



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2008**

(Bill No. 37 of 2008)

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(~~To~~ introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
AUGUST, 2008.**

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(AMENDMENT) BILL, 2008.**

(Bill No. 37 of 2008)

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BILL

*Further to amend the Goa Co-operative Societies
Act, 2001 (Goa Act 36 of 2001).*

5 BE it enacted by the Legislative Assembly of
Goa in the Fifty-ninth Year of the Republic of
India, as follows:-

10 1. *Short title and commencement.*— (1) This
Act may be called the Goa Co-operative Societies
(Amendment) Act, 2008.

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

15 2. *Amendment of section 2.*— In section 2 of
the Goa Co-operative Societies Act, 2001 (Goa
Act 36 of 2001) (hereinafter referred to as the
"principal Act"),—

(i) clause (16) shall be omitted;

20 (ii) after clause (30) and before clause (31),
the following clause shall be inserted,
namely :-

"(30A) "nominal member" means a person
admitted to membership as such after registra-
tion in accordance with the bye-laws."

3. *Amendment of section 15.*— In section 15 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where any society is found to be degenerating in it’s operation and the share value of such society has come down below it’s face value as on the last day of the year immediately preceding it’s revaluation, the Registrar may, in the interest of members, suo-motu, direct the society to,—

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

In case the society fails to complete the process of amalgamation, transfer, division or conversion, as the case may be, within 45 days from the date of such direction, the Registrar shall order the amalgamation, transfer, division or conversion, as the case may be, of such degenerating society. All claims of members, creditors and other interested persons of such society as on the date of such order shall stand transferred to the society with which such degenerating society may have been amalgamated, or to the society to whom assets and liabilities have been transferred or to the society formed after division or conversion, as the case may be”.

4. *Amendment of section 20.*— In section 20 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Surplus remained after the process of de-registration shall be transferred to “Surplus Fund Account” of the Registrar.

Explanation :— For the purpose of this sub-section, “ Surplus Fund Account” means account maintained for the purpose of surplus referred to in this sub-section”.

5. *Amendment of section 21.*—In section 21 of the principal Act, in sub-section (3), the proviso shall be omitted.

6. *Insertion of new section 23A.*— After section 23 of the principal Act, the following section shall be inserted, namely:—

“23A. *Nominal member.*— Subject to the provisions of section 21, a society may admit any person as nominal member on payment of entrance fee as specified in the bye-laws”.

7. *Amendment of section 25.*— In section 25 of the principal Act,—

- (i) in clause (2), for the word “two”, the word “five” shall be substituted;
- (ii) in clause (3), for the word “three”, the word “five” shall be substituted;
- (iii) after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that the provisions of clauses (2) and (3) above shall not apply to the members elected to the representative general body in

accordance with section 69. However, the representative elected to the representative general body shall be deemed to have been disqualified in case he fails to attend two consecutive general meetings and the resulting vacancy shall be filled by conducting bye-election within a period of six months from the date of such disqualification. The term of the representative elected in the bye-election shall be co-terminus with other elected representatives".

8. *Amendment of section 28.*— In section 28 of the principal Act, in sub-section (1), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that in the case of an equality of votes, the Chairman shall have a casting vote except at the time of election of office bearers and at the time of no confidence motion against office bearers."

9. *Amendment of section 50.*— In section 50 of the principal Act, the following proviso shall be inserted, namely:—

"Provided that the resource societies, urban co-operative credit societies and banks, apex co-operative bank may receive deposit from non-members."

10. *Amendment of section 52.*— In section 52 of the principal Act,—

- (i) for the expression " The society shall, out of its net surplus", the expression " If provided in it's bye-laws, the society shall, out of it's net surplus" shall be substituted;

(ii) after clause (g), the following provisos shall be inserted, namely:-

"Provided that the co-operative banks and urban co-operative credit societies may, instead of making deferred payment to their members as patronage refund, issue bonus shares as **prescribed:**

Provided further that if any society has not made patronage refund as specified under this section then, the entire amount of net surplus shall be appropriated in the proportion as mentioned in clauses (a) to (g) above."

11. *Insertion of new sections 58A and 58B.*— After section 58 of the principal Act, the following sections shall be inserted, namely:—

"58A. Special general meeting.— (1) A special general meeting may be called,—

- (i) at any time by the Chairman; or
- (ii) within one month from the date of submission of a requisition in writing to that effect by atleast one-tenth of the total number of members of the society or by atleast one-tenth of the total number of elected representatives or by such number of members as specified in the bye-laws for the purpose; or
- (iii) at the instance of the Registrar; or
- (iv) in the case of a society which is a member of a federal society, at the instance of the committee of such federal society.

(2) Where, any officer or a member of the committee, whose duty is to call such meeting, fails, without reasonable excuse, to call such meeting, the Registrar may, by Order, declare such member as disqualified for being a member of the committee for such period not exceeding five years, as he may specify in such order or impose on such officer a penalty not exceeding one hundred rupees for each day of default. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned for showing cause as to why the action proposed should not be taken against him.

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

(4) The Registrar shall have the power to order that the expenditure incurred in calling a meeting under sub-section (3) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene a meeting.

58 B. *No confidence motion against the Director or a group of Directors or entire Board of Directors.*— (1) A Director or a group of Directors or the entire Board of Directors of a society shall be removed from his/their Directorship, if

no confidence motion is passed against him/them by a majority of the Representatives of the society.

(2) A notice to this effect is required to be given by at least one-third of the total number of representatives of the society and the requisition shall be made to the Registrar for convening a special general meeting for considering such no confidence motion.

(3) The Registrar shall, within seven days from the date of receipt of such representation, convene a special general meeting giving atleast 14 days notice to all the representatives of the society alongwith agenda to be discussed.

(4) The meeting shall be presided over by the Registrar or any officer subordinate to him who is authorized by him in this behalf. The Registrar or such officer shall, when presiding over the meeting, have the same powers as the President or Chairman when presiding over a special general meeting has, but shall not have the right to vote.

(5) The meeting called under this section shall not for any reason, be adjourned.

