

### ***The Haryana Co-operative Societies Rules, 1989***

*(No G.S.R. 57/H.A.22/84/s.131/89—In exercise of the powers conferred by section 131 of the Haryana Co-operative Societies Act, 1984 the Governor of Haryana hereby makes the following rules, namely:-*

#### ***Chapter I*** **Preliminary**

1. **Short title.** - These rules may be called the Haryana Co-operative Societies Rules, 1989.
2. **Definitions.** - In these rules, unless the context otherwise requires,—
  - (a) "Act" means the Haryana Co-operative Societies Act, 1984;
  - (b) "Appendix" means an [appendix appended to] these rules;
  - (c) "Co-operative Year" means the year ending with the 31st day of March, or in the case of any Co-operative Society or class of Co-operative Societies, the accounts of which are made upto any other date, with the previous sanction of the Registrar, the year ending with such date;
  - (d) "Decree" means any decision, award or order referred to in section 110 of the Act;
  - (dd) "Family" means a person concerned, spouse, un-married son, un-married daughter and dependent un-married brother and sister; ]
  - (e) "Form" means a form appended to these rules ;
  - (f) "Maximum Credit Limit" means the extent to which a Co-operative Society may receive deposits and loans from members and non-members;
  - (g) "Model Bye-laws" means a set of bye-laws approved or proposed by the Registrar for general adoption by a Co-operative Society or a class of Co-operative Societies ;
  - (h) "Owned Capital" means the total paid up share capital and reserve fund and other funds created out of profits and un-distributed profits minus accumulated losses;
  - (i) "Paid up share capital" means such portion of the subscribed share capital as is actually paid-up ;
  - (j) "Recovery Officer" means a person subordinate to the Registrar who is empowered to exercise the powers of the Registrar under section 110 of the Act;
  - (k) "Relative" means the concerned person's father/mother, his wife, his son, daughter or his son's wife or daughter's husband ;
  - (l) "Section" means a section of the Act;
  - (m) "Share-capital" means the subscribed share capital ;

1. Inserted by Haryana Government Notification No. GSR 64/H.A. 22/84/S. 131/95 dated 17.8.1995.

- (n) "Working capital" means the total of owned capital plus the borrowed capital;
- (o) Words and expression defined in the Act and used in these rules shall have the meaning, respectively assigned to them in Act;
- (p) "Sales Officer" means an officer empowered by the Registrar by general or special order, to attach and sell the property of defaulter or to execute any decree by attachment and sale of property except that for the purpose of Chapter X of the Act in which sale officer is appointed by the Government.

#### Chapter II

### Registration of Co-operative Societies and their Bye-Laws

**3. Co-operative Principles.** *Sections 4 and 131 (2) (ii).*—A Society shall have its object for the promotion of the economic-interest of its members in accordance with the Cooperative principles which mean,—

- (i) voluntary and open membership ;
- (ii) democratic control;
- (iii) limited interest on capital;
- (iv) equitable distribution of surplus;
- (v) Co-operative education ;
- (vi) Cooperation among cooperative;

**4. Restriction on registration.** *Sections 5 and 131 (2) (ii).*—No society other than a society, of which a member is a cooperative society, shall be registered unless it consists of individuals belonging to not less than five families.

**5. Form of Application.** *Sections 7 and 131 (2) (ii).*—An application for registration of a cooperative society shall be made in form I and shall specify the name and address of one of the applicants to whom the Registrar may address his correspondence.

**6. Documents which shall accompany the application.** *Section 131(2) (ii).*—The application for registration shall be accompanied by three copies of the bye-laws which the Co-operative Society proposes to adopt. Such copies of bye-laws shall bear the signatures of not less than two of the applicants, duly authorised by the members of the proposed co-operative society.

**7. Procedure on receipt of application.** *Section 131 (2) (ii).*—Before passing final order under section 8, the Registrar may call for such further information from the applicants or make such independent enquiries as he may deem necessary.

(2) After the Registrar is satisfied with regard to the matters stated in sub-section (1) of section 8, he may register the co-operative society and its bye-laws. A copy of the registered bye-laws along with a certificate of registration in Form II shall be sent by him to the co-operative society.

(3) The particulars of a co-operative society registered under sub-rule (2) shall be entered in the register in Form III.

**8. Person to whom order to be communicated.** *Sections 8 (2) & 131 (2) (ii).*—The order passed by the Registrar under sub-section (2) of section 8 shall be communicated by registered post with A.D. to the applicant specified in the application for registration.

**9. Appeal against refusal of registration.** *Section 131(2)(xxviii).*—Where an application for registration of co-operative society is rejected by the Registrar, the appeal, if made, shall be signed by all the persons joining in the application for registration.

Provided that when the application for registration has been signed by more than ten persons, the appeal shall be signed by at least two-third persons joining the application for registration.

**10. Procedure for amendment of bye-laws.** *Section 131 (2) (iii)*—No amendment for bye-laws shall be carried out save in accordance with a resolution passed at a general meeting of the co-operative society of which due notice of the intention to discuss the amendment has been given.

Provided that no such resolution shall be valid unless it is passed by a majority of members present at a general meeting at which not less than two-third of members for the time being of the co-operative society are present:

Provided further that model bye-laws approved by the Registrar may be adopted by a majority at an ordinary general meeting.

**11. Application for registration of amendment.** *Section 131 (2)(iii)*—Three copies of the amendments adopted by co-operative society under rule 10, signed by two officers of the co-operative society duly authorised by the general meeting in this behalf, shall be submitted to the Registrar along with an application for registration duly signed as aforesaid. Such copies of the amendments shall be accompanied by a certificate signed by any one of the above two officers of the cooperative society to the effect that the provisions of rule 10 have been complied with.

**12. Registration of amendments.** *Sections 10(4) & 131(2)(iii)-(1)* After the Registrar is satisfied with regard to the matters stated in sub-section (2) of Section 10, he may register the amendments and return a copy of the registered amendments to the co-operative society.

(2) The order of the Registrar passed under sub-section (4) of Section 10 shall be communicated by registered post with A.D. to the Co-operative Society.

**13. Appeal against refusal to register amendment in bye-laws.** *Section 131(2) (xxviii)*—Where an application for registration of an amendment in bye-laws of a co-operative society is rejected by the Registrar under sub-section (4) of Section 10, the appeal, if any, shall be made only after a meeting of the general body has reconsidered the matter and has decided to prefer an appeal and shall be signed by an officer of the co-operative society duly authorised in this behalf by a general meeting.

### Chapter III

#### Members of Co-operative Societies, their rights and liabilities

**14. Disqualification for membership.** *Section 131(2)(v)*—(1) No person shall be eligible for admission as a member of a co-operative society, if he:-

- (a) has applied to be adjudicated as an insolvent or is an undischarged insolvent; or
- (b) has been sentenced for any offence other than an offence of a political character or on offence not involving moral turpitude, and a period of five years has not elapsed from the date of expiry of the sentence.

(2) If a member becomes subject to any of the disqualifications specified in sub-rule (1), he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

**15. Prohibition of membership in two Co-operative Credit or Service Societies.**

*Section 131 (2) (xx)—(1)* [No individual who] is a member of a primary co-operative society [having one of the objects i.e. the creation of the funds] to be lent to its members, shall be a member of any other such co-operative society without the permission of the Registrar, and where an individual has become a member of two such co-operative societies either or both of the co-operative societies shall be bound to remove him from membership upon a written requisition from the Registrar to that effect.

(2) No individual who is an officer of any Co-operative Society shall without the permission of the Registrar, be a member of any other co-operative society whose objects are similar to the objects of which he is an officer, and where such an individual has become a member of another society with similar objects, either or both of the co-operative societies, shall be bound to remove him from membership upon written requisition from the Registrar to this effect. If any question arises as to whether or not two societies have similar objects the decision of the Registrar on the point shall be final.

**16. Admission of member before the general meeting.** *Section 131(2)(v)*—No co-operative society shall admit [any member] within fourteen days prior to the date of its annual general meeting.

**17. Disposal of application for admission of members.** *Section 131(2)(v)*—A co-operative society other than a producer society, shall dispose of an application received for admission as a member as early as possible and in no case later than the expiration of a period of one month from the date of receipt of the application by the society. In case of [refusal to admit, such society] shall communicate its decision together with reasons thereof, to the applicant.

**18. Withdrawal from membership.** *Section 131(2)(xx)-(1)* In a co-operative society with unlimited liability, a member who is not indebted to a co-operative society and is not a surety for unpaid debt, may withdraw from the co-operative society after giving such notice to the Secretary of the Society as may be laid down in the bye-laws of the Co-operative Society.

(2) In a co-operative society with unlimited liability, a member, who withdraws from the society ceases to be its member, shall be entitled to repayment without interest of any money paid by him or his predecessor in interest towards the purchase of shares after such period as may be laid down in the bye-laws.

(3) No member of a co-operative society with limited liability shall ordinarily be permitted to seek withdrawal or refund of his shares:

Provided that where the society has created a share transfer fund out of its earned profits, its managing committee [shall], keeping in view the overall interest of the society, allow withdrawal of shares:

Provided further that such withdrawal of [shares at any time] shall not exceed five per cent of the aggregate paid up share capital of the society, excluding Government contributions, as it stood on the 31st March of the preceding year.

(4) Irrespective of the nature of liability of a Co-operative Society the share capital subscribed by the State Government in a Co-operative Society or by a Central or Apex Co-operative Financing Institution will be refunded in such manner and during such period as may be determined by the Registrar from time to time.

(5) A central or Apex Society having individual members, shall refund the shares of all the individual members.

1 Substituted by Haryana Notification No GSR 64/H.A 22/84/S.131/95 dated 17<sup>th</sup> Aug. 1995.

19. **Liability of expulsion.** *Section 131(2)(xi)*- A Society may, by a resolution passed by a majority of not less than two-third of the members entitled to vote who are present at a general meeting, held for the purpose, expel a member for acts which are detrimental to the interests or proper working of the society.

20. **Appointment of a member to vote on behalf of society.** *Section 21 - (1)* Subject to the provisions of sub-rule (2) no member of a Committee of a Co-operative Society [who] is a member of another Co-operative Society shall be appointed to vote on its behalf in the affairs of the other society unless a resolution is passed by two-third members of the committee present and voting.

