

**THE CO-OPERATIVE SOCIETIES ACT, 1925.**

**(Sind Act VII of 1925).**

**CONTENTS**

**CHAPTER I**

**PRELIMINARY.**

**SECTIONS**

1. Short title.
2. Extent.
3. Definitions.

**CHAPTER II**

**REGISTRATION.**

4. The Registrar.
- <sup>1</sup>[4-A. Power of Registrar to issue search warrant.]
5. Societies which may be registered.
6. Restrictions on interest of member of society with limited liability and a share capital.
7. Conditions of registration.
8. Power of Registrar to decide certain questions.
9. Application for registration.
10. Registration.
11. Evidence of registration.
12. Annual general meeting.
13. Special general meeting.
14. Change of name: its effect.
15. Amalgamation or transfer of societies.
16. Amendment of the by-laws of a society.
- <sup>2</sup>[16-A. Powers of the Registrar to amend by-laws.]

**CHAPTER III**

**RIGHTS AND LIABILITIES OF MEMBERS.**

17. No rights of membership to be exercised till due payments are made.
18. Votes of members.
- <sup>3</sup>[18-A. Disqualification for being , and for voting at an election of, Director, Manager or other officer of the Society.]
19. Restrictions on transfer of share or interest.

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<sup>1</sup> Added by the Sind Cooperative Societies (Amendment) Act, 1943 (Sind Act XVI of 1943).

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> Inserted by the Sind Act XVIII of 1941.

## CHAPTER IV

### DUTIES OF SOCIETIES.

- 20. Address of societies.
- <sup>1</sup>[20-A. Director of the Society.
- 20-B Transfer of Interest in Society.
- 20-C Provision of information.
- 20-D Provision of Information by the Registrar.]
- 21. Copy of Act, etc., to be open to inspection.
- <sup>2</sup>[21-A. Updating of records of the Societies.]
- 22. Audit.
- <sup>3</sup>[22-B. Internal audit committee.]

## CHAPTER V.

### PRIVILEGES OF SOCIETIES

- 23. Societies to be bodies corporate.
- 24. Prior claim of society.
- 25. Charge and set-off in respect of shares or interest of member.
- 26. Shares or interest not liable to attachment.
- 27. Transfer of interest on death of member.
- 28. Liability of past member.
- 29. Liability of the estate of deceased members.
- 30. Register of members.
- 31. Admissibility of copy of entry as evidence.
- 32. Exemption from compulsory registration of instruments relating to shares and debentures of society.
- 33. Power to exempt from income-tax, stamp-duty, registration and court fees.
- 33-A. Provincial Government may give loans or guarantee interest.

## CHAPTER VI

### PROPERTY AND FUNDS OF SOCIETIES

- 34. Restrictions on loans.
- <sup>4</sup>[34-A. Restrictions on issuance of bearer shares, warrants, etc.]
- 35. Restrictions on borrowing.
- 36. Restrictions on other transactions with non-member.
- 37. Investment of funds.
- 38. Restrictions on dividend.
- 39. Reserve Fund.
- 40. Restriction on distribution of profits.
- 41. Provident fund.
- 42. Contribution to charitable purpose.

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<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

## CHAPTER VII

### INSPECTION OF AFFAIRS.

- 43.** Inquiry by Registrar.  
<sup>1</sup>[**43-A.** Power to remove officers.]
- 44.** Inspection of books of indebted society.  
**44-A.** Inspection of books by financing bank.  
<sup>2</sup>[**44-AA** Inspection of books and properties.]
- 44-A.** Power of Registrar to exercise powers under section 50-A in the course of an inquiry or inspection.  
<sup>3</sup>[**44-C.** Power of Registrar to give directions.  
**44-D.** Special measures.]
- 45.** Costs of inquiry.  
**46.** Recovery of costs.

## CHAPTER VIII

### LIQUIDATION AND ARBITRATION.

- 47.** Winding up.  
<sup>4</sup>[**47-A.** Power of modification and annulment etc of an order or winding up of a Society.]
- 48.** Society may be wound up if membership is reduced.  
**49.** Effect of cancellation of registration.  
<sup>5</sup>[**49-A.** Records of the Society whose registration has been cancelled.]
- 50.** Power of a liquidator.  
**50-A.** Power of Registrar to assess damage against delinquent promoters, etc.
- 51.** Bar of suit in winding up and dissolution matters.  
**52.** Disposal of surplus assets.  
**53.** Surplus assets of housing society.  
**54.** Arbitration.  
<sup>6</sup>[**54-A.** Registrar's power to set aside the award and order the dispute to be referred back to arbitration.]
- 55.** Attachment before award.  
**56.** Appeal against award of arbitrator.  
**57.** Finality of awards in certain orders.  
**58.** Powers to enforce attendance.  
**59.** Money how recovered.  
Powers of Registrar to recover certain sums by attachment and sale of property.  
Registrar or person empowered by him to be a Civil Court for certain purposes.  
<sup>7</sup>[**59-A.** Transfer of property which cannot be sold.]

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<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>5</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>6</sup> Ins. By Sindh Act X of 1938. S. 2.

<sup>7</sup> Inserted by Sind Act XXVII of 1935, section 3.

## CHAPTER VIII-A.

### DISTRAINT

- 59-B.** Definitions.
- 59-C.** Cases in which application for distraint may be made.
- 59-D.** Form of application.
- 59-E.** Procedure on receipt of application.
- 59-F.** Execution of order for distraint.
- 59-G.** Service of notice of demand and the grounds of distraint.
- 59.H.** Right to reap, etc., produce.
- 59.I.** Sale proclamation to be issued unless demand is satisfied.
- 59.J.** Place of sale.
- 59.K.** Provisions relating to growing crops.
- 59.L.** Manner of sale.
- 59.M.** Postponement of sale.
- 59.N.** Payment of purchase money.
- 59.O.** Certificate to be given to the purchaser.
- 59.P.** Proceeds of sale how to be applied.
- 59.Q.** Certain persons may not purchase.
- 59.R.** Procedure where demand is paid before the sale.
- 59.S.** Distraint of property which is under attachment.
- 59.T.** Suit for compensation for wrongful distraint and appeals.
- 59.U.** Savings.]

## CHAPTER IX.

### OFFENCES

- 60.** Offences.
  - Default by a society, officer or member.
  - Wilful neglect or default by a society, etc.,
  - Wilful furnishing of false information.
  - Disobedience of summons, requisition, or order.
- 61.** Penalty for offences not otherwise provided for.
- <sup>1</sup>**[61-A.** Penalty for offences committed under clause (e) of section 60.]
- 62.** Prohibition of the use of the word “co-operative”.
- 63.** Cognizance of offences.

## CHAPTER X.

### APPEALS AND REVISIONS

- 64.** Appeal.
- 64.A.** Power of Provincial Government and the Registrar to call for proceedings of subordinate officers and to pass orders thereon.
- <sup>2</sup>**[64.AA.** Finality of orders of Provincial Government.

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<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Inserted by Sind Act XVI of 1943, section 20.

## CHAPTER XI

### MISCELLANEOUS.

- 65.** Recovery of sums due to Government.  
<sup>1</sup>[**65.A.** -----.]  
<sup>2</sup>[**65.B.** Officers of societies to be public servants.]  
**66.** Power to exempt societies from conditions as to registration.  
**67.** Powers to exempt societies from provisions of Act.  
**68.** Companies Act not to apply.  
**69.** Branches, etc., of societies outside the province.  
**70.** Notice necessary in suits.  
<sup>3</sup>[**70.A.** Bar of Jurisdiction.]  
**71.** Rules.  
**72.** Repeal and savings.  
<sup>4</sup>[**72.A.** Construction of references to Co-operative Societies Act, 1912, in enactments.]  
**72.B.** [*Repealed*]  
**73.** [*Repealed*]

*SCHEDULE [Repealed]*

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<sup>1</sup> Section 65.A, inserted by Sind Act XXVII of 1940, section 2.

<sup>2</sup> Section 65-B, inserted by W.P. Ordinance 1955, section 2.

<sup>3</sup> Added by W.P. Ordinance, XII of 1966.

<sup>4</sup> Section 72-A inserted by Sind Act VIII of 1933, section 2.

