

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 28TH SEPTEMBER, 2020

NO.PAS/LEGIS-B-20/2020- The Sindh Co-Operative Societies Bill, 2020 having been passed by the Provincial Assembly of Sindh on 21st August, 2020 and assented to by the Governor of Sindh on 22nd

September, 2020 is hereby published as an Act of the Legislature of Sindh.
THE SINDH CO-OPERATIVE SOCIETIES ACT, 2020

SINDH ACT NO. XXVIII OF 2020

AN
ACT

to consolidate and amend the law relating to cooperative societies in the Province of Sindh.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Province of Sindh.

It is hereby enacted as follows:-

CHAPTER-I
Preliminary

1. (1) This Act may be called the Sindh Co-operative Societies Act, 2020.

(2) It shall extend to the whole of the Province of Sindh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context -

(a) "beneficial owner" means a natural person who ultimately owns or controls a society, whether directly or indirectly, or by exercising effective control of that society through other means as may be

prescribed;

(b) "bye-laws" means bye-laws registered under this Act and for the time being in force and includes a registered amendment of such bye-laws;

(c) "Committee" means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted;

(d) "Competent authorities" means the 'regulators', the oversight bodies for Self-Regulatory Bodies (SRBs) as specified in the Anti-Money Laundering Act 2010, the "Investigating or Prosecuting Agency" and the Financial Monitoring Unit;

(e) "Department" means the Cooperative Department, Government of Sindh;

Preamble.

Short title,
extent and
commencement.

Definitions.

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“Financing Bank” means a society the main object of which is to make loans in cash or in kind to any other society or to an agriculturist who is not a member of a society or to both societies and such agriculturists;

“Government” means the Government of Sindh;

“Loan” includes finance as defined in the Banking Tribunals Ordinance, 1984 (Ordinance No. LVIII of 1984) and all cognate expression shall be construed accordingly;

“Member” includes a person joining in the application of a society or a person admitted to membership after registration in accordance with the rules and bye-laws applicable to such society;

“natural person” means an individual or individuals;

“Officer” includes a Chairman, Secretary, Treasurer, member of committee or other person empowered under the rules or under the bye-laws of a society to give directions in regard to the business of such society;

“prescribed” means prescribed by rules;

“society” means a society registered or deemed to be registered under this Act;

“Registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act;

“rules” means rules made under this Act;

(1) “resource society” means a society formed with the object of obtaining for its members the credit, goods or services required by them;

(2) “producers’ society” means a society formed with the object of producing and disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society;

(3) "consumers society" means a society formed with the object of obtaining and distributing goods to or of performing services for its members, as well as to other consumers and of dividing among its members and customers in a proportion prescribed by the rules or by the bye-laws of such society, the profits accruing from such supply and distribution;

(4) "housing society" means a society formed with the object of providing its members with dwelling houses on conditions to be determined by its by-laws;

(5) "general society" means a society not falling under any of the four classes above-mentioned.

The Registrar shall classify all societies under one or other of the above heads and his decision shall be final.

A society formed with the object of facilitating the operations of any one of the above classes of societies shall be classified as a society of that class.

A list of all such societies, so classified on 31 December shall be published annually in the month of January in the Official Gazette.

CHAPTER-II

Registration

3. Government may appoint a person to be Registrar of Co-operative Societies for the Province on such terms and conditions as it may determine and may appoint a person or persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of a Registrar under this Act.

4.(1) For the purpose of recovering any papers, documents or books of account belonging to a society, the Registrar may issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the Provisions of Chapter VII of the Code of Criminal Procedure, 1898 (V of 1898) and all such searches shall be made in accordance with the provisions of that Code.

(2) The powers under sub-section (1) shall not be exercised by the Registrar before serving a notice on the society and giving it a reasonable opportunity to produce such papers, documents or books of account as are specified in such notice.

5. Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members 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 with or without limited liability:

Provided that, unless Government by general or special order otherwise directs-

(a) the liability of a society of which a member is a society shall be limited;

(b) the liability of a society of which the primary object is the creation of funds to be lent to its members and of which the majority of the members are agriculturists, and of which no member is a registered society shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of all obligations of such a society:

Provided further that when the question whether the liability of a society is limited or unlimited has once been decided by the Registrar at the time of registration, his decision shall be final.

6. Where the liability of the members of a society is limited by shares, no member other than a society shall -

(a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules; or

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

thousand rupees; provided that if the society is a housing society, a member may have or claim an interest in the shares of the society not exceeding rupees twenty thousand.

Registrar.

Power of Registrar to
issue search warrant.

Societies which may
be registered.

Restrictions on
interest of member of
society with limited
liability and a share
capital.

7.1) No society, other than a society of which a member is a society, shall be registered under this Act, which does not consist of at least thirty (30) persons and in case of a producers' or housing society, consists of at least fifty members and each member of a society, except the housing and producers' societies, shall have the ordinary place of abode in the same town or village or in the same group of villages within a radius of fifteen kilometers from the registered office of the society.

(2) No society shall be registered for the purpose of carrying on business as a banking society, financing bank or which uses as part of its name under which it proposes to carry on business, the word "bank" or "banking" unless —

(a) it has a paid up capital of not less than twenty million rupees or such higher amount, as may be prescribed; and

(b) satisfies such other conditions as may be prescribed.

(3) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

8. When any question arises whether, for the purposes of this Act, a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

9.(1) For purposes of registration, an application to register shall be made to the Registrar.

(2) The application for registration of a society shall be -

(a) made in writing specifying the address of its proposed registered office;

(b) _ signed by atleast fifty person in case of producers or housing society and atleast thirty persons for any category of societies with proof of the identifications of those persons; provided that this condition as to the number of persons shall not be applicable in case where atleast one of the proposed member is a society;

(c) accompanied, in the case of producers, or housing society or any other society which is likely to adversely affect the environment approval of the competent authority in accordance with section 12 of the Pakistan Environmental Protection Act, 1997 (Act XXXIV of 1997);

(d) accompanied by the following documents :-

(i) proof of the payment of such registration fee as may be prescribed; provided that different registration fee may be prescribed for different categories of societies; provided further that in case of agriculture society, the registration fee shall not exceed five hundred rupees; and

(ii) a copy of the proposed by-laws of the society;

(iii) information as prescribed about its members, beneficial owners, running affairs of the society to the Registrar;

Conditions of registration.

Power of Registrar to decide certain questions.

Application for registration.

(iv) if the society is run by non-members i.e. officers and employees, prescribed information regarding these employees and officers, and the reasons for running the affairs by them;

(e) a society of which no member is a society, by at least thirty (30) persons qualified in accordance with the requirements of sub-section (1) of section 7; and

(f) in the case of a society of which a member is a society by a duly authorised person on behalf of every such society and where all the members of the society are not societies, by other thirty members or, when there are less than other thirty members, by all of them.

(3) The application shall be accompanied by a copy of the proposed bye-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

(4) The registration fee shall be deposited in the account in the prescribed manner.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules or any other law for the time being in force, and that its proposed bye-laws are not contrary to this Act or to the rules, he may register the society and its bye-laws after completing the procedure and requirements as the Registrar may determine.

II. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

12.(1) Every society shall within a period of three months after the date fixed for making up its accounts for the year under the rules for the time being in force call a general meeting of its members for the purpose of approval of accounts, election of the office bearers of the society.

(2) The annual general body meeting held without observer of Department shall not be considered valid.