(2) No member of a primary society [who] is a member of another co-operative society shall be appointed to vote on behalf of the society in the affairs of the other society unless a resolution is passed by two-third members of the committee of a primary society.

21. **Nomination of heir.** *Section 131(2)(xxi)*- (1) Every member of a co-operative society shall nominate a person or persons to whom his share or interest referred to in section 23 or such sums out of share or interest as may be specified by the member, shall on the death of the member be transferred or paid as laid down in the bye-laws.

(2) Such nomination may, from time to time, be revoked or modified by the member.

(3) The number of persons who may be nominated by a member shall not exceed the number of shares [held by him.]

(4) When a member of a co-operative society nominates more than one person, he shall, as far as practicable specify the amount to be paid or transferred to such nominee in terms of whole share and the interest accruing therein.

(5) The record of nominations shall be kept by a co-operative society in such manner as may be laid down in the bye-laws.

(6) The value of the share or interest transferred or paid to a nominee or nominees shall be determined on the basis of the sum actually paid by the member to acquire such share or interest.

22. **Maintenance of register of members.** *Section 131(2)(xvi)* -Every co-operative society shall maintain a register of members showing—

- (a) the name, address and occupation of each member, and a statement of shares held by him;
- (b) the date on which the member's name was entered in the register;
- (c) the date on which any person ceased to be a member;
- (d) the nominees appointed by member.

#### *Chapter IV*

### **General Body Meetings**

23. **Summoning of meeting.** *Sections 26 and 131(2) (vii)* - A general body's meeting or a meeting of a committee of a co-operative society shall be called by the [Chief Executive Officer or any other officer authorised by him] of a society, by whatsoever name called on the direction of such authority as may be specified in the bye-laws [:]

[Provided that a meeting of the Committee of a Co-operative Society may be convened on the written request made by not less than one-third members of the said society.]

1. Substituted by Haryana Notification No. GSR 64/HA. 22/84/S.131/95 dated 17<sup>th</sup> Aug 1995.

2. Inserted by Haryana Notification No. GSR 64/HA. 22/84/S. 131/95 dated 17<sup>th</sup> Aug 1995.

**24. Powers of general body in a meeting.** *Section 131 (2)(vii)* - Without prejudice to the provisions of Section 25, the general body in a meeting alone shall have the powers to fix the maximum credit limit of the co-operative society subject to the approval of the Registrar:

Provided that no approval of the Registrar shall be necessary in case of Primary Credit Service Societies.

**25. Election of members of Committee.** *Sections 28(1) and 131(2)(x)* - The members of the committee of a co-operative society shall be elected in accordance with the provisions contained in Appendix "A".

**26. Proportion of individuals and societies for constituting committee.** *Section 131(2)(ix)* — In a Co-operative Society the membership of which is not exclusively contained to individuals, the representation of individuals and societies on the committee and the general body shall be such as may be laid down in the bye-laws of the Co-operative Society.

✓ **27. Disqualification for membership of committee.** *Section 131(2)(xiii)* - No person shall be eligible for election as member of the Committee if :-

- (a) he is in default to any Co-operative Society in any respect of sum due from him to the society or owes to any Co-operative Society an amount exceeding his maximum credit limit;
- (b) he has directly or indirectly any interest in any contract to which the Co-operative Society is a party except in transactions made with the Co-operative Society as a member in accordance with the objects of the society as stated in the bye-laws;
- (c) he has at any time during a period of one year prior to the date of scrutiny of nomination papers, engaged in any private business, trade or profession of any description which is carried on by the society;
- (d) he has been convicted for any offence involving dis-honesty or moral turpitude during a period of five years prior to the date of scrutiny of nomination papers;
- (e) he is subject to any of the prohibitions contained in rule 28;
- (f) he has, during a period of 12 months preceding the date of filing of nomination papers remained inactive as member or has been carrying on through agencies other than the co-operative society of which he is a member, the same business as is being carried on by the co-operative society;
- (g) he is a member of an elected committee of any co-operative society which has ceased to function or which has not fulfilled its objects as stated in its bye-laws and has been included in the list of 'D' Class societies maintained by the Registrar or is a member of an elected committee of a society which is under winding-up process;
- (h) he has ceased to be a member of an elected committee of any co-operative society within a period of one year, preceding the date of inclusion of such society in the list of 'D' Class Societies maintained by the Registrar or in the operation of order of winding up of such society under section 105 of the Act;

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Provided that nothing in clauses (g) and (h) shall be deemed to debar any person from seeking election if the society under winding up process of which he is member, is a society with limited liability and that person discharges all his liabilities including liability as surety, if any, in relation to such a society within two months from the receipt of assessment orders;

- (i) he is a paid employee of the co-operative society provided that this shall not apply in case of producers society.
- (j) he incurs any other disqualification laid down in the Act, Rules and the bye-laws of the society.

*Explanation*—For the purpose of clause (f) a person shall be deemed to be inactive as a member of society where he has not participated in the activities aimed at achieving the objects for which the society has been registered.

**28. Removal from membership of committee.** *Section 131(2)(x) - (1)* A member of the committee shall cease to hold office as such if he:-

- (a) continuous to be in default in respect of any sum due from him to any Co-operative Society for a period of three months;
  - (b) ceases to be a member;
  - (c) is declared insolvent;
  - (d) becomes of unsound mind;
  - (e) is convicted of an offence involving dishonesty or moral turpitude; or
  - (f) becomes subject to any of the disqualifications specified in rule 27.
- (2) The Committee shall inform the Registrar that a member has incurred the disqualification under sub-rule (1) and as such is liable for removal from the office.
- (3) On the receipt of information of a Committee under sub-rule (2), or the application of any member of the society or *suo moto*, the Registrar may order the removal of the member from office after giving an opportunity to hear the committee and the member concerned.

**29. Employees of Co-operative Societies.** *Section 131(2)(xxxiv) -* Subject to the provisions of Section 37 of the Act, every society shall make rules in the light of model service rules to regulate the recruitment and conditions of service of its employees with the approval of the Registrar.

**30. Prohibition against being interested in contracts etc.** *Section 131(2) (2)(xxxix) -* (1) Without prejudice to the provisions of bye-laws, no officer of a co-operative society shall have an interest directly or indirectly otherwise than as such officer :-

- (a) in any contract made with society; or
  - (b) in any property sold or purchased or leased by or to the society; or
  - (c) in any other transaction of the society, except as investment made or as loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.
- (2) No officer of a co-operative society shall, purchase directly or indirectly any property of a member of the society sold for the recovery of his dues to the society.
- (3) The prohibitions contained in this rule continue to apply for a period of two years after a person ceased to be an officer of the society.

*Chapter V*

**Annual Review of Cadre Societies**

**31. Annual Review of cadre society.** *Sections 38 and 131(2) (xv) —(1)* The Chief Executive Officer of a cadre society, by whatsoever name called, shall prepare an annual review of its working and of its member societies within three months of the close of the co-operative year and shall place the same before the committee of the society.

(2) The committee shall submit such annual review with its comments to the Registrar within the next three months but not later than the 31st December of the year.

[(3) The Registrar shall submit the annual review of the Apex Society with remarks, if any, to the Government.]

*Chapter VI*

**Privileges of Co-operative Societies**

**32. Manner of certifying copies of entries in books.** *Sections 42(1) and 131(2) (xviii)*—For the purpose of section 42 a copy of an entry in the books of a co-operative society shall be certified by a certificate written at the foot of such copy declaring that it is a true copy of such entry and that the book containing the entry is in the custody of a co-operative society:

Provided that the said certificate shall be dated and signed by an officer of the cooperative society as may be authorised by the committee.

**33. Loans and subsidies by Government.** *Section 131(2)(xxvi)*—Loans and subsidies to a co-operative society or a class of co-operative societies may be granted by Government on such terms and conditions as may be laid down by Government by a general or special order from time to time.

**34. Manner of making application for loan or subsidy.** *Section 131(2)(xxvi)*—An application by a co-operative society for a loan or subsidy or both from a Government Department or a Government sponsored agency shall be made through the Registrar. While forwarding the application, the Registrar shall record his opinion regarding the eligibility of the co-operative society for the said loan or subsidy or both, its financial position and the desirability of sanctioning the society the said loan or subsidy or both.

**35. Submission of information and returns by Co-operative Societies having State participation.** *Section 131(2)(xx)*—A Co-operative Society receiving Government loan or subsidy or a society in which a share or shares have been subscribed or liability by way of guarantee for borrowing exceeding fifty per cent of the working capital of the society has been undertaken by the Government, shall furnish such information and submit such returns as the sanctioning authority or the Registrar may from time to time require.

*Chapter VII*

**Accounts and Record**

**36. Report and custody record.** *Section 49—(1)* On the commencement of the co-operative year, a co-operative society shall prepare list of books, records, securities and other property of the society.

1. Added by Haryana Notification No. GSR 64/HA. 22/84/55. 131/95 dated 17.8.1995.



(2) Such lists shall be verified and signed by the Chief Executive Officer of the society by whatsoever name called. Each list shall bear the name and signatures of the custodian of such books, record, security and other properties of the society as may be specified in the bye-laws or may be authorised by the committee.

(3) In case there is any change in the incumbency of the custodian of any list during a co-operative year, fresh list shall be prepared in the manner indicated in sub-rule (2).

(4) Copies of lists prepared under sub-rules (2) and (3) shall be sent by the society to the Registrar and Financing Institution concerned within a month of the commencement of the co-operative year or the date of change in the incumbency of the custodian, as the case may be.

#### Chapter VIII

#### [Charges and Mortgages]

**37. Declaration under Sections 53 and 131(2)(xxxviii)**—(1) A declaration under clause (b) of Section 53 shall be made in the form given in Form IV in quadruplicate.

(2) A register of such declarations to be kept by the Co-operative Society shall be in the form given in Form V.

#### Chapter IX

#### Loans and Borrowing

**38. Restrictions on borrowings by co-operative societies.** Sections 63 and 131(2)(xxxvii)—(1) Subject to the provisions of sub-rule (2) a Co-operative Society shall not receive, deposits and loans whether from members or non-members which exceed the limits fixed from time to time a general meeting subject to the approval of the Registrar who may at any time reduce it:

Provided that no approval of Registrar shall be necessary in case of agricultural credit/service society.