(6) Voting at the meeting shall be by raising of hands. The names of the representative members voting for, and against the motion, shall be read in the meeting and recorded in the minute book of the special meeting:

Provided that if one-third of the representative members present so demand, the voting shall be by secret ballot.

(7) If the motion of no confidence is rejected, no fresh motion of no confidence shall be brought before the General Body within a period of six months from the date on which the motion is rejected.”.

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12. *Insertion of new section 59A.*— After section 59 of the principal Act, following section shall be inserted, namely:-

“59 A *Motion of no confidence against officers of societies.*—(1) A President, Vice-President, Chairman, Vice-Chairman, Secretary, treasurer or Director or any other officer, by whatever designation called, who holds office by virtue of his election to that office shall cease to be such President, Vice-President, Chairman, Vice-Chairman, Secretary, treasurer or director or any other officer, as the case may be, if a motion of no confidence is passed at a special meeting of the board of directors/committee of management of society by a simple majority of the total number of the members of board of directors/committee who are for the time being entitled to attend and vote at any meeting of the board of directors/committee and the office of such President, Vice-President, Chairman, Vice-Chairman, Secretary, treasurer or director or any other officer, as the case may be, shall thereupon be deemed to be vacant.

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(2) The requisition for convening special meeting of the board of directors/committee for considering such motion of no confidence shall be signed by not less than one-third of the total number of members of the board of directors/committee who are for the time being entitled

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to attend and vote at any meeting of the board of directors/committee and shall be delivered to the Registrar :

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Provided that no such requisition for a special meeting shall be made within a period of six months from the date on which any person/ officer referred to in sub-section (1) has entered upon his office.

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(3) The Registrar shall, within seven days from the date of receipt of requisition under sub-section (2), convene a special meeting of the board of directors/committee which shall be held not later than fifteen days from the date of issue of the notice of such meeting.

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(4) The special meeting called under sub-section (3) shall be presided over by the Registrar or any person authorized by him in this behalf. The Registrar or such person shall, when presiding over the meeting of the board of directors/committee, have the same powers as the President or Chairman when presiding over a board of directors'/committee's meeting has, but shall not have the right to vote.

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(5) The meeting called under this section shall not be adjourned for any reason.

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(6) Voting at the meeting shall be by raising of hands. The names of the directors/members of the committee voting for, and against the motion, shall be read in the meeting and recorded in the minute book of the special meeting of the board of directors/committee:

Provided that if one-third of the directors/members of the committee present so demand, the voting shall be by secret ballot.

(7) If the motion of no confidence is rejected, no fresh motion of no confidence shall be brought before the board of directors/committee within a period of six months from the date on which the motion is rejected." 5

13. Insertion of new section 67A.— After section 67 of the principal Act, the following section shall be inserted, namely:— 10

"67A. Appointment of Directors, New Board of Directors or Administrator. — (1) Where the Registrar is satisfied that,—

- (a) at the first constitution of the Board of Directors of any society there is a failure to elect all or any of the members of the Board of Directors; 15
- (b) the term of the Board of Directors of any society or of any of it's members has expired or for any other reason election is held and there is a failure to elect all or any of the Directors required to fill the vacancies; 20
- (c) any Director is prevented from entering upon his office; 25
- (d) new Directors have failed to enter upon office on the date on which the term of office of the existing Board of Directors expired; or 30

(e) a new Board of Directors cannot, for any reason, be constituted before the expiry of the term of Office of the existing Board of Directors,

5 he may, either suo motu or on an application of any officer of the society, by order, appoint,—

(i) any member or members of the society to be the member or members of the Board of Directors to fill the vacancy/vacancies; 10
or

(ii) a committee, consisting of not more than three members of the society, or one or more administrators, other than the member/s of the society, to manage the affairs of the society till the new Board of Directors enters upon office: 15

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

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

30 (2) The Board of Directors or administrator so appointed shall be subject to the control of the Registrar and obey such instructions as the

Registrar may, from time to time give, and shall have power to discharge all or any of the functions of the Board of Directors or of a director, as the case may be, and take all such actions as may be required to be taken in the interest of the society. 5

(3) The Board of Directors or administrator so appointed shall make necessary arrangements to constitute a new Board of Directors for enabling the new Board of Directors to enter upon office or to fill the vacancy/vacancies of the Directors, as the case may be, within such period or extended period as the Registrar may specify". 10

14. *Insertion of new section 68A.*—After section 68 of the principal Act, the following section shall be inserted, namely:— 15

"68A. *Power to seize the records, etc.*— (1) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar or the person authorized by him in this behalf, may apply to the Executive Magistrate within whose jurisdiction the society is functioning for seizing and taking possession of the records and property of the society. 20 25

(2) On receipt of an application under sub-section (1), the Executive Magistrate may authorize any police officer, not below the rank of a sub-inspector, to enter and search any place 30

where the records and property are kept or likely to be kept, and to seize them and hand over possession thereof to the Registrar or the person authorized by him, as the case may be."

5 15. *Amendment of section 69.*— In section 69 of the principal Act, for clause (c), the following clause shall be substituted, namely:—

"(c) The representative group shall be formed in such a manner that the number of representatives elected shall not be,— 10

(i) less than fifty and shall not exceed sixty five, in case of society having membership up to 30,000;

(ii) less than sixty six and shall not exceed eighty in case of society having membership above 30000 but below 60001; 15

(iii) less than eighty one and shall not exceed one hundred, in case of society having membership of 60001 and above. 20

20 16. *Amendment of section 71.*— In section 71 of the principal Act, in sub-section(1), for clause (a), the following clause shall be substituted, namely:—

"(a) If the Board of Directors of any society makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interest of the society or has ceased to discharge its functions and the business of the society has or is likely to come to a standstill, or have incurred disqualification 25 30

under section 61 of this Act, or serious financial irregularities have been disclosed by the auditor during inspection, the Registrar may, suo-motu or at the request of hundred members or 10% of the total number of members of the society, whichever is less, by an Order, remove the Board of Directors and appoint an Administrator or a Board of Administrators consisting of not more than three persons, who may or may not be the members of the society to manage the affairs of the society for a period not exceeding six months, which period, at the discretion of the Registrar, may be extended by a further period not exceeding three months so however that the total period shall not exceed nine months in the aggregate subject to the provisions of sub-section (6)".