13. A special general meeting may be called at any time by a majority of the managing committee and shall be called within one month -

(1) on the requisition in writing of one-fifth of the members of the society;

or

(2) at the instance of the Registrar.

14. A society may, by a resolution of a general meeting and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society, or of any of its members, or past members and any legal proceedings pending may be continued by or against the society under its new name.

15.(1) Any two or more societies may, with the prior approval of the Registrar by a resolution passed by a two-third majority of the members present and voting in a General or Special meeting of the societies, amalgamate a single society.

(2) A society may, with the prior approval of the Registrar, by a resolution passed by two-third majority of the members present and voting in a general or special meeting of the society divide the society into two or more societies.

Registration.

Evidence of
registration.

Annual general
meeting.

Special general
meeting.

Change of name, its
effect.

Amalgamation,
division, transfer of
societies.

(3) A society or societies, as the case may be, by way of a resolution passed in accordance with this section, transfer to, divide or amalgamate its or their assets and liabilities with any other society or societies in case of division or amalgamation with the prior written consent of the creditor or creditors, if any, of the society or the societies.

(4) Division of assets and liabilities shall take place after due approval and audit and in such manner, as may be prescribed.

(5) No new society arising out of an existing society shall be registered unless it satisfies the conditions of registration of a society under this Act or the rules.

16. (1) Notwithstanding anything contained in this Act and subject to any other law for the time being in force, a society may, with the written consent of its creditors and the approval of the Registrar, by a resolution, incorporating the terms and conditions of the proposed merger, passed by two-third majority of its members present and voting in a general body meeting, merge itself in a company or a body corporate.

(2) On the fulfillment of the legal formalities and disposal of objections, if any, the Registrar may issue a certificate authorizing such merger.

(3) On the issuance of the certificate under sub-section (2), all the assets and liabilities of the society shall stand transferred to the company or the body corporate, as the case may be.

17.(1) No amendment of the bye-laws of a society shall be considered legal until and unless it is proposed in the form of resolution by General or Special Body of society and is registered by the Registrar under this Act.

(2) If the Registrar is satisfied that any amendment of the bye-laws made by a society is not contrary to any law for the time being in force, he may register the amendment.

(3) When the Registrar registers an amendment of bye-laws of a society under sub-section(2), 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.

18. (1) If the Registrar is satisfied that the bye-laws of a society are inconsistent with any law for the time being in force, or it is necessary in the interest of the society and its members to make amendments in such bye-laws, he may, by means of a notice in writing, giving reasons, bring the fact to the notice of the society and advise the society to make the amendments within a period of sixty days.

(2) If the society fails to make such amendments within the time specified in sub-section (1), the Registrar may, after giving the society an opportunity of being heard, register such amendments as he may decide and issue to the society a copy of the amendment registered by him.

(3) An appeal shall lie to Government from an order of the Registrar passed under sub-section (2) within two months of the date of receipt of the order:

Provided that apart from formal receiving, any sort of receipt subsequent to communication by courier service shall constitute the communication of the order.

Merger of a society
in a company, etc.

Amendment of the
bye-laws of a society.

Powers of the
Registrar to amend
bye-laws.

CHAPTER-II

Rights and Liabilities of Members

19. No person shall exercise the rights of a member of a society unless or until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be prescribed by the rules or the bye-laws of such society.

20. Notwithstanding anything contained in this Act and any other law for the time being in force -

- (i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii)

every application made by any person for membership of an Agricultural Credit Society shall be accompanied by a declaration specifying the immovable property on which he agrees to have a charge created for the dues of the society; and no such person shall be admitted as a member or shall exercise rights of a member of such society unless he makes such declaration;

any member of an Agricultural Credit Society may at any time make a declaration as in clause(i) regarding immovable property on which he agrees to have a charge created for the dues of the society of which he is a member;

a declaration made under clause(i) or (ii) may be varied at any time by a member with the consent of the society in favor of which such charge is created;

no member of an Agricultural Credit Society so long as he continues to remain such member shall alienate the whole or any part of the property specified in the declaration made under clause(i) or (ii);

any alienation of any property specified in the declaration made under clause (i) or (ii) by such member shall be void;

subject to the prior claim of Government in respect of land revenue or any money recoverable as arrears of land revenue, there shall be a first charge in favour of the society on the property specified in the declaration under clause (i) or (ii) in respect of and to the extent

of any debt or other outstanding demand owing by such member to the society;

an entry regarding a charge on immovable property created by a declaration under clause (i) or (ii) or any variation made therein under clause (iii) shall be made in the record of rights maintained under the Sind Land Revenue Act, 1967 (Act V of 1967) or the relevant provisions of any other law relating to land revenue in force in the area, notwithstanding anything contained in the said Act.

Explanation.-For the purposes of this section an 'Agricultural Credit Society' means a resource society of which the primary object is the creation of funds to be lent to its members and of which a majority of the members are agriculturists and of which no member is a registered society and the liability of which is limited.

(1) Where a society is a member of another society that society shall nominate any its members to serve as a

No rights of
membership to be
exercised till due
payments are made.

Special provisions for
membership of
resource societies.

Director of the society of which it is a member.

(2) The Director of a society who is nominated in accordance with sub-section (1) must be a natural person and provide prescribed information to the society to which he is nominated in the prescribed circumstances and manner.

(3) The Secretary of a society shall keep an updated record of any nominated Directors, as well as provide prescribed information of the nominated Directors to the Registrar both annually and from time to time when changes occurs in the prescribed circumstances and manner.

(4) The Registrar shall keep an updated record of the nominated Directors of all societies in the prescribed circumstances and manner.

(5) Other than as set out in subsection (1), no director will nominate on his behalf a member or director to perform the membership rights on his behalf.

21. (1) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the Chairman of a Managing Committee shall have a casting vote.

(2) A Society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote in the affairs of such other registered society.

22. A member of the society to which the provisions of this section have been applied by the Government by notification in the Official Gazette shall be disqualified for being, and for voting at an election of, a Director, Manager or other officer of the society —

(a) if he has taken a loan from the society which has been outstanding for six months or more after it has become payable and has not been repaid upto the day immediately preceding the date of the election; or

(b) if he has taken a loan from the society which is repayable by installments and the amount of three or more installments has been outstanding for six months or more from the date on which the amount of the last installment became payable and has not been repaid upto the day immediately preceding the date of the election.

(c) if he is involved or criminally charged or convicted.

Explanation.-The date on which the loan or installment becomes payable is the date specified in the bond or any other instrument in writing evidencing the loan but does not include any extension thereof.

Votes of members.

Disqualification for
being, and for voting
at an election of
Director, Manager or
other officer of the
society.

23. (1) The transfer or charge of the share or interest of a member in the capital of Restrictions on

a society shall be subject to such conditions as to maximum holding as may be
prescribed by this Act or by the rules.

(2) A member shall not transfer any share held by him or his interest in the

transfer of share or
interest.

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; and

(b) the transfer or charge is made to the society or to a member of the society or to a person whose application for membership has been accepted by the society.

24. A member of a cooperative housing society or a society dealing in housing development shall cease to be member of the society in case all his interests in the immoveable property in the society are transferred in favour of any other person by sale, inheritance, gift or otherwise, and the person acquiring such interests shall subject to rules, be admitted as a member:

Provided that where more than one person acquire the interests, one of such persons with mutual consent, failing which the person older in age shall be admitted as member having right to vote which other persons will be the members without such right:

Provided further that where a minor or a mentally disabled person, acquires the interest, the natural or legal guardian of the minor or, as the case may be, the person bound to maintain the disabled person shall be admitted as a member and such membership shall stand transferred to the minor as soon as he acquires majority or to the disabled person as soon as his disability is removed.