(2) A co-operative society which accepts deposits and loans from members only and has no liability to any person other than the members, may receive such deposits and loans in excess of the limits referred to in sub-rule (1) if the excess amounts is deposited in a co-operative bank to which it is affiliated or is invested in Government securities specified in section 21 of the Indian Trust Act, 1982:

Provided that the amount so deposited or invested or any part thereof, shall not be withdrawn or otherwise utilised except for the payment of the deposit accepted in excess of the aforesaid limit.

(3) No Co-operative society shall accept loans or deposits whether from members or non-members at a rate of interest which exceeds by more than three per cent the rate paid on similar types of deposits or loans by the Central Co-operative Bank within the area of operation the society is situated except that the Registrar may by general or special order grant exemption or relaxation to any class of societies or individuals as may be specified in the order.

**39. Maintenance of fluid resources.** Sections 63 and 131(2) (xxii)—Every co-operative society accepting deposits and granting cash credits shall maintain such resources in such form and according to such standards as may be specified by the Registrar from time to time by general or special order.

<sup>1</sup> Subs. by Haryana Gazette Notification No. S.O. 5/H.A.22/1984/ SS.131 and 14A/2007 dated 14 January, 2007.

**40. Maximum credit limit of members.** Sections 64 and 131 (2) (xxii)—The by-laws of a co-operative society may lay down the limit beyond which a co-operative society may not advance loans to individual members without the prior consent of the Registrar.

**41. Nature and extent of securities for loans.** Sections 64 and 131 (2) (xxii)—The Registrar may from time to time issue such directions as he considers necessary for regulating the nature and extent of security which the co-operative society or class of co-operative societies may demand in respect of loans advanced by it.

**42. Restrictions on grant of loans by a Co-operative Society against its own shares.** Sections 64 and 131 (2) (xxii)—No co-operative society shall grant loans or make advances against the security of its own shares.

#### Chapter X

### Procedure for the Sale of Produce

**43. Forms relating to distraintment and proclamation of sale etc.** Section 72—(a) Application for the purposes of sub-section (1) of Section 72 shall be in Form VI.  
(b) The demand notice to be served on the defaulter before the produce is distrained shall be in Form VIII.

(c) The distraint order shall be in Form VIII.

(d) The demand notice after distraining for making payment of the amount for which produce has been distrained, specifying therein the day, time and place of sale, if failed to make the payment etc. shall be in Form IX.

**44. Distraint of produce.**—Where the property to be distrained is the produce of the charged or mortgaged land including the standing crops thereon, the distraint shall be made by the Distraintee by affixing a copy of the warrant of distraint—

- (a) Where such produce is standing crop on land on which such crop has grown; or
- (b) where such produce has been cut or gathered on the thrashing floor or place for trading out grain or the like or fodder stock on or in which it is deposited;

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides and one copy shall be pasted on some conspicuous part, of village or Panchayat Ghar and the produce shall thereon be deemed to have passed into possession of the distraintee.

**45. Time to distraint.** Section 131(1)—The distraint shall be made by the distraintee only after sunrise and before sunset.

**46. Service of demand notice.**—(1) When a distraint is made under rule 44, the Distraintee shall serve upon the defaulter a written demand in Form IX specifying the amount for which the distraint has been made. The written demand shall contain a list of the property distrained and information as regards the place, the date and the day and hour at which the distrainted property will be sold if the amount for which the distraint has been effected is not paid within 15 days from the date of service of the written demand.

(2) The written demand shall be dated and signed by the distraintee and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent or when such service cannot

be effected, by affixing a copy of the written demand on some conspicuous part of the abode and land:

Provided where the defaulter does not reside in the village in which land, crops or produce which is distraint, is situated, the written demand shall be sent to the defaulter to his last place of residence<sup>1</sup> [or ordinary places of business] by registered post with acknowledgement due.

**47. Custody of distrained property.** *Sections 131(1) and Section 73*—The applicant shall make proper arrangements for custody and preservation of the distrained property during the interval between the distraint and the sale. The applicant, the president, secretary or manager of the society concerned, authorised in writing in this behalf, or any other person shall if required by the distrainer, undertake the custody and preservation of the property distrained and shall be responsible for any loss or damage to the distrained property incurred owing to the negligence of the person to whom the property is so entrusted.

**48. Storage of distrained crops.** *Section 131(1) and Section 73*—Where the crops of the mortgaged land belonging to a defaulter are distrained, the distrainer shall cause them to be sold when they are ripe or harvested and may cause them to be stored in proper places until sold.

**49. What places distrainer may force open.** *Section 131(1)*—It shall be lawful for the distrainer to force open any stable, cow house, granary, godown, out house or any such building, and he may also enter any dwelling house, for the purpose of distraining the produce of the charged or mortgaged land stored therein:

Provided that it shall not be lawful for such distrainer to break open or enter any place, if such place is an apartment in the actual occupancy of a woman, except as hereinafter provided.

**50. Power of distrainer of force open doors in presence of police officers.** *Section 131(1)*—(1) Where a distrainer has reason to believe that the produce of the charged or mortgaged land is stored within a dwelling house, the outer door of which is situated within any apartment occupied by a woman who according to custom does not appear in public, the distrainer shall represent this fact in writing to the officer-in-charge of the police station in which that dwelling house or apartment is situated.

(2) On such representation, the officer-in-charge of the police station shall, if [preferably a lady police officer] now below the rank of a head constable to the satisfaction of whom the distrainer may force open the outer door of such dwelling house.

(3) The distrainer shall, in the presence of such police officer before entering the apartment in the actual occupancy of a woman, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and then break open the apartment and enter it for the purpose of distraining the produce of the charged or mortgaged land, if any, deposited therein; but such property, if any, shall be immediately removed from such apartments, after which they shall be left to the occupants.

**51. Proclamation of the time and place of sale of produce.** *Section 76(1)*—The distrainer shall be on the day previous to and on the day before the commencement of the sale, cause a proclamation of the time and place of the intended sale to be made by the

<sup>1</sup> Ins. by Notification No. S.O.5/H.A.22/1984/SS.131 and 14A/2007 dated 19<sup>th</sup> January, 2007.

<sup>2</sup> Subs. by Notification No. S.O.5/H.A.22/1984/SS.131 and 14A/2007 dated 19<sup>th</sup> January, 2007.

of drum in the village in which the defaulter resides or the produce is kept and in such other places as the distrainer may consider necessary to give due publicity to the sale.

(2) No sale shall take place until after the expiration of a period of 15 days from the date of the service of the demand referred to in section 73 of the Act:

Provided that where the property distrained is subject to speedy and natural decay of the distrainer may sell it at once.

**52. Sale how conducted.** *Section 76(1)-(1)* At the appointed time and place the distrainer shall sell in public auction the distrained property or such part thereof as may be necessary, in one or more lots as the distrainer may consider desirable and dispose of the same to the highest bidder.

(2) The distrainer may, in his discretion, adjourn the sale to a specified day and hour after recording his reason for such adjournment.

(3) Where a sale is adjourned under sub-rule (2) for a longer period than seven days, a further proclamation under rule 52 shall be made unless defaulter consents to waive it.

**53. Withdrawal of distraint on tender of moneys due and expenses prior for sale.** *Section 74*—When prior to the day fixed for sale the defaulter or any person acting on his behalf, or any person claiming an interest in the property distrained pays to the society, the Registrar or the distrainer the full amount due, including interest, travelling allowance and other expenses incurred in distraining and proclaiming the sale, the distrainer shall not proceed with the sale and shall release the produce forthwith.

**54. Payment on purchase of distrained produce.** *Section 76(1)*—The purchase money shall be paid by the purchaser in case at the time of sale or as soon thereafter as the distrainer shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid the purchase money in full.

**55. Resale to case of default.** *Section 76(1)*—If the purchaser makes a default in the payment of purchase money, the produce shall be resold. Any deficiency of price which may happen on a resale by reason of purchaser's default and all expenses attending to such resale shall be recoverable from the defaulting purchaser as arrears of land revenue.

**56. Investigation of claim to any right or interest in distrained property—(1)** Where any claim is preferred by any person other than the defaulter to any right or interest in the distrained property, the distrainer shall investigate the claim and dispose it of on its merits:

Provided that no such investigation shall be made where the distrainer considers that the claim was designedly or unnecessarily delayed.

(2) Where the property to which the claim applies has been for sale, the distrainer may postpone the sale pending the investigation of claim.

**57. Application for sale of immovable property and procedure—***Section 76(1)-(1)* The application under sub-section (1) of Section 76 of the Act in (Form X) signed by the committee or any person duly authorised in writing by the committee shall state the amount due for recovery including interest, expenses incurred in the service of the notice referred to in clause (b) of sub-section (2) of Section 75 of the Act, the name(s) and the address(es) of person(s) on whom such notice was served. It shall also contain such description of the immovable property to be proceeded against as may be sufficient for its identification and in case such property can be identified by boundaries or number in the revenue record, the specifications of such boundaries or numbers.

**62. Time for payment of the balance of the purchase money.** *Section 76(1)*—The remaining amount of the purchase money shall be paid by the purchaser to the sale officer within 15 days from the date of sale:

Provided that in calculating the amount to be so paid to the sale officer the purchaser shall have a right to claim set off to which he may be entitled under rule 66.

**63. Procedure in default of payment.** *Section 76(1)*—In default of payment of the purchase money within the period mentioned in rule 62 the deposit may, if the sale officer thinks fit, after defraying all costs, charges and expenses of the sale, be forfeited and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of which it may subsequently be sold.

**64. Defaulting purchaser answerable for loss on resale.** *Section 76(1)*—Any deficiency of price which may happen on a resale by reason of purchaser's default and all expenses attending such resale shall be recoverable from the defaulting purchaser [as an arrear of land revenue.]

**65. Proclamation on resale.** *Section 76(1)*. - Every resale of mortgaged property, in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period herein before specified for the sale.

**66. Set off where society is purchaser.** *Section 76(1)*--Where the society at whose instance the mortgaged property is sold, purchases it, the purchase money and the amount due shall be set off against one another, and the sale officer shall ensure satisfaction of payment of the mortgaged money in whole or in part accordingly.

**67. Release of property.** *Section 76 (1)*—Where prior to the day fixed for sale the mortgagor or any person acting on his behalf or any person claiming an interest in the mortgaged property tenders payment of the full amount due including interest, travelling allowance, other costs charges and expenses incurred in connection with the state officer shall not proceed with the sale and shall release the property forthwith.

