functions of the committee;]

¹³²[(b) that a new committee is prevented from entering upon office, or a new committee fails to enter upon office, on the date on which the term of office of the existing committee expires, the Registrar may, either *suo motu* or on the application of any member of the society, after intimating the Circle Co-operative Union, appoint one administrator or an administrative committee consisting of not more than three individuals, ¹³³[who need not be members of the society, one among them as convener] to manage the affairs of the society, for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended, from time to time, so, however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier.

(i) [xxx]

(ii) xxx]

Provided that before making such order, the Registrar shall publish a notice on the notice board of the head office of the society inviting objections to the making of the order within a period specified in the notice and consider such objections:

Provided further that it shall not be necessary to publish such notice in cases where the Registrar is satisfied that it is not reasonably practicable to do so:

131 Inserted by Act 8 of 2013

132 Substituted by Act 7 of 2010

133 Substituted by Act 22 of 2013

¹³⁴[Provided also that, where a committee, administrator or administrators, as the case may be, is in office at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992, the Registrar may extend the term of such committee, administrator or administrators, as the case may be, for a further period not exceeding one year from the date of such commencement.]

¹³⁵[Explanation.- For the purposes of this sub-section a tender of resignation by a member of the committee shall have the effect of terminating his membership from the committee.]

¹³⁶(1A) Notwithstanding anything contained in sub-section (1), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of a society before the expiry of the term of office of the ¹³⁷[administrator or administrative committee], as the case may be, appointed by the Registrar under sub-section (1) and that it is necessary in the public interest to manage the affairs of the society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded, permit the Registrar to extend the term of the said ¹³⁷[administrator or administrative committee], as the case may be, for a further period not exceeding one year in the aggregate or till a new committee enters upon office, whichever is earlier.]

134 Added by Act 5 of 1992

135 Inserted by Act 38 of 1971

136 Inserted by Act 16 of 1993

137 Substituted by Act 22 of 2013

(2) The ¹³⁸[administrator or administrative committee] appointed under ¹³⁹[sub-sections (1) and (1A)] shall, subject to the control of the Registrar and to such instructions as he may from time to time give, ¹⁴⁰[have power to exercise all or any of the powers and functions] of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(3) The ¹³⁸[administrator or administrative committee] shall arrange for the constitution of a new committee or for the entering upon office of the new committee, as the case may be.

34. *Securing possession of records, etc.*-(1) If the committee of a society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 32 or a new committee or administrator or administrators is or are appointed under section 33 or if the society is ordered to be wound up under section 71 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to the new committee or administrator or administrators or the liquidator, as the case may be, or if an outgoing president or secretary who is the custodian of the records and property of a society refuses to hand over charge of the records and property of the society to his successor, the new committee or administrator or administrators or the liquidator or the president or secretary may with the previous sanction of the Registrar apply to the Magistrate within whose jurisdiction the society functions, for securing the records and properties of the society.

¹³⁸ Substituted by Act 22 of 2013

¹³⁹ Substituted by Act 16 of 1993

¹⁴⁰ Substituted by Act 1 of 2000

(2) On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorize any Police Officer, not below the rank of Sub-Inspector, to enter and search any place where the records and the property of the society are kept or are believed to be kept and to seize such records and property, and the records and property so seized shall be handed over to the new committee or administrator or administrators or the liquidator or the president or secretary, as the case may be.

(3) Where the Registrar or any other officer not below the rank of Assistant Registrar of Co-operative Societies authorized by him in this behalf in the course of audit, inspection, inquiry or supervision is of opinion that there is room to suspect gross negligence of duties, misappropriation or misuse of funds of the society or irregularity in recording proceedings or keeping accounts or books or is satisfied that the records, registers or the account books of a society are likely to be tampered with or destroyed and the funds and property of a society are likely to be misappropriated or misapplied, he shall have power to take possession of any or all of the books, registers, securities or documents, cash in hand or account books of the society and remove such seized records and property and to deal with them in any manner as may be directed by the Registrar.

(4) The Registrar or other officer seizing the records and property of a society under sub-section (3) shall prepare an inventory of the records and property seized in duplicate with his signature and require the officer, employee or member of the society from whose custody the records and property are seized to affix his signature in witness thereof and, if such officer or employee or member refuses to sign, then the Registrar or other officer seizing the records and property shall cause two or more persons to sign the inventory as witnesses to the correctness thereof. A copy of the inventory prepared under this section

shall be delivered to the officer, employee or member of the society from whose custody the records and property were seized.

PRIVILEGES OF CO-OPERATIVE SOCIETIES

32. First change of society on certain aspects.

(1) Notwithstanding anything contained in any law for the time being in force, subject to any restriction of the Government in respect of land revenue or any money recovered as land revenue, any such or otherwise declared owing to a society by any member or past member or deceased member shall be a first charge.

(2) Upon the crops or other agricultural produce of any member or the society, if such produce was taken from the society by such member, and

(3) Upon any cattle, together for cattle, agricultural or industrial implements or machines, or any articles for maintenance, supplied or put down in stock or in part paid or any loan given to the society or its any member or member from the society or supplied or purchased.

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

(5) Notwithstanding anything contained in any law for the time being in force, any transfer of property made to any member or the society or any person shall be void.

(6) The charge created under sub-section (1) shall be voidable in so far as any claim of the Government during that any loan granted to them, and the grant of the loan to the society.

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

35. *First charge of society on certain assets.-*

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

(a) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the society by such member; and

(b) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, supplied, or purchased in whole or in part out of any loan given, by the society, or on any article manufactured from raw materials so supplied or purchased.

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

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

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

36. *Charge on land owned or held by members borrowing loans from certain societies.*- Notwithstanding anything contained in this Act or any other law for the time being in force,-

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

(ii) a declaration made under clause (i) may be varied or cancelled at any time by the member, with the previous written permission of the society in favour of which such charge has been created;

(iii) no member shall alienate the whole or any part of the land or his interest in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid to the society in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society.

Provided further that it shall be lawful to a member to mortgage such land or any part thereof in favour of the Government or a Land Mortgage Bank.

Provided also that if a part of the amount borrowed by a member is paid, the society with the approval of the financing bank to which it may be indebted may, on an application from the member, release from the charge created by the declaration made under clause (i) or varied under clause (ii) such part of the land or of the interest in land specified in the declaration as it may deem proper,

with due regard to the security of the balance of the amount of loan outstanding from the member.

(iv) any alienation made in contravention of clause (iii) shall be null and void;

(v) subject to the claims of the Government in respect of basic tax or any money recoverable as land revenue and to the claims of the Government or the Land Mortgage Bank in respect of any money payable under a mortgage in favour of the Government or the Land Mortgage Bank and to the prior claims of any person in whose favour alienation of the land or interest in land specified in the declaration made under clause (i) or varied under clause (ii) has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on such land or interest for and to the extent of the dues owing by him on account of the loan;

(vi) a declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii) shall be sent by the society, by registered post, to the sub registrar having jurisdiction over the area in which the land is situate, and the sub registrar shall register such declaration or variation or cancellation or release and issue a copy thereof to the society;

(vii) any declaration made under clause (i) or any variation or cancellation thereof under clause (ii) or any release under the third proviso to clause (iii), which has not been registered under clause (vi), shall be null and void.

Explanation.-In this section-

(a) "basic tax" means the tax imposed under the provisions of the Kerala Land Tax Act, 1961 (13 of 1961);

(b) "Land Mortgage Bank" means the Kerala Co-operative Central Land Mortgage Bank, Limited, or a primary mortgage bank as defined in the Kerala Co-operative Land Mortgage Banks Act, 1960 (1 of 1960).

¹⁴¹[36A.Charge on movable or immovable property of borrower by creating Gehan.- Notwithstanding anything contained in any other provisions of this Act charge on movable or immovable property of a borrower in favour of the ¹⁴²[Kerala State Co-operative Bank] ¹⁴³[xxx] or a Primary Agricultural Credit Society or a Primary Housing Society ¹⁴⁴[or an Urban Co-operative Bank or any Primary Co-operative Societies dealing with credit activities] may be created by Gehan in respect of which the provisions of sections 10 to 15 (both inclusive) of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words ¹⁴²[Kerala State Co-operative Bank] ¹⁴³[xxx] “Primary Agricultural Credit Society or Primary Housing Society” ¹⁴⁴“or an Urban Co-operative Bank or any Primary Co-operative Societies dealing with credit activities”], “Society” and “said Bank or Society”, respectively, for the words “Agricultural and Rural Development Bank”, “primary bank”, “bank” and “said banks” occurring in the said sections.

Explanation;- For the purposes of this section, Gehan means a special charge on movable or immovable property, in favour of the ¹⁴² [Kerala State Co-operative Bank] ¹⁴³[xxx] or a Primary Agricultural Credit Society or a Primary Housing Society ¹⁴⁴[or an Urban Co-operative Bank or any Primary Co-operative Societies dealing with credit activities] by a mere declaration in writing by the borrower, for securing the payment of money advanced or to be advanced by way of loan, which will have all the characteristics of a valid mortgage.]

141 Inserted by Act 16 of 2004

142 Substituted by Act 1 of 2019

143 Omitted by Act 1 of 2019

144 Inserted by Act 7 of 2010

37. Deduction from salary to meet society's claim in certain cases.- (1) Notwithstanding anything contained in any law for the time being in force, a member of a society may execute an agreement in favour of the society providing that his employer or the officer disbursing his salary or wages shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such an agreement, the employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) shall, if so required by the society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within seven days from the date of the deduction.

¹⁴⁵[Provided that this sub-section shall not apply if the employees whose salary is to be deducted, are not informed at least thirty days in advance, by notice duly acknowledged, about the dues on loan or award amount.]

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

¹⁴⁵ Inserted by Act 7 of 2010

Provided that no financing bank to which a society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set-off any such sum credited or payable to the society towards any debt due from such society.

39. *Shares or interest or reserve fund not liable to attachment.*- (1) Subject to the provisions of section 38, the share or interest of a member in the capital of a society shall not be liable to attachment or sale under any Decree or Order of a court in respect of any debt or liability incurred by him and a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

(2) The reserve fund of a society invested by such society in accordance with the provisions of section 57 shall not be liable to attachment under any Decree or Order of a court in respect of any debt or liability incurred by the society.

40. *Exemption from certain taxes, fees and duties.*- (1) The Government may, by notification in the Gazette, remit in respect of any class of societies,-

(a) the stamp duty chargeable under the Kerala Stamp Act, 1959 (17 of 1959), in respect of any instrument executed by or on behalf of a society or by an officer or member thereof and relating to the business of such society, or any class of such instruments, or in respect of any award or order made under the Act, in cases where, but for such remission the society, officer or member, as the case may be, would be liable to pay such stamp duty;

(b) any fee payable under any law for the time being in force relating to the registration of documents or court fees.

(2) The Government may, by notification in the Gazette, exempt any class of societies from taxes on—

- (a) agricultural income;
- (b) sale or purchase of goods; and
- (c) professions, trades, callings and employments.

41. Exemption from compulsory registration of instruments.-

Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908) or sections 54 and 59 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), shall apply to-

(a) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) any endorsement upon or transfer of any debenture issued by any such society.

CHAPTER VI

STATE AID TO THE CO-OPERATIVE SOCIETIES

42. *Direct partnership of Government in societies.*- (1) The Government may subscribe directly to the share capital of a society with limited liability.

(2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to a dividend on the shares of any such society at a rate higher than that at which such dividend is payable to any other share holder of the society.

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

44. *Principal State Partnership Fund.*- (1) An apex society which is provided with moneys by the Government under section 43 shall, with such moneys, establish a fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilize the Principal State Partnership Fund for the purpose of—

(a) directly purchasing shares in other societies with limited liability; or

(b) providing moneys to a central society to enable that society to purchase shares in other societies with limited liability (hereinafter in this Chapter referred to as primary societies); or

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

45. *Subsidiary State Partnership Fund.*- (1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilize the Subsidiary State Partnership Fund for the purpose of—

- (a) purchasing shares in primary societies; or
(b) making payments to the apex society in accordance with the provisions of this Chapter,
and for no other purpose.

46. *Approval of Government for purchase of shares.*- No shares in a society shall be purchased from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund except with the previous approval in writing of the Government.

47. *Liability to be limited in respect of certain shares.*- Where any shares in a society are purchased by—

- (a) the Government; or
(b) the apex society or a central society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the society being wound up, be limited to the amount paid in respect of such shares.

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

49. *Indemnity of apex and central societies.*- (1) If a society in which shares are purchased from the moneys in the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase; but the Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) If a society in which shares are purchased from the money in the Subsidiary State Partnership Fund is wound up or is dissolved neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

50. *Disposal of share capital and dividend, etc.*-

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

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the Subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that fund and then transferred to the apex society which shall credit them to the Principal State Partnership Fund.