CHAPTER IV

Duties of Societies

25. Every society shall have an address registered in accordance with the rules, to which all notices and communications may be sent, and shall send notice in writing to the Registrar of any change in the said address within thirty (30) days of such change.

26. (1) The Secretary of the society shall provide prescribed information to the Registrar both annually from time to time when changes occur.

(2) The Secretary of the society shall provide to competent authorities at any time upon request, prescribed information, including but not limited to beneficial owners, members, nominees of the members, officers, employees and Managing Committee of the society, in the prescribed circumstances and manner.

(3) The Registrar may at any time by his own self or through a person authorized by him require the prescribed information from the Secretary of the society.

27. The Registrar, for the societies registered under this Act, shall provide information to any competent authority upon their request in writing regarding the members and beneficial owners, officers, employees of the society, assets or shares held by the members in the society, their addresses, nominees of the members, properties, and financial condition of the society.

28. Every society shall keep open to inspection at all reasonable times at the registered address of the society—

(a) a copy of this Act;

(b) a copy of the rules governing such society;

Transfer of interest
in a housing society.

Address of societies.

Provision of
information of
beneficial owners.

Provision of
information by the
Registrar.

Copy of Act etc., to
be open to inspection.

(c) a copy of the bye-laws of such society;

(d) an up-to-date register of its members and nominee of the members;

(e) an up to date register of its beneficial owners; and

(f) such other information as may from time to time be required by the Registrar.

29. (1) The Registrar shall keep an up-to-date record as prescribed of all the beneficial owners, members, nominees of the members, directors, managing committee and employees of the society.

(2) After the commencement of this Act, every society shall provide the information about its beneficial owners as prescribed within three months' to the Registrar.

(3) If a society fails to provide the information as required under sub-section (2), the Registrar shall cancel that society's registration.

30.11) The Registrar shall, by himself, an auditor or a committee of auditors appointed by him, through general or special order issued in this behalf, audit the accounts of every society once at least in every year:

Provided that no person shall audit the accounts of society for two consecutive years.

(2) The Registrar may, by general or special order, determine the fee payable to the auditors or the committee of the auditors, as the case may be, and the fees so determined shall be payable by the society;

(3) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of cash balance and securities, and a valuation of the assets and liabilities of the society.

(4) The Registrar or other person auditing the accounts of any society shall have free access to the books, accounts and vouchers of such society and shall be allowed to verify its cash balances and securities.

(5) The Directors, Managers, and other officers of the society shall furnish to the Registrar or other person appointed to audit the accounts of a society all such information as to its transactions and working as the Registrar or such person may require.

(6) The Registrar and every other person appointed to audit the accounts of a society shall have power, when necessary -

(i) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs; or

(ii) to require the production of any book or document relating to the affairs of any cash or securities belonging to the society by the officer, agent, servant, or member in possession of such book,

document, cash or securities.

31. Where, in the course of an audit under section 30 it appears to the Registrar that there exists any such ground as is specified in section 69, he may, of his own motion or on the application of the person authorized by him under section 30, exercise the powers specified in section 69.

Updating of records
of societies.

Audit.

Power of Registrar to
exercise powers
under section 69 in
the course of an
audit.

32.(1) No person shall be allotted a plot by the society if he or his wife husband in case of female, minor child or any dependent, owns or has at any time owned plot, in the district where the society is registered. An undertaking in this regard shall be furnished by each member and in case of false information the plot allotted to him shall stand cancelled.

(2) The area earmarked for commercial purposes shall be disposed of by the society through open public auction, after proper publicity and under the supervision of concerned Deputy Registrar.

(3) No amenity plot shall be allotted or developed by the society without prior approval of general body and prior permission from the concerned Deputy Registrar.

(4) All instruments including sub-lease, sale deed, gift, surrender deed of the society plots shall not be registered without having No Objection Certificate be obtained by the concerned Sub-Registrar from the Registrar.

(5) The building plan of residential, commercial or amenity plot of the society shall be forwarded to the Sindh Building Control Authority or any other authority through Registrar.

(6) The cases for change of status, bifurcation, sub-division, amalgamation, cancellation and re-allotment of the society, shall not be processed without the prior NOC detained from Registrar.

(7) Each internal development work of the society shall be conducted after obtaining prior approval from general body and in accordance with Sindh Public Procurement Act and rules made thereunder.

CHAPTER-V

Privileges of Societies

33. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute, and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

34. Subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent —

(a) any debt or outstanding demand owing to a society by any member or past member or, in the case of a society authorized under sub-section

(1) of section 45 to make loans to non-members, by a non-member shall be a first charge (i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member, past member or non-member, and (ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture or workshop, godown or place of business, supplied to or purchased by such member, past member or non-member in whole or in part from any loan whether in money or goods given, him by the society:

Provided that nothing contained in this clause shall affect

the claims of any bonafide purchaser or transferee for value without notice of any such crops or other agricultural produce, cattle, fodder

Conditions of
allotment of plot.

Societies to be bodies
corporate.

Prior claim of
society.

for cattle or raw materials for manufacture or workshops, or agricultural or industrial implements; and

(b) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

35. A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set-off any sum credited or payable to a member or past member in or towards payment of any such debt.

36. Subject to the provisions of section 35, the share or interest of a member in the capital of a society or in any provident fund established under section 53 shall not be liable to attachment or sale under any decree or order of a Court of justice in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Insolvency Karachi Division Act, 1909 nor a receiver under the Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest.

37.(1) On the death of a member of a society, such society may within a period of one year from the death of such member transfer the share or interest of the deceased member to a person or persons nominated in accordance with the bye-laws of the society, if duly admitted a member of the society, in accordance with the rules or the bye-laws of the society, or, if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member if duly elected a member of the society, or may pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules or bye-laws:

Provided that such nominee, heir or legal representative, as the case may be, may require that payment shall be made by the society within one year from the death of the member, of the value of the share or interest of such member ascertained as aforesaid:

Provided further that the nominee, heir or legal representative shall distribute the amount received by him among the heirs of the deceased.

(2) A society shall subject to the provisions of section 35 and unless prevented by an order of a competent court pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(3) 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.

38. The liability of a past member for the debts of a society as they existed at the time when he ceases to be a member, shall continue for a period of two years from the date of his ceasing to be a member.

39. The estate of a deceased member shall be liable for a period of one year

from the date of his death for the debts of a society as they existed at the time of his death.

Charge and set-off in
respect of shares or
interest of member.

Shares or interest not
liable to attachment.

Transfer of interest
on death of member.

Liability of past
member.

Liability of the
estates of deceased
members.

40. Any register or list of members or shares kept by any society shall be prima facie evidence of any of the following particulars entered therein:-

- (a) the date at which the name of any person was entered in such register or list as a member;
- (b) the date at which any such person ceased to be a member.

41.(1) A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a society shall, if duly certified in such manner as may be prescribed by the rules, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which the original entry would, if produced, have been admissible to prove such matters.

(2) In the case of such societies as Government by general or special order may direct, no officer of a society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved under sub-section(1), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

42. Nothing in section 17, sub-section (1), clauses (b) and (c), of the Registration Act, 1908 shall apply to -

(i) any debenture participation term certificate term finance certificate, musharika certificate, modaraba certificate and such other instruments as may be approved by the State Bank of Pakistan, issued by any 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 instruments; or

(ii) any endorsement upon or transfer of any debenture participation term certificate, term finance certificate, musharika certificate, modaraba certificate, and such other instruments as may be approved by the State Bank of Pakistan, issued by any society.