**68. Report of sale.** *Section 76(1)*—The sale officer shall on the conclusion of the sale make a report to the society at whose instance the property was brought to the sale regarding the results of the sale. [A copy of the said report shall also be forwarded to the Registrar for necessary action.]

**69. Return of purchase money in certain cases.** *Section 76 (1)*—Whenever the sale of the mortgaged property is set aside under sub-section (2) of section 77 of the Act the deposit or the purchase money, as the case may be, shall be returned to the purchase who shall also be entitled to get a sum equal to two per cent of the purchase money deposited by the mortgagor or the person having a right or interest in the mortgaged property under sub-clause (b) of sub- section (1) of Section 77 of the Act.

**70. Receipt for payment of arrears.** *Section 76(1)*--Every person making a payment towards any money due, for the recovery of which an application has been made under these rules, shall be entitled to a receipt for the amount to be signed by the distrainer or the sale officer, as the case may be. Such receipt shall state the name [and address] of the person making the payment and the subject matter in respect of which the payment is made.

1. Inserted by Haryana Notification No. GSR 64/H.A. 22/84/S. 131/95 dated 17<sup>th</sup> Aug 1995.

2. Words inserted by Haryana Notification No. GSR 64/H.A. 22/84/S. 131/95 dated 17<sup>th</sup> Aug 1995.

3. Inserted by Haryana Notification No. S.O.5/H.A.22/1984/S.131 and 14A/2007 dated 19<sup>th</sup> January, 2007.

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**66. Set off where society is purchaser.** *Section 76(1)*--Where the society at whose instance the mortgaged property is sold, purchases it, the purchase money and the amount due shall be set off against one another, and the sale officer shall ensure satisfaction of payment of the mortgaged money in whole or in part accordingly.

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**70. Receipt for payment of arrears.** *Section 76(1)*--Every person making a payment towards any money due, for the recovery of which an application has been made under these rules, shall be entitled to a receipt for the amount to be signed by the distrainer or the sale officer, as the case may be. Such receipt shall state the name [and address] of the person making the payment and the subject matter in respect of which the payment is made.

1. Inserted by Haryana Notification No. GSR 64/H.A. 22/84/S. 131/95 dated 17<sup>th</sup> Aug 1995.  
2. Words inserted by Haryana Notification No. GSR 64/H.A. 22/84/S. 131/95 dated 17<sup>th</sup> Aug 1995.  
3. Inserted by Haryana Notification No. S.O.5/H.A.22/1984/S.131 and 14A/2007 dated 19<sup>th</sup> January, 2007.

(2) On receipt of the application, the sale officer shall give a notice in writing to the persons referred to in clause (b) of sub-section (2) of section 75 of the Act in Form XI stating the amount claimed by the society including expenses incurred by it in the preparation of notice the particulars of the properties to be sold in case of non-payment and the date on or after which the sale shall take place.

**58. When defaulter neglects to pay.** *Section 76(1)*—If before the expiration of the time allowed in the notice issued under sub-rule (2) of rule 57, the amount specified in such notice is paid, the sale officer shall, after giving the notice to the society, proceed to sell the immovable property specified in the application in the manner laid down in rule 59.

**59. Proclamation before sale.** *Section 76(1)*—(1) The sale officer shall cause a proclamation of the intended sale to be made in Form XII.

(2) Such proclamation shall state the time and place of the sale and specify as far as possible,—

- (a) the property to be sold;
- (b) the revenue or rent payable in respect thereof;
- (c) the amount for the recovery of which the sale is intended to be made;
- (d) every other thing which the sale officer considers material for a purchaser to know in order to judge the nature and value of the property.

(3) For the purpose of ascertaining the matters to be specified in the proclamation, the sale officer may summon any person whom he thinks necessary to summon and examine him in respect of to any such matters and require him to produce any document in his possession or power relating thereto.

(4) Every proclamation shall be published by pasting a copy thereof in a conspicuous part of the office of the Assistant Registrar, Co-operative Societies concerned and in the office of the Tehsildar of the Tehsil in which the property to be sold is situated at least seven days before the date fixed for the sale and also by beat of drum in the village where the mortgaged property to be sold, is situated on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale.

**60. Sale to be by public auction.** *Section 76(1)*—(1) The sale of the mortgaged property shall be subject to the previous charge, if any, on the basis of a registered deed on the property, and shall be by public auction to the highest bidder.

(2) The sale officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reasons for such adjournment.

(3) Where a sale is adjourned under sub-rule (2) for a longer period than seven days, a fresh proclamation under rule 59 shall be made and published unless the mortgagee consents to waive it.

**61. Deposit by purchaser and resale on default.** *Section 76(1)*—(1) When the highest bid of the auction has been ascertained the person who made that bid shall, on the requisition of the sale officer, pay to that officer a deposit of twenty-five per cent of the amount of his bid, and shall on payment thereof, be declared to be the purchaser. If the person who made the highest bid fails to pay such deposit, the property shall forthwith be resold.

(2) Where the society, at whose instance the property is sold, is the purchaser and is entitled to set off the purchase money under rule 66, the sale officer may dispense with the requirement of sub-rule (1).

**Properties and Funds**

**71. Investment of funds.** *Sections 85 and 131(2)(xxiii)–(1)* Besides the provided in section 85 of the Act, a co-operative society may invest or deposit any portion thereof:—

- (a) in bonds certificates or loans issued by Government or the Government.
  - (b) in debentures floated by a co-operative society;
  - (c) with the previous sanction of the Registrar, in the purchase or lease of land or building or in the acquisition, construction or renewal of building that may be necessary to conduct its business.
- (2) The amount of funds invested under clause (c) of sub-rule (1) shall be recorded on such terms as may be determined in each case by the Registrar.
- (3) The provisions of clause (c) of sub-rule (1) shall not apply;
- (a) to immovable property purchase:—
    - (i) by a co-operative society at a sale held in execution of a decree obtained by it, for the recovery of any sum due to it; or
    - (ii) by a financing bank at a sale held in execution of a decree obtained by a co-operative society financed by it, for the recovery of any sum due to such society or at a sale brought about by the liquidator of such society.

**72. Payment of dividend.** *Section 131(2)(xxv)–(1)* In no co-operative society dividend shall exceed 10 per cent per annum of the paid up share capital.

(2) In a co-operative society with un-limited liability no dividend shall be paid unless a period of five years has elapsed from the date of registration.

(3) No dividend shall be paid by the co-operative society to a depositor or lender if the loan remains unsatisfied.

**73. Creation of Co-operative Education Fund.** *Sections 87 and 131(2)(xxv)–(1)* Every co-operative society shall contribute such amount not exceeding two per cent as may be directed by the Registrar, from time to time out of its net profits of the year to a Co-operative Education Fund to be administered by the State Co-operative Federation. The contribution payable by a co-operative society shall be charged on the funds of the co-operative Society and shall be recoverable in the manner provided in section 110. The State Co-operative Federation shall prepare regulations with the approval of the Registrar for the utilisation and administration of the fund.

**74. Reserve fund.** *Section 131(2)(xxiii)–(1)* The Registrar may, from time to time by a general or special order, raise the proportion of profits to be carried to reserve fund under section 87 from one-tenth of the net profits to a limit not exceeding one-fourth of the net profits.

(2) The reserve fund shall be indivisible and no member shall be entitled to claim a specified share in it:

Provided that in exceptional circumstances and with the prior approval of the Registrar, the reserve fund may be utilised in meeting losses to the society.

(3) No co-operative society where reserve fund has been separately invested shall draw upon, pledge or otherwise employ such fund.



**75. Contribution to Guarantee Fund.**—(1) Where the Government decides to constitute a guarantee fund under sub-section (1) of section 88 of the Act for a Co-operative Society or a class of co-operative societies, then such a society or class of societies shall not contribute to this fund less than two per cent of the remainder of the profits after contribution towards the reserve fund under section 87 of the Act.

(2) Notwithstanding anything contained in the rules, a guarantee fund shall not be utilised in the business of a society and shall be kept<sup>1</sup> [in any Co-operative Bank.]

(3) A guarantee fund shall be utilised in the manner as may be specified by the Government from time to time.

#### Chapter XII

#### Rehabilitation of Weak Societies

**76. Rehabilitation funds.** Section 131 (2) (xxii)-(1) A rehabilitation fund established by a society shall be kept either in the State Co-operative Bank or a Central Co-operative Bank.

(2) Notwithstanding anything contained in these rules, a rehabilitation fund shall not be utilised in the business of a society.

#### Chapter XII-A<sup>2</sup>

#### Sale or lease of assets and liabilities of sick societies

**76-A. Transfer of assets and liabilities of sick societies by sale.** - The Registrar may, on the basis of an enquiry of the sick society conducted through a general or special order and after consulting the Government and the financial institutions of the sick society, ask its committee to transfer its assets and liabilities by way of sale to another society, firm, body or company within a period of Ninety days from the date of issue of such order as indicated in Annexure 'A' on the following terms and conditions :-

- (a) The society, firm, company or body shall remit to the sick society the entire payment in lump sum through a demand draft in favour of the sick society within such period as may be mutually agreed upon between the sick society and the proposed firm, company, body or society.
- (b) The sick society shall hand over the vacant possession of the entire premises including entire machinery, furniture and fixture, land and building, stock, raw material, finished goods etc. on a specific date as may be mutually agreed upon.
- (c) On the completion of the proceedings of sale, the society, firm, company or body acquiring ownership rights of the sick society, shall not use the word "Co-operative" in any form and in any transaction with the new name of the Organisation and it would cease to be a cooperative society under the Act. The Registrar shall cancel the registration of such society and shall inform the concerned financial institutions accordingly.
- (d) Pursuant to opportunity provided to the Committee of the sick society under Section 14A(2) of the Act, it will be obligatory on the part of the Registrar to satisfy and dispose of objections/claims put forward by the

1. Substituted for the words "in the State Co-operative Bank" by Haryana Notification No. GSR 64/HA. 22/84/S.131/95 dated 17<sup>th</sup> Aug 1995.

2. Chapter XII-A added vide Notification dated 2.2.2000.

members of the Committee of the sick society and the creditors thereof and the Registrar shall inform the Committee about the disposal of objections/claims.