17. *Amendment of heading.*— In chapter VIII of the principal Act, for the heading "Accounts, Audit and Inquiry", the heading "Accounts, Audit, Inquiry and Inspection" shall be substituted.

18. *Amendment of section 73.*— In section 73 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

" (4) Every society, immediately after close of the financial year, shall prepare the Receipt and Payment statements/Trial Balance/Trading/Manufacturing Accounts, Profit and Loss Account/Income and Expenditure Account and Balance Sheet and shall submit the same to the Registrar, within a period of 45 days prior to filing the returns as specified under section 81".

19. *Amendment of section 74.*— In section 74 of the principal Act,—

(i) in sub-section (2), the following proviso and Explanation shall be inserted, namely:—

"Provided that any society which is not notified under sub-section (2) may request in writing to the Registrar that its audit shall be conducted by the departmental auditors and the Registrar may allow to do so for such period as may be requested by the society.

Explanation:— For the purpose of this sub-section any society or class of societies irrespective of share capital limit which are either been assisted by the Government in the form of subsidy, loan, trade and commercial concession, price support and/or offered any type of incentives, relaxation, considering the social, circumstantial aspects and in the interest of particular occupation, community or public interest at large, and involving the deposit of the public, the Registrar shall decide over the nature as to whether such society is to be notified or otherwise and accordingly the audit of such society or class of societies shall be entrusted to the departmental auditors or the penal of auditors, by general or special order. The decision of the Registrar in this matter shall be final".

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) If the Registrar finds it necessary or expedient to re-audit any or all accounts of the society, he may, by Order, direct such

re-audit and the provisions of this Act, applicable to audit of accounts of society, shall apply to such re-audit".

20. *Amendment of section 75.*— In section 75 of the principal Act,—

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(i) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The auditor of the society shall submit a copy of the audit report together with the accounts to the Registrar in such form as may be specified by the Registrar, within thirty days from the date of the audit."

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(ii) after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) On completion of the statutory audit, the auditor shall award audit classification to the society whose accounts he has audited in accordance with the instructions issued by the Registrar from time to time.

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(6) The Registrar or the person authorized by him to conduct the audit may summon any person in possession or responsible for the custody of any such books, accounts, papers, documents to produce the same at any place at the Headquarters of the society or any branch thereof."

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21. *Insertion of new section 76A.*— After section 76 of the principal Act, the following new section 76A shall be inserted, namely:—

"76A. Enquiry and/or Inspection of societies.—(1) The Registrar may, on the

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request made by a creditor or federal Institution or not less than one third of the total number of members of the board of directors or not less than one fifth of the total number of members, of a society, undertake inspection of a society and authorize any Person, by order in writing, to make an inspection and inquiry into the constitution, working and financial condition of such society and submit a report thereon.

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(2) Where a complaint is made by a member of society in writing about the affairs of a society or board of directors, the Registrar or any person authorized by him in this regard who shall be not below the rank of Deputy Registrar is prima facie satisfied, after affording an opportunity of being heard, that an inquiry is required to be instituted, he may, order an inquiry to be made by a person not below the rank of Co-operative Officer or special auditor.

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(3) For the purpose of inspection/inquiry under sub-sections (1) and (2), the person conducting inspection or inquiry shall, at all times, have access to all books of accounts, papers, vouchers, securities, stock and other documents of that society and may, in the event of serious irregularities discovered during inquiry and inspection, take the same into custody and report to the Registrar. He shall have power to verify the cash balance of the society. The Registrar may call a meeting of the board of directors or a general body meeting of the society, as he may deem fit.

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(4) Every officer or member of board of directors shall furnish such information with regard to working of the society as the Registrar or the person making inquiry or inspection may require.

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(5) A copy of the report of the inquiry and/or inspection carried out under this section shall be forwarded to the society within a period of ninety days from the date of completion of such inquiry and/or inspection."

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22. Amendment of section 82.— In section 82 of the principal Act, —

(i) in the heading, for the words "Co-operative Authority", the word; "Registrar" shall be substituted;

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(ii) in sub-section (1),—

(a) after the words "Chairman of the society," the figure and word "Registrar" shall be deleted.

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(b) for the words "Co-operative Authority" and in any other sections, except section 121 wherever they occur, the word "Registrar" shall be substituted;

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(iii) in sub-section (4), the expression "or as the case may be, the Registrar," shall be omitted.

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23. Substitution of CHAPTER-IX.—For CHAPTER-IX of the principal Act, the following Chapter shall be substituted, namely:—

"CHAPTER-IX

Disputes and Arbitration

83. *Dispute.*— (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, elections of the office bearers, conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, as the case may be, to the Registrar, if both the parties thereto are one or other of the following:—

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(a) a society, it's Board, any past Board, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society ;

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(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society;

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

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(d) a surety of a member, past member, or a deceased member, or a person other than a member who has been granted a loan by the society whether such a surety is or is not a member of the society;

(e) any other society, or the Liquidator of such a society.

(2) When any question arises whether for the purposes of the foregoing sub-section a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

(3) Save as otherwise provided under sub-section (3) of section 86, no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

Explanation 1:— A dispute between the Liquidator of a society and the members of the same society shall not be referred to the Registrar under the provisions of sub-section (1).

Explanation 2 :—For the purpose of this section, a dispute shall include,—

(i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member or servant or employee whether such a debt or demand be admitted or not;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan of a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not;

(iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its board of directors, past or present, whether such loss be admitted or not;

(iv) a refusal or failure by a member, past member or a nominee, heir or legal representative of deceased member to deliver possession to a society of land or any other asset resumed by it for breach of conditions of the assignment.

84. Powers of an apex co-operative bank to proceed against members of a society for recovery of moneys due to it from such society.—

(1) If any society is unable to pay its debts to a Central Bank by reasons of any of its members committing default in the payment of the moneys due by them to the society, the apex co-operative bank may direct such society to refer to the Registrar under section 83, the dispute between the society and defaulting members thereof:

Provided that if such society fails to refer the dispute as aforesaid within a period of ninety days from the date of receipt of such direction, the apex co-operative bank itself may refer to the Registrar the said dispute:

Provided further that, in case of a reference, the bye laws of the defaulting society shall apply as if all references to the society or its board of directors in the said bye-laws were references to the apex co-operative bank.

