

**APPEALS
UNDER
MCS ACT 1960**

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U/S. 152. APPEALS

(1) An appeal against an order or decision under sections 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 21A, 29, 35, 77A, 78, 79, 85, 88 and 105 including against an order for paying compensation to a society shall lie,—

(a) If made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government.

(b) If made or sanctioned by any person other than the Registrar, or the Additional or Joint Registrar on whom the powers of the Registrar are conferred to the Registrar.

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"Provided that, no order of stay shall be issued in respect of the recovery of the dues under the award issued by the Liquidator unless fifty per cent. of the amount stated in the award is deposited with the society by the Appellant."

(2) Where an appeal against any order or decision to the Cooperative Appellate Court has been provided under this Act, it shall lie to the Co-operative Appellate Court.

(3) An appeal under sub-section (1) or (2) shall be filed within two months of the date of the communication of the order or decision.

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"(3A) The Appellate Authority, in order to prevent the ends of justice being defeated, may pass such interim orders including order of stay against the impugned order, pending the decision and final hearing of the appeal:

Provided that, if any interim order has been passed by the Appellate Authority without hearing the other side, the Appellate Authority shall decide such application within a period of three months and pass the necessary orders on merits after giving an opportunity of being heard and for the reasons to be recorded in writing."

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(4) Save as expressly provided, no appeal shall lie against any order, decision or award passed in accordance with the provisions of this Act; and every such order, decision or award shall, whether expressly provided or not, be final, but shall always be subject to the provisions for revision in this Act; and where an appeal has been provided for, any order passed on appeal shall likewise be final, but be subject to such revision provisions.

152-A. APPEAL AGAINST REJECTION OF NOMINATION PAPER AT ELECTION

(1) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under a person aggrieved by the rejection of nomination of a candidate at the election of a committee of any society, may file an appeal to the Registrar within three days of the date of rejection of the nomination. The Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal and the decision of the Registrar in appeal shall be final and no further appeal or revision shall lie against the decision of the Registrar in such appeal. "In the case of a society, an appeal shall lie to the officer as may be specified by the State Co-operative Election

152-A. APPEAL AGAINST REJECTION OF NOMINATION PAPER AT ELECTION

Authority, who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the such officer, shall be final."

(2) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under, the list of validly nominated candidates shall be subject to the decision of any appeal filed under sub-section (1), and the period between the date of scrutiny of nomination papers and the last date of the withdrawal of candidatures shall not be less than fifteen days.

153. EXTENSION OF PERIOD OF LIMITATION BY APPELLATE AUTHORITY IN CERTAIN CASES

In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

154. REVISIONARY POWERS OF STATE GOVERNMENT AND REGISTRAR

(1) The State Government or the Registrar, suo-motu or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings, if in any case, it appears to the State Government, or the Registrar, that any decision or order so called for should be modified, annulled or reversed,

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the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.

(2) Under this section, the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

(2-A) No application for revision shall be entertained against the recovery certificate issued by the Registrar

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under section 101 unless the applicant deposits with the concerned society, fifty percent, amount of the total amount of recoverable dues.

"Provided that, in case of such revision where revisional authority has granted a stay to the recovery of dues, the authority shall, as far as may be practicable, dispose of such revision application as expeditiously as possible but not later than six months from the date of the first order."

(3) No application for revision shall be entertained, if made after two months of the date of communication of

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the decision or order. The revisional authority may entertain any such application made after such period, if the applicant satisfies it that he had sufficient cause for not making the application within such period.

(3A) The revisional authority, in order to prevent the ends of justice including being defeated, may pass such interim order of stay against the impugned order, orders pending the decision and final hearing of the Revision Application:

Provided that, if any interim order has been passed by the revisional authority without hearing the other side,

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the revisronal authority shall decide such application within a period of three months and pass the necessary order on merits after giving an opportunity of being heard and for the reasons to be recorded in writing."