- (e) The Registrar shall proceed to get a sale officer appointed after seeking prior approval of the Government for the purpose of conducting sale under these Rules.
- (f) If the committee of the sick society fails to act within a period of Nine days under Annexure 'B', the Registrar shall, on the expiry of the period Thirty days under the said Annexure-B, proceed to issue notice of sale indicating complete substance of the intended sale in atleast two local daily newspapers published from State headquarters having wide circulation and one National Daily published from New Delhi having wide circulation by giving complete list of the property, assets, machinery, stock, furniture and fixtures and further bound the prospective bidder/bidders to deposit a sum of money equal to 10% of the notice of the entire property, both moveable and immovable mentioned above,
- (g) The proclamation of sale shall also be circulated/published by affixing notices in the office of Assistant Registrar's, Deputy Registrar's, the sick society and other relevant place/places which are directly or indirectly concerned with the functioning of the said sick society and will give at least Thirty days time to materialise the entire sale process. Prior to two consecutive dates before the commencement of the date fixed for sale, the sale officer shall also announce by beat of drum in the locality/village town by assuring himself that the details of the said property are being brought to the notice of public at large through beat of drum in a fairly reasonable manner. The proclamation shall state the time/place of sale and '[complete particulars and specifications] of the property to be sold and any encumbrance to which the property of the said sick societies is liable and shall keep necessary record thereof.
- (h) The sale officer shall proceed to get assessed, the market value of the property, assets, machinery, furniture and fixtures, stock, finished goods etc. from the Government approved contractors/valuer on "as is where is basis" and shall also ascertain their price at his own level by studying the prevalent trends of these commodities in these market and shall forward a written proposal in this regard to the Registrar for his approval. In case of landed property situated in urban/semi-urban and rural areas, the Registrar shall be guided by the latest guidelines of different authorities i.e. Haryana Urban Development Authority, municipal committees/corporation and Revenue Department guidelines etc. etc.
- (i) The sale shall be made after sun arise and before sun set and not any other time.
- (j) The sale officer shall ensure that when the deal is materialised the sum offered by the purchaser is not less than the market value of the property assets and shall, as nearly as possible, ensure that it is sold at the competitive price and not through a throw-away deal.

1. Substituted by Haryana Notification No. S.O./H.A.22/1984/S.131 and 14A/2007 dated 19th January, 2007.

- (k) The sale officer shall also ensure that the time limit set out in the notice published for sale does not affect those finished goods which are subject to speedy and natural decay and would cut short the period of notice accordingly.
- (l) The sale shall be by proclamation to the highest bidder provided that it shall be open to the sale officer to decline to accept the highest bid when the price offered appears to be unduly low or for some other reasons and may after consulting the Registrar may adjourn the sale to a specified date and hour after recording the reasons for such adjournment, where the sale is adjourned for a longer period than seven days, a fresh proclamation under clause 'g' above shall be made again.
- (m) At any time within thirty days from the date of the sale of immovable property and other assets, the Registrar may either *suo motu* or on the complaint of a person whose interest are affected by the sale, by getting an enquiry conducted, set-aside the sale on grounds of material irregularity or mistake or fraud in conducting the sale.
- (n) The purchaser of the proposed sick unit at the end of final settlement shall be liable to pay to such employees whose services are not taken over by the purchaser, such sums as may be awarded by the competent courts in terms of the provisions of the Industrial Disputes Act 1947 (Act 14 of 1947).
- (o) The amount left after meeting the liabilities, shall be disposed of by a person authorised by the Registrar in this regard in the manner prescribed in Chapter-XV of these Rules pertaining to winding up of cooperative society.

**76B. Transfer of Assets and Liabilities of Sick Societies by Lease :-**

- (a) In case the committee of the sick society fails to act on the advice of the Registrar as conveyed in the notice referred to in Annexure B, the Registrar shall proceed to transfer the assets and liabilities of the sick society on lease for a minimum period of five years and a maximum of ten years. The Registrar shall proceed to get the notice for lease published in at least two daily newspapers published in the State having wide circulation and one National Daily having wide circulation and shall give the substance of offer of lease by giving at least thirty days notice for the above purpose.
- (b) The notices for lease shall be got pasted in the office of Assistant Registrars and Deputy Registrars by the Registrar and also at all important places which are often visited by the public in general and the Registrar shall get the proclamation of lease and announced through a beat of drum at such places and among such parties as he deems fit.
- (c) It shall be clearly mentioned in the notice for lease that the party consenting to take the sick society on lease shall keep the co-operative character of the unit intact.
- (d) The party offering to take the sick society on lease shall not embark upon any other trade or business or industrial activity other than aimed at by the sick unit.

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- (e) The lessee shall keep the accounts of the proposed unit strictly according to the system in practice.
- (f) The Registrar or his nominee shall be competent to conduct inspection and audit of the leased unit as per provisions of the Act. The Registrar or any person authorised to inspect/audit the unit shall have free access to the books of accounts, leased out premises, factory, machinery and other assets.
- (g) In case lessee of the unit does not accept the entire staff of the sick unit they shall be liable to pay such sums to the said staff as may be awarded by the competent Courts in terms of the provisions of the Industrial Disputes Act, 1947 (Act 14 of 1947).
- (h) The lessee shall not be permitted to sell, sub-let or remove from its original place, any assets without permission of the Registrar by giving a justification for the replacement/removal of any non-productive assets.
- (i) At the expiry of period of five years the working results of the unit would be reviewed and in the event of non-fulfilment by the lessee, the lease shall be cancelled and no further extension would be allowed.
- (j) The terms and conditions of lease shall be reduced in writing on a non-judicial stamp paper as required by the Indian Stamp Act 1899 (Act 2 of 1899), which shall be signed by the authorised person and duly attested by the Magistrate 1st Class having jurisdiction of the area where the sick unit is situated.

**Annexure 'A'**

(See Rule 76-A)

From

Registrar,  
Co-operative Societies, Haryana,  
Chandigarh.

To

The President,  
-----  
-----

Subject: Transfer of assets and liabilities of-----into-----

On the perusal of balance sheet of your society for the year ending-----the under signed has made an objective assessment of its financial position for the last three years ending-----and as no possibility is in sight whereby the accumulated losses could be reclaimed and as is revealed in the balance sheet that majority of shares of this society are held by the Government, therefore, by virtue of the powers conferred upon me under Section 14(A)(1), I am of the opinion that the assets and liabilities of the society be transferred to-----within a period of ninety days but not later than-----.

(Date)

It is, therefore, desired of you to place this issue before the Committee of your society by convening a meeting of the same and seek its concurrence under intimation.

the undersigned. If no reply is received within the stipulated time, the next course of action under the law to transfer the assets and liabilities shall be taken.

Sd/-  
Registrar,  
Co-operative Societies, Haryana,  
Chandigarh.

**Annexure 'B'**

(See Rule 76-A and 76-B)

From

Registrar,  
Co-operative Societies, Haryana,  
Chandigarh.

To

The Members of the committee of the,

(Name of the society)

Subject: Transfer of assets and liabilities of the society.

Vide this office memo No,-----dated-----, the undersigned had issued some guidelines to you to transfer assets and liabilities of your society to a firm, Company, body or society, namely,-----the undersigned gave you ninety days time to comply with the above guidelines. No response, whatsoever, has so far been received from your side. The undersigned, being Registrar Co-operative Societies, hereby direct you to transfer assets and liabilities of the above society into-----within a period.

(Name of firm, society, company or body)

of thirty days and if no response is received from your side within stipulated period then the undersigned will be left with no other alternative but to order transfer of assets and liabilities of your society into the aforesaid firm, company, body or society and your society shall stand dissolved.

Registrar,  
Co-operative Societies Haryana,  
Chandigarh.

**Chapter XIII**

**Audit and Account**

**77. Auditing of Accounts.** 131 (2) (xiv) ---The accounts of the co-operative society shall be audited in such manner as the Registrar may specify from time to time.

**78. Maintenance of account books and other record.** Section 131(2) (xiv)—A co-operative society or a class of co-operative societies shall maintain the account books and other record in such form and manner as may be specified by the Registrar by a general or special order from time to time.

**79. Preparation of balance sheet and other accounts.** Section 131(2) (xiv) and (xv)—(1) A co-operative society shall prepare balance sheet, profit and loss account, trading account and such other statements relating to accounts as may be specified, from

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time to time, by the Registrar within three months of the close of the co-operative  
such form as may be laid down by the Registrar.

(2) If the Registrar so directs, a copy of each of the statement referred to in sub-rule (1) shall be supplied by a co-operative society to the Registrar by such date as he may specify.

**80. Audit fee.** *Section 131(1)*—(1) Every co-operative society shall pay to the Government a fee for the audit of its accounts for each Co-operative Year in accordance with the scale fixed by the Registrar with the previous approval of the Government in respect of the class of co-operative societies to which it belongs.

(2) The Registrar may, subject to such conditions as may be laid down by the Government remit the whole or any part of the fees payable under sub-rule (1) by a co-operative Society or a class of co-operative societies for any year or other specified period.

#### Chapter XIV

### Settlement of Disputes

**81. Reference of disputes.** *Section 131(2)(xix)*—When a party to the dispute referred to in sub-section (1) of section 102 desires to have the dispute determined in accordance with the said section, the party shall apply to the Registrar in writing, stating the substance of the dispute and the name and addresses of the other party.

**82. Arbitration fee.** *Section 131 (2) (xix)*—(1) The Registrar shall have power to require the person referring a dispute under sub-section (1) of section 102 to deposit in advance the fee, if any, to be specified by the Registrar, for deciding the dispute.

(2) The Registrar may in such case as he thinks fit, order the payment of fee to the Petitioner.

(3) No fee shall be payable to an arbitrator till the dispute referred to him is finally decided.

(4) The Registrar, may, in his discretion, remit the whole or any part of the fees collected under sub-rule (1).

**83. Communication of date, time and place of hearing.** *Section 131 (2)(xix)*—In an arbitration proceeding, the Registrar, or the arbitrator, as the case may be, shall communicate the date, time and place of hearing the dispute to all the parties concerned.

**84. Power to appoint guardian for minors etc.** *Section 131 (2) (xix)*—The Registrar or the arbitrator, as the case may be, shall have power to appoint or remove guardian for the party to the dispute who is a minor or who, by reasons of unsoundness of mind or mental infirmity, is incapable of protecting his interest.