43.(1) The Federal Government, by notification in the Official Gazette, may, in the case of any society or class of societies, remit the income-tax or super-tax payable in respect of the profits of the society, or of the dividends or other payment received by the members of the society on account of profits or in respect of interest or return on securities held by the society.

(2) Government by notification in the Official Gazette, may, in the case of any society or class of societies, remit -

(a) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or any class of such instruments or security bonds executed by or on behalf of officers or servants of a society or awards of the Registrar or arbitrators under this Act are respectively chargeable; and

(b) any fee payable under the law of registration and of court fees for the time being in force.

Register of members.

Admissibility of copy
of entry as evidence.

Exemption from
compulsory
registration of
instruments relating
to shares etc. of
society.

Power to exempt
from income-tax,
stamp-duty,
registration and
court fees.

44, With such safeguards as may be prescribed by rules in this behalf, Government may give loans to societies or guarantee the payment of the principal of debentures issued by them or of interest or return thereon or both.

CHAPTER-VI

Property and Funds of Societies

45. (1) Except with the general or special sanction of the Registrar and subject to such terms and conditions as he may impose, a society shall not make a loan to any person other than a member.

(2) Save with the sanction of the Registrar, a society with unlimited liability shall not lend money on the security of movable property.

(3) Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any society or class of societies.

(4) Where the Registrar has accorded sanction to a financing bank under sub-section (1) to make loans to non-members, a society which is a member of such financing bank may, subject to the terms of the sanction and such other terms and conditions as the Registrar may impose, act as an agent of the financing bank and as such agent carry out, on or without the payment of any commission, all or any transactions connected with any loan made or to be made by the financing bank.

46. No society shall allot, issue, sell, transfer or assign any bearer shares, bearer share warrants or any other equity or debt security of a bearer nature, by whatever name called, and any allotment, issue, sale, transfer, assignment or other disposition of any bearer shares or bearer share warrants or any other equity or debt security of a bearer nature, shall be void.

47. A society shall receive deposits, donation, grants and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by the bye-laws of the society.

48. Consumers', producers' and housing societies may to the extent permitted by their bye-laws trade with persons who are not members, but the transactions of a resource society with persons other than members except as provided under section 46 or 47 shall be subject to such prohibitions and restrictions, if any, as Government may by rules prescribe.

49. A society may invest or deposit its funds —

(a) in the Government Saving Bank; or

(b) in any of the securities specified in section 20 of the Trusts Act, 1882;

or

(c) in the shares or on the security of any other society; provided that no such investment shall be made in the shares of any society other than one with limited liability; or

(d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar; or

(e) in any other mode permitted by the rules.

50. No society shall pay a dividend to its members at a rate exceeding ten per cent.

51. (1) Every society which does or can derive a profit from its transactions shall maintain a reserve fund.

Government may
give loans or
guarantee interest or
return.

Restrictions on loans.

Prohibition on
issuance of bearer
shares, warrants, etc.

Restrictions on
borrowing loans,
donations and
grants.

Restrictions on other

transactions with
non-members.

Investment of funds.

Restrictions on
dividend.

Reserve Fund.

(2) In the case of a resource or producers' society at least 1/4th of the net profits of the society each year shall be carried to the reserve fund and in the case of any other society at least 1/10th of the net profits of the society each year shall be carried to the reserve fund, and such reserve fund may be used in the business of the society or may be invested, subject to the provisions of section 49, as Government may by general or special order direct, or may, with the previous sanction of Government be used in part for some public purpose likely to promote the objects of this Act or for some purposes of provincial or local interest.

52. Subject to the provisions of section 50 the balance of the profits of a society after making the prescribed provisions for the reserve fund may, together with any available profits of past years, be distributed among its members, and in the case of consumers' and producers' societies, also among persons who are not members, to the extent and under the conditions prescribed by the rules or by the bye-laws of such societies:

Provided that -

(a) in the case of a resource society on a basis of unlimited liability in which the members do not hold shares, no distribution of profits shall be made without the general or special order of Government in this behalf; and

(b) in the case of a resource society on a basis of unlimited liability in which the members hold shares, no such distribution of profits shall be made until ten (10) years from the date of registration of the society have elapsed.

53. Any society may establish a provident fund for its members out of contributions from such members in accordance with bye-laws made by the society in this behalf and may contribute to such provident fund from its net profits, after the prescribed payments have been made to the reserve fund:

Provided that such provident fund shall not be used in the business of the society but shall be invested under the provisions of section 49:

Provided further, that no part of such provident fund shall be considered as an asset of the society.

54. With the approval of the Registrar and after the payments prescribed by sub-section (2) of section 51 have been made to the reserve fund, any society may —
(a) set aside a sum not exceeding twenty per cent of its net profits; and
(b) utilize from time to time the whole of such sum in contributing to any public or co-operative purpose, or to a charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

CHAPTER-VII

Inspection of Affairs

55.(1) The Registrar may, of his own motion by himself or by any officer duly authorized by him in writing in this behalf, hold an inquiry into the constitution, working and financial condition of a society.

(2) The Registrar may hold such an inquiry as is contemplated in sub-section (1)—
(a) on the requisition of a society, duly authorized by rules made in this

behalf to make such requisition, in respect of one of its members,
such member being itself a society;

Restriction on
distribution of
profits.

Provident fund.

Contribution to
charitable purpose.

Inquiry by Registrar.

- (b) on the application of a majority of the Committee of the society;
- (c) on the application of 1/3rd of the members of the society.

(3) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or an officer authorized by the Registrar may require.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

56.(1) The Registrar may, on the application of a creditor of a society inspect or direct an officer authorized by him by order in writing in this behalf to inspect the books of the society:

Provided that —

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

(2) The Registrar shall communicate the result of any such inspection to the creditor.

57.1) A financing bank shall have the right to inspect the books of any society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting 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 also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

(2) The financing bank shall communicate the result of such inspection to the Registrar and the society concerned.

58. Where, in the course of any inquiry under section 55 or an inspection under section 56 or section 57 it appears to the Registrar that there exists any such ground as is specified in section 69, he may, of his own motion or on the application of the officer authorized by him under section 55 or section 56 or section 57, exercise the powers specified in section 69.

59.(1) An officer of a society, by whatever name called may be removed by the Registrar, if, on an enquiry, he is satisfied that the said officer —

- (i) acts in a manner prejudicial to the interest of the society or its members; or
- (ii) has incurred any of the disqualifications or has ceased to possess

any of the qualifications for being an officer provided by this Act, rules or bye-laws; or

(iii) has committed an act in respect of which the Registrar is empowered to take action under section 69.

(2) An order under sub-section (1) shall not be passed without giving to the concerned officer a reasonable opportunity of being heard.

Inspection of books
of indebted society.

Inspection of books
by financing bank.

Power of Registrar to
exercise powers
under section 69 in
the course of an
inquiry or inspection.

Power to remove
officers.

(3) On being removed, the officer shall not perform any functions as such in relation to the society.

(4) An officer aggrieved by an order under sub-section (1) may, within a period of seven days from the date of the order of his removal, prefer an appeal to such Appellate Authority as may be constituted by Government and the decision of the said Authority shall be final.