(2) Where a apex co-operative bank has obtained a decree or award against any society in respect of the moneys due to it by such society, the apex co-operative bank may proceed to recover such moneys firstly from the assets of that society and secondly from the members of that society to the extent of the moneys due by them to that society.

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85. *Limitation.*— (1) Notwithstanding anything contained in the Limitation Act, 1963 contract (Act 36 of 1963) but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under the last preceding section shall,—

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(a) when the dispute relates to the recovery of any sum, including interest thereon, due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

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(b) when the dispute is between a society or its board of directors, and any past board of directors, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society or a member, or past member or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of the either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

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(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 92, or in respect of which a nominated board of directors or an administrator has been appointed under section 71, be six years from the date of the order issued under section 92, or section 71, as the case may be;

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(d) when the dispute is in respect of an election of an office-bearer of the society, be one month from the date of the declaration of the result of the election.

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(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to the Registrar under the last preceding section shall be regulated by the provisions of the Limitation Act, 1963 (Central Act 36 of 1963) as if the dispute is a suit and the Registrar a Civil Court.

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(3) Notwithstanding anything contained in sub-sections (1) and (2), the Registrar may admit a dispute after the expiry of the limitation period, if the applicant satisfies the Registrar that he has sufficient cause for not referring the dispute within such period and the dispute so admitted shall be dispute which shall not be barred on the ground that the period of limitation had expired.

86. *Settlement of disputes.*—(1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 83, the Registrar shall,

subject to the rules, decide the dispute himself or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar.

(2) Where any dispute is referred under the foregoing sub-section for decision to the Registrar's nominee or board of nominees, the Registrar may, at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or board of nominees, and may decide the dispute himself, or refer it again, for decision to any other nominee, or board of nominees, appointed by him.

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(3) Notwithstanding anything contained in section 83, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted within two months from the date of the Registrar's order suspending proceedings, the Registrar shall take action as is provided in sub-section (1).

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87. *Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees.*—(1) The Registrar, or his nominee or board of nominees, hearing a dispute under the last preceding section shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, the production of

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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 (5 of 1908).

(2) Except with the permission of the Registrar or his nominee or board of nominees, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

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(3) (a) If the Registrar or his nominee or board of nominees is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is party to a dispute, he may order that the person who has acquired the interest in the property may join as a party to the dispute, and any decision that may be passed on the reference by the Registrar or his nominee or board of nominees shall be binding on the party so joined, in the same manner as if he was an original party to the dispute.

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(b) Where a dispute has been instituted in the name of the wrong person or where all the defendants have not been included, the Registrar or his nominee or board of nominees may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

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(c) The Registrar, his nominee or board of nominees may, at any stage of the proceeding, either upon or without the application of either party, and upon such terms as may appear to

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the Registrar, his nominee or board of nominees, as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, his nominee or board of nominees, as the case may be, may be necessary in order to enable the Registrar, his nominee or board of nominees effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim for all or any of such reliefs, but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, his nominee or board of nominees, as the case may be.

88. *Attachment before award and interlocutory orders.*— (1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 86, or under section 95, the Registrar or his nominee or board of nominees, if satisfied on enquiry or otherwise that party to such dispute with intent to defeat, delay or obstruct the execution of any award or carrying out of any order that may be made,—

(a) is about to dispose of whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, may, unless adequate security is

furnished, direct conditional attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.

(2) Where the Registrar, his nominee or board of nominees direct attachment of property under the foregoing sub-section, he shall issue a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section, may direct the disposal of the property so attached towards the claim if awarded.

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of person not party to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

(4) The Registrar, his nominee or board of nominees, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision in a dispute referred to in sub-section (1) as may appear to be just and convenient.

89. *Decision of Registrar or his nominee or board of nominees.*—When a dispute is referred to arbitration, the Registrar or his nominee or board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and the fees and expenses payable to the Registrar or his nominee or, as the case may be, board of nominees. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal or review or revision, be binding on the parties to the dispute.

90. *Appeal against decision of Registrar or his nominee or board of nominees.*—Any party aggrieved by any decision of the Registrar or his nominee or board of nominees under the last preceding section, or an order passed under section 88 may, within two months from the date of the decision or order, appeal to the Tribunal.

91. *Money how recovered.*— Every order passed by the Registrar or his nominee or board of nominees under section 88 or 89 every order passed in appeal under the last preceding section, every order passed by a liquidator under section 95, every order passed by the State Government in appeal against orders passed under section 105 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 any Assistant Registrar as duly authorized by the Registrar in this behalf. Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

91 A. *Private transfer of property made after issue of Certificate void against society.*—Any private transfer or delivery of, or encumbrance or charge on, property, made or created after the issue of certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 91 shall be null and void as against the society on whose application the said certificate was issued.

91 B. *Transfer of property which cannot be sold.*—(1) When in any execution of an order sought to be executed under section 91, any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in 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 the Assistant Registrar, under clause (a) or (b) of section 91, the Court or the Collector or the Registrar, as the case may be, may, notwithstanding anything contained in any law for the

time being in force, 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, in the manner prescribed.

(2) Where property is transferred to the society under the foregoing sub-section, or where property is sold under section 91, the Court, the Collector or the Registrar, as the case may be, may, in accordance with rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Collector or the Registrar, as the case may be, and the said society subject to the general or special orders of the State Government, the Collector or the Registrar may delegate to an officer, not below the rank of the Deputy Collector or the Assistant Registrar, power exercisable by the Collector or the Registrar under this section.

91C. *Recovery of any sum advanced by a resource society.*—(1) Notwithstanding anything contained in sections 83, 86 and 91, on an application made by a resource society for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing statement of accounts in respect of such arrears, the Registrar may after making such inquiries as he may deem fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(2) Where the Registrar is satisfied that a resource society has failed to take action under the foregoing sub-section in respect of arrears of any sum advanced by it to any of its members, the Registrar may on his own motion, after making such inquiries as he may deem fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(3) A certificate granted by the Registrar under sub-section (1) or sub-section (2) shall be final and conclusive proof of the arrears stated to be due therein and the same shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.