(4) The State Government may, by order, direct that the powers conferred on it by this section shall, in such circumstances and under such conditions if any, as may be specified in the direction, be exercised also by an officer of the rank of Secretary to Government.

**APPEAL UNDER MCS
ACT-1961**

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U/S. 4. SOCIETIES WHICH MAY BE REGISTERED

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U/S. 4. SOCIETIES WHICH MAY BE REGISTERED

A society, which has as its objects the promotion of the economic interests or general welfare of its members or of the public, in accordance with co-operative principles or a society established with the object of facilitating the operations of any such society, may be registered under this Act:

Provided that, no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development' of the co-operative movement, or the registration of which may be contrary to the policy directives which the State Government may, from time to time, issue.

U/S. 9. REGISTRATION

(1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, 3 or any other law for the time being in force, or policy directives issued by the State Government under Section 4, and that its proposed bye-laws are not contrary to this Act or to the rules, he "shall within two months, from the date of receipt of the application register the society and its bye-laws.

(2) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period

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refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who are which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the society and its bye-laws shall be deemed to have been registered 2and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days.

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(3) Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefore, to the person making the application and if there be more than one to the person who has signed first therein.

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under the Act.

U/S. 11. POWER OF REGISTRAR TO DECIDE CERTAIN QUESTIONS

When any question arises whether a person is an agriculturist or not, or whether any person resides in the area of operation of the Society or not or whether a person is or is not engaged in or carrying on any profession, business or employment, or whether a person belongs or does not belong to such class of persons as declared under sub-section (1 A) of Section 22 and has or has not incurred a disqualification under that subsection, such question shall be decided by the Registrar and his decision shall be final, but no decision adverse to any such person shall be given without giving him an opportunity of being heard.

U/S. 12. CLASSIFICATION OF SOCIETIES

(1) The Registrar shall classify all societies into one or other of the classes of societies defined in Section 2 and also into such sub-classes thereof as may be prescribed by rules.

(2) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another; and may, in the public interest and subject to such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.

U/S. 12. CLASSIFICATION OF SOCIETIES

(3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the State Government may, from time to time direct.

U/S. 13. AMENDMENT OF BYE-LAWS OF SOCIETY

(1A) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within, a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the amendment of the bye-laws shall be deemed to have been registered.

U/S. 13. AMENDMENT OF BYE-LAWS OF SOCIETY

(1B) No amendment of the bye-laws of a society shall be registered by the Registrar under this section or in the case of the bye-laws which are deemed to have been registered shall have effect, if the amendment is repugnant to the policy directives, if any, issued by the State Government under Section 4.

(2) When the Registrar registers an amendment of the bye-laws of a society or where an amendment of the bye-laws is deemed to have been registered he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

U/S. 13. AMENDMENT OF BYE-LAWS OF SOCIETY

(3) Where the Registrar refuses to register such amendment, of the bye-laws of a society, he shall communicate the order of refusal, together with his reasons therefore, to the society.

U/S. 14. POWER TO DIRECT AMENDMENT OF BYE-LAWS

(1) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society, "or any by-laws of the society are inconsistent with the provisions of this Act or rules and that amendment is necessary in such by-laws,"; he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after

U/S. 14. POWER TO DIRECT AMENDMENT OF BYE-LAWS

consulting such State federal society as may be notified by the State Government, register such amendment and issue to the society a copy of such amendment certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly; and the bye-laws as amended shall, subject to appeal (if any), be binding on the society and its members.

"Provided that, such notified State federal society shall communicate its opinion to the Registrar within a

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period of forty-five days from the date of receipt of communication, failing which it shall be presumed that such State federal society has no objection to the amendment and the Registrar shall be at liberty to proceed further to take action accordingly:

Provided further that, the Registrar may specify the Model by-laws, for such type of societies or class of societies, as he may deem fit."

U/S. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

(1) A society may, with the previous approval of the Registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide-

- (a) To amalgamate with another society ;
- (b) To transfer its assets and liabilities, in whole or in part, to any other society;
- (c) To divide itself into two or more societies ; or
- (d) To convert itself into another class of society :

Provided that when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of

U/S. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that –

(i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons, whose interests are likely to be affected (hereinafter in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in

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the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be;

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

(iii) All claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.