**<sup>1</sup>THE CO-OPERATIVE SOCIETIES ACT, 1925****(Sind Act VII of 1925).**

[4 December 1925]

*An Act to consolidate and amend the law relating to co-operative societies in <sup>2</sup>[the Province of West Pakistan].*

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 <sup>3</sup>[the Province of West Pakistan]; and whereas the previous sanction of the Governor-General required by sub-section (3) of section 80-A of the Government of India Act has been obtained for the passing of this Act;

It is hereby enacted as follows:-

**<sup>4</sup>[CHAPTER I  
PRELIMINARY]**

1. This Act may be called the <sup>5</sup>[\* \* \*] Co-operative Societies Act, Short title. 1925.

<sup>6</sup> [2. This Act extends to the whole of the <sup>7</sup>[Province of the Khyber Extent. Pakhtunkhwa], except the Tribal Areas.]

3. In this Act, unless there is anything repugnant in the subject or Definitions. context,

<sup>8</sup>[(a) “beneficial owner” means a natural person who ultimately owns or controls a Society, whether directly or indirectly or voting rights or by exercising effective control in that Society through such other means as may be prescribed;]

<sup>1</sup> For statement of objects and reasons, see Bombay Government Gazette 1924, Part V, pp.46, 48; for Report of Select Committee, see *ibid.*, 1924, Part V, pp. 108-13 and *ibid.*, 1925, Part V, pp. 68.70; and for proceedings in Council, see Bombay Legislative Council Debates, 1924 and 1925, Vols. XII, XIII and XV.

<sup>2</sup> Substituted by W.P. Ordinance VII of 1965, section 2, for the word “Sind” which was earlier substituted by West Pakistan Laws (Adaptation) Order, 1964, for “the Province of Sind”. The words “Province of Sind” were previously substituted by the Sind Ordinance V of 1955 “presidency of Bombay”.

<sup>3</sup> Substituted by W.P. Ordinance VII of 1965, section 2, for the word “Sind” which was earlier substituted by West Pakistan Laws (Adaptation) Order, 1964, for “the Province of Sind”. The words “Province of Sind” were previously substituted by the Sind Ordinance V of 1955 “presidency of Bombay”.

<sup>4</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955 (Sind Ordinance V of 1955), section 7 Schedule III (with effect from 24th April, 1947), for “Preliminary”.

<sup>5</sup> The word “Sind” which was earlier substituted for “Bombay” by Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1955 (Sind Ordinance V of 1955), section 3(i), omitted by W.P. Ordinance VIII of 1955, section 3.

<sup>6</sup> Substituted by W.P. Ordinance VII of 1965 section 4 for the original section 2 as amended by Sind Ordinance V of 1955 and the West Pakistan Laws (Adaptation) Order, 1964.

<sup>7</sup> Subs. vide the Khyber Pakhtunkhwa Act. IV of 2011.

<sup>8</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

- <sup>1</sup>[(ab)] “by-laws” means by-laws registered under this Act and for the time being in force and includes a registered amendment of such by-laws;
- <sup>2</sup>[(ac)] “competent authority” means the regulators, oversight bodies for Self-Regulatory Bodies, the Financial Monitoring Unit and the investigating or prosecuting agency as defined in the Anti-Money Laundering Act, 2010 (Act No. VII of 2010);]
- (b) “Committee” means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted;
- <sup>3</sup>(bb) “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;]
- <sup>4</sup>[(bb-i)] “Government” means the Government of Khyber Pakhtunkhwa;]
- <sup>5</sup>[(bbb)] “Loan” includes Finance as defined in the Banking Tribunals Ordinance, 1984 (LVIII of 1984) and all cognate expressions shall be construed accordingly.]
- (c) “Member” includes a person joining in the application for the registration of a society or a person admitted to membership after registration in accordance with the rules and by-laws applicable to such society;
- (d) “Officer” includes a Chairman, Secretary, Treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society;
- <sup>6</sup>[(da)] “prescribed” means prescribed by rules made under this this Act;]
- (e) “Society” means a society registered or deemed to be registered under this Act;
- (f) “Registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act;
- (g) “Rules” means rules made under this Act;

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<sup>1</sup> Renumbered vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> First inserted by Sind Act XVI of 1943 and, then substituted by (Sind Act XX of 1947) to read as above.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>5</sup> Clause (bbb), ins by Khyber Pakhtunkhwa Ord. No. 1 of 1985, section 3, read with the schedule.

<sup>6</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020

- (h) (1) a “resource society” means a society formed with the object of obtaining for its members the credit, goods or services required by them;
- (2) a “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) a “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 by-laws of such society, the profits accruing from such supply and distribution;
- (4) a “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) a “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 shall be published annually in the <sup>1</sup>[Official Gazette].

<sup>2</sup>[(ha) “Secretary” means the Secretary to Government, Agriculture, Livestock, Fisheries and Cooperative Department.]

## <sup>3</sup>[CHAPTER II

### REGISTRATION].

4. <sup>4</sup>[The Provincial Government] may appoint a person to be Registrar The Registrar. of Co-operative Societies for <sup>5</sup>[the Province] or any portion of it, and may

<sup>1</sup> Substituted by A.O. 1937, for “Government”.

<sup>2</sup> added vide Khyber Pakhtunkhwa Act No. XXXIV of 2020

<sup>3</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for “Registration”.

<sup>4</sup> Substituted by A.O. 1937, for “Govt”.

<sup>5</sup> Substituted by W.P. Ord. VII of 1965, section 5, for the word “Sind” which was earlier substituted by the West Pakistan Laws (Adaptation) (Adaptation) Order, 1964, for “the Province”. The word “Province” was previously substituted by the Sind Ordinance V of 1955, for “Presidency”.

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.

<sup>1</sup>[4-A. (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, and all such searches shall be made in accordance with the Provisions of that Code.

Power of Registrar to issue search warrant.

(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 <sup>2</sup>[economic interest and other interests interests such as social interest, technical interest or productive interest of its members and general community] 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:

Societies which may be registered.

Provided that, unless <sup>3</sup>[the Provincial 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, <sup>4</sup>[\* \* \*] and of which 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—

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

<sup>1</sup> Added by the Sind Cooperative Societies (Amendment) Act, 1943 (Sind Act XVI of 1943).

<sup>2</sup> Substituted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> Substituted by the Government of India (Adaptation of Indian Laws) Order, 1937 as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, for “Govt”.

<sup>4</sup> Deleted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

- (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 three-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 Rs. 20,000.

7. (1) No society, other than a society of which a member is a society, shall be registered under this Act, which does not consists of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members, unless such persons-

Conditions of registration.

- (a) reside in the same town or village or in the same group of villages; or
- (b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

<sup>1</sup>[(2) No society formed after the commencement of the <sup>2</sup>[Sind] Co-Operative Societies <sup>3</sup>[\*\*\*\*] (Amendment) Act, 1943, for the purpose of of carrying on business as a banking] society or which uses as part of its name under which it proposes to carry on business the word “bank” or “banking” shall be registered under this Act unless its paid-up share capital amounts to rupees 20,000 or more;

*Explanation.*---For the purpose of this section the expression ‘banking society’ means a society which accepts deposits of money on current account or otherwise subject to withdrawal by cheque, draft or order].

<sup>4</sup>[(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 as to <sup>5</sup>[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.

Power of Registrar to decide certain questions.

9. For purposes of registration an application to register shall be made

Application for registration.

<sup>1</sup> Sub-section (2) and explanation ins. by Sindh Act XVI of 1943.

<sup>2</sup> Sub. by the Sindh Law (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sindh Ord. V of 1955), s. 3 (i) (with effect from 30<sup>th</sup> May, 1951), for “Bombay”.

<sup>3</sup> The word “Sind” omitted, *ibid*, s. 3 (iii) (b) (with effect from 30<sup>th</sup> May, 1951).

<sup>4</sup> The Original sub-section (2) was re-numbered as sub-section (3) by Sindh Act XVI of 1943, s. 4.

<sup>5</sup> Subs. by Sindh Act XX of 1947, s.3, for the words “whether for the registration or continuance of a society under this Act”.

to the Registrar.

- (2) The application shall be signed–
  - (a) in the case of a society of which no member is a society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section (1); and
  - (b) in the case of a society of which a member is a society by a duly authorized person on behalf of every such society and where all the members of the society are not societies, by ten other members or, when there are less than ten other members, by all of them.

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

10. <sup>1</sup>[(1)] If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws. Registration.

<sup>2</sup>[(2) Notwithstanding anything contained in the bye-laws of the Society, the Registrar may determine the period of tenure of the office bearers of the Society and may impose any restrictions on the re-election of the concerned office bearers for the next tenure.]

11. 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. Evidence of registration.

12. 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. Annual general meeting.

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

- (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 Change of name: its effect.