(3) All moneys referred to in sub-section (1) or sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or in the central society, as the case may be, be paid to the Government.

(4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 43.

(5) Any amount to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund and the investments thereof shall not form part of the assets or liabilities of the apex society or central society, as the case may be. The balance sheet of any such society shall separately show the amounts to the credit of the Principal State Partnership Fund or the Subsidiary State Partnership Fund or the investments thereof, as the case may be.

51. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of apex or central society.- (1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that fund shall be paid to the Government.

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

52. Agreement by Government and apex societies.- Subject to the foregoing provisions of this Chapter,-

(a) the Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 43;

(b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 44.

53. Other forms of State aid to societies.- Notwithstanding anything contained in any law for the time being in force, the Government may-

(a) give loans or make advances to societies;

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

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

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

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

(f) give financial assistance in any other form, including subsidies, to any society;

¹⁴⁶[(g) set off any amount due to Government out of the financial assistances given under this section, in which case the gross amount of assistance before set off shall be treated as the original amount of assistance:

Provided that the Government may exempt any society, in eligible cases considering its financial position, from setting off Government dues.]

54. Provisions of sections 43 to 52 to over-ride other laws.-

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

¹⁴⁶ Inserted by Act 7 of 2010

CHAPTER VII

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

55. *Funds not to be divided.*- No part of the funds other than the net profits of a society shall be paid by way of bonus or dividend or otherwise distributed among its members;

Provided that a member may be paid such remuneration, allowances or honoraria and on such scale as may be laid down by the bye-laws for any services rendered by him to the society.

56. *Disposal of net profit.*- (1) A society shall, out of its net profits in any year,-

- (a) transfer an amount not being less than fifteen per cent of the net profits to the reserve fund; and
- (b) credit such portion of the net profits, not exceeding five per cent, as may be prescribed, to the Co-operative Education Fund referred to in clause (xix) of sub-section (2) of section 109.

¹⁴⁷[(c) Ten percent of the net profit to the Co-operative Member Relief Fund as may be prescribed.]

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

- (a) payment of dividends to members on their paid up share capital at such rate not exceeding ¹⁴⁸[twenty five] per cent as may be prescribed;

¹⁴⁷ Inserted by Act 8 of 2013

¹⁴⁸ Substituted by Act 7 of 2010

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

¹⁴⁹[(c) seven percent of the net profit to Agricultural Credit Stabilization Fund;

(cc) five percent of net profit to the Professional Education Fund maintained by the Registrar.]

(d) donations of amounts not exceeding ten percent of the net profits for any charitable purpose as defined in section (2) of the Charitable Endowments Act, 1890 (Central Act 6 of 1890); and

¹⁴⁹[(e) balance of net profit may be utilized for any or all of the purposes specified in the bye-laws of the societies except for payment of bonus to employees.]

¹⁵⁰[(3) Notwithstanding anything contained in section 18 of the Act, in the case of ¹⁵¹[Kerala State Co-operative Bank] the term 'member' shall include nominal and associate members, for the purpose of clause (a) of sub - section (2).]

¹⁵²[56A. *Disposal of non-banking assets.*- The immovable property acquired by a society through a sale by the sale officer or through any legal proceedings for realization of loan amount shall be disposed of by the society within seven years from the date of acquisition with prior sanction of the General body and the Registrar.]

¹⁴⁹ Substituted by Act 7 of 2010

¹⁵⁰ Inserted by Act 7 of 2010

¹⁵¹ Substituted by Act 1 of 2019

¹⁵² Inserted by Act 22 of 2013

57. Investment of Funds.- A society may invest or deposit its funds-

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

¹⁵³[**57A. The Co-operative Development and Welfare Fund.-**

(1) The Government may, by notification in the Gazette, frame a scheme to be called the Co-operative Welfare and Development Scheme for the establishment of a Fund under this Act and there shall be established, as soon as may be after the framing of the scheme, a Fund to be called the Co-operative Development and Welfare Fund, in accordance with the provisions of this Act and the scheme.

¹⁵⁴[(2) A society shall contribute to the Fund at such rates, as may be specified in the scheme.]

(3) There shall be credited to the fund,-

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

¹⁵³ Inserted by Act 1 of 2000 (Inserted Sections 57A, 57B and 57C)

¹⁵⁴ Substituted by Act 7 of 2010

(4) Subject to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilized for payment of grant or loans to societies for the following purposes namely:-

- (i) for the purpose of safeguarding the interests of the societies against any loss or damage to their assets and properties, despite reasonable precautions to prevent such loss or damage;
- (ii) for utilising for the developmental activities of the societies; and
- (iii) for any other purpose, as may be specified in the scheme.

(5) Subject to the provisions of this Act the scheme may provide for the following matters, namely:-

- (i) the time and manner in which contribution shall be made to the Fund by the societies;
- (ii) the rate of contribution;
- (iii) the administration of the Fund;
- (iv) the purposes for which the Fund may be utilized for developmental activities of the societies;
- (v) the conditions under which the Fund may be expended for payment of reliefs to the societies;
- (vi) the manner in which the accounts of the Fund shall be kept; and
- (vii) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

57B. *Deposit Guarantee Scheme.*- (1) The Government may, by notification in the Gazette, frame a scheme to be called "the Deposit Guarantee Scheme" specifying the purpose of the scheme and shall be administered in such manner, as may be specified therein.

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

¹⁵⁵[(3) All societies covered under the Deposit Guarantee Scheme shall enroll and contribute towards the scheme within six months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to accept deposit from depositors and the Registrar shall be competent to issue prohibition order, restraining the society from accepting deposits for such period specified in the order:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objections, if any, to the proposed action.

(4) Notwithstanding anything contained in sub-section (3) the Registrar may exempt any society for a period up to one year by general or special order from enrolling such societies under the Deposit Guarantee Scheme with reasons to be recorded:

Provided that if any society violate the prohibition order under sub-section (3) the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the

¹⁵⁵ Inserted by Act 8 of 2013

amount under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968). If the violation is a continuing one, a further penalty of rupees one thousand for every day shall be levied, after the first day during which the violation continues.]

57C. Consortium Lending Scheme.- (1) The Government may, by notification in the Gazette, frame a scheme to be called the “Consortium Lending Scheme” for the purpose of providing loans for infrastructure development, to societies, local authorities, development authorities or similar institutions, on government guarantee subject to such terms and conditions, as may be specified in the said scheme.

(2) A society may contribute to the Consortium Lending Scheme, at such rates, as may be specified in the scheme.]

¹⁵⁶[**57D.Co-operative Risk Fund Scheme.-** (1) The Government may, by notification in the Gazette, frame a scheme to be called the “Co-operative Risk Fund Scheme” for the establishment of a fund for meeting the loan liability of those members who have availed loans from the co-operative societies and died within the repayment period of such loans.

(2) The types of societies and the types of loans covered by the scheme, the rate and manner of contribution towards the fund by the societies, the manner of administration and utilisation of the fund and the maintenance of books of accounts in respect of the fund and its audit shall be such as may be specified in the scheme.]

¹⁵⁶ Inserted by Act 7 of 2010

¹⁵⁷[(3) All societies covered under the Co-operative Risk Fund Scheme shall contribute towards the scheme at the rate specified in the scheme within three months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to issue loans to members and general public and the Registrar shall be competent to issue prohibition order, restraining the society from providing loans:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action:

Provided further that if any society violate the prohibition order, the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968).]

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

59. Restrictions on loans.- (1) A society shall not make a loan to any person or a society other than a member:

¹⁵⁸¹⁵⁹[Provided that the above restriction shall not be applicable to the Kerala State Co-operative Bank:]

¹⁵⁷ Inserted by Act 8 of 2013

¹⁵⁸ Substituted by Act 15 of 1997

¹⁵⁹ Substituted by Act 1 of 2019

Provided further that, with the general or special sanction of the Registrar, a society may make loans to another society.]

(2) Notwithstanding anything contained in sub-section (1), a society may make a loan to a depositor on the security of his deposit.

¹⁶⁰[(3) Granting of loans to members or to non-members under sub-section (2) and recovery thereof shall be in the manner as may be specified by the Registrar.]

60. *Restrictions on other transactions with non-members.*— Save as is provided in sections 58 and 59, the transactions of a society with persons other than members shall be subjected to such restrictions, if any, as may be prescribed.

61. *Provident Fund.*—(1) A society shall establish a contributory provident fund for the benefit of its employees, to which shall be credited all contributions made by the employees and the society in accordance with the rules or the Employees Provident Funds Act, 1952 (Central Act 19 of 1952) whichever is more beneficial:

¹⁶¹[Provided that the contributory provident fund established under this sub-section shall not apply to the employees of such society to which the provisions of the Self Financing Pension Scheme framed under sub-section (1) of section 80A are made applicable and such society shall establish a Provident Fund in such manner and subject to such conditions or restrictions, as may be prescribed, for the benefit of such employees.]

¹⁶⁰Added by Act 7 of 2010

¹⁶¹Added by Act 16 of 1993

(2)¹⁶²[A provident fund, whether contributory or not], established by a society under sub-section (1) —

- (a) shall not be used in the business of the society;
- (b) shall not form part of the assets of the society;
- (c) shall not be liable to attachment or be subject to any other process of any court or other authority;
- (d) shall be deposited in the financing bank of the area.

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

¹⁶² Substituted by Act 16 of 1993

¹⁶³[CHAPTER VIII

PART - A

AUDIT

63. *Director of Co-operative Audit.*- (1) The Government shall by notification in the official gazette, appoint a person to be the Director of Co-operative Audit with jurisdiction over the whole of the State.

(2) The qualification and the terms and conditions of the person to be appointed as the Director of Co-operative Audit shall be such, as may be prescribed.

¹⁶⁴[(3) The Government may by general or special order, delegate all or any of the powers of the Director of Co-operative Audit, in the Act to his subordinate officers] ¹⁶⁵[or to the subordinate officers of the Registrar.]

¹⁶⁶[(4) It shall be the duty of the managing committee cause to audit the accounts of every society at least once every year:

Provided that the accounts of every society shall be audited within six months of the close of the financial year to which such accounts relate.]

¹⁶⁷¹⁶⁸[(5) The procedure to be adopted in auditing the accounts of different types of co-operative societies should be in the manner specified in the audit manual approved by Director of Co-operative Audit or guidelines, directions as may be issued, from time to time, by the Registrar, the National Bank for Agriculture and Rural Development or Reserve Bank of India, as the case may be, from time to time.

¹⁶³ Substituted by Act 1 of 2000

¹⁶⁴ Substituted by Act 7 of 2010

¹⁶⁵ Inserted by Act 22 of 2013

¹⁶⁶ Substituted by Act 8 of 2013

¹⁶⁷ Inserted by Act 9 of 2009

¹⁶⁸ Substituted by Act 8 of 2013

(5A) It shall be the duty of the Director of Co-operative Audit in consultation with the Registrar to revise, amend or update audit manual in every five years, as may be prescribed.]

(6) Notwithstanding anything contained in any other law for the time being in force, the Audit Certificate issued by the Director of Co-operative Audit or by any officer authorized by him shall be valid for all purposes required to be filed before the State Government and non-Governmental authorities.]

¹⁶⁹[(7) The Director of Co-operative Audit shall be under the control of the Registrar of Co-operative Societies.]

¹⁷⁰[(8) The minimum qualification and experience of auditors for auditing accounts of the Co-operative society may be such, as may be prescribed.

(9) Every Co-operative Society shall cause to be audited by an auditor or auditors or team of auditors referred to in sub-section (8) appointed by the general body or special general body from among the panel of auditors approved by the Director of Co-operative Audit:

Provided that if there are no auditors available from the above panel, the general body of a society may appoint auditing firms from among a panel approved by the Director of Co-operative Audit.

(10) The financial accounts of all apex societies shall be audited by auditing firms from among the panel approved by the Director of Co-operative Audit and the administrative matters and related accounts of assisted apex societies shall be audited by the departmental auditors from among the panel approved by the Director of Co-operative Audit as may be prescribed and submit the audit reports to the Director of Co-operative Audit.

¹⁶⁹ Inserted by Act 7 of 2010

¹⁷⁰ Inserted by Act 8 of 2013

(11) The audit report of the accounts of an apex co-operative society which includes the report on administrative matters, shall be laid by the Government before the Legislative Assembly, in the manner prescribed.