91D. *Registrar's powers to recover certain sums by attachment and sale of property.*— (1) The Registrar or any officer subordinate to him or an officer of a Federal Institution duly empowered by him in this behalf, may subject to such rules as may be made by the State Government, but without prejudice to any other mode of recovery provided by or under this Act, recover, —

(a) any amount due under a decree or order of Civil Court obtained by a society;

(b) any amount due under a decision, award or order of the Registrar, arbitrator or Liquidator or Tribunal;

(c) any sum awarded by way of costs under this Act;

(d) any sum ordered to be paid under this Act as a contribution to the assets of the society together with interest, if any due on such amount or sum and costs of process by the

attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section or when passing any orders on any application made to him for such recovery, to be a Civil Court for the purpose of article 136 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

24. *Amendment of section 92B.*— Existing provisions of section 92B shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:-

“(2) Notwithstanding anything contained in this Act, in the case of an insured co-operative bank,—

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

(ii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank from being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession (removal) of the

committee of management of society and the appointment of an Administrator therefor for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the Administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee of management of society.

(3) An order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or re-organisation) or an order for the supersession (removal) of the committee of management of society and the appointment of an Administrator therefor made with the previous sanction in writing or on the requisition of the Reserve Bank of India shall not be liable to be called in question in any manner and the liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961), in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation :-

(a) the expression “an insured Co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);

(b) the expression "the transferee bank" has the same meaning as assigned to it in that Act."

25. *Amendment of section 114.*— In section 114 of the principal Act,—

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(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Co-operative Tribunal shall consist of three members to be appointed by the Government, one among whom shall be appointed as the President".

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(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3)(a) the President of the Co-operative Tribunal shall be a person who is qualified to be appointed as a District Judge or is or has been a Judicial Officer for a period of seven years or has held the post of the President of the Goa, Daman and Diu Co-operative Tribunal for a period of five years or is holding or has held the post of Registrar of Co-operative Societies for a period not less than three years or has been a Secretary to the Government of Goa.

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(b) Two other members of the Co-operative Tribunal shall be persons of ability, integrity and standing, and having adequate educational qualifications, knowledge, experience of at least five years in dealing with problems relating to Co-operatives and / or persons having served in the Co-operative Department for a minimum period of twenty years and holding or held the post atleast in Group 'A' Junior grade in Goa Civil Service for minimum period of five years.

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(iii) in sub-section (4), for the words "President of the Administrative Tribunal", the words " President or Additional President of the Administrative Tribunal" shall be substituted.

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26. *Amendment of section 121.*— In section 121 of the principal Act,—

(a) in the heading, the words "Co-operative Authority and" of shall be omitted.

(b) in sub-section (1),—

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(i) in clauses (a), (b), (c) and (d), the words "a Co-operative authority or", wherever they occur shall be deleted.

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(ii) in sub-sections (2), (3) and (4), the words " a Co-operative authority or", wherever they occur, shall be omitted;

(iii) in sub-section (3), the words " authority or" shall be omitted;

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(iv) in sub-section (4), the words " Authority or" shall be omitted and for the words "said authorities, wherever they occur, the words "said Tribunal" shall be substituted".

(v) sub-section (6) shall be omitted;

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27. *Insertion of new section 123A.*—After section 123 of the principal Act, the following section shall be inserted, namely:—

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"123 A. *Handing over records and property to new Chairman on election.* —(1) On the election of a new Board of Directors and its Chairman, the retiring Chairman in whose

place the new Chairman is elected, shall hand over charge of the office and all papers and property, if any, of the society in his possession or any officer thereof, to the new Chairman of the Board of Directors.

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(2) If the retiring Chairman fails or refuses to hand over charge, or to hand over the papers and property of the society as aforesaid, the Registrar, or any person authorised by him in this behalf, may, by order in writing, direct him to forthwith handover such charge and property.

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(3) If the retiring Chairman to whom a direction has been issued as aforesaid does not comply with such direction, he shall, on conviction, be punished with simple imprisonment which may extend to one month, or with fine which may extend to five thousand rupees, or with both and the Registrar may, on the retiring Chairman's failure to comply with such direction, take may order for seizing the records and property and handing it over to the new Chairman."

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28. *Insertion of new section 126A.*— After section 126 of the principal Act, the following new section 126 A shall be inserted, namely:—

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"126A. *Power to exempt societies from provisions of this Act.*—The 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 provision shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order:

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Provided that no order to the prejudice of any society shall be passed, without an opportunity being given to such society to present its case."

29. *Amendment of section 127.*— In section 127 of the principal Act,— in sub-section (2),—

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(a) clauses (xxxv), (xxxvi), and (xxxvii) shall be omitted;

(b) in clause (xiii), the expression "the Co-operative authority," shall be omitted.

30. *Insertion of new sections 130 and 131.*— After section 129 of the principal Act, the following sections shall be inserted, namely:—

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"130. *Delegation of powers of Registrar to the Federal Institution.*— The State Government may, by notification in the Official Gazette, and subject to such conditions as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any Federal Institution or to an officer of the said Institution thereof and such Federal Institution and/or officer, as the case may be, shall work under the general guidance, superintendence and control of the Registrar as specified in the notification.

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131. *The provisions of this Act to override the bye-laws of the society.*—The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any bye-laws adopted by any society."

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Statement of Objects and Reasons

During the Course of implementation of the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001), numerous difficulties have cropped up which has affected the functioning of the co-operative institutions in this State. The Bill seeks to amend the said Act so as to make provisions for effective guidance, protection from degeneration, streamlining the litigation and recovery process and to allow democratic means for the management of the society, etc. The Bill also seeks to provide orderly development of the co-operative movement in the State of Goa.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

Clause 1 (2) of the Bill empowers to Government to appoint a date by notification in the official Gazette for bringing into force the Act.

Clause 3 of the Bill empowers the Government to frame rules specifying the manner in which the property to be transferred to the society and held by the society.

Clause 10 of the Bill empowers the Government to frame rules in respect of bonus shares to be issued.