**85. Hearing of disputes.** *Section 131 (2) (xix)*—The Registrar or the arbitrator as the case may be, shall hear [the parties their, legal representatives and witnesses] who attend. On the basis of such evidence and after consideration of any documentary evidence that may be produced by either party, he shall give award in accordance with justice, equity and good conscience. The award shall be reduced to writing announced to the parties and filed in the office of the Registrar. [In case of wilful absence] of any party duly summoned to attend, the dispute may be decided ex-parte.

1. Substituted by Haryana Notification No. GSR 64/HA. 22/84/S.131/95 dated 17<sup>th</sup> Aug 1995.

2. Substituted for the words "In the absence" by Haryana Notification No. GSR 64/HA. 22/84/S. 131/95 dated 17<sup>th</sup> Aug 1995.

**86. Time limit for making awards.** *Section 131 (2)(xix)*—The arbitrator or the Registrar, shall make his award, within six months after entering on the reference or within such extended time as the next higher authority may allow.

**87. Cost of arbitration.** *Section 131(2) (xix).*— The arbitrator or the Registrar, as the case may be, shall have the power to order the expenses of determining a dispute or the cost of either party to be borne by such party or parties to the dispute as he may think fit.

**88. Maintenance of record of arbitration.** *Section 131(2)(xix)*—(1) The record of arbitration proceedings shall be kept in such place and in such manner as the Registrar may direct.

(2) A copy of the award shall, on application, be given to a party by the Registrar or payment of fees prescribed for obtaining copies.

#### Chapter XV

### Winding up of Co-operative Societies

**89. Procedure to be followed by liquidators.** *Section 131(2)(xxvii)*—(1) The liquidator shall as soon as the order of winding up of the co-operative society takes effect publish by such means as he may think proper, a notice requiring all claims against the Co-operative Society, the winding-up of which has been ordered, to be submitted to him within one month of the publication of the notice. All liabilities recorded in the account books of a co-operative society shall be deemed *ipso facto* to have been duly submitted to him under the sub-rule.

(2) The liquidator shall, after settling the assets and liabilities of the Co-operative Societies as they stood on the date on which the order for winding up is made proceed next to determine the contribution to be made by each of its members, past members or by the estates of nominees, heirs or legal representatives of the deceased members or by any officer or any former officer to the assets of the society under clauses (b) and (c) of sub-section (2) of section 107. If necessity arise, he may make a supplementary order regarding such contributions and such order shall be enforceable in the same manner as the original order.

(3) The liquidator may at any time, call a meeting of the members or of the creditors or a joint meeting of the members and creditors and such meeting shall be called, held and conducted at such time and place in such manner as the liquidator may deem fit.

**90. Approval by Registrar on order of liquidator.** *Section 131 (2) (xxvii)*—An order passed by the liquidator under clause (b) of sub-section (2) of Section 107 shall be submitted by him to the Registrar for approval. The Registrar may [after reasons to be recorded] modify such order or refer it back to the liquidator for further enquiry or action.

**91. Submission of quarterly report by liquidator.** *Section 131 (2)(xxvii)*—The liquidator shall submit to the Registrar a quarterly report in such form as the Registrar may specify showing the progress made in the liquidation of the Co-operative Society.

**92. Deposit of funds by liquidator.** *Section 131 (2) (xxvii)*—All funds in the charge of the liquidator shall be deposited with such institution or person as the Registrar may approve.

**93. Expenses incurred by liquidator.** *Section 131(2)(xxvii)*—All expenses incurred in connection with the winding up of the co-operative society shall be subject to the approval of the Registrar.

1. Substituted by Haryana Notification No. S.O.5/H.A.22/1984/S 131 and 14A/2007 dated 19th January, 2007

**194. Distribution of assets.** *Section 131 (2) (xxvii)*—The liquidator shall distribute the realised assets to the claimants in such manner and in such priority as the Registrar may direct.]

**95. Remuneration to liquidators.** *Section 131 (2) (xxvii)*—The remuneration payable to the liquidator under section 106(1) shall be included in the cost of liquidation which shall be paid out of the assets of the society in priority to all other claims.

**96. Disposal of surplus assets.** *Section 131 (2) (xxvii)*—After discharging the liabilities of the co-operative society and repayment of share capital the liquidator shall utilise the surplus assets, if any, for one or more of the following purposes:—

- (a) deposit the amount in a co-operative bank until a new co-operative society with similar area of operation is registered when it shall be credited to the reserve fund of the new co-operative society;
- (b) any purpose connected with the development of co-operative movement, subject to the approval of the Registrar;
- (c) an object of public utility selected with due regard to the wishes of the members and approved by the Registrar.

**97. Liability due to claimants whose whereabouts not known.** *Section 131 (2) (xxvii)*—If any liability cannot be discharged by the liquidator owing to the whereabouts of the claimant not being known or for any other cause the amount due by such undischarged liability may be deposited in the Central Co-operative Bank, Haryana, in the jurisdiction over the area in which the Co-operative Society was functioning and shall remain at the disposal of the claimants for a period of three years after which the amount, if any, may be transferred to the State Co-operative Union for credit to the Co-operative Education Fund.

**98. Removal of liquidator.** *Section 131 (1)*—A liquidator may at any time, be removed by the Registrar and he shall on such removal, hand over all the property and documents relating to the society under liquidation to such persons as the Registrar may direct.

**99. Maintenance of accounts by liquidator.** *Section 131 (2) (xxvii)*—The liquidator shall keep such books and accounts, as may be laid down by the Registrar from time to time. The Registrar may at any time cause such books and accounts to be audited.

**100. Final report by liquidator.** *Section 131 (2) (xxvii)*—The liquidator, after settling the liabilities of the society submit a final report to the Registrar in such form and at such time as may be specified by the Registrar.

**101. Disposal of record.** *Section 131 (2) (xxvii)*—All the books and records of a co-operative society whose registration has been cancelled may be destroyed or disposed of in relation to the cases pending in the Court under the orders of the Registrar, after the expiry of a period of three years from the date of cancellation.]

#### Chapter XVI

### Execution of Awards, Decrees and Orders

**102. Enforcement of charge.** *Sections 52 and 131 (1)*—(1) Without prejudice to any other mode of recovery provided in the Act or these Rules, the Registrar or any subordinate to him empowered by the Registrar in this behalf on the application of a Cooperative Society make an order directing the payment of any debt or outstanding demand due to the society by any member or ex-member or deceased member by the property or any interest thereon, which is subject to a charge under section 53 :

1. Substituted by Haryana Notification No S.O.5/H.A.22/1984/S.131 and 14A/2007 dated 14 January, 2007.



Provided that no order <sup>1</sup>[shall be] issued under this rule unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice in the manner given in rule 103.

(2) The procedure for sale of property or any interest thereon under sub-rule (1) shall be the same as laid down in rule 104.

**103. Manner and service of notice** - The notice under rule 102 shall indicate the substance of the demand or debt due to the co-operative society and shall be served in the manner laid down for the service of summons. No order under rule 102 shall be made until a period of thirty days has expired from the date of service of notice.

**104. Procedure in execution of award etc.**—(1) Any decree holder requiring the provisions of clause (b) of section 110 to be applied, shall apply to the Recovery Officer within whose jurisdiction defaulter resides <sup>1</sup>[or carries on business] or the property of the defaulter is situated.

(2) Every such application shall be made in the form specified by the Registrar and shall be signed by the decree-holder. The decree-holder may indicate whether he wishes to proceed against the immovable property charged or mortgaged to the decree-holder or other immovable property or to secure the attachment of movable property.

(3) On receipt of such application the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar, setting forth the name and address of the defaulter and the amount due and forward it to a Sale Officer.

(4) Unless the decree holder has expressed a desire that proceedings shall be taken in particular order as laid down in sub-rule (2) execution shall ordinarily be taken in the following manner:-

(i) Movable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity.

(ii) If there is no movable property, or if the sale proceeds of the moveable property or properties attached and sold are insufficient to meet in full the demand of the decree holder, the immovable property charged or mortgaged to the decree-holder or other immovable property belonging to the defaulter may be proceeded against.

(5) In the seizure and sale of movable property, the following procedure shall be observed :-

(a) The Sale Officer shall, after giving <sup>2</sup>[prior] notice to the decree-holder and the defaulter, proceed to the village or locality where the defaulter resides or the property to be distrained is situated and serve a demand notice to the defaulter if he is present. If the amount due together with the expenses is not at once paid, the Sale Officer shall make the distress and shall immediately deliver to the defaulter a list of inventory of the property distrained and an intimation of the place and day and hour at which the distrained property

1. Inserted by Haryana Notification No. S.O.5/H.A.22/1984/S.131 and 14A/2007 dated 19th January, 2007

2. Substituted by Haryana Notification No. S.O.5/H.A.22/1984/S.131 and 14A/2007 dated 19th January, 2007

will be brought to sale if the amounts due are not discharged by him. If the defaulter is absent, the Sale Officer shall serve the demand notice on some adult member of his family or on his authorised agent or when such service cannot be affected, shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix, the list of the property attached, on the usual place of residence of the defaulter endorsing thereon the place where the property may be lodged or kept and place, day and hour of sale.

- (b) After the distress is made, the Sale Officer may arrange for the custody of the property attached. If the sale officer requires the decree holder to undertake the custody of the property he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is livestock, the decree holder shall be responsible for providing the necessary food therefor. The Sale Officer may, at the instance of the defaulter or of any person claiming and interested in such property leave it at the village or place where it was attached in the charge of such defaulter or person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.
- (c) The distress shall be made after sunrise and before sunset and not at any other time.
- (d) The distress levied shall not be excessive that is to say the property distrained shall be as nearly as possible proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.
- (e) If crops or un-gathered products of the land belonging to a defaulter are attached, the sale officer may cause them to be sold when fit for reaping or gathering or at his option may cause them to be reaped or gathered in the season and stored in proper place until sold. In the later case the expenses of reaping or gathering and storing such crops or products shall be defrayed by the defaulter upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (f) The Sale Officer shall not work the bullock or cattle or make use of goods or effects distrained and he shall provide the necessary food for the cattle or livestock the expenses attending which shall be defrayed by the defaulter upon his redeeming the property or from the proceeds of sale in the event of its being sold.
- (g) It shall be lawful for the Sale Officer to force open any stable, cow house, granary, godown, outer-house or other building and he may also enter any dwelling house the out door of which may be open and may break open the door or any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriated for the zenana or residence of women except as hereinafter provided.
- (h) When the Sale Officer may have reason to suppose that the property of the defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women which by

custom or usage are considered private, the Sale Officer shall represent the fact to the Officer-in-charge of the nearest police station. On such representation the Officer-in-charge of the said station shall send a police officer to the spot in the presence of whom the Sale Officer may force open the outer door of such dwelling house and in like manner he may break open the door of any room within the house except the zenana. The Sale Officer may also in the presence of a police officer, after due notice is given for the removal of women within a zenana and after furnishing means for their removal in a suitable manner if they be women of rank, who according to the custom or usage cannot appear in public, enter the zenana apartments for the purpose of distraining the defaulter's property, if any deposited therein, but property if found, shall be immediately removed from such apartment after which they shall be left free to the former occupants.