<sup>1</sup> Renumbered vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Added vide Khyber Pakhtunkhwa Act No. XXXIV of 2020

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 approval of the Registrar by a resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as single society; provided that each member has had clear fifteen days' written notice of the resolution and the date of the meeting. Such an amalgamation may be effected without dissolution, or a division of the funds, of the amalgamating societies. The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

Amalgamation or transfer of societies.

(2) Any society may by a resolution passed in accordance with the procedure laid down in sub-section (1) transfer its assets and liabilities to any other society which is prepared to accept them:

Provided that when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it will not be made without giving three months notice to the creditors of both or all such societies:

Provided further that if a creditor or creditors of any of the societies concerned objects or object to such amalgamation or transfer of assets and liabilities and gives or give written notice to that effect to the society or societies concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor or creditors have been satisfied.

<sup>1</sup>[16. (1) No amendment of the by-laws of a society shall be valid until it until it is registered under this Act].

Amendment of the by-laws of a society.

(2) If the Registrar is satisfied that any amendment of the by-laws <sup>2</sup>[made by a society] is not contrary to this Act or to the rules, he may register the amendment.

(3) When the Registrar registers, an amendment of the by-laws of a society <sup>3</sup>[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.

<sup>4</sup>[16-A. (1) ) If the Registrar is satisfied that the bye-laws of the 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 direct the Society to make the amendments within a period of sixty days.

Power of the Registrar to amend by-laws.

<sup>1</sup> Substituted by the Sind Cooperative Societies (Amendment) Act, 1943 (Sind Act XVI of 1943).

<sup>2</sup> Inserted *ibid*.

<sup>3</sup> Subs. by Sindh Act XVI of 1943.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

(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 the Secretary from an order of the Registrar passed under sub-section (2) within sixty days of the date of communication of the order.]

### <sup>1</sup>[CHAPTER III

#### **RIGHTS AND LIABILITIES OF MEMBERS]**

17. 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 by-laws of such society.

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

<sup>2</sup>[17-A. Notwithstanding anything contained in this Act and any other law for the time being in force—

Special provisions for membership of resource societies.

- (i) 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;
- (ii) 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;
- (iii) a declaration made under clause(i) or (ii) may be varied at any time by a member with the consent of the society in favour of which such charge is created;
- (iv) 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);
- (v) any alienation of any property specified in the declaration made under clause (i) or (ii) by such member shall be void;

<sup>1</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for "Rights and liabilities of members".

<sup>2</sup> Inserted by Sind Act XVI of 1943.

- (vi) subject to the prior claim of <sup>1</sup>[Government] in respect of land 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;
- (vii) 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 Chapter X-A of the <sup>2</sup>[Sind] Land Revenue Code, 1879, <sup>3</sup>[or the relevant provisions of any other law relating to land revenue in force in the area,] notwithstanding anything contained in the said Chapter.

*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.]

18. (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 shall have a casting vote. Votes of members.

(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.

<sup>4</sup>[18-A. A member of the society to which the provisions of this section section have been applied by the Provincial 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— Disqualification for being, and for voting at an election of 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 re-paid 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 re-paid upto the day immediately preceding the date of the election.

<sup>1</sup> Substituted by the West Pakistan Laws (Adaptation) Order 1964, section 2(1), Schedule, for the words “the Crown”.

<sup>2</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 3(i) (with effect from 30th May, 1951), for “Bombay”.

<sup>3</sup> Added by West Pakistan Ordinance, 1965, s. 6.

<sup>4</sup> Inserted by the Sind Act XVIII of 1941.

*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].

19. (1) The transfer or charge of the share or interest of a member in the capital of a society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules. Restrictions on transfer of share or interest.

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

- (a) he has held such share or interest for not less than one year, 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.

#### <sup>1</sup>[CHAPTER IV

#### DUTIES OF SOCIETIES].

20. 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 30 days of such change. Address of societies.

<sup>2</sup>[20-A. (1) Where a Society is a member of another Society, that Society shall nominate any of its member to serve as a director of the Society of which it is a member Director of the Society.

(2) The director of a Society who is nominated in accordance with subsection (1), shall be a natural person and provide prescribed information to the Society to which he is nominated as director.

(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 occur.

(4) The Registrar shall keep an updated record of the nominated directors of all Societies in the prescribed manner.

(5) No director shall nominate on his behalf a member or director to perform the membership rights on his behalf.

<sup>1</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for “Duties of Societies”.

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

20-B. A member of a Society shall cease to be member of the Society in case all his interests in the movable and immovable property in the Society are transferred in favor 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:

Transfer of Interest in a Society.

Provided that where more than one person acquire such interests, one of such persons with mutual consent, failing which the person older in age shall be admitted as a member having rights of membership:

Provided further that where a minor or a mentally/physically disabled person, acquires such interests, the natural or legal guardian of the minor or, as the case be, the person who maintains the disabled person shall be admitted as a member and such membership shall stand transferred to the minor as soon as he acquires the age of eighteen years, and in case of mental or physical disabled person as soon as his disability is removed.

20-C. The secretary of the Society shall provide information to the Registrar both annually and from time to time when any change occur in such Society in the prescribed manner.

Provision of information.

(2) The secretary of the Society shall provide to the competent authority at any time upon request, the required information, including but not limited to beneficial owners, members, nominees of the members, officers, employees of the Society and Committee in the prescribed manner.

(3) The Registrar may, at any time by his own motion or through a person authorized by him, require any information pertaining to the Society from the secretary of the Society.

20-D. The Registrar shall provide information to the 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, and nominees of the members, properties, and financial condition of the Society.]

Provision of Information by the Registrar.

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

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

- (a) a copy of this Act.
- (b) a copy of the rules governing such society,

- (c) a copy of the by-laws of such society, <sup>1</sup>[\*\*\*]
- (d) a register of its members <sup>2</sup>[;]
- <sup>3</sup>(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.]

4[21-A. (1) The Registrar shall keep the record up to date in the prescribed manner of all the beneficial owners, members, nominees of the members, directors, Committee, officers and employees of the Societies.

Updating of records of the Societies.

(2) After the commencement of the Khyber Pakhtunkhwa Co-operative Societies (Amendment) Act, 2020, every Society shall provide the information about its beneficial owners within three months to the Registrar.

(3) If a Society fails to provide the information within the time specified under sub-section (2), the Registrar shall cancel the registration of such Society.]

22. (1) The Registrar shall by himself or by some person authorised by him in writing by general or special order in this behalf audit the accounts of every society once at least in every year.

Audit.

(2) 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.

(3) 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.

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.

(4) 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

<sup>1</sup> Deleted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Replaced vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> Added vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

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.

<sup>1</sup>[22-A. Where, in the course of an audit under section 22 it appears to the Registrar that there exists any such ground as is specified in section 50-A, he may, of his own motion or on the application of the person authorised by him under section 22, exercise the powers specified in section 50-A].

Power of Registrar to exercise powers under section 50-A in the course of an audit.

<sup>2</sup>[22-B. (1) Before the due date of external audit, a Society, in addition to the audit of accounts under section 22, shall also get the accounts audited by an internal audit committee comprising at last three members of the Society other than the members of its Committee as may be appointed by the general body or by Chartered Accountant appointed by the Society with the consent of the Registrar.

Internal audit committee.

(2) The report of the internal audit committee or the Chartered Accountant shall be submitted to Registrar within one month.]

### <sup>3</sup>[CHAPTER V.

#### PRIVILEGES OF SOCIETIES].

23. 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.

Societies to be bodies corporate.

24. Subject to any prior claim of <sup>4</sup>[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,

Prior claim of society.

- (a) any debt or outstanding demand owing to a society by any member or past member <sup>5</sup>[or, in the case of a society authorised under sub-section (1) of section 34 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

<sup>1</sup> Inserted by Sind Act, 1943.

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for "Privileges of Societies".

<sup>4</sup> Substituted by West Pakistan Laws (Adaptation) Order, 1964, section 2(1) Schedule, for the words "the Crown" which were earlier substituted by A.O. 1937, for "Govt".

<sup>5</sup> Inserted by Sind Act, 1947, section 4(a).

part with a loan taken from the society by <sup>1</sup>[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 <sup>2</sup>[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 effect the claims of any *bona fide* purchaser or transferee for value without notice of any such crops or other agricultural produce, cattle, fodder 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.

25. 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.

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

26. Subject to the Provisions of section 25, the share or interest of a member in the capital of a society or in any provident fund established under section 41 of this Act 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 <sup>3</sup>[neither the Official Assignee under the Insolvency (Karachi Division <sup>4</sup>[\* \* \*]) Act, 1909 nor a receiver under the Provincial Insolvency Act, Act, 1920, shall] be entitled to or have any claim on such share or interest.

Shares or interest not liable to attachment.