60.(1) Where the Registrar is satisfied that in the public interest or to prevent the affairs of any society from being conducted in a manner detrimental to the interest of its members or depositors or the society or to secure the proper management of any society generally, it is necessary, to issue directions to the societies generally or to any society in particular, it may issue necessary directions, and the societies or as the case may be, the society shall be bound to comply with such directions.

(2) The Registrar may on a representation made to him or on his own motion modify or cancel any direction issued under sub-section (1) and in so modifying or cancelling any direction impose such conditions as he may think fit subject to which the modification or cancellation shall have effect.

61.(1) If it appears to the Registrar that in the interest of the members of a society or its depositors it is necessary that the moneys received and other assets of the society, whether held in the name of that society or any other person, are protected and preserved, the Registrar or any other person authorized by him, may without prejudice to any other action or proceedings which may be taken against the society under any law for the time being in force -

(i) enter and search any premises and seize books of account or other documents or records;

(ii) take in his custody all moneys, cash, securities, title deeds, properties, whether movable or immovable, belonging to such society including those being held on behalf of or in the name of any officer, employee or agent of the society, beneficiary or transferee of such society or other person or their dependents;

(iii) direct any bank, financial institution or person to freeze all moneys deposited with it or him on behalf of the society or of any officer, employee, agent, beneficiary or transferee of such society;

(iv) take all necessary steps and measures for identifying assets and property of the society and for realization, protection and preservation thereof;

(v) restrain any society or officer, employee, agent, beneficiary or transferee of such society or any person deriving or claiming title through any of them from alienating, transferring, selling, assigning, disposing of or parting with possession of any property, movable or immovable, or deriving any benefit, rent or income therefrom;

(vi) make such order for realization, protection and preservation of deposits of money and other assets and property of the society as he may deem fit.

(2) The order passed under sub-section (1) may at any time be withdrawn and shall not remain in force for more than thirty days which shall be extendable for a period of another ninety days with the approval the Secretary of the Department.

Power of Registrar to
give directions.

Special measures.

62. Where an inquiry is held under section 55 or an inspection is made under section 56, the Registrar may apportion the costs, or such part of the costs, as he may think right, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 57 of the books of any society other than an Agricultural Credit Society the liability of which is unlimited:

Provided that —

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

(b) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned or awarded.

Explanation.- For the purpose of this section, an Agricultural Credit Society means a resource society of which the primary object is the creation of funds to be lent to its members and of which a majority of the members are agriculturists and of which no member is a registered society and the liability of which is unlimited.

63. Any sum awarded by way of costs under section 62 may be recovered, on application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, or by an officer authorized in this behalf by Government, by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

CHAPTER-VIII

Liquidation and Arbitration

64. If the Registrar, after an inquiry has been held under section 55 or after an inspection has been made under section 56 or on receipt of an application made by three-fourths of the members of a society present at a special general meeting, called for the purpose or of his own motion, in the case of a society that has not commenced working, or has ceased working or possesses shares or members deposits not exceeding rupees five hundred, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up, and when necessary, may appoint a liquidator for the purpose and fix his remuneration.

65. Where it is a condition of the registration of a society that it shall consist of at least thirty members who are majors, the Registrar may by order in writing direct the society to be wound up, if at any time it is proved to his satisfaction that the membership has been reduced to less than thirty such members, and the society, despite a reasonable opportunity of being heard, has failed to raise the number of members to be in accordance with the provisions of this Act.

66. When the affairs of a society for which a liquidator has been appointed under section 64 have been wound up, or, where no liquidator has been appointed, after two months from the date of an order under section 64, or after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of

the society, and the society shall be deemed to be dissolved from the date of such order.

Costs of inquiry.

Recovery of costs.

Winding up.

Society may be
wound up if
membership is
reduced.

Effect of cancellation
of registration.

67. (1) The Registrar shall keep all the records of a society along with proceeding of liquidation completed whose registration has been cancelled for a period not less than five years.

(2) The Secretary of the society whose registration has been cancelled shall also keep the records of the society for a period not less than five years; provided that the society shall dispose of its record after five years after the approval of the Registrar.

68. A liquidator appointed under section 64 shall have power with the sanction of the Registrar to do all or any of the following things:-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)

Gg)

pay any class or classes of creditors in full;

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

to compromise all calls or liabilities to calls and debts, 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 and take any security for the discharge of any such call, liability, debt, or claim and give a complete discharge in respect thereof;

from time to time to determine the contribution 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 officer to the assets of the society, such contribution including debts due from such members or persons;

to institute and defend suits and other legal proceedings on behalf of the society in the name of his office;

to issue requisitions under section 80 upon the Collector for the recovery as arrears of land revenue of any sum ordered by him to be

recovered as dues from members, or as a contribution to the assets of the society or to the cost of liquidation;

to get disputes referred to Registrar;

to investigate all claims against the society and subject to the provisions of this Act as to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest or return from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate;

to determine by what persons and in what proportion the cost of the liquidation shall be borne;

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 winding up the affairs of the society;

Records of the
Society whose
registration has been
cancelled.

Power of a
liquidator.

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

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

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from a past member or the representative of a deceased member unless opportunity has been given to such past member or to such representative to answer the claim:

Provided further that all debts due to Government shall have priority over all debts which are not secured by a mortgage, charge or lien on the property of the society or any part thereof but nothing herein contained shall affect the provisions of the Sindh Land Revenue Act, 1967, or any other law relating to land revenue in force in the area.

69. (1) Where in the course of the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society or, where the society is acting under sub-section (4) of section 45 as agent of the financing bank, has made any payment contrary to the instructions of the financing bank, the Registrar may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and make an order requiring him to repay or restore the money or property or any part thereof respectively with interest or return at such rate as the Registrar thinks just or to contribute such sum to the assets of the society or of the financing bank by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

(2) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

70. Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter arising out of any proceedings under ChapterX or connected with the winding up or dissolution of a society under this Act and when a winding up order has been made, no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

71. After all the liabilities including the paid-up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the bye-laws of the society and when no object is so described to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in consultation with them either be assigned by the Registrar in whole or in part to any or all of the following:-

(a) an object of public utility of local or communal interest;

(b) a charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890;

(c) the Department until such time as a new society with similar conditions is registered when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

Power of Registrar to
assess damage
against delinquent
promoters, etc.

Bar of suit in
winding up and
dissolution matters.

Disposal of surplus
assets.

72. Where the society directed to be wound up is a housing society, its assets, both movable and immovable, shall for the purposes of winding up or dissolution of the society jointly vest, subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said society in a general meeting specifically called for the purpose and one shall be nominated by the Department. Such persons shall, for the purpose of winding up or dissolution of the society be Joint Liquidators and shall have all the powers of a liquidator under this Act. They may, with the sanction of the Registrar, continue the working of the society, or may, subject to his sanction and in consultation with the members of the society in a general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned, and when all the liabilities of the society are met, may dispose of the surplus assets of the society, if any, as provided in section 71.

2. All disputes (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society and liquidation disputes) shall be tried by the Cooperative Court established under section.

74. Wherever in this Act it is provided that the Registrar or an officer duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 50 or shall make an inspection under section 51 or shall wind up a society or shall arbitrate, such Registrar, or an officer authorized, as the case may be, shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

75. Every order passed by a liquidator under section 68, or by the Registrar under section 69 or every order passed by Secretary of Department in appeal against orders under sections 68,69, and every order passed under section 110 shall, if not carried out -

(a) on a certificate signed by the Registrar or a liquidator, 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) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue; provided that any application for the recovery in such manner of any such sum shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar.