U/S. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

Provided further that, in case of societies doing the business of the banking, no such amalgamation, transfer, division or conversion shall be initiated without the prior approval of the Reserve Bank of India."

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the

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resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or

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commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.

(4) Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

U/S. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN PUBLIC INTEREST, ETC:-

(1) Where the Registrar is satisfied that it is essential in the public interest or in the interest "or in the interest of members of such societies" of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganized then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government by order notified in the Official Gazette, provide for the

U/S. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN PUBLIC INTEREST, ETC:-

amalgamation, division or reorganization of those societies into a single society, or into societies with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order.

"Provided that, such notified federal society shall communicate its opinion to the Registrar within a period of forty-five days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to the amalgamation, division or reorganisation and the

U/S. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN PUBLIC INTEREST, ETC:-

Registrar shall be at liberty to proceed further to take action accordingly.”;

- (2) No order shall be made under this section, unless-
 - (a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned;
 - (b) The Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as

U/S. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN PUBLIC INTEREST, ETC:-

aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society or from any member or class of members thereof, or from any creditor or class of creditors.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, are necessary to give effect to the amalgamation, the division or reorganization.

(4) Every member or creditor of or other person interested in, each of the societies to be amalgamated,

U/S. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN PUBLIC INTEREST, ETC:-

divided or reorganized who has objected to the scheme of amalgamation, division or reorganization, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or re-organisation his share or interest if he be a member and the amount in satisfaction of his dues if he be a creditor.

(5) On the issue of an order under sub-section (2), the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganized as if they were amalgamated, divided or reorganized under that section, and to the society amalgamated, divided or reorganized.

**U/S. 18. POWER TO DIRECT AMALGAMATION,
DIVISION AND REORGANIZATION IN PUBLIC
INTEREST, ETC:-**

(6) Nothing contained, in this section shall apply for the amalgamation of two or more co-operative banks or two or more primary agricultural credit societies.

U/S. 19. RECONSTRUCTION OF SOCIETIES

Where a proposal for a compromise or arrangement-

- (a) Between a society and its creditors, or
- (b) between a society and its members, is approved at a special general meeting, called for the purpose, the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society, which is being wound up, of the Liquidator, order reconstruction in the prescribed manner of the society.

U/S. 21. CANCELLATION OF REGISTRATION

The Registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, or it is de-registered under the provisions of sub-section (1) of Section 21-A or winding up proceedings in respect of the society are closed or terminated under Section 109. The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

U/S. 21-A. DE-REGISTRATION OF SOCIETIES

(1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the Chief Promoter, the committee and the members of the society, de-register the society :

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the

U/S. 21-A. DE-REGISTRATION OF SOCIETIES

Registrar it is not practicable to serve a notice of hearing of each such individual member, a public notice of the proceedings of the de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the Chief Promoter and the members of the Committee of the Society, and no proceeding in respect of the de-registration of the society shall be called in question in any court merely on the ground that individual notice is not served on any such member.

(2) When a society is de-registered under the provisions of subsection (1), the Registrar may,

U/S. 21-A. DE-REGISTRATION OF SOCIETIES

notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.

(3) Subject to the rules made under this Act, the Official Assignee shall realize the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records, and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

U/S. 21-A. DE-REGISTRATION OF SOCIETIES

(4) The Official Assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

(5) The powers of the Registrar under Sub-sections (1) and (2) shall not be exercised by any officer below the rank of a Joint Registrar of Co-operative Societies.

U/S. 29. RESTRICTIONS ON TRANSFER OR CHARGE ON SHARE OR INTEREST

(1) Subject to the provisions of the last preceding section as to the maximum holding of shares and to any rules made in this behalf, a transfer of, or charge on, the share or interest of a member in the share capital of a society shall be subject to such conditions as may be prescribed.