27. (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 by-laws of the society, if duly admitted a member of the Society, in accordance with the rules or the by-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

Transfer of interest on death of member.

<sup>1</sup> Substituted *ibid*, section 4(b), for "such member or past member."

<sup>2</sup> Subs. by Sindh Act XX of 1947.

<sup>3</sup> Substituted by West Pakistan Ordinance, 1965, section 7, for the words "Receiver under the Provincial Insolvency Act, 1920, shall not". These words were earlier substituted by Sindh Ordinance V of 1955, section 7, Schedule III, for "neither the Official Assignee under the Presidency Town, Insolvency Act, 1920, shall".

<sup>4</sup> The words Dacca omitted by Khyber Pakhtunkhwa Ord. No. I of 1985.

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 by-laws [who shall hold the same for and on behalf of all the heirs of the deceased member according to the personal law to which the deceased is subject].

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.

(2) A society shall subject to the provisions of section 25 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.

28. 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. Liability of past member.

29. 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. Liability of the estate of deceased members.

30. 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:- Register of members.

- (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.

31. (1) A copy of any entry in any books, 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. Admissibility of copy of entry as evidence.

(2) In the case of such societies as <sup>2</sup>[the Provincial 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

<sup>1</sup> These words ins. by Khyber Pakhtunkhwa Ord. No. III of 1985.

<sup>2</sup> Substituted by A.O. 1937 for "Govt".

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.

32. Nothing in section 17, sub-section (1), clauses (b) and (c), of the <sup>1</sup>[\* \* \*] Registration Act, 1908, shall apply to—
- <sup>2</sup>Exemption from compulsory registration of instruments relating to shares etc of society.
- (1) any instrument relating to shares in a society notwithstanding that the assets of the society consist in whole or in part of immovable property; or
  - (2) any debenture <sup>3</sup>[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 <sup>4</sup>[instruments]; or
  - (3) any endorsement upon or transfer of any debenture <sup>5</sup>[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.

33. (1) The <sup>6</sup>[Central Government], by notification in the <sup>7</sup>[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 <sup>8</sup>[or return] on securities held held by the society.

<sup>9</sup>Power to exempt from income-tax, stamp-duty, registration and court fees.

(2) The <sup>9</sup>[Provincial Government] by notification in the <sup>10</sup>[Official Gazette], may, in the case of any society or class of societies, remit—

<sup>1</sup> The word "Indian" omitted by the Sind Laws (Adaptation, Revisions, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 4 (with effect from 30th May, 1951).

<sup>2</sup> the existing marginal heading sub. by Khyber Pakhtunkhwa Ord. I of 1985.

<sup>3</sup> Inserted by Khyber Pakhtunkhwa Ordinance No. I of 1985.

<sup>4</sup> Substituted by Khyber Pakhtunkhwa Ord. No. I of 1985.

<sup>5</sup> Inserted by Khyber Pakhtunkhwa Ordinance No. I of 1985.

<sup>6</sup> Substituted by A.O. 1937 for "Governor-General in Council". Now 'Federal Government', see P.O. of 1975.

<sup>7</sup> Substituted *ibid.*, for "Gazette of India".

<sup>8</sup> Inserted by Khyber Pakhtunkhwa Ordinance No. I of 1985.

<sup>9</sup> Substituted West Pakistan Ordinance, VII of 1965, section 8(a), for the word "Govt" which was earlier Substituted by the A.O. 1937. For "Local Government".

<sup>10</sup> Substituted by A.O., 1937, for "Bombay Government Gazette".

- (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 <sup>1</sup>[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.<sup>2</sup>[\* \* \*]

33-A. With such safeguards as may be prescribed by rules in this behalf <sup>3</sup>[the Provincial Government] may give loans to societies or guarantee the payment of <sup>4</sup>[the principal of debentures issued by them or of interest thereon <sup>5</sup>[or return] or both.

Provincial Government may give loans or guarantee interest <sup>6</sup>[or return].

## <sup>7</sup>[CHAPTER VI

### PROPERTY AND FUNDS OF SOCIETIES

34. (1) Except with the general or special sanction of the Registrar <sup>8</sup>[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.

Restrictions on loans.

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

(3) <sup>9</sup>[The Provincial Government] may, by general or special order, order, prohibit or restrict the lending of money on mortgage of immovable property by any society or class of societies.

<sup>10</sup>[(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].

<sup>11</sup>[34-A. 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

Restrictions on issuance of bearer shares, warrants, etc.

<sup>1</sup> Inserted by Sind Act XVI of 1943.

<sup>2</sup> The paragraph beginning with the words "in this sub-section" and ending with the words "the Provincial Government", which was earlier inserted by the A.O., omitted by West Pakistan Ordinance VII of 1965, section 8.

<sup>3</sup> Substituted by A.O., 1937 for "Government".

<sup>4</sup> Substituted by Sind Act, XXII of 1935, section 2, for "interest on debentures issued by them".

<sup>5</sup> Inserted by Khyber Pakhtunkhwa Ord. No. I of 1985.

<sup>6</sup> Inserted by Khyber Pakhtunkhwa Ord. No. I of 1985.

<sup>7</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for "property and funds of Societies".

<sup>8</sup> Subs. by A.O. 1937, for "Governor-General in Council", Now Federal government', see P.O. of 1975.

<sup>9</sup> Added by A.O. 1937 for "Government".

<sup>10</sup> Ins. by Sindh Act XX of section 5(b).

<sup>11</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

bearer shares or bearer share warrants or any other equity or debt security of a bearer nature, shall be void.]

35. A society shall receive deposits 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. Restrictions on borrowing.

36. Consumers', producers' and housing Societies may to the extent permitted by their by-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 34 or 35 shall be subject to such prohibitions and restrictions, if any, as <sup>1</sup>[the Provincial Government] may by rules prescribe. Restrictions on other transactions with non-members.

37. <sup>2</sup>[(1)] A society may invest or deposit its funds— Investment of funds.

- (a) in the Government Saving Bank; or
- (b) in any of the securities specified in section 20 of the <sup>3</sup>[\* \* \*] 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.

<sup>4</sup>[(2)] No Society shall dispose off or lease out its immovable property except with the previous sanction of the Registrar.]

38. No society shall pay a dividend to its members at a rate exceeding <sup>5</sup>[20] percent. Restriction on dividend.

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

(2) In the case of a resource or producers' society at least 1/4<sup>th</sup> of the net profits of the society each year shall be carried to the reserve fund

<sup>1</sup> Added by A.O. 1937 for "Government".

<sup>2</sup> Renumbered vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>3</sup> The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 4 (with effect from 30th May, 1951).

<sup>4</sup> Added vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>5</sup> Substituted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

and in the case of any other society at least 1/10<sup>th</sup> 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 37, as <sup>1</sup>[the Provincial Government] may by general or special order direct, or may, with the previous sanction of <sup>2</sup>[the Provincial 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.

40. Subject to the provisions of section 38 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 by-laws of such societies, provided that :-

Restriction on distribution of profits.

- (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 <sup>3</sup>[the Provincial 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 10 years from the date of registration of the society have elapsed.

41. Any society may establish a provident fund for its members out of contributions from such members in accordance with by-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 37; and provided further, that no part of such provident fund shall be considered as an asset of the society.

Provident fund.

42. With the approval of the <sup>4</sup>[Registrar] and after the payments prescribed by sub-section (2) of section 39 have been made to the reserve fund, any society may—

Contribution to charitable purpose.

- (a) set aside a sum not exceeding 20 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.

<sup>1</sup> Subs. by A.O. 1937. for "Government".

<sup>2</sup> Subs. by A.O. 1937. for "Government".

<sup>3</sup> Subs. by A.O. 1937. for "Government".

<sup>4</sup> Substituted by the Sind Act XVI of 1940, section 2, for "Bombay Central Co-operative Institute".

<sup>1</sup>[CHAPTER VII  
INSPECTION OF AFFAIRS]

43. (1) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry in to the constitution, working and financial condition of a society. Inquiry by Registrar.

(2) The Registrar shall hold such an inquiry as is contemplated in sub-section (1) of this section–

- (a) on the requisition of a society, duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society,
- (b) on the application of a majority of the Committee of the society,
- (c) on the application of 1/3<sup>rd</sup> 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 the person 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.

<sup>2</sup>[43-A. (1) An officer or employee of a Society by whatever name name called may be removed by the Registrar, on an inquiry, if he is satisfied that the said officer- Power to remove officers.