Clause 23 of the Bill empowers the Government to frame rules specifying the manner in which the dispute to be held.

Clause 30 of the Bill empowers the Government to issue notification in the official Gazette for delegating powers of the Registrar to any Federal Institution.

This delegation is of normal character.

Porvorim, Goa,
19th August, 2008.

RAVI S. NAIK
Hon'ble Minister for
Co. operation

Assembly Hall,
Porvorim, Goa.

R. KOTHANDARAMAN
Secretary to the Legislative
Assembly of Goa.

ANNEXURE

Extracts of Section 2 (16), 2(30A), 15(4A), 20(6), 21(3), 23(A), 25(2), 25(3), 28(1), 50, 52, 52(g), 58A, 58B, 59 (A), 67(A), 68(A), 69(c), 71(1), heading under CHAPTER VIII, 73(4), 74(2), 74(7), 75(4), 75(5), 75(6), 76(A), 82(1), 82(4), CHAPTER IX 83, 84, 85, 86, 87, 88, 89, 90, 91A, 91B, 91C, & 91D, 92B, 114 (2), 114(3), 121(1), 123(A), 126A, 127, 130 and 131 of Goa Co-operative Societies Act, 2001 as amended on 26/01/2008.

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

(16) "co-operative authority" means the authority constituted under section 84 of this Act to decide disputes referred to it under any of the provisions of this Act;

(30) "mutually aided society" means a society which does not have any share capital, loans or any financial assistance from the State or the Central Government except with a Memorandum of Understanding with the government;

(31) "officer" means a person elected or appointed to any office of a society according to its bye-laws; and includes a chairman, vice-chairman, president, secretary, treasurer, member of the board of directors, managing director, chief executive, manager and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society;

15. *Amalgamation, transfer, division or conversion of societies.*— (1) A society may, by a resolution passed by two-third majority of the members present and voting at a special general meeting held for the purpose, decide—

(4) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) or the Registration Act, 1908 (XVI of 1908), in the event

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

20. *De-registration of societies.*— (5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any person or persons on whom all or any of the powers of the Registrar are conferred under section 4.

21(3). Admission of members may be made only by an elected board of directors or by the general body where such a board does not exist;

Provided that in the case of Coop. Banks and Coop. Credit societies, an Administrator appointed under Section 71 may admit members only for the purpose of sanction of loans.

23-A New insertion.

25. *Removal of member.*— A society may, by a resolution passed in a general meeting held for the purpose, remove a member on the ground that,—

(2) he has not used for two consecutive years the service of society to a minimum level as specified in the byelaws;

(3) he has not attended three consecutive annual general meetings of the society;

(4) he is in default regarding any payment to be made to the society exceeding an amount and for the period as specified in the bye-laws:

Provided that no such resolution shall be valid unless the member concerned is given an

opportunity of representing his case to the general body.

28. *Voting powers of members.*— (1) save as otherwise provided herein and in sub-sections (2) to (7), no member of any society shall have more than one vote in its affairs and every right to vote shall be exercised personally and not by proxy:

Provided that a member who is in the employment of the Defence Services shall be entitled to vote by proxy through any other member of the society if he is unable to exercise his right of vote personally:

Provided further that in the case of an equality of votes, the Chairman shall have a casting vote.

CHAPTER-VI

Property and Funds of Societies

50. *Mobilisation of Funds.*— A society may mobilise funds in the form of share capital, deposits, debentures, loans and other contributions from its members to such extent and under such conditions as may be specified in the bye-laws.

52. *Disposal of net surplus.*— The society shall prepare its Annual Financial Statement and arrive at its surplus or deficit. The society shall, out of its net surplus arising from its business in any year, make deferred payment to its members as patronage refund in proportion to the contribution of the members to such business an amount not less than 20% and not exceeding 50% of such surplus. The balance of net surplus shall be appropriated in the following manner:—

New insertion of 1st proviso to section 52(g)

New insertion of 2nd proviso to section 52(g)

CHAPTER-VII

Management of Societies

58 A New insertion

58 B New insertion

59 A New insertion

67-A New insertion

68-A New insertion

69. *Representative general body.*— A society having more than five thousand individual members shall have a representative general body constituted in the following manner:—

(c) Representative group shall be formed in such a manner that the number of representatives elected shall not be less than fifty and shall not be more than five hundred depending upon the total membership of the society.

71. *Removal of directors and appointment of Administrator.*— (1)(a) if the Board of directors of any society makes default or is negligent in the performance of the duties imposed on it by this Act, or the rules or the bye-laws or commits any Act which is prejudicial to the interest of the society or has ceased to discharge its functions and the business of the society has or is likely to come to a standstill, then the Registrar, at the request of hundred members or 10% of the total number of members of the society, whichever is less, may by an Order, remove the board of directors and appoint a board of administrators consisting of not more than three persons, who may or may not be members of the society to manage the affairs of the society for a period not exceeding six months, which period, at the discretion of the Registrar, may be extended by a further period not exceeding three months, so however that the total period shall not exceed nine months in the aggregate subject to the provisions of sub section (6).

CHAPTER-VIII

Accounts, Audit and Inquiry

73. *Accounts and records.*— (3) The books of accounts of every society, together with supporting records and vouchers, shall be preserved for such period as may be prescribed subject to any other laws for the time being in force.

74-(2) The Registrar shall appoint auditors to audit the accounts of State aided societies, and other societies with paid up capital exceeding Rupees one lakhs as may be notified by the Registrar from time to time, from among the departmental auditors or the panel of auditors.

74(6) Where a mutually aided society fails to get its accounts audited within nine months from the end of the co-operative year, the Registrar shall be empowered to appoint the auditor and get the accounts audited.

75. *Powers and duties of the auditor.* —(4) The auditor of the society shall submit a copy of the audit report together with the accounts to the Registrar within thirty days from the date of the report.