(12) It is the responsibility of the managing committee to convene general body meeting or special general body meeting in order to appoint auditors or auditing firms within the stipulated time from among the panel approved by the Director of Co-operative Audit, failing which, the members of the managing committee shall cease to hold their office. In such cases to avoid administrative stalemate, the Registrar may *suo moto* or on application from the Director of Co-operative Audit or from any person authorized in this behalf, appoint an Administrator or an Administrative Committee consisting of not more than three persons, who need not be members of the society, one among them as convener, to manage the affairs of the society, for a period not exceeding six months as may be specified in the order:

Provided that Administrator or Administrative Committee shall arrange for the constitution of a new committee or for entering upon office of the new committee, as the case may be.]

¹⁷¹[(13) The Government may issue notification, either prospectively or retrospectively, by publishing the same in the Gazette, to carry out the purposes of this section.]

64. Scope of audit, powers of the Director of Co-operative Audit and procedure for audit.- (1) The audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed.

171 Inserted by Act 22 of 2013

(2) For the purpose of audit, the Director of Co-operative Audit or the person authorised by him under section 63 shall have the following powers, namely:-

(a) he shall, at all reasonable times, have access to all the books, accounts, documents, papers and all other relevant records, securities, cash and other properties belonging to, or in the custody or control of the society;

(b) he may summon any person in possession of, or responsible for the custody, of any such books, accounts, documents, papers, other records, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof or, where there is no working office for a society, at the office of the Director of Co-operative Audit or at the office of any of his subordinate officers, as may be specified by him; and

(c) such other powers as may be prescribed.

(3) Every person who is or has been, at any time, an officer or employee of the society and every member and past member of the society, who is in possession of any information and records in regard to the transactions and working of the society, shall furnish such information in regard to the transactions and working of the society, as the Director or the person authorised by the Government under sub-section (3) of section 63 may require.

¹⁷²[(4) The financial statements and other statutory statements as required by auditors shall be prepared by the chief executive of the society within one month from the date of close of the financial year and submit it before managing committee and the fact shall be reported to the Director of Co-operative Audit or to the persons authorized by him in this behalf.

¹⁷² Substituted by Act 8 of 2013

(4A) It shall be the duty of the managing committee of every society to ensure the accuracy of financial and other statutory statements. It is the responsibility of the managing committee to submit the above statements for audit within one month from the date of receipt of the above statements before the auditor. Lapse on the part of managing committee in this regard will be considered as a disqualification to hold office and they shall cease to be a member of the committee as may be prescribed. In such cases to avoid administrative stalemate, the Registrar may *suo moto* or on application from the Director of Co-operative Audit or by any person authorized in this behalf, appoint an Administrator or an administrative committee consisting of not more than three persons, who need not be members of the society, one among them as convener, to manage the affairs of the society, for a period not exceeding six months as may be specified in the order.

Provided that administrator or administrative committee shall arrange for the constitution of a new committee, or for entering upon office of the new committee, as the case may be.

(4B) Within three months from the date of receipt of the audit report, the Director of Co-operative Audit shall issue an audit certificate to the concerned society with a copy of audit memorandum as may be prescribed.]

¹⁷³[(5) The Auditor or auditing firms appointed as per Section 63 shall complete the audit within four months from the date of receipt of the statements and submit audit report to the Director of Co-operative Audit or to the persons authorized by him in this behalf.

¹⁷³ Substituted by Act 8 of 2013

(6) The amount of fee ¹⁷⁴[or cost] for the audit of accounts of society for each year shall be such, as may be fixed by the Director of Co-operative Audit, in accordance with the rules made in this behalf.

(7) The fee ¹⁷⁴[or cost] shall be paid by the society concerned within thirty days of intimation thereof and in case of non-payment of the fee ¹⁷⁴[or cost] within the period it shall be recoverable in the manner specified in section 79 ¹⁷⁵[or can be recovered from the account maintained in the financing bank by the society, through an order issued by the Registrar upon the request from the Director of Co-operative Audit.]

(8) The procedure for payment of the fee ¹⁷⁴[or cost] shall be such, as may be prescribed.

(9) If the result of the audit held under section 63 discloses any defects in the working of a society, the Director of Co-operative Audit may bring such defects to the notice of the society and if the society is affiliated to another society, also to the notice of that other society.

(10) If the result of the audit held under section 63 discloses any serious defect in the working of the society, the Director of Co-operative Audit or the person authorized by him shall communicate the same forthwith to the Registrar for immediate further action.

(11) The Director of Co-operative Audit may, by order in writing, direct the society or its officers to take such action, as may be specified in the order, within the time mentioned therein to rectify the defects disclosed in the audit, under intimation to the Registrar.

¹⁷⁴ Inserted by Act 7 of 2010

¹⁷⁵ Added by Act 8 of 2013

¹⁷⁶[(12) Notwithstanding anything contained in this Act it shall be the duty of the committee of a society,-

(a) to request the Director of Co-operative Audit to get its accounts audited every year by remitting the required fee or cost for audit in advance or as determined by the Director of Co-operative Audit and to get its books, accounts, financial statements and all other statements required by the auditor for audit, written up and completed and to submit them for audit through its Chief Executive, to the Director of Co-operative Audit or officer authorized by him for the purpose of audit within the time limit stipulated in sub-section (4), before a request for audit is made to the Director of Co-operative Audit.

(b) to place the audit certificate in full before the General Body or the Representative General Body and to read over to the General Body or Representative General Body of the defects mentioned in it and also to place the rectification reports of each defects before the General Body or the Representative General Body.

(c) to rectify all the defects mentioned in the audit certificate and to submit the rectification reports on the defects mentioned in the audit certificate, to the Director of Co-operative Audit and to the Registrar within two months of the receipt of the audit certificate.]

¹⁷⁷[(13) Notwithstanding anything contained in this Act or the Rules made thereunder or the bye-laws of a Regional Co-operative Milk Producers' Union and its apex society, Annual Performance Audit in Regional Co-operative Milk Producers' Union and its apex society shall be conducted for every financial year, in the prescribed manner, by engaging person/s from among the panel of experienced person/s in dairy industry, recommended by the apex society and approved by the Functional Registrar of Dairy Co-operatives.]

¹⁷⁶ Inserted by Act 7 of 2010

¹⁷⁷ Added by Act 34 of 2021

PART – B

INQUIRY, SUSPENSION, INVESTIGATION AND SURCHARGE

65. *Inquiry by the Registrar.*- (1) The Registrar may,-

- (a) on his own motion; or
- (b) on an inquiry report of the Vigilance Officer appointed under section 68A; or
- (c) on a report of the Director of Co-operative Audit appointed under section 63; or
- (d) on an application by the majority of the members of the committee of the society, or by not less than one third of the quorum for the general body meeting, whichever is less; or
- (e) on an application by the apex society or financing bank of which such society is a member; or
- (f) on an application of a society to which the society concerned is affiliated,-

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

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

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of

the society or at any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society, to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general body meeting of the society, himself call a general body meeting or require the President or Secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof, to determine such matters as may be directed by him;

(ii) any meeting called under sub-clause (i), shall have all the powers of a general body meeting called under the bye-laws of the society.

(3) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated and to the Circle Co-operative Union.

(4) When an inquiry made under this section reveals only minor defects which, in the opinion of the Registrar, can be remedied by the society, he shall communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He shall also direct the society or its officers to take such action within the time specified therein to rectify the defects disclosed in such inquiry.

(5) The inquiry under this section shall be completed within a period of six months ¹⁷⁸[which period may at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time, so however that the aggregate period shall not in any way, exceed one year.]

(6) If the Registrar, on completion of the inquiry finds that there is a major defect in the constitution or working or financial condition of the society, he may initiate action in accordance with the provisions of section 32.

66. Supervision and Inspection.- (1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently, as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorized by him, by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such a sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where the inspection under sub-section (2) is made on the application of a creditor, the Registrar shall communicate the result of such inspection to such creditor.

¹⁷⁸ Added by Act 8 of 2013

¹⁷⁹[(4) The Registrar or any person authorised by him under sub-section (1) or sub-section (2) shall at all reasonable time have free access to and have power to inspect the books, records, accounts, documents, securities, cash balance and other properties belonging to the society and may summon any person in possession of or responsible for the custody of such books, records, accounts, documents, securities, cash balance and other properties, to produce the same for inspection at any place at the Headquarters of the society or any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers.

(4A) It shall be the duty of every officer and employee of the society to co-operate with and assist in such supervision or inspection, to furnish any information that may be required for the purpose and to produce the books, records, cash balance etc. referred to in sub-section (4), on demand by such officer, failing which it shall be treated as an offence under sub-section (4) of section 94.]

(5) The Registrar or the person authorized by him under sub-section (1) or sub-section (2) may, by order in writing, direct the society or its officers to take such action, as may be specified in such order, within the time that may be mentioned in such order.

(6) The Circle Co-operative Union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) Apex Society or Federal Co-operative Society or a financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of an Apex Society or Federal Co-operative Society or a financing bank, inspecting the books of a society shall at all reasonable times have the access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and return, as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties, referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) Apex Society or Federal Co-operative Society or the financing bank may also report to the Registrar about the action to be taken against the society, as a result of the inspection by its officers.

¹⁸⁰ [(11) Notwithstanding anything contained in sub-section (1) and (2) above, the Registrar or his subordinate officers authorized by him under sub-section (1) shall have power to hold an enquiry with necessary records of a society, on any petition received, and to inspect the affairs of the society periodically, in such cases, the inspecting officers shall have same powers as specified in sub-section (4).

Explanation I- The “affairs of a society” for the purpose of this sub-section includes, among other things, matters relating to administration, management and the business of a society.

Explanation II- The duty of the officers and chief executive of a society and the nature of offences and penalties mentioned in ¹⁸¹[sub-section (4A)] shall be applicable to this sub section also.]

¹⁸⁰ Added by Act 7 of 2010

¹⁸¹ Substituted by Act 22 of 2013

¹⁸²[66A. *Powers of Registrar to give directions.*- Subject to the provisions of the Act and the Rules made there under, the Registrar may issue general directions and guidelines to any or all of the co-operative societies in furtherance of the purposes of the Act or for implementing Government policies for the benefit of the members and the general public.]

¹⁸³[66 B. *Suspension of Officers.*- If the Registrar, in the course of any inquiry under section 65 or on inspection under section 66 or on audit under section 64 or on the report of Vigilance Officer appointed under section 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society, has done any act detrimental to the interest of the society or its members and that there is reason to believe that such officer has indulged in misappropriation, manipulation of accounts, forgery, destruction or tampering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.]

¹⁸⁴[66 C. *Submission of returns to the Registrar.*- Every Co-operative Society shall file returns, within six months of the closure of every financial year, before the Registrar, containing the following particulars, namely:-

- (a) a comprehensive annual report of its activities;
- (b) its audited statements of accounts;
- (c) plan for surplus disposal as approved by the general body of the Co-operative Society;
- (d) list of amendments to the bye-laws of the co-operative society, if any;

182 Substituted by Act 7 of 2010

183 Inserted by Act 1 of 2000

184 Inserted by Act 8 of 2013

(e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and

(f) any other information required by the Registrar in pursuance of any of the provisions of this Act or the Rules.]

67. Cost of inquiry or inspection.- Where an inquiry is held under section 65, or an inspection is held under section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the member or creditor demanding an inquiry or inspection and the officers or former officers, of the society:

Provided that—

(a) no order of apportionment of the cost shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

68. Surcharge.- (1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organization or management of such society or who is or has, at any time been an officer or an employee of the society, has made any payment contrary to the Act and the rules or the bye-laws, or has caused any loss or damage in the assets of the society by breach of trust, or wilful negligence or mismanagement or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the

committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned, an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

¹⁸⁵[(3) Where the money, property, interest, cost or compensation is not repaid or restored as per sub-section (2), the Registrar shall take urgent steps to recover such amounts from the concerned persons as arrears of public revenue due on land as specified in Section 79 of the Act.]

68A. Vigilance Officer.- (1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to inquire into and investigate the cases of misappropriation, corruption and any other major irregularity in the societies as may be referred to him by the Registrar.

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

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

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person.

¹⁸⁶[CHAPTER IX

SETTLEMENT OF DISPUTES

69. Disputes to be decided by Co-operative Arbitration Court and Registrar.- (1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises,-

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or person claiming through a member, a past member or deceased member and the society, its committee or any officer, agent or employee of the society; or

(c) between the society or its committee and any past committee any officer, agent or employee or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society; or

(d) between the society and any other society; or

(e) between a society and the members of a society affiliated to it ; or

(f) between the society and a person, other than a member of the society, who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(g) between the society and a surety of a member, past member, deceased

¹⁸⁶ Substituted by Act 1 of 2000

member or employee or a person, other than a member, who has been granted a loan by the society, whether such a surety is or is not a member of the society; or

(h) between the society and a creditor of the society, such dispute shall be referred to the Co-operative Arbitration Court constituted under section 70A in the case of non- monetary disputes and to the Registrar, in the case of monetary disputes; and the Arbitration Court, or the Registrar, as the case may be, shall decide such dispute and no other court or other authority shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely:-

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor, where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of the Board of management or any officer of the society;

Explanation:- A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election, shall be deemed to be a dispute arising in connection with the election.