- (i) The Sale Officer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village or locality in which the defaulter resides and in such other places as the officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or affixed in the manner prescribed in clause (a), provided that where the property seized is subject to speedy and natural decay or where the expense of keeping it in custody is likely to exceed its value, the Sale Officer may sell it at any time before the said period of fifteen days unless the amount due is sooner paid;

- (j) At the appointed time the property shall be put up in one or more lots as the Sale Officer may consider advisable and shall be disposed of to the highest bidder:

Provided that it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reason. Where the property is sold for more than the amount due, the excess amount, after deducting the interest and the expenses of process and the charges shall be paid to the defaulter:

Provided further that the Recovery Officer or the Sale Officer may, in his discretion adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a period longer than seven days, a fresh proclamation under clause (i) shall be made unless the defaulter consents to waive it.

- (k) The property shall be paid for in cash at the time of sale as soon thereafter as the officer holding the sale shall appoint and the purchaser shall not be permitted to carry away any part of the property, shall until he has paid for it in full. Where the purchaser may fail in the payment of purchase money the property shall be resold.
- (l) Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under these rules has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to Sale Officer.

(m) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest, in the property attached pays the full amount due including interest and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.

(n) The movable properties mentioned as exempt from attachment in the proviso to section 60 of the Code of Civil Procedure, 1908 (5 of 1908) shall not be liable to attachment or sale under these rules.

(6) Where the movable property to be attached is the salary or allowance or wages of a public officer or of servant of a local authority or a firm or a company or any other institution, the Recovery Officer may, on receiving a report from the Sale Officer, order that the amount shall, subject to the provision of section 60 of the Code of Civil Procedure, 1908 (5 of 1908) be withheld from such salary or allowances or wages either in one payment or by monthly instalments as the said Recovery Officer may direct and upon notice of the order the officer or other person, whose duty is to disburse such salary or allowances or wages shall withhold and remit to the Sale Officer the amount due under the order or the monthly instalment, as the case may be.

(7) (i) Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the share or interest or charging it in any way.

(ii) Where the property to be attached is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be deposited with the Recovery Officer ordering the attachment subject to further order.

(iii) Where the property to be attached is in the custody of any court for public officer, the attachment shall be made by a notice to such court or officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the Recovery Officer issuing the notice;

Provided that where such property is in the custody of a court or Recovery Officer of another district, any question of title or priority arising between the decree-holder and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such court or Recovery Officer.

(8)(i) Where the property to be attached is a decree either for the payment of money or for sale or enforcement of a mortgage or charge, the attachment shall be made by the order of the Registrar if the decree sought to be attached was passed by the Registrar under section 103 or by an arbitrator.

(ii) Where the property to be attached is a decree of the nature referred to in sub-rule (i) the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree prohibiting him from transferring or charging the same in any way.

(iii) The holder of a decree attached under sub-rule (ii) shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.

(iv) On the application of the holder of a decree sought to be attached, the Recovery Officer making an order of attachment shall give notice of such order to the judgment-debtor bound by the decree attached; and no. payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the said Recovery Officer or otherwise, shall be recognised so long as attachment remain in force.

(9) Where the movable property to be attached is:-

- (a) a debt due to the defaulter in question; or
- (b) a share in the capital of a corporation or a deposit invested therein; or
- (c) other movable property not in the possession of the defaulter except property deposited in or in the custody of any civil court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting:-
  - (i) in the case of debt, the creditor from recovering the debt and the debtor from making payment thereof;
  - (ii) in the case of share or deposit the person in whose name the share or the deposit may be standing, from transferring the share of or deposit or receiving any dividend or interest thereon; and
  - (iii) in the case of any other movable property except aforesaid the person in possession of it from giving it over to the defaulter.

A copy of such order shall be sent, in the case the debt to the debtor, in the case of share or the deposit to the proper officer of the corporation and in case of any other movable property except as aforesaid to the person in possession of such property. As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) above matures the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable the said Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable, its value shall be paid to the said Recovery Officer or to the party referred to in clause (c), the person concerned shall place it in the hands of the said Recovery Officer as it becomes deliverable to the defaulter.

(10) Immovable property shall not be sold in execution of a decree unless such property has been previously attached;

Provided that where the decree has been obtained on the basis of a mortgage of such property, it shall not be necessary to attach it.

(11) In the attachment and sale without attachment of immovable property the following procedure shall be observed :-

- (a) The application presented under sub-rule (3) shall contain a description of the immovable property to be proceeded against sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement or survey, the specification of such boundaries or numbers and the specification of the defaulter share or interest in such property to the best of the belief of the decree-holder and so far as he has been able to ascertain it;
- (b) The demand notice issued by the Recovery Officer under sub-rule (3) shall contain the name of the defaulter, the amount due, including the expenses.

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if any the time allowed for payment and in the case of non-payment the particulars of the properties to be attached and sold or to be sold without attachment, as the case may be. After receiving the demand notice the Sale Officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family at his usual place of Residence, or upon his authorised agent or if such personal service is not possible shall affix a copy thereof on some conspicuous part of the immovable property required to be attached and sold or sold without attachment as the case may be:

Provided that where the Recovery Officer is satisfied, that a defaulter with intent to defeat or delay the execution proceedings against him is about to dispose of the whole or any part of his property, the demand notice issued by the Recovery Officer under sub-rule (3) shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

- (c) If the defaulter fails to pay the amount specified in the demand notice within the time allowed, the Sale Officer shall proceed to attach and sell, or sell without attachment as the case may be, the immovable property noted in the application for execution in the manner specified below.
- (d) Where attachment is required before sale, the Sale Officer shall if possible, cause a notice of attachment to be served on the defaulter personally. Where personal service is not possible the notice shall be affixed in some conspicuous part of the defaulters, last known residence, if any. The fact of attachment shall also be proclaimed by the beat of drum or other customary mode at some place in or adjacent to such property and at such other place or places as the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date mentioned therein the property will be brought to sale. A copy shall be sent to the decree-holder. Where the Sale Officer so directs the attachment shall be notified by public proclamation in the official gazette.
- (e) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the Tehsil Office at least thirty days before the date fixed for sale and also by the beat of drum in the village or locality on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale. Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the decree-holder and the defaulter. The proclamation shall state the time and place of sale and specify as fully and accurately as possible :-
  - (i) the property to be sold;
  - (ii) any encumbrance to which the property is liable;
  - (iii) the amount of recovery for which sale is ordered, and
  - (iv) [any] other matter which the Sale Officer considers material for a purchaser to know in order to judge the nature and value of the property.

1. Substituted by Haryana Notification No. S.O. 5/H.A. 22/1984/S.131 and 14A/2007 dated 19<sup>th</sup> January, 2007

- (f) Where any immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The decree-holder shall when the amount for the realisation of which the sale is held exceeds Rs. 100, furnish to the Sale Officer within such time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (10), prior to the date of application for execution. The time for production of the encumbered certificate may be extended at the discretion of the Sale Officer or the Recovery Officer, as the case may be. The sale shall be by public auction to the highest bidder, provided that it shall be open to the Sale Officer to decline to accept the highest bid when the price offered appears to be unduly low or for other reasons and provided also that the Recovery Officer or the Sale Officer, may, in his discretion, adjourn the sale to a specified day or hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the judgment-debtor consents to waive it. The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale, shall be the village or locality where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer :

Provided that, in case where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village patwari in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in lieu of an encumbrance certificate.

- (g) A sum of money equal to 15 per cent of the price of immovable property shall be deposited by the purchaser in the hands of the sale officer at the time of the purchase and in default of such deposit, the property shall forthwith be resold:

Provided that where the decree-holder is the purchaser and is entitled to set off the purchase money under clause (k), the Sale Officer shall dispense with the requirements of this rule.

- (h) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within fifteen days from the date of sale:

Provided that the time for payment of the cost of the stamp may, for good and sufficient reasons be extended at the discretion of the Recovery Officer upto thirty days from the date of sale;

Provided further that in calculating the amounts to be paid under the clause, the purchaser shall have the advantage of any set-off to which he may be entitled under clause (k).

- (i) In default of payment within the period mentioned in the last preceeding clause the deposits, may if the Recovery Officer thinks fit after defraying the expenses of the sale, be forfeited and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.
- (j) Every re-sale of immovable property in default of payment of the amount mentioned in clause (h) within the period allowed for such payment, shall be made after the issue of a fresh proclamation the manner and for the period hereinbefore prescribed for the sale.
- (k) Where a decree-holder purchase the property, the purchase money and the amount of demand shall be set off against one another and the Sale Officer shall enter upon satisfaction of the demand in whole or in part accordingly.

(12) Where prior to the date fixed for a sale, the defaulter or any person acting on his behalf or any person claiming interest in the property sought to be sold tenders payments of the full amount due together with interest, travelling and other expenses incurred in bringing the property to sale including the expenses of attachment if any, the Sale Officer shall forthwith release the property after cancelling the order of an attachment in case the property has already been attached.

(13)(i) Where immovable property has been sold by the Sale Officer, any person, either owing such property or holding an interest therein by virtue of a title acquired before such sale may apply to have the sale set aside onjiis depositing with the Recovery Officer:-

- (a) for payment to the purchaser a sum equal to five per cent of the purchase money, and
- (b) for payment to the decree-holder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other cost due in respect of such amount less the amount which may since the date of such proclamation has been received by the decree-holder.