76 A New insertion

82. *Power of the Co-operative Authority to order recovery of losses.* — (1) A member, director, Chairman of the society, Registrar or any officer authorized by the Registrar may, file a copy of the report of the auditor or the special auditor or the inquiry officer, before the Co-operative Authority with an application for necessary action against the person on account of whose conduct the society has incurred loss. The Co-operative Authority may, on the basis of such report, disallow every item of the expenditure incurred contrary to law and order recovery of the same from the person incurring or authorizing the incurring of such

expenditure, or held responsible in the said report for any deficiency, loss or unprofitable outlay occasioned by his negligence or misconduct of any such amount which or to have been accounted but is not brought into account by that person and shall, in every such case, specify the amount liable to be paid by such person to the society.

(4) Where an appeal is filed in the Co-operative Tribunal under sub-section (3), the persons who filed the application before the Co-operative Authority or, as the case may be the Registrar, or his representative shall be the sole respondent thereto, and the applicant shall not make any other person a party to the proceedings.

CHAPTER-IX

Disputes and Co-operative Authorities

83. *Settlement of disputes.*— Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, elections of the board of directors or its office bearers, conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, to a Co-operative authority, if both the parties thereto are one or other of the following:-

(a) a society, its board of directors, any past board of directors, any past or present director, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased director;

(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society or a person who claims to be a member of the society;

(c) a surety of a member, past member or deceased member, whether such surety or person is or is not a member of the society;

(d) any other society, or the liquidator of such a society:

Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), shall not be deemed to be a dispute for the purposes of this section.

Explanation:- For the purposes of this section, a dispute shall include-

(i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member, or servant or employee, whether such debt or demand be admitted or not;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such sum or demand be admitted or not;

(iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any director, past director or deceased director, by any agent, past agent or servant, or by its board of directors, past or present, whether such loss be admitted or not;

(iv) a refusal or failure by a members or nominee, heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of condition of the assignment

84. *Constitution of Co-operative Authority.*— (1) The Government may appoint one or more persons to be a co-operative authority for the adjudication of disputes referred to the co-operative authority under section 83 or other provisions of this Act.

(2) The qualifications for appointment as a Co-operative authority, shall be such as may be prescribed.

(3) A Co-operative authority shall have jurisdiction over such societies or over such matters contained in this Act as may be specified by the Government by general or special Notification from time to time. Where more than one co-operative authorities have the same jurisdiction, the Government shall specify as to who shall distribute various works amongst such co-operative authorities,

(4) All disputes and other proceedings pending immediately before the commencement of this Act, before any nominee or board of nominees or any other person appointed by the Registrar, or before the Registrar or any person to whom the powers of the Registrar under this Act or the rules made thereunder have been delegated, shall be transferred by the Registrar, by the Registrar, by general or special order, to any Co-operative authority specified by him and shall be heard and disposed of by the authority as if they had been originally filed before it. The Co-operative authority may proceed to hear and dispose of such proceedings from the stage reached before such transfer or may commence the hearing *de novo*.

85. *Limitation.*— (1) Notwithstanding anything contained in the limitation Act, 1963 (XXXVI of 1963) but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the cooperative authority under the last preceding section shall-

(a) when the dispute relates to the recovery of any sum, including interest thereon due to a society by a member thereof, be six years from the date on which such sum or installment thereof payable by the member of the society concerned has fallen due;

(b) When the dispute is between a society or its board of directors, and any past board of directors, any past or present director, or past or present agent or past or present servant or the nominee, heir or legal representative of the deceased director, deceased agent or deceased servant of the society, or a member or past member or the nominee, heir or legal representative of a deceased director and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose took place;

(c) When the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 92 be six years from the date of issue of the order;

(d) When the dispute is in respect of election of a board of directors or office bearers of the society, be two months from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in sub-section (1) which are required to be referred to the Co-operative authority under section 84 shall be regulated by the provisions of the Limitation Act, 1963 (XXXVI of 1963), as if the dispute were a suit and the Co-operative authority a Civil Court.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Co-operative authority may admit a dispute after the expiry of the limitation period,

if the applicant satisfies the Co-operative authority that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

(4) Notwithstanding anything contained hereinabove, the period of limitation shall be computed from the date on which this Act comes into force in respect of all disputes and causes of action arising prior to the date of coming into force of this Act.

86. *Transfer of disputes from one Co-operative authority to another.*— Where any dispute is referred to any Co-operative authority, the President of the Co-operative tribunal may, on an application made to him by any of the parties to the dispute or suo motu, for reasons to be recorded in writing, withdraw such dispute from that authority and may refer it for decision to any other Co-operative authority as he deems fit.

87. *Procedure for settlement of disputes and powers of the co-operative authority.*— (1) The Co-operative authority, hearing a dispute referred to it, shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, on affirmation or affidavit, 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 (V of 1908).

(2) Save as otherwise provided in this Act, or the rules made thereunder, the provisions of the Code of Civil Procedure, 1908 (V of 1908) shall be applicable in all disputes and matters referred to the Co-operative authority.

(3) Every dispute in relation to any election shall be heard and decided by the Co-operative authority as

expeditiously as possible and endeavour shall be made to conclude the hearing and decision within six months from the date on which the dispute is referred to it.

(4) (a) If the Co-operative authority is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to the dispute, it property may join as a party to the dispute; and any decision that may be passed by the Co-operative authority shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the opponents have not been included, the Co-operative authority may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order any other person to be substituted or added as a disputant or an opponent, upon such terms as it thinks just.

(c) The Co-operative authority may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Co-operative authority to be just, order that the name of any party improperly joined, whether as disputant or opponent, be struck out, and that the name of any person who ought to have been joined, whether as disputant or opponent or whose presence before the Co-operative authority may be necessary in order to enable the Co-operative authority effectually and completely to adjudicate upon and settle all the questions involved in the dispute be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs; but if he omits to claim for all claim all such

reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Co-operative authority.

(5) In any case in which a dispute is decided by the Co-operative authority ex-parte against any person, he may apply to the authority within thirty days from the date of the decision to set it aside and the authority, if satisfied that there was sufficient cause for his failure to appear when the dispute was called and heard, the authority shall make an order setting aside the decision as against him, upon such terms as to costs, payment to the authority or otherwise as it thinks fit.