- (a) acts in manner prejudicial to the interest of the Society or its members; or
- (b) has incurred any of the disqualifications or has ceased to process any qualification for being an officer provided by this Act, rules or by laws; or
- (c) has committed an act in respect of which the Registrar is empowered to take action under section 50-A.

<sup>1</sup> Substituted by the Sind Laws(Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for “Inspection of Affairs”.

<sup>2</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

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

(3) On being removed, the officer shall not perform any function 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 Secretary and the decision of the Secretary shall be final.

(5) The Registrar may suspend, for a period not exceeding three months, a member of the Committee of a Society, against whom an inquiry is pending under this Act or there are reasons to believe that any such member has committed any irregularity, illegality, breach of trust or act prejudicial to the interests of the Society.]

44. (1) The Registrar <sup>1</sup>[may on his own motion or] may, on the application of a creditor of a society inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society. Inspection of books of indebted 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.

<sup>2</sup>[44-A. (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 Inspection of books by financing bank.

<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Inserted by Sind Act, 1943, s. 9.

the financing bank.

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

<sup>1</sup>[44-AA. The Registrar, or any of his authorized representative, shall have the right to inspect the books, accounts, cash, documents, properties and securities' of a Society and every employee, previous or existing of the Society, as the case may be, shall be bound to produce the same and furnish such information with regard to the transactions and working of the Society, as the person making such inspection may require.]

Inspection of books and properties.

<sup>2</sup>[44-B. Where, in the course of any inquiry under section 43 or an inspection under section 44 or section 44-A it appears to the Registrar that there exists any such ground as is specified in section 50-A, he may, of his own motion or on the application of the person authorised by him under section 43 or section 44 or section 44-A, exercise the powers specified in section 50-A].

Power of Registrar to exercise powers under section 50-A in the course of an inquiry or inspection.

<sup>3</sup>[44-C. 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, if it is necessary, to issue directions to the Societies generally or to any Society in particular, he may issue necessary directions, and the Societies or as the case may be, the Society shall be bound to comply with such directions.

Power of Registrar to give directions.

(2) The Registrar may on his own motion or on a representation made to him, 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 shall have effect.

44-D. 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 the 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:

Special measures.

- (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

<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Inserted *ibid*.

<sup>3</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

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 in the prescribed manner;

- (iii) direct may 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 there from; and
- (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.]

45. Where an inquiry is held under section 43 or an inspection is made under section 44 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 <sup>1</sup>[Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 44-A of the books of any society other than an Agricultural Credit Society the liability of which is unlimited]; Costs of inquiry.

Provided that—

- (a) no order of apportionment <sup>2</sup>[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 <sup>3</sup>[or award].

<sup>4</sup>[*Explanation.*—For the purposes of this section an Agricultural Credit Society means a resource society of which the primary objects is

<sup>1</sup> Added by Sindh Act XVI of 1943, s. 10 (i).

<sup>2</sup> Added by Sindh Act XVI of 1943.

<sup>3</sup> Added by Sindh Act XVI of 1943.

<sup>4</sup> Added by Sindh Act XVI of 1943, s. 10 (i).

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].

46. Any sum awarded by way of costs under section 45 may be recovered, on the 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, by 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. Recovery of costs.

## <sup>1</sup>[CHAPTER VIII

### LIQUIDATION AND ARBITRATION]

47. If the Registrar, after an inquiry has been held under section 43 or after an inspection has been made under section 44 <sup>2</sup>[or section 44-A] 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 <sup>3</sup>[ \* \* \*], 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. Winding up.

<sup>4</sup>[47-A. The Registrar, may at any time, modify, withdraw, annul or reverse an order of windingup of a cooperative Society, in any case where, in its/his opinion, the Society ought to continue to exist.] Power of modification and annulment etc of an order of windingup of a Society.

48. Where it is a condition of the registration of a society that it shall consist of at least ten 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 ten such members. Society may be wound up if membership is reduced.

49. When the affairs of a society for which a liquidator has been appointed under section 47 have been wound up, or, where no liquidator has been appointed, after two months from the date of an order under section 47, or after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of the society, and the Effect of cancellation of registration.

<sup>1</sup> Substituted by the Sind Laws(Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for "Liquidation and Arbitration".

<sup>2</sup> Inserted by Sind Act XVI of 1943, section 11.

<sup>3</sup> Deleted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>4</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

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

<sup>1</sup>[49-A.(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.

Records of the Society whose registration has been cancelled.

(2) The secretary of the Society shall keep the records of the Society whose registration has been cancelled for a period not less than five (5) years:

Provided that the Society shall dispose of its record after five (5) years after the approval of the Registrar.]

50. A liquidator appointed under section 47 shall have power with the sanction of the Registrar to do all or any of the following things:-

Power of a liquidator.

- (a) pay any class or classes of creditors in full;
- (b) 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;
- (c) 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;
- (d) 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;
- (e) to institute and defend suits and other legal proceedings on behalf of the society in the name of his office;
- (f) to issue requisitions under section 59 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,

<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

- (g) to get disputes referred to arbitration:
- (h) 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 ratably according to the amount of such debts, the surplus if any being applied in payment of interest <sup>1</sup>[or return] from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate;
- (i) to determine by what persons and in what proportion the cost of the liquidation shall be borne;
- (j) 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;
- (k) 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;
- (l) 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:

<sup>2</sup>[Provided further that all debts due to <sup>3</sup>[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 sections 137 and 138 of the <sup>4</sup>[Sind] <sup>4</sup>[Sind] Land Revenue Code, 1879 <sup>5</sup>[or any other law relating to land revenue in force in the area].

50-A. (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 <sup>6</sup>[or, where the society is acting under sub-section (4) of section 34 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

Power of Registrar to assess damage against delinquent promoters, etc

<sup>1</sup> The words "or return", ins. by Khyber Pakhtunkhwa Ord. No. I of 1985.

<sup>2</sup> Inserted by Sind Act XVI of 1943, section 12.

<sup>3</sup> Substituted by the West Pakistan Laws (Adaptation) Order, 1954, section 2(i) Schedule, for the words, "the Crown".

<sup>4</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 3(i) (with effect from 30th May, 1951), for "Bombay".

<sup>5</sup> Added by West Pakistan Ordinance VII of 1965, section 9.

<sup>6</sup> Added by W.P. Ordinance, VII of 1965, s. 9.

make an order requiring him to repay or restore the money or property or any part thereof respectively with interest <sup>1</sup>[or return] at such rate as the Registrar thinks just or to contribute such sum to the assets of the society <sup>2</sup>[or <sup>2</sup>[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.

51. Save in so far as is expressly provided in this Act no civil court shall take cognizance of any matter <sup>3</sup>[arising out of any proceedings under Chapter VIII-A 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.

Bar of suit in winding up and dissolution matters.—

52. 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 by-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:-

Disposal of surplus assets.—

- (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 4<sup>5</sup>[\* \* \*] Provincial Co-operative Institute], or may be placed on deposit with <sup>6</sup>[Provincial] Co-operative Bank 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.

53. 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 <sup>7</sup>[<sup>8</sup>[\* \* \*] Provincial Co-operative Institute]. Such persons shall, for the purpose of

Surplus assets of housing society

<sup>1</sup> Inserted by Ordinance, No. I of 1985.

<sup>2</sup> Inserted by Sind Act XX of 1947, section 6.

<sup>3</sup> Inserted *ibid*, s. 7.

<sup>4</sup> Subs. By Sindh Act XVI of 1940 of "Bombay Provincial Co-operative institute".

<sup>5</sup> The word "Sind" omitted by West Pakistan Ordinance VII of 1965.

<sup>6</sup> Substituted by Khyber Pakhtunkhwa Ordinance, No. I of 1985.

<sup>7</sup> Subs. By Sindh Act XVI of 1940 of "Bombay Provincial Co-operative institute".

<sup>8</sup> The word "Sind" omitted by West Pakistan Ordinance VII of 1965.

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 52.

54. <sup>1</sup>[If any dispute touching the business of a society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises— Arbitration.

- (a) between members or past members of the society or persons claiming through a member or past member, or
- (b) between members or past members or persons so claiming and any past or present officer, agent or servant of the society, or
- (c) between the society or its committee, and any past or present member of the society, or
- (d) between the society or its committee, and any past or present officer, agent or servant of the society, or a surety of such officer, agent or servant, whether such surety is or is not a member of the society, <sup>2</sup>[or].
- <sup>3</sup>[(e) between a financing bank authorised under sub-section (1) of section (1) of section 34 and a person who is not a member of a society],

it shall be referred to the Registrar for decision by himself or his nominee, or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned.]