(d) any dispute arising in connection with employment of officers and servants of the different classes of societies specified in sub-section (1) of section 80, including their promotion and *inter se seniority*.

(3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Co-operative Arbitration Court unless it is referred to it within one month from the date of the election.

¹⁸⁷[(4) All monetary disputes mentioned in Schedule III to the Act shall be filed within the time limit specified in the said Schedule.]

¹⁸⁸[69A. *Co-operative Ombudsman*.- (1)The Government may, by notification in the official Gazette, frame a scheme to be called the "Kerala Co-operative Ombudsman Scheme" with the object of enabling redressal of complaints relating to deficiency in banking or other services rendered by co-operative societies dealing with banking business.

(2) The Government may appoint one or more persons as Ombudsman or Ombudsmen to carry out the functions entrusted to them by or under the scheme.

(3) The term of office of the Ombudsman or Ombudsmen, as the case may be, shall be three years from the date of their entering office or ¹⁸⁹[attaining the age of sixty five years], whichever is earlier.

¹⁹⁰[(4) The Ombudsman or Ombudsmen so appointed under sub-section (2) shall be a person or persons having minimum of ten years of Bar practice and having experience and expertise in banking or co-operative field.]

(5) The functions, powers, duties etc. of the Ombudsman shall be such, as may be specified in the scheme.

(6) The Ombudsman shall be under the control of the Government.]

¹⁸⁷ Inserted by Act 8 of 2013

¹⁸⁸ Inserted by Act 7 of 2010

¹⁸⁹ Substituted by Act 22 of 2013

¹⁹⁰ Substituted by Act 8 of 2013

70. *Award on disputes.*— (1) The Co-operative Arbitration Court, on receipt of reference of a dispute under sub-section (1) of section 69, shall pass an award ¹⁹¹[within one year] in accordance with the provisions of this Act and the rules and the bye-laws made thereunder and such award shall, subject to the provisions of section 82, be final.

(2) The Co-operative Arbitration Court may, pending award of a dispute referred to it under section 69, make such interlocutory orders as it may deem necessary in the interest of justice.

(3) The Co-operative Arbitration Court shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit in respect of the following matters, namely:—

- (i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
- (ii) the discovery and production of any document or other material object producible as evidence;
- (iii) the reception of evidence on affidavits;
- (iv) issuing of any commission for the examination of any witness;
and
- (v) any other matter which may be prescribed.

(4) The Registrar may, on receipt of the reference of a dispute under sub-section (1) of section 69, —

- (a) elect to decide the dispute himself; or
- (b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or
- (c) refer it for disposal to an arbitrator appointed by the Registrar:

191. Inserted by Act 9 of 2009

Provided that a transfer under clause (b) or a reference under clause (c) shall not be made to a person equal or superior to him in rank.

(5) The Registrar may withdraw any reference transferred under clause (b) of sub-section (4) or referred under clause (c) of that sub-section and he may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (4) or refer it to any other arbitrator under clause (c) of that sub-section.

(6) The Registrar or the person invested with powers in this behalf shall, decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision or award shall, subject to the provisions of section 82, be final. Pending decision or award, the Registrar, such person or the arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interest of justice.

70A. Co-operative Arbitration Courts.- (1) The Government shall constitute such number of Co-operative Arbitration Courts, as are necessary to exercise the powers and discharge the functions conferred on it under this Act.

(2) The qualifications, term, salary and allowances and other conditions of service of the person to be appointed as the Co-operative Arbitration Court shall be such, as may be decided by the Government from time to time.

(3) The Government shall make rules for regulating the procedure and disposal of business of the Co-operative Arbitration Court.

¹⁹²[(4) The Government or Registrar shall appoint as many officers and employees as may be necessary, to assist the Co-operative Arbitration Court.]

(5) The officers and employees referred to in sub-section (4) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

70B. Provisions as to pending proceedings.- On the constitution of Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, in respect of non-monitory disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it under section 69.

¹⁹² Substituted by Act 7 of 2010

CHAPTER – X

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

71. *Winding up of societies.*– (1) If the Registrar, after an inquiry has been held under section 65 or an inspection has been made under section 66 or on receipt of an application made by not less than three-fourths of the members of a society, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representation and in consultation with the financing bank to which the society is affiliated and the circle co-operative union, by order in writing, direct it to be wound up.

(2) The Registrar may of his own motion, by order in writing, direct the winding up of a society,–

(a) where it is a condition of the registration of the society that the society shall consist of at least twenty five members and the number of members has been reduced to less than twenty five; or

(b) where the society has not commenced working within six months of its registration, unless extension of time is granted by the Registrar, or has ceased to work; or

(c) where the number of actual workers falls below the prescribed limit in the case of a society formed exclusively for the benefit of persons engaged in a particular industry or occupation.

¹⁹³[(3) If a proposal for revitalization of a society, in respect of which an order under sub-section (2) has been passed, is received by the Registrar within a period of one year from the date of such order, the Registrar may cancel the same and allow the society to continue to exist:

Provided that this sub-section shall not apply in the case of a society which does not commence functioning within a period of six months from the date of registration.]

¹⁹³ Substituted by Act 1 of 2000

72. Liquidator.- (1) Where the Registrar has made an order under section 71 for the winding up of a society, he shall appoint a liquidator for the purpose and may fix his remuneration.

(2) The liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, effects and claims.

(3) Where an appeal is preferred under section ¹⁹⁴[83] against an order of winding up of a society made under section 71 such order shall not operate thereafter until it is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and to have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a society is set aside in appeal, the property, effects and actionable claims of the society shall re-vest in the society.

73. Powers of Liquidator.- (1) Subject to any rules made in this behalf, the whole of the assets of a society in respect of which an order of winding up has been made shall vest in the liquidator appointed under section 72 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

194 Substituted by Act 38 of 1971

(2) The liquidator shall also have power, subject to the control of the Registrar,-

(a) to institute and defend suits and other legal proceedings on behalf of the society by the name of his office;

(b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;

(c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit, the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for the winding up of the affairs of the society;

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(i) to make any compromise or arrangement with creditor or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and

(j) to compromise all calls or liabilities to calls and debt and liabilities capable of resulting in debts and all claims present or future, certain or contingent subsisting or supposed to subsist, between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed upon and to take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

¹⁹⁵[(2A) The liquidator shall complete the winding up proceedings within a period of three years from the date of his appointment under sub-section (1) of section 72.

Explanation,- In computing the period of three years, the period during which an appeal, if any, preferred against an order of winding up of a society under section 71 is pending, shall be excluded.]

(3) When the affairs of a society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

74. Cancellation of registration of a society.- Where in respect of a society which has been ordered to be wound up under section 71 no liquidator has been appointed under section 72 after two months from the date of such order, or if an appeal has been filed against the order of winding up, from the date of confirmation of the order in appeal, or where the affairs of a society in

¹⁹⁵ Inserted by Act 1 of 2000

respect of which a liquidator has been appointed under section 72 have been wound up or where the Registrar is satisfied that the final winding up of the affairs of the society is not possible on account of the destruction of the records, the Registrar shall, by order in writing, cancel the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

¹⁹⁶[CHAPTER XA

INSURED CO-OPERATIVE BANKS

74A. *Insured Co-operative Banks.*- Notwithstanding anything contained in this Act, in the case of an Insured Co-operative Bank,-

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganization), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13D of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);

(iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the bank, an order shall be made for the supersession (removal) of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefore for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;

(iv) no appeal, revision or review shall lie or be permissible against an order referred to in clause (i), (ii) or (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner;

¹⁹⁶ Inserted by Act 8 of 1974

(v) the liquidator or the insured co-operative bank or transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation.- For the purposes of this section,-

(i) "*co-operative bank*" means a bank as has been defined in the Deposit Insurance Corporation Act, 1961;

(ii) "*insured co-operative bank*" means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961;

(iii) "*transferee bank*" in relation to an insured co-operative bank means a co-operative bank—

(a) with which such insured co-operative bank is amalgamated; or

(b) to which the assets and liabilities of such insured co-operative bank are transferred; or

(c) into which such insured co-operative bank is divided or converted under the provisions of section 12 or section 14 of the Kerala Co-operative Societies Act, 1969 (21 of 1969).]

**SPECIAL PROVISIONS RELATING TO
CO-OPERATIVE SOCIETIES, THEIR OFFICE
BEARERS AND EMPLOYEES**

¹⁹⁸[74B. *Opening of Branches.*- The Kerala State Co-operative Agricultural and Rural Development Bank and all Primary Co-operative Societies/banks may open branches in their area of operation with the prior written permission of the Registrar.]

74C. *Inspection in certain Co-operatives.*- Notwithstanding anything contained in section 66, the Registrar shall inspect or cause to inspect the "affairs" of all apex, federal and central societies every year and the power of inspecting officers shall be as specified under sub-section (4) of section 66.

Explanation—Inspection conducted under this section shall be in addition to and not in derogation of the inspection conducted under any other law for the time being in force.

74D. *Duty of Chief Executive to supply confirmation certificate.*-It shall be the duty of the chief executive of a society to supply confirmation certificate correctly and within the time limit required by the auditor in respect of any accounts maintained in that society by another society in whose favour the Auditor requires certificate.

74E. *Manner of acceptance of deposits and lending of money.*- Acceptance of deposits and lending of money by all co-operative societies and banks shall be in such manner, as may be prescribed.

¹⁹⁷ Inserted by Act 7 of 2010

¹⁹⁸ Substituted by Act 1 of 2019

74F. Write off of loans.- Notwithstanding anything contained in any Act or Rules, no Authority or Commission, other than the Government or Registrar, shall have the power to write off agricultural or non-agricultural debts of borrowers of any society.

74G. Library in Co-operative Societies.- Every co-operative society shall establish a library:

Provided that nothing contained in this provision shall apply to a society which is working on loss for a continuous period of five years.]

¹⁹⁹ [CHAPTER XC
**SPECIAL PROVISIONS RELATING TO THE AMALGAMATION
THROUGH TRANSFER OF ASSETS AND LIABILITIES OF THE
DISTRICT CO-OPERATIVE BANKS TO KERALA STATE
CO-OPERATIVE BANK**

74H. Amalgamation of District Co-operative Banks to the Kerala State Co-operative Bank.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, Registrar shall order the amalgamation of District Co-operative Banks in Kerala with the Kerala State Co-operative Bank on the basis of the resolution passed by the general body as provided under Section 14A of this Act.

²⁰⁰[(a) if the general body of a District Co-operative Bank has not passed the resolution under section 14A, the Registrar may, after consulting Reserve Bank of India, order merger of such District Co-operative Bank with Kerala State Co-operative Bank, on public interest. No order shall be passed under this clause unless,-

(i) a copy of the proposed order of merger has been sent to the member society or member societies concerned by registered post and published the same in two vernacular dailies having wide circulation in the district in which the society situates, for their objections or suggestions;

(ii) the Registrar shall consider the objections/suggestions, if any, received from the society or societies concerned or from any member or creditor of such society or societies within such period, being not less than fifteen days from the date of posting of the proposed order of merger, as may be specified by the Registrar in this behalf;

¹⁹⁹ Inserted by Act 1 of 2019

²⁰⁰ Added by Act 34 of 2021

(b) the Registrar may after considering the objections / suggestions referred to in sub-clause (ii) of clause (a), make such modifications, in the proposed order as he may deem fit and the order shall contain such incidental, consequential and supplemental provisions as the Register may deem necessary, to give effect to the same;

(c) a member or creditor who has objected the proposed order under clause (b) shall have the option of withdrawing his share and / or deposits or close loans, as the case may be, on application, which shall be made to the society, to which its share, deposit or outstanding loan stands allocated, within a period of thirty days from such order;

(d) on merger all other relevant provisions in his chapter shall apply *mutatis mutandis* to the entities merged under clause (a).

(1A) On and from the date of the passing of the order of merger by the Registrar under sub-section (1) (a), all the assets and liabilities of the District Co-operative Bank as it stood immediately before the order of merger shall, without any further act, instrument or deed, stand transferred to and vested in the Kerala State Co-operative Bank.]

(2) With the prior approval of the Government the Registrar shall bring into effect the scheme of amalgamation, proposed by the Kerala State Co-operative Bank which is to be presented to the transferor banks.

(3) On and from the date of amalgamation, the shares held by the members of the transferor banks shall be deemed to be the shares of the transferee bank as such:

Provided that the value of shares shall be on the basis of face value of

shares held by the members of the transferor banks.