76. The Registrar or any officer empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by Government and without prejudice to any other mode of recovery provided by or under this Act, recover by exercising powers of the Collector under the Sindh Land Revenue Act 1967, or the relevant provisions of any other law relating to land revenue in force in the area, and the Rules there under -

(a) any amount due under a decree or order of a Civil Court, a decision of the Registrar, obtained by a registered society including a financing bank or liquidator; or

(b) any sum awarded by way of costs under sections 31 and 62; or

(c) damages assessed in sections 31 and 69; or

(d) penalty provided for in sections 105, 107; or

Surplus assets of
housing society.

Disputes referred to
the Cooperative
Court.

Powers to enforce
attendance.

Money how
recovered.

Powers of Registrar
to recover certain

sums by attachment
and sale of property.

(e) sums due to Government under section 112, together with the interest, or return, if any, due on such amount or sum and the cost of process, by the attachment and sale or by the sale without attachment of property of the person against whom such decree, decision, award or order has been obtained or passed.

77. The Registrar or any officer empowered by him in that behalf shall be deemed when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take some step-in-aid of such recovery to be a Civil Court for the purposes of Article 182 of the First Schedule to the Limitation Act, 1908 (IX of 1908).

78.(1) When in execution of an order sought to be executed under section 81 and 82 any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or Assistant Registrar under clause (a) or (b) of sub-section (1) of section 81, the Court or the Collector, as the case may be, with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner.

(2) Subject to such rules as may be made in this behalf and to any right, encumbrances, charges or equities lawfully subsisting in favour of any other person, such property or portion thereof shall be held by the said society on such terms and conditions as may be agreed upon between the Court or the Collector, as the case may be, and the said society:

Provided that any private transfer or delivery of or encumbrance or charge on the property made or created after the issue of the certificate of the Registrar, Liquidator or Assistant Registrar, as the case may be, under section 73 shall be null and void as against the said society.

CHAPTER-IX DISTRAINT

79. In this Chapter, unless there is anything repugnant in the subject or context —

(a) “Collector” includes an officer appointed by Provincial Government to discharge any of the functions of the Collector under this Chapter;

(b) “defaulter” means a person (including his legal representatives if he is dead) from whom any such debt or outstanding demand as is referred to in section 76 is recoverable;

(c) Words and expressions used herein and not hereinbefore defined shall have the meanings respectively assigned to them by the Sind Land Revenue Act 1967 or any other law relating to land revenue in force in the area.

80. Where any debt or outstanding demand is due to a society from any member or past member or is due to a society which is authorised by the Registrar under sub-section(1) of section 45 to make loans to non-members, from any person who is

not a member of a society, the society may, in addition to any other remedy to which it is entitled by law, present an application to the Registrar requesting him to recover the debt or outstanding demand by distraining, while in the possession of

Registrar or officer
empowered by him
to be a Civil Court
for certain purposes.

Transfer of property
which cannot be sold.

Definitions.

Cases in which
application for
distrainment may be
made.

the defaulter any crop or other produce belonging to him, whether the same is growing or is un-gathered or has been reaped or gathered.

81.(1) Every application under the last foregoing section shall specify —

(a) particulars of the land on which the crop or produce is or has been grown;

(b) the name of the defaulter;

(c) a detailed account of the debts and outstanding demands due to the society;

(d) the nature and approximate value of the crop or produce to be distrained;

(e) if the crop or produce is growing or is un-gathered, the time at which it is likely to be fit to be reaped or gathered; and

(f) if the crop or produce has been reaped or gathered, the place where it is kept or such other particulars as may suffice for its identification.

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for the signing and verification of plaints.

82.(1) A society shall at the time of making an application under section 71, file before the Registrar such documentary evidence, if any, as it may consider necessary for the purpose of proving the statements made in the application.

(2) The Registrar may, after taking such evidence as he thinks fit, admit the application or reject it:

Provided that the person against whom the application is made shall be given a reasonable opportunity of being heard.

(3) Where the Registrar does not at once admit or reject the application, he may make an order prohibiting removal of the crop or other produce specified in the application, pending a final decision on the application.

(4) Where an order for distraining any crop or produce is made under this section a considerable time before the crop or produce is likely to be fit to be reaped or gathered, the Registrar may suspend the execution of the order for such time as he thinks fit and may make a further order prohibiting the removal of such crop or produce pending the execution of the order of distraint.

(5) An order under sub-section (3) or sub-section (4) shall be served and published in such manner as may be prescribed by rules.

(6) Any person who shall disobey any order made under sub-section (4) prohibiting the removal of any crop or produce pending the execution of the order of distraint, after the same has been published or served upon him, or who shall, within the meaning of the Pakistan Penal Code, abet the disobedience of any such order, shall be liable, on conviction after a summary enquiry by the Collector, to a fine not exceeding double the amount due to the society for the recovery of which it is proposed to make the distraint. Such fine shall be recovered as an arrear of land

revenue.

83.(1) If the application is admitted under the last foregoing section and an order for distraining any crop or produce is made, the Registrar shall send to the Collector for execution a copy of the order together with such particulars as may be prescribed by rules.

(2) Upon receipt of a copy of the order referred to in sub-section (1), the

Form of application.

Procedure on receipt
of application.

Execution of order
for distraint.

Collector shall depute an officer to distrain the crop or produce specified therein or such portion thereof as the Collector thinks fit and the officer so deputed shall at once proceed to the place where the crop or produce is or is kept, and distrain the same by taking charge of it himself or by placing it in the charge of some other person appointed by him in this behalf. The distraining officer shall publish a notification of the distraint in the manner prescribed by rules.

(3) Any crop or produce which from its nature does not admit of being stored shall not be distrained at any time less than twenty days before the time at which it is likely to be fit to be reaped or gathered.

84.(1) The distraining officer shall, at the time of making the distraint serve on the defaulter —

- (a) a notice of demand for the amount due and the costs incurred in making the distraint (herein after called the demand amount); and
- (b) a statement of the grounds on which the distraint is made.

(2) The notice of demand and the statement shall be served in such manner as may be prescribed by rules.

85.(1) Subject to such conditions as the Collector may impose in this behalf either in the order of distraint or in any subsequent order, the defaulter may tend, reap, gather or store the crop or produce and do any other act necessary for maturing or preserving it, and if the defaulter fails to do all or any of such acts, the distraining officer may appoint a person to do all or any of them, and the costs incurred by the distraining officer for this purpose shall be recoverable from the defaulter as if they were included in the costs of distraint.

(2) The crop or produce reaped or gathered by defaulter shall remain in charge of the distraining officer or some other person appointed by him in this behalf.

86.(1) Unless the demand amount is immediately paid, the distraining officer shall issue a proclamation in the local language of the area of the intended sale specifying the particulars of the property distrained and the demand amount for which it is distrained and shall further notify that he will, at a place and on a day specified, not being less than three or more than seven days from the date of the distraint, sell the distrained property by public auction:

Provided that when the crop or other produce distrained is capable of being stored but has not been stored, the day of the sale shall be so fixed as to allow of its being stored before the sale.

(2) Such proclamation shall be made by beat of drum in the village in which the distrained property was seized and a copy of the proclamation shall be affixed in some public place in the village and in the Mukhtiarkar's office.

87. The sale shall be held —

(a) in the case of a growing crop on or near the land on which such crop has been grown; or

(b) if the crop or produce has been reaped or gathered, at or near the place where it is kept:

Provided that the distraining officer may direct the sale to be held at the nearest place of public resort, if he is of the opinion that the crop or produce is thereby likely to sell to greater advantage.