A dispute shall include <sup>4</sup>[the question whether a person is or was a member of a society and also] claims by a society for debts or demands due to it from <sup>5</sup>[a member, past member or non-member] or the heirs or assets of a past member <sup>6</sup>[or non-member] whether such debts or demands demands be admitted or not:

Provided that if the question at issue between a society and a claimant, or between different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend

<sup>1</sup> Substituted by Sind Act VIII of 1944, section 2, for the first paragraph.

<sup>2</sup> Added by Sind Act XX of 1947, section 5(a).

<sup>3</sup> Inserted by Sind Act XX of 1947, section 8(a).

<sup>4</sup> Inserted by Sind Act XVI of 1943, section 13 (ii).

<sup>5</sup> Substituted by Sind Act XX of 1947, section 8(b)(i), for "a member or past member".

<sup>6</sup> Inserted *ibid*, section 8(b)(ii).

proceeding, in the matter until the question has been tried by a regular suit instituted by one of the parties or by the society. If no such suit is instituted within six months of the Registrar's order suspending proceedings, the Registrar shall take action as laid down in paragraph 1 of this section.

<sup>1</sup>[54-A. <sup>2</sup>(1) In the case of any award made by the arbitrators under section 54, the Registrar, if he is not one of such arbitrators, may of his own motion or on the application of any of the parties to the award, by an order in writing recording reasons therefore,—

Registrar's power to set aside the award and order the dispute to be referred back to arbitration.

- (a) modify or correct the award (i) where it appears that a part of the award is upon a matter not referred to arbitration and such part can be separated from the other part and does not affect the decision on the matter referred; or (ii) Where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision; or (iii) where the award contains a clerical mistake or an error arising from an accidental slip or omission; or
- (b) remit the award or any matter referred to arbitration to the arbitrators for reconsideration—
  - (i) where the award has left undetermined any of the matters referred to arbitration or where it determines any matter not referred to arbitration and such matter cannot be separated without affecting the determination of the matters referred, or
  - (ii) where the award is so indefinite as to be incapable of execution, or
- (c) set aside the award and order that the dispute shall be referred to arbitration in the manner provided in the said section:

Provided that no order referred to in clauses (a) to (c) shall be made after the issue of a certificate under section 59 for the execution of the award:

Provided further that no order under clause (c) shall be made unless the Registrar is of opinion that—

- (i) an objection to the legality of the award is apparent on the face of it, or
- (ii) the award has been vitiated in consequence of corruption or misconduct on the part of the arbitrators, or

<sup>1</sup> Ins. By Sindh Act X of 1938. S. 2.

<sup>2</sup> Substituted by Sind Act XVI of 1943, section 14(i) for the original sub-section (1).

(iii) the award is in any way perverse.].

(2) In making an order under <sup>1</sup> [clause (c) of] sub-section (1), the Registrar may direct that all or any of the arbitrators who made the award shall not act again as arbitrators for deciding the dispute.

(3) Where a dispute is referred back to arbitration under <sup>2</sup> [clause (c) of] sub-section (1), the arbitrators shall make a fresh award within such time as may be fixed by the Registrar. If the arbitrators fail to make a fresh award within the time so fixed, the Registrar or his nominee shall decide the dispute.]

55. Where a dispute has been referred to the Registrar under section 54 or to arbitration under clause (g) of section 50, the Registrar or his nominee or the arbitrators, as the case may be, if satisfied on inquiry or otherwise, that a party to such arbitration with intent to delay or obstruct the execution of any award that may be made,—

Attachment before award.

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

may unless adequate security is furnished direct the conditional attachment of the said property; and such attachment shall have the same effect as if made by a competent Civil Court.

56. Any party aggrieved by any decision of the Registrar's nominee made under section 54 <sup>3</sup>[or sub-section (3) of section 54-A] or an order passed under section 55 by the Registrar's nominee or arbitrators may within one month of the date of the award or order appeal to the Registrar and the Registrar shall decide the appeal <sup>4</sup>[\* \* \*].

Appeal against award of arbitrator.

<sup>5</sup>[57. The award of arbitrators or a decision by the Registrar or his nominee under section 54 or section 54-A or an order passed in appeal by the Registrar under section 56 shall, subject to the provisions of sections 64 and 64-A, be final and conclusive and shall not be liable to be called in question in any civil or revenue court.]

Finality of awards in certain orders.

58. Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 43 or shall make an inspection under section 44 or shall wind up a society or shall arbitrate, such Registrar, or person 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

Powers to enforce attendance.

<sup>1</sup> Inserted by Sind Act XVI of 1943, section 14(ii).

<sup>2</sup> Inserted by Sind Act XVI of 1943, section 14(ii).

<sup>3</sup> Inserted by Sind Act X of 1938, section 3.

<sup>4</sup> The word "himself" omitted by Sind Act XVI of 1943, section 15.

<sup>5</sup> Substituted *ibid* of 1943.

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.

59. (1) <sup>1</sup>[Every order passed by a liquidator under section 50, or by the Registrar under section 50-A, or by the Registrar or his nominee or arbitrators or disputes referred to him or them under clause (g) of section 50 or under section 54 or under sub-section (3) of section 54-A, every order passed in appeal, under section 56, every order passed by the Provincial Government in appeal against orders under sections 50, 50-A, 54 or sub-section (3) of section 54-A and every order passed under section 64-A shall, if not carried out, <sup>2</sup>[\* \* \*].

Money how recovered.

<sup>3</sup>[(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) <sup>4</sup>[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.

<sup>5</sup>[(2) The Registrar or any person subordinate to him empowered by the by the Registrar in this behalf may, subject to such rules as may be prescribed by the Provincial 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 <sup>6</sup>[Sind] Land Revenue Code, 1879, <sup>7</sup>[or <sup>7</sup>[or the relevant provisions of any other law relating to land revenue in force force in the area], and the Rules thereunder—

Powers of Registrar to recover certain sums by attachment and sale of property.

- (a) any amount due under a decree or order of a Civil Court, a decision or an award 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 44-B and 45; or
- (c) damages assessed in sections 22-A and 50-A; or
- (d) penalty provided for in sections 61 and 62; or

<sup>1</sup> Substituted by Sind Act V of 1940, section 4 read with section 5 (with effect from 4th December, 1925), for the words beginning with "Every order passed by a liquidator" and ending with "be executed".

<sup>2</sup> The words "be executed" deleted by Sind Act XVI of 1943), section 17(i).

<sup>3</sup> Substituted *ibid.*

<sup>4</sup> Ins. *Ibid.*

<sup>5</sup> Sub-section(2) and (3) ins. By Sindh Act XXVI of 1950, s. 2. The original sub-section (2) was rep. By Sindh Act XXII of 1935, s. 3.

<sup>6</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 3(i) (with effect from 30th May, 1951), for "Bombay".

<sup>7</sup> Inserted by West Pakistan Ordinance VII of 1965, section 6.

- (e) sums due to <sup>1</sup>[Government] under section 65, together with the interest <sup>2</sup>[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.

(3) The Registrar or any person 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].

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

<sup>3</sup>59-A. (1) When in execution of an order sought to be executed under section 59, 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), 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.

Transfer of property which cannot be sold.

(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 59 shall be null and void as against the said society].

<sup>1</sup> Substituted by the West Pakistan Laws (Adaptation) Order, 1964, section 2(1) Schedule, for the words "the Crown".

<sup>2</sup> Inserted by Khyber Pakhtunkhwa Ordinance No. I of 1985.

<sup>3</sup> Inserted by Sind Act XXVII of 1935, section 3.

<sup>1</sup>[CHAPTER VIII-A.  
DISTRRAINT]

59-B. In this Chapter, unless there is anything repugnant in the subject or context— Definitions.

- (a) “Collector” includes an officer appointed by the 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 59-C is recoverable;
- (c) words and expressions used herein and not hereinbefore defined shall have the meanings respectively assigned to them by the <sup>2</sup>[Sind] Land Revenue Code, 1879 <sup>3</sup>[or any other law relating to land revenue in force in the area].

59-C. 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 34 to make loan 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 the defaulter any crop or other produce belonging to him, whether the same is growing or is ungathered or has been reaped or gathered.

Cases in which application for distraint may be made.

59-D. (1) Every application under the last foregoing section shall specify— Form of application.

- (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;

<sup>1</sup> Chapter VIII-A (section 59-B to 59-U), inserted by Sind Act XX of 1947), section 7.

<sup>2</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 3(i) (with effect from 30th May, 1951), for “Bombay”.

<sup>3</sup> Added by West Pakistan Ordinance VII of 1965, section 9.

- (e) if the crop or produce is growing or is ungathered, 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.