(4) Notwithstanding anything contained in section 15 of this Act on and from the date of amalgamation of the transferor banks and the transferee bank, the transferor banks shall cease to exist and its registration shall stand cancelled:

Provided that no new registration certificate is required for the transferee bank.

(5) The existing board of directors of transferor banks and transferee bank shall cease to exist on the date of amalgamation and the Government shall nominate an interim Board consisting of not more than three members for a period not exceeding one year from the date of amalgamation or till a newly elected Board of Directors takes charge, whichever is earlier.

(6) The interim board shall consist of the following members, namely:-

- | | |
|---|--------------------------|
| (i) an officer not below the rank of Secretary to Government | Chairperson, Ex-officio; |
| (ii) The Managing Director/ Chief Executive Officer of the Kerala State Co-operative Bank | Member , Ex-officio |
| (iii) an officer not below the rank of Additional Secretary to Government in Finance Department | Member, Ex-officio |

(7) The interim Board shall exercise all the powers of the Board of Directors of the Transferee Bank as per the Act, Rules and the bye-laws issued thereunder and shall take such necessary steps to complete the amalgamation procedures and conduct election to the Board of Directors.

(8) The Board of Directors of the Kerala State Co-operative Bank shall consist of not more than twenty one members as may be prescribed in the rules.

(9) For the purpose of election to the Board of Directors, section 28, section 28A and section 31 of this Act shall apply.

(10) There shall be a Board of Management for taking decisions relating to the banking business and the structure, powers and functions of the Board of Management shall be as may be prescribed in the bye-laws.

(11) Notwithstanding anything contained in sub-section (10) of section 63 of this Act,-

(i) the audit of the financial accounts, as prescribed by the Reserve Bank of India, in the Kerala State Co-operative Bank shall be done by the Chartered Accountants from among the panel of Auditors/Audit Firms approved by the Director of Co-operative Audit;

(ii) the audit of the administrative matters and related accounts of the Kerala State Co-operative Bank shall be done by a panel of departmental auditors;

(iii) the above auditors shall exercise all powers mentioned under clauses (a), (b) and (c) of sub-section (2) of section 64.

(12) Any proceedings, suits, decree, recovery certificates, appeals and all other legal proceedings pending or existing immediately before the date of amalgamation before any Court or Tribunal or any other authority, by or against the transferor banks may, as from the date of amalgamation be continued and enforced by or against the transferee bank.

(13) Every permanent and regular employee of the transferor bank or employees on probation, serving in the employment of the transferor bank immediately before the date of amalgamation, shall become, on and from the date of amalgamation, an employee of the transferee bank and shall hold office therein or serve the transferee bank, as the case may be, and shall continue to work in accordance therewith:

Provided that the Government shall make a scheme for cadre integration, seniority, promotion and transfer and such other matters related to employees of the transferor bank and the transferee bank in the service of the transferee bank.

(14) Notwithstanding anything contained in the staff regulation or recruitment rules of the transferor and transferee bank, the service conditions of the employees on amalgamation shall be as prescribed by the Government.

(15) The employees who have retired before the date of amalgamation from the service of the transferor banks or opted not to join in the service of the transferee bank on and from the date of amalgamation, and are entitled to benefits, rights or privileges, if any, from transferor bank, shall receive such benefits, rights or privileges from the transferee bank.

(16) The Provident Fund/Gratuity Fund/Pension Fund or any other funds of the transferor bank and any other bodies created, established or constituted as the case may be, for the employees of the transferor banks shall continue with the transferee bank.

(17) The transferee bank may open branches based on the prudent financial analysis in line with the provisions of the Banking Regulation Act, 1949 (Central Act X of 1949).

(18) Notwithstanding anything contained in this Act, the provisions of this Chapter shall have overriding effect on all other provisions of the Act.]

CHAPTER XI

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

75. *Enforcement of charge.*- Notwithstanding anything contained in Chapter IX or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, on the application of a society, by order in writing, direct the payment of any debt or outstanding demand due to the society by any member or past member or deceased member, by sale of the property or any interest therein, which is subject to a charge under sub-section (1) of section 35:

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

76. *Execution of orders, etc..*- Every order made under sub-section (2) of section 68 or under section 75, every decision or award made under section 70, every order made by the liquidator under section 73 and every order made by the Tribunal under section 82, section 84, section 85 or section 86 and every order made under section 83 shall, if not carried out, –

(a) on a certificate signed by the Registrar or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in

the same manner as a decree of such court; or

(b) where the order is for the recovery of money, be executed according to the law and under the rules for the time being in force for the recovery of arrears of public revenue due on land:

Provided that any application for such recovery shall be made—

(i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorized by him in this behalf;

(ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, within twelve years from the date of the order, decision or award, as the case may be; or

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed.

77. Registrar or person empowered by him to be a civil court for certain purposes.- The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery, to be a civil court for the purpose of Article 136 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

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

- (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, the arbitrator or the liquidator, as the case may be, he may, unless adequate security is furnished, by order in writing, direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent civil court.

79. Recovery of sums due to Government.- (1) All sums due from a society or from an officer or member or past member or deceased member of a society as such to the Government, including any costs awarded to the Government under any provision of this Act, may, on a certificate issued by the Registrar ²⁰¹ [or Director of the Co-operative Audit] in this behalf, be recovered in the same manner as arrears of public revenue due on land.

(2) Sums due from a society to the Government and recoverable under sub-section (1) may be recovered first, from the property of the society and secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability, and in the case of other societies, from the members, past members or the estates of the deceased members:

Provided that the liability of past members and estates of deceased members shall in all cases be subject to the provisions of section 26.

²⁰¹ Inserted by Act 8 of 2013

CHAPTER XII

ESTABLISHMENT

80. *Officers, etc., of co-operative societies.*- (1) The Government shall classify the societies in the State according to their type and financial position.

(2) The Government shall, in consultation with ²⁰²[the Registrar], fix or alter the number and designation of the officers and servants of the different classes of societies specified in sub-section (1).

(3) The Government shall, ²⁰³[XXX] make rules, ²⁰⁴[either prospectively or retrospectively], regulating the qualification, remuneration, allowances and other conditions of service of the officers and servants of the different classes of societies specified in sub-section(1).

²⁰⁵[(3A) Notwithstanding anything contained in this Act or the Rules made or orders issued thereunder or in the bye-laws of any society relating to the recruitment and conditions of service of officers and servants of societies, all appointments of officers and servants of the societies mentioned in the ²⁰²[Schedule I] for which direct recruitment is resorted to shall be made from a select list of candidates furnished by the Kerala Public Service Commission ²⁰⁶[and in making such recruitment the reservation principles under Rule 14 to 17 of the Kerala State and Subordinate Service Rules, 1958 shall be followed.]]

²⁰² Substituted by Act 8 of 2013

²⁰³ Omitted by Act 8 of 2013

²⁰⁴ Inserted by Act 7 of 1988

²⁰⁵ Inserted by Act 6 of 1995

²⁰⁶ Added by Act 7 of 2010

²⁰⁷[(3AA) Notwithstanding anything contained in this Act or any other law, or judgment or order of any court, all appointments already made on the advice by the Kerala Public Service Commission following the reservation principles under Rule 14 to 17 of the Kerala State and Subordinate Service Rules, 1958 to the societies mentioned in the schedule for which direct recruitment shall be resorted to shall be deemed to have been validly done as if such provisions were in force at that time.]

²⁰⁸[(3B) All appointments made by direct recruitment to the societies referred to in sub-section (3A) on or after the 25th day of April, 1995 and before the date of publication of the Kerala Co-operative Societies (Amendment) Ordinance, 1995 (Ordinance No. 10 of 1995) shall be invalid.]

²⁰⁹[(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), ten per cent of the posts of employees of every society shall be reserved for appointment from persons belonging to the Scheduled Castes and Scheduled Tribes where the method of appointment to such posts is by direct recruitment.]

²¹⁰[(5) Notwithstanding anything contained in sub-section (1) or (2) three percent of the total posts of employees of every society shall be reserved for physically handicapped persons having disability of forty percent or above, as certified by the medical board and the procedure of appointment shall be such as may be prescribed:

Provided that in societies where there are more than ten and less

207 Inserted by Act 7 of 2010

208 Inserted by Act 6 of 1995

209 Added by Act 29 of 1986

210 Inserted by Act 7 of 2010

than thirty three employees including cadre and sanctioned posts, there shall be reserved a minimum of one employee belonging to physically handicapped persons.

²¹¹[(6) Government shall have power to fix or alter the maximum and minimum limit of establishment expenses of co-operative societies including the pay and allowances and other benefits of employees of Co-operative Societies:

Provided that societies run on net loss can give pay and allowances to its employees below the minimum limit fixed by the Government.]

(7) Notwithstanding anything contained in the bye-laws, a society shall not pay bonus to its employees exceeding the amount and the rate fixed by the Government or the Registrar from time to time.

(8) Government shall, by order, frame uniform Service Rules and Conduct Rules for the employees of any or all classes of co-operative societies.

(9) Suspension and disciplinary action in relation to an officer, employee or servant of a co-operative society shall be such, as may be prescribed.]

²¹²[(10) The Government may, on mutually agreed terms and on application of a society, depute a Government servant to the service of the society for the purpose of managing its affairs and the Government servant so deputed shall exercise such powers and perform such duties as may be prescribed.]

211 Substituted by Act 8 of 2013

212 Inserted by Act 8 of 2013

²¹³[80A. *Pension Scheme.*-(1) The Government may, by notification in the Gazette, frame a Self Financing Pension Scheme for the establishment of a Pension Fund for payment of pension to the employees of the societies ²¹⁴[and to the employees of the Boards constituted under the provisions of this Act] in the manner provided therein and may appoint different dates for the application of the scheme to different classes of societies ²¹⁵[or Boards].

²¹⁶[(1A) The Self Financing Pension Scheme framed under sub-section (1) may also provide for payment of pension from the pension fund, at such rates and subject to such conditions and restrictions as may be specified therein, to persons retired from service of any society during the period between 1st January, 1974 and 3rd June, 1993 and are alive.]

(2) The Pension Fund established under the Self Financing Pension scheme framed under sub-section (1) shall vest in, and be administered by, such body or authority as may be specified in the said scheme.]

²¹⁷[80B. *Co-operative Service Examination Board.*-(1) Notwithstanding anything contained in this Act or the Rules or in the bye-laws of any society relating to the recruitment of officers and servants thereof, the Government shall, by notification in the Gazette, constitute a Co-operative Service Examination Board for the conduct of written examination for all direct recruitment to posts of and above the category of Junior Clerks in the Primary Agricultural Credit Societies, Primary Credit Societies, Urban Co-operative Banks and Primary Agricultural and Rural Development banks in the State.

213 Inserted by Act 16 of 1993

214 Inserted by Act 24 of 2014

215 Added by Act 24 of 2014

216 Inserted by Act 3 of 2002

217 Inserted by Act 1 of 2000

²¹⁸[(1A) The Co-operative Service Examination Board shall also conduct competitive or qualifying examinations if any for promotion of employees in the societies, in such manner as may be prescribed.]

(2) The Examination Board shall consist of not more than three members and the term of the Board shall be five years. The powers and functions and other conditions of appointment of the members of the Board and the procedures to be followed by the Board for the conduct of examination and the preparation of list of candidates to be interviewed for appointment shall be such as may be prescribed.

(3) All appointments shall be made by the committee concerned from the list of candidates after conducting an interview of the candidates and making a select list there from in such manner as may be prescribed.

(4) Notwithstanding anything contained in sub-section (3A) of section 80 and in sub-section (1) of this section, the committee of a society may, with the prior approval of the Registrar, appoint persons who are professionally or technically qualified or persons with experience and expertise to posts requiring such technical or professional qualifications on contract basis or by the method of deputation for such period, but not exceeding five years, as may be specified.]

²¹⁹[80BB. *Recruitment Committees for appointments in Regional Co-operative Milk Producers' Union* .- (1) Notwithstanding anything contained in this Act or the Rules made thereunder Government shall, by notification in the Gazette, constitute Recruitment Committees which shall be the competent committees for the entire selection and recruitment process of all permanent employees of the Regional Co-operative Milk Producers' Union.

218 Inserted by Act 7 of 2010

219 Inserted by Act 34 of 2021

(2) The Recruitment Committee for undertaking the selection process of all employees other than the Managing Director shall consist of not more than eight members. The Secretary to Government in charge of Dairy Development Department shall be the Chairman of the Committee and the Managing Director of the apex body of the Regional Co-operative Milk Producers' Union, appointed by the Government, shall be the Convenor of the Committee. The other members shall be as follows, namely:-

- i. Registrar of Dairy (Co-operatives);
- ii. Chairman of the Apex Society;
- iii. Joint Director (General), Dairy Development Department or Joint Secretary to Government, Dairy Development Department, Government of Kerala;
- iv. An expert from Dairy Industry, nominated by the Government;
- v. Chairman, Regional Co-operative Milk Producers' Union;
- vi. Managing Director, Regional Co-operative Milk Producers' Union.