(2) A member shall not transfer any share held by him or his interest in the capital or property of any society, or any part thereof, unless-

(a) He has held such share or interest for not less than one year;

U/S. 29. RESTRICTIONS ON TRANSFER OR CHARGE ON SHARE OR INTEREST

(b) The transfer is made to a member of the society or to a person whose application for membership has been accepted by the society, or to a person whose appeal under section 23 of the Act has been allowed by the Registrar or to a person who is deemed to be a member under sub-section (1A) of Section 23.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Act, or by the

U/S. 29. RESTRICTIONS ON TRANSFER OR CHARGE ON SHARE OR INTEREST

rules made there under or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed, provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten percent of the paid-up share capital of the society on the last day of the financial year immediately preceding.

Explanation I - The right to forfeit the share or interest of any expelled member in the share capital by virtue of

U/S. 29. RESTRICTIONS ON TRANSFER OR CHARGE ON SHARE OR INTEREST

any bye-laws of the society, shall not be affected by the aforesaid provision.

Explanation II - In this section, the expression "financial year" means the year ending on the 31st day of March or in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day; the year ending on such day.

(4) Where the State Government is a member of a society, the restrictions contained in this section shall

U/S. 29. RESTRICTIONS ON TRANSFER OR CHARGE ON SHARE OR INTEREST

not apply to any transfer made by it of its share or interest in the capital of the society; and that Government may, notwithstanding anything in this Act, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

U/S. 35. EXPULSION OF MEMBERS

(1) A society may, by resolution passed by a majority of not less than three-fourths of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society :

Provided that, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body and no resolution shall be effective unless it is approved by the Registrar.

U/S. 35. EXPULSION OF MEMBERS

(2) No member of a society who has been expelled under the foregoing sub-section, shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of one year from the date of such expulsion:

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

**U/S. 77A. APPOINTMENT OF MEMBER OF
COMMITTEE, NEW COMMITTEE OR ADMINISTRATOR,
WHERE THERE IS FAILURE TO ELECT MEMBER, TO
CONSTITUTE COMMITTEE OR WHERE COMMITTEE
DOES NOT ENTER UPON OFFICE**

(1) Where the Registrar is satisfied that,—

(1a) a provisional committee has failed to make necessary arrangements for holding election for the constitution of the first committee, before the expiry of its term as specified in sub-section (1A) of section 73

(a) At the first constitution of the committee of any society there is a failure to elect all or any of the members of the committee;

**U/S. 77A. APPOINTMENT OF MEMBER OF
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DOES NOT ENTER UPON OFFICE**

- (b) The term of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies;
- (b-1) there is a stalemate in the constitution or committee has ceased to function and vacuum is created in the management;“
- (c) Any committee is prevented from entering upon office;

**U/S. 77A. APPOINTMENT OF MEMBER OF
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(d) A new committee has failed to enter upon office on the date on which the term of office of the existing committee expired; or

(f) Where more than one group of persons in a society is claiming to be elected as the committee members and proceedings in respect thereof have been filed in the Co-operative Court;

U/S. 77A. APPOINTMENT OF MEMBER OF COMMITTEE, NEW COMMITTEE OR ADMINISTRATOR, WHERE THERE IS FAILURE TO ELECT MEMBER, TO CONSTITUTE COMMITTEE OR WHERE COMMITTEE DOES NOT ENTER UPON OFFICE

The Registrar may, either, suo-motu or "on the application of any officer or member of the society" by order appoint-

- (i) Any member or members of the society to be the member or members of the committee to fill the vacancies;
- (ii) A committee, consisting of not more than three members of the society, or "one or more authorised officers" who need not be members of

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DOES NOT ENTER UPON OFFICE**

the society, to manage the affairs of the society till a new committee enters upon office:

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period;