59-E. (1) A society shall at the time of making an application under section 59-C, 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.

Procedure on receipt of 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 <sup>1</sup>[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.

59-F. (1) If the application is admitted under the last foregoing section Execution of order

<sup>1</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 4 (with effect from 30th May, 1951), for "Indian".

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. for distraint.

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

59-G. (1) The distraining officer shall, at the time of making the distraint serve on the defaulter— Service of notice of demand and the grounds of distraint.

- (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.

59-H. (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. Right to reap, etc., produce.

(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.

59-I. (1) Unless the demand amount is immediately paid, the distraining officer shall issue a proclamation in <sup>1</sup>[the local language of the area] of the 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: Sale proclamation to be issued unless demand is satisfied.

<sup>1</sup> Substituted by Sind West Pakistan Ordinance No. VII of 1965, for the word "Sindhi".

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.

59-J. The sale shall be held—

Place of sale.

- (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 opinion that the crop or produce is thereby likely to sell to greater advantage.

59-K. (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.

Provisions relating to growing crops.

(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

59-L. 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.

Manner of sale.

59-M. 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.

Postponement of sale.

59-N. (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.

Payment of purchase money.

(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.

59-O. 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.

Certificate be given to the purchaser.

59-P. (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.

Proceeds of sale how to be applied.

(2) The costs of distraint and sale shall be estimated at such rates as may, from time to time, be sanctioned by <sup>1</sup>[Commissioner].

59-Q. 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.

Certain persons may not purchase.

59-R. (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.

Procedure where demand is paid before the sale.

(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 distraint 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 <sup>2</sup>[or] order as may be passed in the suit.

59-S. 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 59-P to the owner of the property without the sanction of the court by which the order of attachment or sale was made.

Distraint of property which is under attachment.

59-T. 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

Suit for compensation for

<sup>1</sup> Substituted by the W.P. Ordinance VII of 1965, for the words, "Revenue Commissioner".

<sup>2</sup> Substituted *ibid*, s. 3 (i) (with effect from 30<sup>th</sup> May, 1951), for "Bombay".

an application made under section 59-C may institute a suit against the applicant for recovery of compensation if such an application is not competent under that section. wrongful distraint and appeals.

59-U. Nothing contained in this Chapter shall affect the operation of the provisions of Chapter XI of the <sup>1</sup>[Sindh] Land Revenue Code, 1879, <sup>2</sup>[or <sup>2</sup>[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 the Provincial Government to any moneys recoverable under the provisions of that Chapter over any other debt, demand or claim] Savings.

### <sup>3</sup>[CHAPTER IX OFFENCES]

60. It shall be an offence under this Act if— Offences.

- (a) a society with a working capital of Rs.50,000 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 <sup>4</sup>[or rules made thereunder] required to give, send, do or allow to be done; or
- (b) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act <sup>5</sup>[or rules made thereunder] by the Registrar or other person duly authorised by him in writing in this behalf; or
- (c) a society or an officer or member thereof wilfully makes a false return or furnishes false information; or
- (d) any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act <sup>6</sup>[or rules made thereunder] or does not furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act <sup>7</sup>[or rules made thereunder. <sup>8</sup>[; or]
- <sup>9</sup>[(e) **Failure to provide information.** If a member, employee, director, officer or secretary of the Society or the Society

<sup>1</sup> Subs. *ibid.*, s. 3 (i) (with effect from 30<sup>th</sup> May, 1951), for “Bombay”.

<sup>2</sup> Ins. By W.P. Ordinance VII of 1965 s. 6.

<sup>3</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration.), Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for “Offences”.

<sup>4</sup> Inserted by Sind Act XVI of 1943, section 18.

<sup>5</sup> Inserted by Sind Act XVI of 1943, section 18.

<sup>6</sup> Inserted by Sind Act XVI of 1943, section 18.

<sup>7</sup> Inserted by Sind Act XVI of 1943, section 18.

<sup>8</sup> Replaced vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>9</sup> Added vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

itself does not furnish information under sub-sections (2) and (3) of 20-A, sub-sections (1) and (2) of section 20-C and clauses (e) and (f) of section 21, or does not comply with section 34-A and sub-section (2) of 49-A or if the Society fails to comply with any other provision of this Act, shall be an offence under this Act.]

61. Every society, 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 <sup>1</sup>[rupees ten million or imprisonment not exceeding three years or with both.] <sup>2</sup>[one thousand thousand rupees].

Penalty for offences not otherwise provided for.

<sup>3</sup>[61-A. (1) Any member, employee, director, officer or secretary of the Society found guilty under clause (e) of section 60 shall be punished with an imprisonment of not less than three years and upto a maximum of five years or with fine upto rupees two million or with both.

Penalty for offences committed under clause (e) of section 60.

(2) Whereas, if a Society is found guilty under clause (e) section 60 shall be liable to a fine up to a maximum of one fourth of its working capital or to a fine not exceeding rupees ten million.]

62. (1) No person other than a registered society shall without the sanction of <sup>4</sup>[the Provincial Government], trade or carry on business under any name or title of which the word “co-operative” or its vernacular equivalent forms part;

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

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 fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction there for.

<sup>5</sup>[63. No court shall take cognizance of any offence punishable under this Act except on a complaint in writing made by a Registrar or by a person duly authorised, for the purpose, by him:

Cognizance of offences.

Provided that cognizance of an offence under subsection (2) of section 62-A may be taken even otherwise than on such complaint].

<sup>1</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>2</sup> Subs. by Act I of 1992.

<sup>3</sup> Inserted vide Khyber Pakhtunkhwa Act No. XXXIV of 2020.

<sup>4</sup> Subs. by A.O. 1937, for “Govt”.

<sup>5</sup> Subs. by Act I of 1992.

**<sup>1</sup>[CHAPTER X****APPEALS AND REVISIONS]**

64. An appeal against an order or decision of or sanctioned by the Registrar under Section 10, 16, 45, 47, 50, 50-A, <sup>2</sup>[54 or sub-section (3) of section 54-A] may be made by any party aggrieved or affected by the order or decision to <sup>3</sup>[the Provincial Government] within two months of the date of the communication of the order. Appeal.

64-A. <sup>4</sup>[The Provincial 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 <sup>5</sup>[the Provincial Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, <sup>6</sup>[the Provincial Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit. Power of Provincial Government and the Registrar to call for proceedings of subordinate officers and to pass orders thereon.

<sup>7</sup>[64-AA. An order passed in appeal under section 64 or in revision under section 64-A by the Provincial Government shall be final and conclusive and shall not be liable to be called in question in any civil or revenue court]. Finality of orders of Provincial Government.

**<sup>8</sup>[CHAPTER XI****MISCELLANEOUS]**

65. (1) All sums due from a society or from an officer or member or past member of a society as such to <sup>9</sup>[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. Recovery of sums due to Government.

(2) Sums due from a society to <sup>10</sup>[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.

<sup>1</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947) for "Appeals and Revision".

<sup>2</sup> Substituted by Sind Act X of 1938, for "or 54".

<sup>3</sup> Substituted by the A.O., 1937, for "the Govt".

<sup>4</sup> Substituted by the A.O., 1937, for "the Govt".

<sup>5</sup> Substituted by the A.O., 1937, for "the Govt".

<sup>6</sup> Substituted by the A.O., 1937, for "the Govt".

<sup>7</sup> Inserted by Sind Act XVI of 1943, section 20.

<sup>8</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III (with effect from 24th April, 1947), for "Miscellaneous".

<sup>9</sup> Substituted by the West Pakistan Laws (Adaptation) Order, 1964, section 2(1) Schedule for the words "the Crown" which were earlier substituted by A.O., 1937, for "Govt".

<sup>10</sup> Substituted by the West Pakistan Laws (Adaptation) Order, 1964, section 2(1) Schedule for the words "the Crown" which were earlier substituted by A.O., 1937, for "Govt".

(3) The liability of past members shall in all cases be subject to the provisions of section 28.

<sup>1</sup>[65.A. (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.

Agreement of members for deduction of debts.

(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 on the date of the commencement of the <sup>2</sup>[Sind] Co-operative Societies <sup>3</sup>[\* \* \* \*] (Second Amendment) Act, 1940, but nothing herein contained shall be deemed to authorise the deduction, under any such agreement, of any amount in excess of that prescribed by the rules.

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

<sup>5</sup>[65-B. 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 (Act XLV of 1860)].

Officers of societies to be public servants.

66. Notwithstanding anything contained in this Act, <sup>6</sup>[the Provincial 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 to exempt societies from conditions as to registration.