Service of notice of demand and the grounds of distraint.

Right to reap, etc., produce.

Sale proclamation to be issued unless demand is satisfied.

Place of sale.

88.(1) Where the crop is growing one and from its nature admits of being stored, the sale shall not be held until the crop is reaped or gathered and is ready for storing.

(2) Where the crop from its nature does not admit of being stored, it may be sold before it is reaped or gathered, and the purchaser shall be entitled to enter on the land by himself or by any other person appointed by him in this behalf and to do all acts necessary for the purpose of tending, reaping or gathering the crop.

89. The distrained property shall be sold by public auction in one or more lots as the officer holding the sale may determine, and if the demand amount is realised by the sale of a portion of the property, the order of distraint shall not be executed with respect to the remainder.

90. If, on the distrained property being put up for sale, a fair price, in the opinion of the officer holding the sale, is not offered for it, and if the owner of the property or a person authorised to act on his behalf applies to have the sale postponed to the next day, the sale shall be postponed until that date and shall then be completed whatever may be the price offered for the property.

91.(1) The price of each lot shall be paid at the time of sale or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall forthwith be resold.

(2) Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Collector by the officer holding the sale, and shall, at the instance of the society or the defaulter, be recoverable from the defaulting purchaser as if they were an arrear of land revenue.

92. When the purchase money has been paid in full the officer holding the sale shall grant a receipt for the same and the sale shall become absolute as against all persons whomsoever.

93.(1) When any property is sold under this Chapter the proceeds of the sale shall be applied to defraying the costs of distraint and sale and to the payment of the amount for which the distraint was made and the surplus, if any, shall be paid to the person whose property has been sold.

(2) The costs of distraint and sale shall be estimated at such rates as may, from time to time, be sanctioned by Board of Revenue, Sindh.

94. No officer or other person having any duty to perform in connection with any distraint or sale made under this Chapter and no officer or servant of any society shall, either directly or indirectly, acquire or attempt to acquire any interest in the property sold.

95. (1) If at any time after a distraint has been made under this Chapter and before the sale of the distrained property, the defaulter or any other person deposits with the Collector or with the distraining officer the demand amount together with such costs as may have been incurred after the service of the notice of demand, the order of distraint shall not be executed.

(2) When the distraining officer receives the deposit, he shall forthwith remit it to the Collector.

(3) After the expiration of one month from the date on which the deposit is made under sub-section (1), the Collector shall pay to the society which applied for

Provisions relating to
growing crops.

Manner of sale.

Postponement of
sale.

Payment of purchase
money.

Certificate be given
to the purchaser.

Proceeds of sale how
to be applied.

Certain persons may

not purchase.

Procedure where
demand is paid
before the sale.

distrain the amount due to it:

Provided that, if before the expiry of the said period the Collector receives notice of any suit in which the legality of the distraint order is questioned or compensation is claimed for illegal distraint, he shall withhold payment to the society and shall deal with the money in accordance with such decree or order as may be passed in the suit.

96. Where an order of distraint issued under this Chapter and an order made by a Civil Court for attachment or sale relate to the same property, the order of distraint shall prevail, but if the property is sold under the order of distraint the surplus proceeds of the sale shall not be paid under section 98 to the owner of the property without the sanction of the court by which the order of attachment or sale was made.

97. No appeal shall lie against an order made by the Registrar or the Collector under this Chapter; but a person whose property is distrained on an application made under section 85 may institute a suit against the applicant for recovery of compensation if such an application is not competent under that section.

98. Nothing contained in this Chapter shall affect the operation of the provisions of the Sindh Land Revenue Act 1967, or the relevant provisions of any other law relating to land revenue in force in the area, in so far as they give priority to claims of Government to any moneys recoverable under the provisions of that Chapter over any other debt, demand or claim.

CHAPTER-X

Offences

99. It shall be an offence under this Act if—

(a) default by a society, officer or member, a society with a working capital of rupees fifty thousand or more or an officer or member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Act or rules made thereunder required to give, send, do or allow to be done; or

(b) willful neglect or default by a society, etc., a society or an officer or a member thereof willfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act or rules made thereunder by the Registrar or other officer duly authorized by him in writing in this behalf; or

(c) willful furnishing of false information, a society or an officer or member thereof willfully makes a false return or furnishes false information; or

(d) disobedience of summons, requisition, or order, any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or rules made thereunder or does not furnish any information lawfully required from him by an officer authorized to do so under the provisions of this Act or rules made thereunder;

(e) Failure to provide information. If a member, employee, director,

officer or Secretary of the society or the society itself does not furnish information under section 26 (1), 26(2), 27 and 20(vii) (1)(2)(3), or does not comply with section 67 (1), 46 and 20(vii)(4) will be an offence under this Act, or if the society fails to comply with any other provision of this Act.

Distrain of property
which is under
attachment.

Suit for
compensation for
wrongful distraint
and appeals.

Savings.

Offences.

100. Every officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding rupees one million. Whereas if any society is found guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding ten million rupees.

101. Any member, employee, director, officer or secretary of the society is found guilty under section 104(e) shall be punishable with an imprisonment of not less than three (3) years and to a maximum of five (5) years or with fine up to rupees two million or both. Whereas, if any society is found guilty under section 60 (e) shall be liable to a fine up to a maximum of 1/4th of its working Capital or to a fine not exceeding ten million rupees.

102.(1) No person other than a registered society shall without the sanction of Government, trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent forms part:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to rupees five hundred thousand and in the case of a continuing offence with further fine of rupees fifty thousand for each day on which the offence is continued after conviction therefore.

103.(1) Whoever contravenes the provisions of sub-section (3) of section 59 or any direction given by the Registrar under section 60 shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.

(2) Whoever contravenes an order passed under section 61 shall be guilty of an offence which shall be punished with imprisonment for a term which may extend to three years but which shall not be less than six months and shall also be liable to be punished with fine.

104.(1) No Court other than the Special Court for Cooperative Societies established under section 121 shall try offences under this Chapter and disputes referred to in section 78.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1989, every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

(3) No prosecution under this Act shall be lodged without the previous sanction of the Registrar, which shall not be given except after serving a notice on the party concerned and giving him a reasonable opportunity of being heard.

CHAPTER-XI

Appeals and Revisions

105. An appeal against an order or decision of or sanctioned by the Registrar under section 10, 17, 62, 64, 68, 69 may be made by any party aggrieved or affected by the order or decision to Government within two months of the date of the communication of the order.

Penalty for offences
not otherwise
provided for.

Penalty for offences
committed under 104

(©).

Prohibition of the use
of the word “co-
operative”.

Penalty.

Cognizance of
offences.

Appeals.

106. Government and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to Government or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, Government or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.

107. An order passed in appeal under 109 or in revision under section 110 by Government shall be final and conclusive and shall not be liable to be called in question in any court.

CHAPTER-XII

Miscellaneous

108.(1) All sums due from a society or from an officer or member or past member of a society as such to Government, may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

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

(3) The liability of past members shall in all cases be subject to the provisions of section 38.

109.(1) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct every month from the salary or wages payable to him by the employer such amount not exceeding the amount prescribed by rules, as may be specified in the application and 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 agreement the employer shall, if so required by the society 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 amount so deducted to the society.

(3) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (1) as were in force prior to commencement of this Act, but nothing herein contained shall be deemed to authorize the deduction, under any such agreement, of any amount in excess of that prescribed by the rules.