**U/S. 77A. APPOINTMENT OF MEMBER OF
COMMITTEE, NEW COMMITTEE OR ADMINISTRATOR,
WHERE THERE IS FAILURE TO ELECT MEMBER, TO
CONSTITUTE COMMITTEE OR WHERE COMMITTEE
DOES NOT ENTER UPON OFFICE**

Provided further that, it shall not be necessary to publish such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

"Provided also that, if no member or members of the society are willing to work on such committee, it shall be lawful for the Registrar, to appoint one or more

**U/S. 77A. APPOINTMENT OF MEMBER OF
COMMITTEE, NEW COMMITTEE OR ADMINISTRATOR,
WHERE THERE IS FAILURE TO ELECT MEMBER, TO
CONSTITUTE COMMITTEE OR WHERE COMMITTEE
DOES NOT ENTER UPON OFFICE**

authorised officers, not being a member of the society, as he may deem fit, to look after affairs of the society.

(2) The Committee or "authorised officer" so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have power to discharge all or any of the functions of the committee or of any officer of the society and take all such actions as may be required to be taken in the interests of the society.

**U/S. 77A. APPOINTMENT OF MEMBER OF
COMMITTEE, NEW COMMITTEE OR ADMINISTRATOR,
WHERE THERE IS FAILURE TO ELECT MEMBER, TO
CONSTITUTE COMMITTEE OR WHERE COMMITTEE
DOES NOT ENTER UPON OFFICE**

(3) The Committee or "authorised officer" so appointed shall hold office for a period of six months from the date of assuming the management of the society and shall make necessary arrangements for constituting a new committee within the said period and for enabling the new Committee including any new Committee referred to in sub-clause (f) of sub-section (1), which is determined by the Court to have been legally elected, to enter upon office.

**U/S. 77A. APPOINTMENT OF MEMBER OF
COMMITTEE, NEW COMMITTEE OR ADMINISTRATOR,
WHERE THERE IS FAILURE TO ELECT MEMBER, TO
CONSTITUTE COMMITTEE OR WHERE COMMITTEE
DOES NOT ENTER UPON OFFICE**

"Provided that, in no circumstances the term of office of the committee or authorised officer shall exceed six months from the date of their holding office.“;

(4) The Registrar shall have the power to change the committee or any or all members thereof or any or all the "authorised officers" appointed under sub-section (1) at his discretion even before the expiry of the period specified in the order made under sub-section (1).

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

(1) If, in the opinion of the Registrar, the committee makes a persistent default in performance of its duties or is negligent in the performance of its duties or is otherwise not discharging its functions properly and diligently, or there is a stalemate in the constitution or functioning of the committee, occasioned by resignation, disqualification of members of committee or otherwise, the Registrar, after giving the committee an opportunity of showing cause, in writing, if any, within fifteen days from the date of receipt of notice and after giving reasonable opportunity of being heard and after consultation with the federal society to which the society is affiliated, comes to a conclusion that the

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

charges mentioned in the notice prima facie exist, but are capable of being remedied with, he may by order,

(i) keep the committee under suspension for such temporary period, not exceeding six months as may be specified in the order; and

(ii) appoint an administrator or committee of administrators consisting of three or more members of the society or otherwise than the members of the committee so suspended in its place or appoint an administrator or committee of administrators who need not be the members of the society, to manage the affairs of society:

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

Provided that, nothing in this sub-section shall apply to a society, where there is no Government shareholding or loan or financial assistance in terms of any cash or kind or any guarantee by the Government:

Provided further that, in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, (10 of 1949) shall also apply:

Provided also that, in case of society carrying on the business of the banking, the provisions of this clause shall have effects as if for the words “six months” the words “one year” had been substituted:

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

Provided also that, the Registrar shall have the power to change the committee or any member thereof or Administrator appointed, at his discretion even before the expiry of the period specified in the order made under this section:

Provided also that, such federal society shall communicate its opinion to the Registrar within forty-five days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to the order of suspension and the Registrar shall be at liberty to proceed further to take action accordingly.