(3) The Recruitment Committee for undertaking the selection process of the Chief Executive or the Managing Director of the Regional Co-operative Milk Producers' Union shall consist of not more than four members. The Secretary to Government in charge of Dairy Development Department shall be the Chairman of the Committee and the Chairman of Regional Co-operative Milk Producers' Union shall be the Convenor of the Committee. The other members shall be the Managing Director of the apex society and an expert from dairy Industry, nominated by the Government.]

²²⁰[80C. *The Kerala Co-operative Employees' Welfare Scheme.-*

(1) The Government may, by notification in the Gazette, frame a Scheme to be called the Kerala Co-operative Employees Welfare Scheme for the establishment and management of a Fund by name the "Kerala Co-operative

Employees' Welfare Fund" and there shall be established, as soon as may be, after framing of the Scheme, a fund in accordance with the provisions of this Act and the Scheme.

(2) The Welfare Fund established under the Scheme shall vest in the Kerala State Co-operative Employees' Welfare Board and be administered by such body or authority as may be specified in the Scheme.

(3) Subject to the provisions of this Act, the Scheme may provide for the following matters, namely:-

- (i) the management and administration of the Kerala State Co-operative Employees' Welfare Fund;
- (ii) powers and functions of the authority or body to be constituted there under; and
- (iii) the composition and pattern of the establishment set up of the Kerala State Co-operative Employees' Welfare Board constituted under the scheme.

[80D. *The Kerala State Co-operative Employees' Welfare Board.*- (1) The Government shall, by notification in the Gazette, constitute a Board to be called the "Kerala State Co-operative Employees' Welfare Board" for implementing the welfare schemes for the regular employees, commission agents and the persons working in the capacity of any other name on commission basis in a Co-operative society registered or deemed to be registered under this Act and coming under the administrative control of the Registrar of Co-operative Societies as well as other departments of the State Government in accordance with the provisions of this Act and the Scheme.

(2) The Board constituted under sub-section (1) shall provide for the constitution of a Welfare Fund and specify therein, the manner in which its fund shall be raised and administered for the welfare of the employees and the rates of contribution to be paid by the employees and the co-operative societies towards the fund.

(3) The Board may provide money and other aids to the employees in their indigent conditions and for the following purposes, namely:-

- (i) for the payment of financial assistance to the family of the deceased employees;
- (ii) for the payment of medical assistance to the employees who have undergone treatment for diseases to be specified therein ;
- (iii) for refund of the contributions made by the employees on their retirement or relief on other grounds;
- (iv) for the grant of advances to the employees for meeting their medical expenses;
- (v) for awarding cash prizes to the children of employees at such rates and subject to such conditions as may be specified therein; and
- (vi) for any other purposes provided for in the scheme or which may be found necessary or proper for the implementation of the scheme.

(4) The Government may make rules with regard to the terms and conditions of the services of the employees of the Kerala State Co-operative Employees' Welfare Board.

80E. *Transfer of Assets and control of the existing Kerala State Co-operative Employees' Welfare Board* .- (1) Notwithstanding anything contained in the Rules for the constitution and administration of the Kerala State Co-operative Employees' Welfare Board issued under G.O.(Rt)No. 383/86/Co-op dated 30th September, 1986, on and from the date of constitution of the Kerala State Co-operative Employees' Welfare Board under sub-section (1) of Section 80D, all assets and liabilities of the existing Kerala State Co-operative Employees' Welfare Board shall be transferred to the Kerala State Co-operative Employees' Welfare Board constituted under the said sub-section.

(2) On and from the date of constitution of the Kerala State Co-operative Employees' Welfare Board under sub-section (1) of Section 80D, the existing Kerala State Co-operative Employees' Welfare fund constituted under G.O.(Rt)No. 383/86/Co-op dated 30th September, 1986 shall vest in the Kerala State Co-operative Employees' Welfare Board constituted under the said sub-section and the control and supervision of the existing fund shall be with the said Board.

CHAPTER XIII

APPEALS, REVISION AND REVIEW

²²¹[81. *Tribunal*.- (1) The Government shall constitute a single member Tribunal to exercise the powers and discharge the functions conferred on the Tribunal under this Act.

(2) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been holding the post of a District Judge in the State.

(3) The term, salary and allowances and other conditions for service of the member shall be such as may be decided by Government from time to time.

(4) The Government shall make rules for regulating the procedure and disposal of the business of the Tribunal.

81A. *Provisions as to certain pending Proceedings*.- Every proceeding pending before the Tribunal immediately before the commencement of this Act shall stand transferred to and will be decided by the Tribunal constituted under this Act:

Provided that all such proceedings relating to orders passed by the Registrar under sections 32 and 33 of the Act, shall be sent to the Government for their decision.

Explanation.- 'Proceeding' includes any appeal, revision petition or application for review.]

²²¹ Substituted by Act 38 of 1971

82. Appeals to Tribunal.- ²²²[(1) Any person aggrieved by-

- (a) an award of the Co-operative Arbitration Court under sub-section (1) of section 70; or
- (b) an order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of sub-section (9) of section 14; or
- (c) any decision of the Registrar made under sub-section (6) of section 70; or
- (d) any decision under sub-section (6) of section 70 of the person invested with powers in that behalf by the Government; or
- (e) any award of the arbitrator under sub-section (6) of section 70, may, within sixty days from the date of such decision or award, as the case may be, appeal to the Tribunal and the Tribunal may pass such orders on the appeal, as it may deem fit.]

²²³[(1A) The Tribunal shall pass an order under sub-section (1) within six months with direction to communicate the copies thereof within fifteen days to the parties thereof.]

(2) An order passed by the Tribunal under sub-section (1) shall be final.

83. Appeals to other authorities.- (1) An appeal shall lie under this section against-

- (a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a society; or

²²² Substituted by Act 1 of 2000

²²³ Inserted by Act 7 of 2010

(b) an order of the Registrar made under sub-sections (4) and (6) of section 12 refusing to register an amendment of the bye-laws of a society; or

(c) a decision of a society refusing to admit any person as a member of the society or expelling any member of the society; or

(d) an order made by the Registrar under section 67 apportioning the cost of inquiry held under section 65 or an inspection made under section 66; or

(e) an order of surcharge made by the Registrar under section 68; or

(f) an order made by the Registrar under section 71 directing the winding up of a society; or

(g) any order made by the Liquidator of a society in exercise of the powers conferred on him by section 73; or

(h) any order made under section 76; or

(i) an order for attachment of any property made by the Registrar under section 78; or

(j) any order made by any person exercising all or any of the powers of the Registrar.

(2) An appeal under sub-section (1) shall be made within sixty days from the date of the order or decision,—

(a) If the order or decision was made by the Registrar, to the Government; and

(b) in other cases, the Registrar, and the Government or the Registrar, as the case may be, may pass such order on the appeal as they or he may think fit.

84. Revision by Tribunal.- The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit:

Provided that the Tribunal shall not take any action under this section if—

(a) the time for appeal against the decision or order has not expired; or

(b) the decision or order has been made the subject-matter of an appeal:

Provided further that no order shall be made under this section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

85. Review of orders by Tribunal.- (1) The Tribunal may, either on the application of the Registrar or on the application of any party interested review its own order in any case and pass in reference there to such order as it thinks fit:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the

face of the record or that there is any other sufficient reason for reviewing its order:

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) by any party shall be made within ninety days from the date of communication of the order of the Tribunal.

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

87. Powers of revision of Registrar and Government.- (1) The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him not being an officer exercising the powers of the Registrar, and the Government may of their own motion or on application call for and examine the record of the Registrar including any officer exercising the powers of the Registrar, in respect of any proceeding, not being a proceeding in respect of which an appeal to the Tribunal is provided by section 82, to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made thereon, and if, in any case it appears to the Registrar or the Government that any such decision or order should be modified,

annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly:

Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within three months from the date on which the proceeding, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Registrar or the Government, as the case may be, may suspend the execution of any decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.

(4) The Registrar or the Government may award costs in proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.

CHAPTER XIV

CO-OPERATIVE UNION

²²⁴[88. *Constitution of Circle Co-operative Unions.*- (1) The Government shall, by notification in the Gazette, constitute a Circle Co-operative Union for each circle in the State with the following members, namely:-

²²⁵[(a) seven members representing the various categories of affiliated societies within the circle, elected, in such manner as may be prescribed, by the members of the committee of each such category of societies from among themselves;]

²²⁶ [XXX

(b) two members elected, in such manner as may be prescribed by the employees of the affiliated Co-operative Societies within the circle, from among themselves;

(c) one member elected by the women members of the committee of the affiliated societies referred to in clause (a), from among themselves;

(d) one member belonging to the Scheduled Castes or Scheduled Tribes elected by the Scheduled Caste or Scheduled Tribe members of the committees of the affiliated societies referred to in clause (a), from among themselves;

(e) the Assistant Registrar of Co-operative Societies (Audit), having jurisdiction over the circle, ex-officio;

²²⁴ Substituted by Act 15 of 1997

²²⁵ Substituted by Act 11 of 2018

²²⁶ Clause (b) omitted and clauses (c) to (g) renumbered as clauses (b) to (f) by Act 1 of 2019

(f) the Assistant Registrar of Co-operative Societies (General), having jurisdiction over the circle, ex-officio, who shall be the Secretary of the Circle Co-operative Union].

(2) Each Circle Co-operative Union shall elect one of the members, other than an ex-officio member, to be its Chairman.

(3) The term of office of an elected member shall be ²²⁷[five] years from the date on which he enters upon office.

(4) The ex-officio members shall have all the powers of an elected member.

(5) The affiliated and functioning societies alone shall have the right to vote and contest in the election to the Circle Co-operative Union.

Explanation.- For the purpose of this sub-section a society which is carrying on activities in accordance with its principal object shall be a functioning society.

88A. Appointment of officer on default or negligence of members of a Circle Co-operative Union.— If the Registrar is satisfied that the members of a Circle Co-operative Union persistently make default or are negligent in the performance of the duties imposed on them as per the provisions of this Act or the Rules made there under or commit any act which is prejudicial to the interest of that Circle Co-operative Union or willfully disobey or fail to comply with any lawful order or direction, the Registrar may, after giving the members an opportunity to state their objections, if any, by an order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Assistant Registrar to manage its affairs for a period not exceeding six months as may be specified in

²²⁷ Substituted by Act 1 of 2000

the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time; so, however, that the aggregate period shall not, in any case, exceed one year or till the said Circle Co-operative Union is reconstituted, whichever is earlier.]

²²⁸[88B. *Appointment of officer on failure to constitute the Circle Co-operative Union.*—Where the term of office of the Circle Co-operative Union has expired and a new union has not been constituted, or where the members of the existing Circle Co-operative Union resigns enblock or where vacancies occur in the Circle Co-operative Union either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the Circle Co-operative Union fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied,-

(i) that a new Circle Co-operative Union cannot be constituted before the expiry of the term of office of the existing Circle Co-operative Union; or

(ii) on the date on which the term of office of the existing Circle Co-operative Union expires; or

(iii) a new Circle Co-operative Union is prevented from entering upon office or the new Circle Co-operative Union fails to enter upon office, the Registrar may appoint an officer to manage the affairs of the Circle Co-operative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Registrar and for reasons to be recorded in writing be extended from time to time, so, however that the aggregate period shall not in any case exceed one year or till the said Circle Co-operative Union is reconstituted, whichever is earlier.

88C. Removal of Chairman.- A committee shall remove from office the Chairman, or any other officer of the committee, if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.]

²²⁹[**89. Establishment of State Co-operative Union.-** (1)The Government shall, by notification in the Gazette, establish a State Co-operative Union.

(2) The State Co-operative Union shall consist of –

(a) a general body; and

(b) a managing committee

²³⁰[(3) Each of the Circle Co-operative Unions, Apex Societies and Central Societies shall elect a delegate in such manner as may be prescribed, and all such delegates, the employees' representatives, the representative of the women members, the representative of the members belonging to the Scheduled Castes or Scheduled Tribes, the Ex-officio members and the Government nominees in the managing committee of the State Co-operative Union shall constitute the General Body of the State Co-operative Union.]