67. <sup>7</sup>[The Provincial Government] may, by general or special order to be published in the <sup>8</sup>[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.

Powers to exempt societies from provisions of Act.

<sup>1</sup> Section 65.A, inserted by Sind Act XXVII of 1940, section 2.

<sup>2</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 3 (i) (with effect from 30th May, 1951), for "Bombay."

<sup>3</sup> The word "Sind" omitted *ibid.*, section 3(ii)(b) (with effect from 30th May 1951).

<sup>4</sup> Substituted by West Pakistan Ordinance VII of 1965, section 13, for the original sub-section (4) as amended the West Pakistan Laws (Adaptation) Order, 1964.

<sup>5</sup> Section 65-B, inserted by W.P. Ordinance 1955, section 2.

<sup>6</sup> Substituted by A.O., 1937, for "Govt".

<sup>7</sup> Substituted by A.O., 1937, for "Govt".

<sup>8</sup> Substituted *ibid.* for "Local Official Gazette".

68. The provisions of the <sup>1</sup>[\* ] Companies Act of 1913, shall not apply to societies registered under this Act. Companies Act not to apply.

69. Every co-operative society registered outside the <sup>2</sup>[Province of West Pakistan], which has or establishes a branch or place of business in the <sup>3</sup>[Province of West Pakistan] 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 by-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 <sup>4</sup>[Province of West Pakistan] in addition to those submitted to the Registrar of the province where it is registered. Branches, etc., of societies outside the Province.

70. 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 next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the 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. Notice necessary in suits.

<sup>5</sup>[70-A. (1) Notwithstanding anything provided in any other law for the time being in force, but save as expressly provided in this Act— Bar of Jurisdiction.

- (a) no Court or other authority whatsoever shall have jurisdiction to entertain, or to adjudicate upon, any matter which the Provincial Government, the Registrar or his nominee, any arbitrator or liquidator, a society, a financing bank, a Co-operative bank or any other person is empowered by or under this Act, or the rules or by-laws framed thereunder, to dispose of or to determine;
- (b) the validity of anything done or an order passed by the Provincial 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 thereunder, 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

<sup>1</sup> The word "Indian" omitted by the Sind Laws (Adaptation, Revisions, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 4 (with effect from 30th May, 1951).

<sup>2</sup> Substituted by West Pakistan Ordinance VII of 1955 section 14, for the words "Province of Sind" which were earlier substituted by Sind Ordinance V of 1955, for "Bombay Presidency".

<sup>3</sup> Substituted by West Pakistan Ordinance, VII of 1955 section 14, for the word "Province of Sind" which were earlier substituted by Sind Ordinance V of 1955, for "Bombay Presidency".

<sup>4</sup> Substituted by West Pakistan Ordinance, VII of 1955 section 14, for the word "Province of Sind" which were earlier substituted by Sind Ordinance V of 1955, for "Bombay Presidency".

<sup>5</sup> Added by W.P. Ordinance, XII of 1966.

thereunder before the Provincial 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 that the Co-operative Societies (Amendment) Ordinance, 1966, comes into force, and any order passed in such proceedings, whether before or after the coming into force of the said Ordinance, in regard to matters referred to in sub-section (1), shall stand vacated and be without any force.]

71. (1) <sup>1</sup>[The Provincial Government] may, for the whole or any part Rules.  
part of the <sup>2</sup>[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;

<sup>1</sup> Substituted by A.O., 1937, for "Government".

<sup>2</sup> Substituted by Sind Ordinance V of 1955, (with effect from 30th May, 1951), for "Presidency".

- <sup>1</sup>[(ga)] provide, where all the members of the committee have been suspended or removed, for the appointment of a person to administer the affairs of the society and for the powers to be exercised and the duties to be performed by such person;
- (h) prescribe the accounts and 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;
  - (i) 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;
  - (j) 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;
  - (k) 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;
  - (l) 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;
- <sup>2</sup>[(m)] 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;]
  - (n) 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;
  - (o) prescribe the extent to which a society may limit the number of its members;
  - (p) 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;
  - (q) Prescribe the procedure to be followed in presenting and disposing of appeals;

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<sup>1</sup> Clause (ga) which was inserted by Sind Act XVI of 1943, re-numbered as Clause (ga) by the Sind Laws (Adaptation, Revisions, Repeal and Declaration Ordinance, 1955 (Sind Ordinance V of 1955), section 7, Schedule III.

<sup>2</sup> Substituted by Sind Act XX of 1947, section 20(1).

- (r) 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;
- (s) provide that persons qualified under the by-laws of a society shall not be excluded from membership without due cause;
- (t) prescribe the procedure to be followed by a liquidator appointed under section 47;
- (u) 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;
- (v) provide for the issue and service of processes and for proof of service thereof;
- (w) provide for the writing off of bad debts;
- (x) regulate the manner in which funds may be raised by means of shares or debentures <sup>1</sup>[,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;
- (y) provide for the withdrawal and expulsion of members and for the payments to be made to them and for the liabilities of past members;
- (z) provide for the nomination of a person to whom the interest of a deceased member may be paid or transferred;
- (aa) prescribe the cases in which an appeal shall lie from the order of a liquidator appointed under section 47;
- (bb) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same;
- (cc) prescribe the procedure to be followed for the custody of property attached under section 55;
- <sup>2</sup>[(cca) prescribe the manner in which an order under sub-section (3) or sub-section (4) of section 59-E or a notice of demand shall be served or published;
- (ccb) prescribe the particulars to be supplied to the Collector under sub-section (1) of section 59-F;

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<sup>1</sup> Inserted by Khyber Pakhtunkhwa Ordinance No. I of 1985.

<sup>2</sup> Clauses (cca), (ccb) and (ccc) inserted by Sind Act XX of 1947.



(3) All rules, regulations, notifications and orders made or issued under this Act and in force at the time of the commencement of the Sind Co-operative Societies (West Pakistan Amendment) Ordinance, 1965, shall, so far as may be, extend and apply, until altered, amended or rescinded by competent authority to the areas to which this Act has been extended by the Sind Co-operative Societies (West Pakistan Amendment) Ordinance, 1965.

<sup>1</sup>[(4) The repeal of the Acts specified in sub-section (1) hereinafter hereinafter referred to as the repealed Acts, shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of the repealed Acts or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Acts; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any repealed Act; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty or forfeiture or punishment may be imposed as if this Act had not been passed.

(5) Any person who immediately before the coming into force of the Sind Co-operative Societies (West Pakistan Amendment) Ordinance, 1965, was appointed as, or was exercising the powers of, a Registrar, Liquidator, Registrar's nominee or any other authority, under any repealed Act, shall be deemed to have been so appointed under this Act, and shall continue to exercise the powers of the Registrar, Liquidator, Registrar's nominee, or other corresponding authority, as the case may be, under this Act, until such appointment is rescinded by the competent authority under this Act].

<sup>2</sup>[72-A. All references to the Co-operative Societies Act, 1912 occurring in any enactment made by any authority in <sup>3</sup>[Pakistan] and for the time being in force in <sup>4</sup>[the Province of West Pakistan] shall, in the application, to

Construction of references to Co-operative Societies

<sup>1</sup> Substituted by W.P. Ordinance, XVII of 1966, (with effect from 30th April, 1965).

<sup>2</sup> Section 72-A inserted by Sind Act VIII of 1933, section 2.

<sup>3</sup> Substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955, (Sind Ordinance V of 1955), section 3 (ii) (b) (with effect from 30th May, 1951), for "British India".

<sup>4</sup> Substituted by West Pakistan Ordinance VII of 1965, section 2, for the word "Sind" which was earlier substituted by the West Pakistan Laws (Adaptation) Order, 1964, for "the Province of Sind". The words "Province of Sind" were previously substituted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955, (Sind Ordinance V of 1955), for "Presidency of Bombay".

to the <sup>1</sup>[said Province], of any such enactment, be read and construed as references to this Act and anything done or any proceeding commenced in pursuance of any such enactment on or after the date on which this Act shall have come into operation shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been the reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act]. Act, 1912, in enactments.

72.B. *[Validity of transfer made under section 59 (2) of Sind VII of 1925]. Repealed by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 6, Schedule II.*

73. *[Repeal]. Repealed by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), s.6, Schedule II.*

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<sup>1</sup> Substituted *ibid.*, section 16, for the words “said territories” which were earlier substituted by the West Pakistan Laws (Adaptation) Order, 1964, for “said Province”. The words “said Province” were previously substituted by the Sind Ordinance V of 1955, for “Presidency”.

*SCHEDULE*

*Repealed by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind Ordinance V of 1955), section 6. Schedule II.*

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