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

(2) The administrator or committee of administrators, as the case may be, so appointed under clause (ii) of sub-section (1), shall submit a report to the Registrar within such period as may be specified in the order as to the remedial measures taken and after going through the report or any other material placed on record, if the Registrar is satisfied that the charges mentioned in the notice are made good or remedied, he shall by order revoke, the order of suspension and direct the administrator or the committee of administrators to handover the management to the suspended committee with immediate effect.

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

(3) When a notice is issued against any committee or a member under sub-section (1), if resignation from any office is tendered by the committee or a member, it shall not be valid or effective until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier.

(4) The administrator or committee of administrators so appointed shall, subject to the control of the Registrar and such instructions as he may from time to time give, have power to exercise all or any

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

of the functions of the committee or of any officer of the society and take all such actions as may be required in the interest of the society and shall arrange for conduct of the election, through the State co-operative Election Authority, within the period specified and handover the management to the newly elected Committee in accordance with the Act, rules and by-laws of the society. The administrator or committee of administrators so appointed as aforesaid, shall notwithstanding anything contained in the by-laws, have power to call a special general body meeting of the society to review or reconsider the decisions or the

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

resolutions taken or passed at the general body meeting called by the previous committee or to committee or to endorse the action taken by it.

(5) The conditions of the service of the administrator shall be fixed by the Registrar which shall include the remuneration payable to him and expenses of management. Such remuneration and expenses shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals, the Registrar may direct the

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

person having custody of the funds of the society to pay to the administrator or committee of administrators such remuneration and expenses in priority to any other payments, except land revenue, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue, and he shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar.

(6) All acts done or purported to be done by the administrator or committee of administrators during the period the affairs of the society are carried on by

U/S. 78. POWER OF SUSPENSION OF COMMITTEE

the administrator or committee of administrators appointed under sub-section (1) shall be binding on the new committee.”

U/S. 79. SOCIETIES OBLIGATION TO FILE RETURNS AND STATEMENT AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF OBLIGATIONS

(1) The Registrar may direct any society or class of societies, to keep proper "in such form, with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and to produce such records as he may require from time to time; and the officer or officers of the society shall be bound to comply with his order within the period specified therein.

U/S. 79. SOCIETIES OBLIGATION TO FILE RETURNS AND STATEMENT AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF OBLIGATIONS

- (1 A) Every society shall file returns within six months of the close of every financial year to which such accounts relate, to the Registrar or to the person authorised by him. The returns shall contain the following matters, namely:--
- (a) annual report of its activities;
 - (b) its audited statement of accounts;
 - (c) plans for disposal of surplus funds as approved by the general body of the society:
 - (d) list of amendments to the by-laws of the society, if any:

U/S. 79. SOCIETIES OBLIGATION TO FILE RETURNS AND STATEMENT AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF OBLIGATIONS

- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due;
 - (f) any other information required by the Registrar in pursuance of any of the provisions of this Act.
- (1B) Every society shall also file a return regarding the name of the auditor or auditing firm from a panel approved by a State Government in this behalf, appointed in the general body meeting together with his written consent, within a

U/S. 79. SOCIETIES OBLIGATION TO FILE RETURNS AND STATEMENT AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF OBLIGATIONS

period of one month from the date of annual general body meeting.”;

(2) Where any society is required to "including filing of returns" under this Act, |the rules or the bye-laws, or to comply with an order made under the "foregoing sub-sections" and such action is not taken-

(a) Within the time provided in this Act, the rules or the bye-laws, or the order as the case may be, or

U/S. 79. SOCIETIES OBLIGATION TO FILE RETURNS AND STATEMENT AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF OBLIGATIONS

(b) Where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing, the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrears of land revenue.

(3) Where the Registrar takes action under subsection (2), the Registrar may call upon the officer or

U/S. 79. SOCIETIES OBLIGATION TO FILE RETURNS AND STATEMENT AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF OBLIGATIONS

officers of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the bye-laws, or the order made under sub-section (1) and after giving such officer or officers an opportunity of being heard, may require him or them to pay to the society the expenses paid or payable by it to the State Government as a result of their failure to take action and to pay to the assets of the society such sum not exceeding "one hundred rupees" as the Registrar may think fit for each day until the Registrar's directions are carried out.