(4) The Managing Committee referred to in clause (b) of sub-section (2) shall consist of the following members, namely:-

(a) one member from each Revenue district in the State], elected, in such manner as may be prescribed, by the delegates of the Circle Co-operative Unions, of that District from among themselves;

²³⁰[(b) one members elected, in such manner as may be prescribed, by the delegates of the Apex Societies in the State other than Kerala State Co-operative Bank, from among themselves;

229 Substituted by Act 15 of 1997

230 Substituted by Act 1 of 2019

(c) two members elected by the board of directors of the Kerala State Co-operative Bank from among themselves;]

(d) one member elected, in such manner as may be prescribed by the members of the Circle Co-operative Unions elected under clause (c) of sub-section (1) of section 88, from among themselves ;

(e) one member elected, in such manner as may be prescribed, by the members of the Circle Co-operative Union elected under clause (d) of sub-section (1) of section 88, from among themselves;

(f) one member elected, in such manner as may be prescribed, by the members of the Circle Co-operative Unions elected under clause (e) of sub-section (1) of section 88, from among themselves;

(g) two members nominated by the Government;

(h) the Secretary of the State Co-operative Union, *ex-officio*.]

(5) The managing committee shall elect one of its members, other than the ex-officio member to be the chairman of the State Co-operative Union.

(6) The term of office of the members of the general body and of the managing committee of the State Co-operative Union shall be ²³¹[five] years from the date on which they enter upon office.

(7) The Registrar or any Officer, not below the rank of Additional Registrar of Co- operative Societies, nominated by him shall be the Secretary of the State Co-operative Union.

(8) An ex-officio member and a nominated member shall have all the powers of an elected member of the managing committee.

89A. *Appointment of officer or committee of default on negligence of the managing committee of the State Co-operative Union.*- If the Government are satisfied that the managing committee of the State Co-operative Union persistently makes default or is negligent in the performance of the duties imposed on it by the provision of this Act or the Rules

231 Substituted by Act I of 2000

made thereunder or commits any act which is prejudicial to the interest of the State Co-operative Union or willfully disobeys or fails to comply with any lawful order or direction issued under this Act or the Rules, the Government may, after giving the managing committee an opportunity to state its objections, if any, by order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Additional Registrar or a committee consisting of three members to manage its affairs for a period not exceeding six months, as may be specified in the order, which period, at the discretion of the Government and for reasons to be recorded in writing, be extended, from time to time; so, however, that the aggregate period shall not, in any case, exceed one year or till the State Co-operative Union is reconstituted, whichever is earlier.]

²³² [89B. *Appointment of officers or committee on failure to constitute the managing committee of the State Co-operative Union.*—Where the term of the managing committee of the State Co-operative Union has expired and a new managing committee has not been constituted or where the members of the existing managing committee resigns enblock or where vacancies occur in the managing committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the State Co-operative Union fails to hold its regular meeting consecutively for six months or where the Government are satisfied,—

(i) that a new managing committee cannot be constituted before the expiry of the term of office of the existing managing committee; or

(ii) that on the date on which the term of the existing managing committee expires; or

(iii) that a new managing committee is prevented from entering upon office or a new managing committee fails to enter upon office, the Government may appoint an Officer of the Co-operative Department to manage the affairs

²³² Inserted by Act 8 of 2013

of the State Co-operative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Government and for reasons to be recorded in writing, be extended from time to time, so however that the aggregate period shall not in any case exceed one year or till the managing committee is reconstituted, whichever is earlier.

89C. *Removal of Chairman, Vice-chairman etc.*.-The committee shall remove from office the Chairman, the Vice-chairman or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.]

90. *Co-operative Societies to affiliate to State Co-operative Union.*-(1) Every co-operative society in the State shall, within a period of six months from the commencement of this Act, or within a period of six months from the date of its registration, whichever period expires later, get itself affiliated to the State Co-operative Union.

(2) The affiliation under sub-section (1) shall be in force for a period of one year from the date of affiliation and shall be renewed on the expiry of that period.

(3) The fees payable by a co-operative society for an affiliation to the State Co-operative Union or for the renewal of such affiliation shall be such as may be prescribed.

(4) If any co-operative society fails to affiliate to the State Co-operative Union as required by sub-section (1) or to renew such affiliation as required by sub-section (2), such society shall not be entitled to any of the privileges conferred on a co-operative society²³³ [under chapter V of this Act.]

233 Substituted by Act 16 of 1993

91. Functions of State Co-operative Union.- (1) The functions of the State Co-operative Union shall be—

(a) to organize, assist and generally develop co-operative societies;

(b) to carry on co-operative propaganda; and

(c) to spread education on co-operative principles and practices;

²³⁴[(d) to participate in the developmental activities and decentralized planning of the Local authorities;

(e) to organize training programmes for the employees of the societies and for the members of the committee and to ensure their participation in such programmes.]

(2) The State Co-operative Union shall perform such other functions as may be prescribed.

92. Assets, liabilities, etc., of Regional Unions.-(1) Notwithstanding anything contained in this Act or in the bye-laws of the Cochin Central Co-operative Institute Ltd., the Malabar Co-operative Institute Ltd., and the South Kerala Co-operative Union Ltd., all properties and all rights of whatever kind used, enjoyed or possessed by and all interest of whatever kind owned by or vested in or held by them and all liabilities legally subsisting against them shall on and from the date of commencement of this Act and subject to such directions as may be issued by the Registrar by general or special order made in this behalf, pass to the Kerala State Co-operative Union Ltd.

²³⁴ Inserted by Act 1 of 2000

(2) The duties performed and the functions discharged by the aforesaid societies shall be performed and discharged by the Kerala State Co-operative Union Ltd., and the employees of the said societies shall become the employees of the Kerala State Co- operative Union Ltd.

(3) The management of the Kerala State Co-operative Union Ltd., shall, notwithstanding anything contrary in the bye-laws thereof, be vested in a committee consisting of all the members of the Board of Directors of the aforesaid societies including the Kerala State Co-operative Union Ltd.

93. *Assets, liabilities etc., of State Union.*- On a date to be notified by the Government after the formation of the State Co-operative Union under section 89, all properties and all rights of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held by and all liabilities legally subsisting against the Kerala State Co-operative Union Ltd., shall subject to such directions as may be issued by the Registrar, vest in the State Co-operative Union so formed and all the employees of the Kerala State Co-operative Union Ltd., shall become the employees of the State Co- operative Union.

CHAPTER XV

OFFENCES AND PENALTIES

94. *Offences.*- (1) No person other than a society shall trade or carry on business under any name or title of which the word 'co-operative' or its equivalent in any Indian language is part without the sanction of the Government:

Provided that nothing in this section shall apply in any area to the use by any person or his successor-in-interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act 2 of 1912), the Co-operative Societies Act (Travancore Act X of 1089) or the Cochin Co-operative Societies Act, XXVI of 1113, as the case may be, came into operation in that area.

(2) Any person carrying on any trade or business in contravention of sub-section (1) shall be punishable with fine which may extend to ²³⁵[two thousand rupees.]

(3) Any member or past member or the nominee, heir or legal representative of a deceased member of a society who contravenes the provisions of section 35 by disposing of any property in respect of which the society is entitled to have a first charge under that section or does any other act to the prejudice of such claim, shall be punishable with fine which may extend to ²³⁵[two thousand rupees].

(4) The committee of a society or an officer or member thereof willfully making a false return or furnishing false information or failing to produce cash balance on demand or failing to make the records available for audit, inquiry or inspection, or any person willfully or without any reasonable excuse disobeying

²³⁵ Substituted by Act 1 of 2000

any summons, requisition or lawful written order issued under the provisions of this Act or willfully not furnishing any information required from him by a person authorized in this behalf under the provisions of this Act, shall be punishable with fine which may extend to ²³⁶ [five thousand rupees.]

²³⁷ [(4A) Any officer or custodian, willfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a society of which he is an officer or custodian, to an authorized officer such as Administrator, Administrative Committee, Liquidator, Auditor, or to any person authorized in this behalf by the Registrar or by the Director of Co-operative Audit, shall be punishable with imprisonment for a term which may extent to one year or with fine which may extent to five thousand rupees or with both.

(4B) Whoever, before, during or after the election of members of the committee or of office bearer or of delegates indulges in or adopt any corrupt practices mentioned hereunder shall be punishable with imprisonment which may extent up to six months or with fine which may extent up to one thousand rupees or with both,—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces, destroys or removes any lists, notice or other document affixed by or under the authority of the Co-operative election Commission or the Electoral Officer or the Returning Officer; or
- (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark or the ballot box or any identity card for election relating to any society; or

236 Substituted by Act 1 of 2000

237 Inserted by Act 8 of 2013

- (d) supplies any forged ballot paper or forged identity card; or
 - (e) fraudulently put any other matter other than ballot paper in the ballot box which he is not authorized by law; or
 - (f) commits any criminal offence against the Electoral Officer or the Returning Officer or the Polling Personnel or other office bearers and employees of a society; or
 - (g) offers any gift or promise with the intention to influence members to vote in favour of him or to any other person; or
 - (h) compel any person to withdraw or not to withdraw from being a candidate at an election to any society.]
- (5) Any employer or officer who, without sufficient cause,—
- (a) fails to deduct any amount as required by sub-section (2) of section 37; or
 - (b) fails to pay to a society the amount deducted by him under that sub-section within a period of seven days from the date on which such deduction is made, shall be punishable with fine which may extend to ²³⁸[five thousand rupees].
- (6) If any person collecting the share money for a society in formation does not deposit the same in the State Co-operative Bank, ²³⁹[xx] a Postal Savings Bank or in any other bank approved by the Registrar within fourteen days of its receipt, he shall be punishable with fine which may extend to ²³⁸[five thousand rupees].
- (7) If any person collecting the share money for a society in formation makes use of the funds so raised for conducting any trade or business in the name of the society to be registered or otherwise, he shall be punishable with fine which may extend to ²³⁸[five thousand rupees].

²³⁸ Substituted by Act 1 of 2000

²³⁹ Omitted by Act 1 of 2019

²⁴⁰[(8) If any officer, employee, agent, servant of a society or any other person dealing with the society misappropriates or unauthorisedly or illegally keeps any money belonging to that society, he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to twice the amount of money involved in the offence].

²⁴¹[(8A) If any person dishonestly or fraudulently makes or executes or cause to make or execute, any false or improper document or valuation certificate or project report or register or cause to register any fictitious company or firm or society in order to support any application for loan and thereby induces any society to deliver any loan to him or to any other person which causes loss to the society, he shall be punishable with imprisonment for a term which may extent to three years and with fine which may extent to twice the amount of money involved in the offence.

(8B) If any officer, employee, member, agent or servant of a society or any other person abets, connives or conspires the commission of an offence punishable under sub-section (8A), he shall be punishable with imprisonment for a term which may extent to three years and with fine which may extent to twice the amount of money involved in the offence.]

(9) The provisions of this section shall be without prejudice to any action that may be taken against the offenders under any other law for the time being in force.

²⁴¹[(10) The Vigilance Officer appointed under section 68A shall have power of litigation and power to make complaints before a court of law in respect of offences mentioned in sub-sections (2), (3), (4), (5), (6) and (7) of this section subject to section 95.

²⁴⁰ Substituted by Act 7 of 2010

²⁴¹ Inserted by Act 7 of 2010

(11) Amount of fine mentioned in sub-sections (4), (5), (6), (7), (8), (8A) and (8B) of this section shall not be met from the funds of the society.]

95. *Cognizance of offences.*- ²⁴²[²⁴³(1)The offences punishable under sub- sections (4A), (4B), (8), (8A) and (8B) of section 94 shall be cognizable.]

(2) Where a sentence of fine is imposed under sub-section (8), (8A) or (8B) of section 94, the court in fixing the amount of the fine shall take into consideration the amount involved in the offence, the amount or value of the property, if any, which the accused person has obtained by committing the offence and the loss caused to the society.

(3) When a court imposes a sentence of which fine forms a part, the court may, when passing judgement, order the whole or any part of the fine recovered to be applied in the payment to the society as compensation for any loss caused by the offence.

(4) No prosecution shall be instituted under sub-section (2), (3), (4), (5), (6) and (7) of section 94 without the previous sanction of the Registrar.]

²⁴⁴[95A. *Offences by companies.*- (1) If the person committing any offence under this Act is a company, the Company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

242 Substituted by Act 7 of 2010

243 Substituted by Act 8 of 2013

244 Inserted by Act 7 of 2010

Provided that nothing contained in the sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section(1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributed to any neglect on the part of any Director, Manager, Secretary or other Officer, of the Company, such Director, Manager, Secretary or other Officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation- For the purpose of this section, —

(a) 'Company' means any body corporate and includes a firm or other association of individuals or a society or a co-operative society,

(b) 'Director' in relation to firm, means partner in the 'firm'.]

CHAPTER XVI

MISCELLANEOUS

96. *Address of a society.*- Every society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar, notice of any change thereof within thirty days of the change.