(4) Nothing contained in this section shall apply to persons employed in mines of nuclear fuels, mineral oils and natural gas.

110. Every officer of a society, including a Co-operative bank, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code. 1860 (XLV of 1860).

111. Notwithstanding anything contained in this Act, Government may, by special order in each case and subject to such conditions, if any, as it may impose,

exempt any society from any of the requirements of this Act as to registration.

Power of
Government and the
Registrar to call for
proceedings of
subordinate officers
and to pass orders
thereon.

Finality of orders of
Government.

Recovery of sums
due to Government.

Execution of
agreement in favour
of society.

Officers of societies
to be public servants.

Power to exempt
societies from
conditions as to
registration.

112. Government may, by general or special order to be published in the Official Gazette, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order; provided that no order to the prejudice of any society shall be passed without an opportunity being given to such society to represent its case.

113. The provisions of the Companies Act, 2017, shall not apply to societies registered under this Act.

114. Every co-operative society registered outside the Province of Sindh, which has or establishes a branch or place of business in the Province of Sindh shall within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the bye-laws and amendments and, if these are not written in the English language, a certified translation in English thereof, and shall submit to the Registrar such returns and information as are submitted by similar societies in the Province of Sindh in addition to those submitted to the Registrar of the province concerned where it is registered.

115. No suit shall be instituted against a society or any of its officers in respect of any act touching the business of the society until the expiration of two months' notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

116.(1) Notwithstanding anything provided in any other law for the time being in force, but save as expressly provided in this Act —

(a) no Court or other authority whatsoever shall have jurisdiction to entertain, or to adjudicate upon, any matter which Government, the Registrar, officer or liquidator, a society, a financing bank, a Co-operative bank or any other officer or person is empowered by or under this Act, or the rules or by-laws framed there under, to dispose of or to determine;

(b) the validity of anything done or an order passed by Government, a society, a financing bank, a Co-operative bank, the Registrar or any other person referred to in clause (a), under this Act or the rules and by-laws framed there under, shall not be called in question in any manner whatever before or by any Court or other authority whatsoever; and

(c) no Court or other authority whatsoever shall be competent to grant any injunction or pass any other order in relation to any proceedings under this Act or any rules or by-laws framed there under before Government, a society, a financing bank, a Co-operative bank, the Registrar or any other person referred to in clause (a).

(2) The provisions of sub-section (1) shall be applicable to proceedings, appeals and revisions pending adjudication or disposal before or in any Court or other authority whatsoever on the date this Act, comes into force, and any order passed in such proceedings, whether before or after the coming into force of this Act, in regard to matters referred to in sub-section (1), shall stand vacated and be without any force.

Powers to exempt
societies from
provisions of Act.

Companies Act, 2017
not to apply.

Branches, etc., of
societies outside the
province.

Notice necessary in
suits.

Bar of Jurisdiction.

117.(1) For the purpose of speedy justice, Government shall with the consultation of Special Court for

the Chief Justice of the Sindh High Court, by notification, specify for each Division, a court of Civil Judge / Assistant Sessions Judge to be a 'Special Court for Cooperative Societies' to try the offences under this Act.

(2) On establishment of Special Courts under sub-section (1), the cases falling within the purview of this Act pending in any court shall be transferred to the Special Court for trial.

(3) The Special Court established under sub-section (1), on taking cognizance of a case shall proceed with the trial from day-to-day and shall decide the case within one hundred and twenty days.

118.(1) Government may, for the whole or any part of the Province and for any society or class of societies, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may —

(a) subject to the provisions of section 6, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(c) prescribe the matters in respect of which a society may or shall make by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(d) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(e) provide for ascertaining the value of a deceased member's share or interest;

(f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(g) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers;

(h) provide, where all the members of the committee have been suspended or removed, for the appointment of a person or persons to administer the affairs of the society and for the powers to be exercised and the duties to be performed by such person or persons;

(i) prescribe the accounts and the books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for

such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(j) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

Cooperative societies.

Rules.

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provide for the persons by whom and the form in which copies of documents or entries in books of societies may be certified, and for the charges to be levied for the supply of such copies;

provide for the formation and maintenance of a register of members, and where the liability of the members is limited by shares, of a register of shares;

prescribe the payments to be made and the conditions to be complied with by members applying for loans, and the period for which loans may be made, and the amount which may be lent to an individual member;

prescribe the conditions, prohibitions and restrictions subject to which a society may —

(i) transact business with persons who are not members; or

(ii) make loans against the security of movable property;

provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of

any funds under the control of a society;

prescribe the extent to which a society may limit the number of its members;

prescribe the conditions under which profits may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies;

prescribe the procedure to be followed in presenting and disposing of appeals;

provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that shares shall not appreciate in value and that necessary capital shall be available for the society as required;

provide that persons qualified under the by-laws of a society shall not be excluded from membership without due cause;

prescribe the procedure to be followed by a liquidator appointed under section 64;

prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators and for fixing and levying the expenses of determining the dispute;

provide for the issue and service of processes and for proof of service thereof;

provide for the writing off of bad debts;

regulate the manner in which funds may be raised by means of shares or debentures (participation term certificates, term finance certificates, musharika certificates, modaraba certificates and such other instruments as may be approved by the State Bank of Pakistan), or otherwise;

provide for the withdrawal and expulsion of members and for the payments to be made to them and for the liabilities of past members;

provide for the nomination of a person to whom the interest of a deceased member may be paid or transferred;

- (bb) prescribe the cases in which an appeal shall lie from the order of a liquidator appointed under section 64;
- (cc) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same;
- (dd) prescribe the procedure to be followed for the custody of property attached;
- (ee) prescribe the manner in which an order under sub-section (3) or sub-section (4) of section 87 or a notice of demand shall be served or published;
- (ff) prescribe the particulars to be supplied to the Collector under sub-section (1) of section 88;
- (gg) prescribe the manner in which a notification of distraint should be published under sub-section (2) of section 87;
- (hh) provide for the payment of contributions at such rates and subject to such conditions as may from time to time be prescribed by co-operative societies to any provident fund which may be established for the benefit of officers and servants employed by them;
- (ii) prescribe the period and terms under which Government aid may be given to co-operative societies and the terms under which the Provincial Government may guarantee the payment of the principal of and interest (or return) on (instruments referred to in clause (x) of this sub-section) issued by registered societies;
- (jj) prescribing the manner in which any property shall be delivered to , and the terms and conditions subject to which such property shall be held by, a society under section 74; and
- (kk) provide that the contravention of any rule or order issued thereunder shall be punishable with fine not exceeding rupees five hundred thousand;
- (3) Government may, subject to such conditions, if any, as it thinks fit, delegate all or any of its powers to make rules under this section to any authority specified in the order of delegation.
- (4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

119. | The Cooperative Societies Act, 1925 (Act VII of 1925), hereinafter referred to as the repealed Act, in its application to the Province of Sindh, is hereby repealed.

(2) Notwithstanding the repeal under sub-section (1), everything done, orders passed, action taken, obligation, liability, penalty or punishment incurred, enquiry or proceeding commenced, officer appointed or person or officer authorized, jurisdiction or power conferred, rules or regulations made or notification issued, under any of the provisions of the said Act, shall continue to remain in force and shall be deemed to have been done, passed, taken, incurred, commenced, appointed, authorized, conferred, made or issued under the provisions of this Act.

BY ORDER OF THE SPEAKER

Repeal and Saving.

PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY

PROVINCIAL ASSEMBLY OF SINDH