88. *Attachment before award and interlocutory orders.*— (1) Where a dispute has been referred to the Co-operative authority under section 83 or under sub-section (1) of section 95 or in proceedings under section 82 for recovery of losses, the Co-operative authority, if satisfied on inquiry or otherwise, that a party to such dispute or against whom proceedings are pending under section 82, with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made.-

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Court may, unless adequate security is furnished, direct conditional attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.

(2) Where attachment of property is directed under sub-section (1), the Co-operative authority shall issue a notice calling upon the person whose property is so attached to furnish security as it thinks adequate within a specified period. If the person fails to provide the security so demanded, the Co-operative authority may

confirm the order and, after the decision in the dispute or the completion of the proceedings under section 82 may direct the disposal of the property so attached towards the claim, if awarded.

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

(4) The Co-operative authority may, in order to prevent the ends of justice being defeated, make such interlocutory orders, pending the decisions in a dispute referred to in sub-section (1), as may appear to be just and convenient.

(89) Award of Co-operative authority.—when a dispute is referred to the co-operative authority, the authority may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and the fees and expenses payable to the co-operative authority. Such an award shall, subject to appeal or review or revision, be binding on the parties to the disputes.

(90) Appeal against award under section 89 and order under section 88.— Any party aggrieved by any award of the co-operative authority under section 89 or and order passed under section 88 may, within two months from the date of the award, decision or order as the case may be, appeal to the co-operative Tribunal.

(91) Execution of award and orders of Co-operative authority, Registrar and Liquidator.— (1) (a) An award passed by the Co-operative authority under section 89

or order under section 88 or under any other provision of this Act may be executed by the Co-operative Authority which passed it, or by the Co-operative authority to which it is sent for execution:

(b) Provided that when such award or order provides for recovery, the same may be executed by the Co-operative authority which passed it or by any person authorised by the said Co-operative authority in writing in this behalf.

(2) An order passed by the Registrar or the liquidator may, if not complied with, be refer by the Registrar or liquidator as the case may be, to the Co-operative authority for execution and such order shall be executed as if it was an order of the Co-operative authority to which it is sent for execution.

(3) The awards and the orders referred to in sub-section (1) and (2) shall be executed in the manner prescribed. Save as otherwise provided in the rules, the provisions of the Code of Civil Procedure, 1908 (V of 1908) shall be applicable in the manner of execution of awards and orders referred to in sub-section (1) and (2).

(entire Chapter-IX has been replaced by new Chapter-IX).

92 (b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special meeting called for the purpose, or

(c) of his own motion, in the case of a society which—

(i) has not commenced working, or

(ii) has ceased working, or,

(iii) possesses shares or members' deposits not exceeding five hundred rupees, or

(iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws, is of the opinion that a society ought to be wound up, he may issue an interim order it to be wound up.

(2) A copy of such order made under sub-section (1) shall be communicated in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar with a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order. The final order shall be published in the Official Gazette.

114. *The Goa Co-operative Tribunal.* — (2) The Co-operative Tribunal shall consist of the President, who shall be a person appointed by the Government as the President of the Co-operative Tribunal.

(3) The President of the Co-operative Tribunal shall be a person who is qualified to be appointed as a District Judge or is or has been a Judicial Officer for period of seven years.

121. *Contempt of Co-operative Authority and of Co-operative Tribunal.*— (1) If any person-

(a) when ordered by a Co-operative authority or the Co-operative tribunal to produce or deliver up any document or to furnish information, being legally bound so to do, intentionally omits to do so; or

(b) when required by a Co-operative Authority or tribunal to bind himself by an oath or affirmation to state the truth, refuses to do so;

(c) being legally bound to state the truth on any subject to a Co-operative Authority or Tribunal, refuses to answer any question demanded of him touching such subject by the Co-operative Authority or Tribunal; or

(d) intentionally offers any insult or causes any interruption to a Co-operative authority or Tribunal at any stage of its judicial proceedings, he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person refuses to sign any statement made by him when required to do so by a Co-operative authority or the Co-operative tribunal, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) If any offence under sub-sections (1) or (2) is committed in the view or presence of a Co-operative authority or Tribunal concerned, the said authority or tribunal may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1973 (II of 1974), forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of the accused person before such Magistrate or, if sufficient security is not given, shall forward such person in custody to such Magistrate. The Magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person in the manner provided in the Code of Criminal Procedure, 1973 (II of 1974).

(4) If any person commits any act or publishes any writing which is calculated to improperly influence a Co-operative authority or the Co-operative tribunal to bring any such Authority or Tribunal into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of the said authorities, such person shall be deemed to be guilty of contempt of the said authorities.

(5) In the case of contempt of itself, the Co-operative Tribunal shall record the facts constituting such contempt, and make a report in that behalf to the High Court.

(6) In the case of contempt of a Co-operative authority, the Co-operative authority shall record the facts constituting such contempt, and make a report in that behalf to the Co-operative tribunal, and thereupon, the Tribunal may, if it considers it expedient to do so, forward the report to the High Court.

123(A) New insertion.

126 (A) New insertion.

127. *Rules.* — (2) (xxxv) prescribe the qualifications of person constituting the co-operative Authority, provide for the terms and conditions of appointment;

(xxxvi) prescribe the procedure to be followed in proceeding before the Co-operative Authority, provide for a fixing, levying and collecting appropriate fees and expenses for determining the disputes including expenses incurred by the parties to the proceedings having regard to the service rendered or to be rendered or any expenditure incurred or likely to be incurred for the machinery set up therefor, provide for delegation of the power of fixing the scale of any such fees and expenses being applicable to any disputes and other proceedings which may be pending immediately before the commencement of the Goa Co-operative societies Act, 2001, or which may be referred to or instituted thereafter, provide for the mode of payment of these fees and expenses, whether in the form of court fee stamps, in cash or in any other manner; and provide, for enforcing the decision, awards or orders in such proceedings;

(xxxvii) prescribe the form in which a dispute shall be referred to the Co-operative Authority;

(xiii) prescribe the procedure to be followed in the execution of awards and orders of the Co-operative authority, Registrar and Liquidator;

130 New insertion.

131 New insertion.

Assembly Hall,
Porvorim, Goa.
19th August, 2008.

R. KOTHANDARAMAN
Secretary to the Legislative
Assembly of Goa.