U/S. 85. COSTS OF INQUIRY AND INSPECTION

(1) Where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs as he may think just between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the "and pass such order within a period of SIX months from the date of submission of inquiry report"

Provided that;

(a) No order of apportionment of the costs shall be made under this section unless the society or person or

U/S. 85. COSTS OF INQUIRY AND INSPECTION

the legal representative of the deceased person liable to pay the costs there under, has or have been heard, or has or have had a reasonable opportunity of being heard;

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

(2) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under the foregoing sub-section.

U/S. 88. POWER OF REGISTRAR TO ASSESS DAMAGES AGAINST DELINQUENT PROMOTERS, ETC.

(1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 83 or the person authorised to inspect the books under section 84 or the Liquidator under section 105 or otherwise that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of such audit

U/S. 88. POWER OF REGISTRAR TO ASSESS DAMAGES AGAINST DELINQUENT PROMOTERS, ETC.

or date of order for inquiry, inspection or winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or persons and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rates

U/S. 88. POWER OF REGISTRAR TO ASSESS DAMAGES AGAINST DELINQUENT PROMOTERS, ETC.

as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

Provided that proceedings under this sub-section, shall be completed by the authorize person within a period of two year from the date of issue of order by the Registrar:

U/S. 88. POWER OF REGISTRAR TO ASSESS DAMAGES AGAINST DELINQUENT PROMOTERS, ETC.

Provided further that, the Registrar may after recording the reason thereof, extend the said period for a maximum period of six months

(2) The Registrar or the person authorised under subsection (1) in making any order under this section, may provide therein for the payment of the cost or any part thereof, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may criminally responsible.

U/S. 105. POWERS OF LIQUIDATOR

(1) The Liquidator appointed under section 103 shall have powers, subject to the rules and the general supervision, control and direction of the Registrar;

(a) To institute and defend any suit and other legal proceedings, civil or criminal, on behalf of the society in the name of his office;

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

(c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof, to any person or body corporate, or sell the same in parcels;

U/S. 105. POWERS OF LIQUIDATOR

- (c-i) To transfer by sale assets valued at market price to a society registered with similar objects or to Government undertaking which carries on the same business as of the society under liquidation;
- (c-ii) To lease to other societies or to Government undertaking, with prior approval of the Registrar, the property of the society to run the same business as that of the society under liquidation;
- (d) To raise, on the security of the assets of the society, any money required;
- (e) To investigate all claims against the society and, subject to the provisions of the Act, to decide questions of priority arising out of such claims,

U/S. 105. POWERS OF LIQUIDATOR

and to pay any class or classes of creditors in full or ratable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates;

(f) To make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claims, present or future, whereby, the society may be rendered liable;

(g) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts,

U/S. 105. POWERS OF LIQUIDATOR

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, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;

(h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution

U/S. 105. POWERS OF LIQUIDATOR

to be made or remaining to be made by the members or past members or by the estates, nominees, heirs or legal representatives of deceased member, or by any officer, past officer or the estate or nominees, heirs or legal representatives of deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;

(i) To issue requisition under section 98;

(j) To refer or to get referred any dispute to the Co-operative Court for decision;

(k) To determine by what persons and in what

U/S. 105. POWERS OF LIQUIDATOR

proportion the costs of the liquidation shall be borne;

(l) To fix the time or times within which the creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;

(m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as is provided in the case of a Civil Court under Code of Civil Procedure, 1908;

U/S. 105. POWERS OF LIQUIDATOR

(n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents as may be necessary to such winding up;

(o) To take such action as may be necessary under section 19 with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

(2) Notwithstanding anything contained in sub section (1) the liquidator shall not have the right to vote on behalf of the society in liquidation, at the election of the member of the committee or of officers of any other society.

**THANK
YOU**