97. *Copy of Act, rules and bye-laws to be open to inspection.*- Every society shall keep a copy of this Act, the Rules and its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

98. *Tribunal, Registrar, etc., to have certain powers of civil court.*- (1) In exercising the functions conferred on it or him by or under this Act, the Tribunal, the Registrar, the Arbitrator or any other person deciding a dispute and the liquidator of a society shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for examination of witnesses.

(2) In the case of any affidavit, any officer appointed by the Tribunal, the Registrar, the Arbitrator or any other person deciding a dispute or the liquidator, as the case may be, in this behalf may administer the oath to the deponent.

²⁴⁵[99. *Orders to be pronounced.*- In cases where parties have been heard, the order, decision or award made or given by the Registrar, the Tribunal, the Arbitration Court, the Arbitrator, the Liquidator or any officer or other person under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties or the date shall be pronounced openly on the day of final hearing.]

100. *Bar of jurisdiction of courts.*-No civil or revenue court shall have any jurisdiction in respect of any matter for which provision is made in this Act.

101. *Power to exempt societies.*- The Government may, if they are satisfied that it is necessary so to do in the public interest, by general or special order for reasons to be recorded, exempt any society or any class of societies from any of the provisions of this Act or direct that such provisions shall apply to such society or class of societies subject to such modifications as may be specified in the order.

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

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

²⁴⁵ Substituted by Act 7 of 2010

103. *Proof of entries in society's books.*-(1) Notwithstanding anything contained in the Indian Evidence Act a copy of any entry in a book of a society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A society may grant copies of any documents obtained and kept by it in the course of its business, or of any entries in such documents; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein as the case may be.

(3) No officer of a society and no officer in whose office the books of a society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents, the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded except under order of the court, the Tribunal or the arbitrator made for special cause.

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

105. *Acts of societies not to be invalidated by certain defects.*- No act of a society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of the officer or on the ground that such officer was disqualified for his appointment:

Provided that nothing in this section shall be deemed to apply to any act done by any society or committee or officer in cases where such defect or disqualification was previously declared by a competent authority.

106. *Immunity for acts done or purporting to be done in good faith.*- No suit, prosecution or other legal proceedings shall lie against any officer or the Government for anything which is in good faith done or purporting to be done under the provisions of this Act or the Rules or the bye-laws.

107. *Companies Act, 1956, not to apply.*- The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to any co-operative society.

108. *Duties of Police Officer.*- ²⁴⁶[(1) It shall be the duty of every police officer, as defined in the Kerala Police Act, 1960 (5 of 1961), to assist and protect the Registrar, the Director of Co-operative Audit and the Vigilance Officer appointed under this Act or any Officer subordinate to them in exercising the powers, duties and function conferred on them under the Act, if any such officer demands the assistance and protection of a police officer as above.]

(2) Any Police Officer who omits or refuses to perform any duty imposed on him under sub-section (1) shall be deemed to have committed an offence under clause (d) of section 41 of the Kerala Police Act, 1960 (5 of 1961).

²⁴⁶ Substituted by Act 7 of 2010

109. *Power to make rules.*- (1) The Government may, for the whole or, any part of the State and for any class of societies, after previous publication, by notification in the Gazette, make rules ²⁴⁷[either prospectively or retrospectively] to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (i) the applicant to whom the order refusing the registration of a society may be sent by the Registrar;
- (ii) the procedure and conditions for change in the form and extent of the liability of a society;
- (iii) the matters in respect of which a society shall or may make bye-laws;
- (iv) the procedure to be followed for amendment of bye-laws by a society;
- (v) the qualifications or disqualifications of individuals who may be admitted as members of societies;
- (vi) the payment to be made and the interests to be acquired before the exercise of the right of membership;
- (vii) the appointment by a society of one of its members to represent and vote on its behalf at a meeting of another society of which it is a member;
- (viii) the maximum number of shares or portion of the share capital of a society which may be held by an individual member;
- (ix) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;
- (x) the mode in which the value of a deceased member's share shall be ascertained;
- (xi) the election of members of the committee by the general body of a society;
- (xii) the requisitioning of a general body meeting of a society;

²⁴⁷ Inserted by Act 7 of 1988.

- (xiii) the remuneration payable to a new committee or administrator or administrators appointed by the Registrar under section 32 or section 33;
- (xiv) the qualifications or disqualifications for membership of the committee of a society;
- (xv) the qualifications of employees of societies;
- (xvi) the prohibition against officers of a society being interested in contracts with the society;
- (xvii) the matters connected with the direct and indirect partnership of the Government in societies;
- (xviii) the rate at which dividend may be paid by societies;
- (xix) the constitution of the Co-operative Education Fund, the payment to be made to the fund by a society out of its net profit and the mode of its investment;
- (xx) the mode of investment of funds of a society;
- (xxi) the objects of the reserve fund of a society and the mode of its investment;
- (xxii) the mode of disposal of the reserve fund of a society on its winding up;
- (xxiii) the extent to which and the conditions subject to which a society
- (xxiv) the restrictions on transactions by a society with non members;
- (xxv) the restrictions on grant of loans by a society against its shares;
- (xxvi) the form and standards of fluid resources to be maintained by societies accepting deposits and granting cash credits;
- (xxvii) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes;
- (xxviii) the conditions subject to which the assets of a society shall vest in a liquidator and the procedure to be adopted in the winding up of a society;

- (xxix) the procedure for the recovery of amounts due or payable to a society;
- (xxx) the mode of making attachment before judgment;
- (xxxi) the manner of registering the address of a society;
- (xxxii) the account books and registers to be kept by a society and power of the Registrar to call for any returns or to direct the accounts and books to be written up;
- (xxxiii) the manner of certification of entries in the books of a society and of copies of documents kept by it in the course of its business;
- (xxxiv) the statements and returns to be furnished by a society to the Registrar;
- (xxxv) the restrictions on persons appearing as legal practitioners;
- (xxxvi) the inspection of documents and the levy of fees for granting certified copies thereof;
- (xxxvii) the procedure to be followed in, and the fees for, audit and arbitration under this Act; and
- (xxxviii) any other matter required or allowed by this Act to be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

110. *Repeal and savings.*- The Madras Co-operative Societies Act, 1932 (VI of 1932), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Co-operative Societies Act, 1951 (X of 1952), are hereby repealed.

(2) Notwithstanding the repeal of the Madras Co-operative Societies Act, 1932 and the Travancore-Cochin Co-operative Societies Act, 1951 and without prejudice to the provisions of sections 4 and 23 of the Interpretation and General Clauses Act, 1125 (VII of 1125),—

(i) all appointments, rules and orders made, notifications and notices issued, and suits and other proceedings instituted, under any of the Acts hereby repealed shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act;

(ii) any society existing in the State on the date of the commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed Acts shall be deemed to be registered under this Act, and the bye-laws of such society shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded.

Appendix

1. Special provision included in the Kerala Co-operative Societies (Amendment) Act, 2012 (Act 13 of 2012).

[5. Special provision in respect of the existing District Co-operative Banks (1) Notwithstanding anything contained in the principal Act, or in any judgment, decree or order of any court, tribunal or other authority, on the commencement of the Kerala Co-operative Societies (Second Amendment) Ordinance, 2012 (18 of 2012),-

(a) any primary society which had ceased to be a member of the District Co-operative Bank as on the commencement of the Kerala Co-operative Societies (Amendment) Act, 2008 (9 of 2009) shall be deemed to have become members of such District Co-operative Bank and the share amount if any, of such society transferred to suspense account shall be deemed to be the share amount in respect of the said society;

(b) the nominal or associate member admitted after the commencement of the Kerala Co-operative Societies (Amendment) Act, 2008 (9 of 2009) shall cease to be the members of the District Co-operative Bank and shall apply for membership in the District Co-operative Bank afresh;

(c) the committee in office of the District Co-operative Bank at such commencement shall cease to exist and the Registrar shall be competent to appoint a new committee or one or more administrator or administrators who need not be members of the society, to manage the affairs of the Bank for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the aggregate period does not exceed one year.

(2) The committee or the administrator or the administrators appointed under sub-section (1) shall, subject to the control of the Registrar and to such instructions as he may, from time to time give, have the power to exercise the powers and perform the functions of the committee or of any officer of the society and take such action as may be required in the interest of the society.

(3) The committee or the administrator or the administrators shall before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the provisions contained in the principal Act and the bye-laws of the Bank.]

2. Special provision included in the Kerala Co-operative Societies (Amendment) Act, 2017 (Act 14 of 2017).

[8. Special Provision in respect of the existing District Co-operative Banks.- (1) Notwithstanding anything contained in the principal Act, or in any judgment, decree or order of any Court, tribunal or other authority, on the date of commencement of the Kerala Co-operative Societies (Amendment) Ordinance, 2017 (4 of 2017),-

(a) the members of a District Co-operative Bank, other than Primary Agricultural Credit Societies and Urban Co-operative Banks, shall become nominal or associate members of such District Co-operative Banks:

(b) the committees in office of the District Co-operative Banks shall cease to exist and the Registrar shall be competent to appoint a new committee or one or more administrator or administrators, who need not be members of the society, to manage the affairs of the Bank for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the aggregate period shall not exceed one year.

(2) The committee or the administrator or the administrators appointed under sub-section (1) shall, subject to the control of the Registrar and to such instructions as he may, from time to time give, have power to exercise the powers and performs the functions of the committee or of any officer of the society and take such action as may be required in the interest of the society.

(3) The committee or administrator or administrators shall, before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the provisions contained in the principal Act and the bye-laws of the Bank.]

²⁴⁸ [²⁴⁹ **THE SCHEDULE I**]
[See section 80 (3A)]

1. The Kerala State Co-operative Bank Ltd., Thiruvananthapuram.
2. The Kerala State Co-operative Agricultural and Rural Development Bank Ltd., Thiruvananthapuram.
3. The Kerala State Federation of Scheduled Castes/Scheduled Tribes Development Co-operatives, Thiruvananthapuram.
4. The Kerala State Co-operative Housing Federation Ltd., No. 4330, Ernakulam.
5. The Kerala Co-operative Milk Marketing Federation Ltd., Thiruvananthapuram.
6. The Kerala State Co-operative Marketing Federation Ltd., Ernakulam.
7. The Kerala State Co-operative Rubber Marketing Federation Ltd., Ernakulam.
8. The Kerala Kera Karshaka Sahakarana Federation Ltd., No. 4370, (Kerafed), Thiruvananthapuram.
9. The Kerala State Co-operative Federation for Fisheries Development Ltd., (Matsyafed), Thiruvananthapuram.
10. The Kerala State Co-operative Consumers Federation Ltd., Ernakulam.
11. The Kerala State Cashew Workers Apex Industrial Co-operative Society Ltd., [IND (ST)]
12, Kollam.
12. The Kerala State Handloom Weaver's Co-operative Society Ltd. No. H232, Thiruvananthapuram.
13. The Kerala State Handicraft Apex Co-operative Society Ltd., No. H 231, Ernakulam.
14. The Kerala State Co-operative Coir Marketing Federation Ltd., Alapuzhza.
15. The Kerala State Co-operative Textile Federation Ltd., IND MT (ST) I (TEXTFED), Trichur.

²⁵⁰ [XXX]

²⁴⁸ Inserted by Act 6 of 1995

²⁴⁹ Numbered as SCHEDULE I by Act 8 of 2013

²⁵⁰ Omitted by Act 1 of 2019

²⁵¹**[THE SCHEDULE II**
[See Clause (eccc) of Section 2]

Co-operative Principles

1. Open and voluntary membership
2. Democratic member control
3. Member economic participation
4. Autonomy and Independence
5. Education, Training and Information
6. Co-operation among Co-operatives
7. Concern for community.

THE SCHEDULE III
[See sub-section (4) of Section 69]

<i>Description of Dispute or Suit</i>	<i>period of limitation</i>	<i>Time from which period begins to run</i>
1. For money receivable for money lent	Three years	when repayment period is over
2. For money lent under an agreement that it shall be payable on demand.	Three years	when loan is made
3. For money deposited under an agreement that it shall be payable on demand, including money for a member or a customer in the hands of society.	Three years	when demand is made

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4. For the price of work done by the parties to the dispute, where no time has been fixed for payment.	Three years	when work is done
5. By a surety against the principal debtor	Three years	when the surety pays the creditor
6. By a surety against a co-surety	Three years	when the surety pays anything in excess of his own share.
7. For the balance of money advanced in payment of goods to be delivered.	Three years	when goods ought to be delivered
8. For price of goods, goods sold and delivered where no fixed period of credit is agreed upon.	Three years	the date of delivery of the goods
9. For the price of goods, goods sold and delivered to be paid for after the expiry of a fixed period of credit.]	Three years	when period of credit expires

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