(ii) If such deposit and application are made within thirty days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser, the purchase money so far it has been deposited together with five per cent deposited by the applicant:

Provided that if more person than one have made deposit and application under this sub-rule the application for the first depositor to the officer authorised to set aside the sale shall be accepted.

(iii) If a person applied under sub-rule (14) to set aside the sale of immovable property he shall not be entitled to make an application under this sub-rule.

(14)(i) At any time within thirty days from the date of the sale of immovable property, the decree-holder or any person entitled to share to a rateable distribution of the assets or whose interest are effected by the sale may apply to the Recovery Officer to set aside the sale on the ground of material irregularity or mistake or fraud in publishing or conducting it:



Provided that no sale shall be set aside on the ground of irregularity or fraud unless the said Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity mistake or fraud.

(ii) If the application is allowed, the said Recovery Officer shall set aside the sale and may direct a fresh one.

(iii) On the expiration of thirty days from the date of sale if no application to have the sale set aside is made or if such application has been made and rejected, the said Recovery Officer shall make order confirming sale:

Provided that if he shall have reason to believe that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected he may, after recording his reasons in writing set aside the sale;

(iv) Whenever the sale of any immovable property is not confirmed or is set aside, the deposit or the purchase money as the case may be, shall be returned to the purchaser.

(v) After the confirmation of any such sale, the said Recovery Officer shall grant a certificate of sale in such form as may be specified by the Registrar bearing his seal and signature to the purchaser, and such certificate shall state the property sold and the name of the purchaser and it shall be conclusive evidence of the fact of the purchase in all courts and tribunals, where it may be necessary to prove it and no proof of the seal or signature of the Recovery Officer shall be necessary unless the authority before whom it is produced shall have reasons to doubt its genuineness.

(15) Where any lawful purchaser of immovable property is resisted and prevented by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property on his own account from obtaining possession of the immovable property purchased, any, court of competent jurisdiction on application and production of the certificate of sale provided for by sub-rule (14) shall cause the proper process to be is sued for the purpose of putting such purchaser in possession in the same manner as if the immovable property purchase had been decreed to the purchaser by a decision of the Court.

(16) It shall be lawful for the Sale Officer to sell the whole or any portion of the immovable property of a defaulter in the discharge of money due :

Provided always that, so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses, if any, of attachment and sale.

(17) Where an attachment has been made under these rules any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other money contrary to such attachment shall be void as against all claims enforceable under the attachment.

*Explanation.* - For the purpose of this sub-rule, claims enforceable under an attachment include claims for the rateable distribution of assets under sub-rule (24).

(18) Persons employed in serving notice or in other process under these rules shall be entitled to travelling allowance at such rates as may, from time to time be fixed by the Recovery Officer.

(19) Where the cost and charges incurred in connection with attachment and sale of movable property or the attachment and sale or sale without attachment of immovable property under this rule, exceeds the amount of the cost deposited by the decree-holder, such excess shall be deducted from the sale proceeds of the property sold or the money paid by the defaulter as the case may be, and the balance shall be made available to the decree-holder.

(20) Every person making a payment towards any money due for the recovery of which application has been made shall be entitled to a receipt for the amount signed by the Sale Officer or other Officer empowered by the Recovery Officer in that behalf. Such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made.

(21)(a) Where any claim is preferred to, or any objection is made the attachment of any property under this rule on the ground that such property is not liable to such attachment the Sale Officer shall investigate the claim or objection and dispose it of on merits :

Provided that no such investigation shall be made when the Sale Officer considers that the claim or objection is frivolous.

(b) Where the property to which the claim or objection relates has been advertised for sale, the Sale Officer, may postpone the sale pending the investigation of the claim or objection.

(c) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit within six months from the date of order to establish the right which he claims to the property in dispute, but subject to the result of such suit if any, the order shall be conclusive.

(22)(i) Any deficiency of price which may happen on a re-sale held under clause (j) of sub-rule (11) by reason of the purchaser's default, and all expenses attending such re-sale shall be certified by the Sale Officer to the Recovery Officer and shall at the instance of either the decree-holder or the defaulter be recoverable from the defaulting purchaser under the provisions of this rule. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

(ii) Where the property may, on the second sale, be sold for a higher price than the first sale, the defaulting purchaser at the first sale shall have no claim to the difference or increase.

(23) Where any property has been attached but by reason of the decree holder's default, the Recovery Officer is unable to proceed further with the application, for execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

(24)(a) Where the Sale Officer attaches or has attached, any property not in the custody of any court, which is already under attachment made in execution of a decree of any Court, such Court shall receive and realise such property and shall determine claims thereto and any objection to the attachment thereof.

Provided that where the property is under attachment in the execution of decree of more courts than one, the Court which shall receive or realise such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of the highest grade, or where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(b) Where assets are held by the Sale Officer and before the receipt of such assets demand notice in pursuance of application for execution awards or order against the same defaulter have been received from more than one decree holder and the decree-holders have not obtained satisfaction the assets after deducting the cost of realisation shall be rateably distributed by the Sale Officer among all such decree-holders in the manner provided in section 73 of the Code of Civil Procedure, 1908.

(25) Where a defaulter dies before the demand has been fully satisfied, an application may be made against the legal representative of the deceased and there upon all the provisions of this rule shall, save as otherwise provided in this sub-rule, apply as if such legal representative was defaulter. Where the award or order is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been only duly disposed of and for the purpose of ascertaining such liability, the Recovery Officer executing the awards or order may, of his own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as he thinks fit.

(26) Where in connection with the proceedings on an application under Section 110 of the Act any person requires the issue of any process or objects to any process issued or objects to any order passed, he shall pay such fee as may be specified by the Registrar in this behalf.

*Explanation.* - Under the context otherwise requires, in this rule the "decree-holder" means the person in whose favour award, order or decision has been given and "decree" means the award, order or decision.

### **Chapter XVII** **Mode of Service**

**105. Mode of Service.** *Section 131(2)(xxx)-(1)* Every summon issued under the Act shall be in writing duly authenticated by the seal of the officer by whom it is issued and shall be signed by such officer or by any person authorised by him in writing in this behalf. It shall require the person summoned to appear before the said officer at a stated date, time and place and shall specify whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes, and any particular document the production of which is required shall be described in the summons.

(2) Any person may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce such document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

(3) The service of summons under the Act on any person may be effected in any of the following ways :-

- (a) by giving or tendering it to such person; or
- (b) if such person is not found, by leaving it at his last known place of abode or business or by giving or tendering it to some adult member of his family; or
- (c) if the address of such person is known to the Registrar or other authorised person, by sending it to him by registered post with A.D.; or
- (d) if none of the means aforesaid is available by affixing it at some conspicuous part of his last known place of abode or business.

(4) Where the serving officer delivers or tenders a copy of the summons to the defendant personally or to an agent or other person on his behalf, he shall obtain the signature of the person to whom the copy is so delivered or tendered, as a token of acknowledgement of service endorsed on the original summons.

(5) The serving officer shall in all cases in which the summons have been served under sub-rule (4) endorse or annex or cause to be endorsed or annexed, on or to the original summons a return stating the time and the manner in which the summons were served and the name and address of the person, if any, identifying the person served and witnessing the delivery or service of the summons.

(6) Where the party to be summoned is a public officer or is the servant of a company or local authority or any institution, the [servant] issuing the summons may, if it appears that the summons may be most conveniently so served sent it by registered post pre-paid for acknowledgement for service on the party to be summoned to be head of the office in which he is employed together with the copy to be served endorsed on the original summons.

#### Chapter XVIII

#### Miscellaneous

**106. Appeals.** *Section 131 (2) (xxviii)*-For the purpose of section 114, no appeal shall be entertained unless it is accompanied by a copy of the order appealed against.

**107. Inspection of documents.** *Section 131(2)(xxv)* -Any member of the public shall be permitted, on payment of a fee of five rupees, for such occasion of inspection to inspect for any lawful purpose, any public document (exclusive of public document privileged under sections 123, 124, 128 and 131 of the Indian Evidence Act, 1872), filed in the office of the Registrar Co-operative Societies and in particular the following documents, namely:-

- (1) registration register;
- (2) registration certificate of a society;
- (3) registered bye-laws of a society and amendments effected in such bye-laws.
- (4) order cancelling the registration of a society;
- (5) order directing the liquidation of registered society;
- (6) annual account of the society;
- (7) any decision of the Registrar or award of an arbitrator.

**108. Fees for copies of public documents.** *Section 131(2)(xxv)*-The fees prescribed for certified copies of any public documents, which any person has under preceding rule aright of inspection shall be as follows :-

- (1) for registration certificate .....Rs. 10.00
- (2) in the case of other documents a sum calculated at the following rates:-
  - (i) first two hundred words or under Rs. 1.50.
  - (ii) every additional hundred words or fraction thereof Rs. 0.75.

**109. Form of order.** *Section 131 (2) (xxix)* -The order of liquidator under clause (b) and clause (c) of sub-section (2) of Section 107 shall be in the form in Appendix 'B'

**110. Special Rule.** *Section 131 (2) (viii)*--Notwithstanding anything contained in these rules, the procedure laid down in this rule shall apply to a society where the Government has :-

1. Substituted by Haryana Notification No. S.O.S/H.A.22/1984/S.131 and 14A/2007 dated 19<sup>th</sup> January, 2007

- (a) subscribed to the share capital of a Co-operative Society; or
  - (b) guaranteed the principal and interest in respect of debentures issued by the society; or
  - (c) guaranteed the principal and interest in respect of loan and advances to the Society; or
  - (d) assisted the society with loan and grants; by not less than one lac rupees.
- (i) At least fifteen days' clear notice, specifying the date, place, time and agenda for a meeting of a general body, committee and atleast seven days clear notice for a meeting of any smaller body set up by the either of them, whether, convened by the Registrar, the Chief Executive Officer or otherwise, shall be given to all the members of the general body/committee or smaller body as the case may be.

Provided that a short notice may be given to all the members of the general body/committee or smaller body, as the case may be with the permission of the Registrar or under his direction.

- (ii) The Registrar, may of his own motion or on a reference made to him, declare the proceedings of the meeting referred to in clause (i) as invalid, if he is satisfied that the meeting was held without proper notice or without all the members having received the notice for the meeting or if the meeting was not conducted at the appropriate place and time ; and
- (iii) No matter shall, except with the permission or direction of the Registrar be considered in a meeting of a general body, committee or in a meeting of any smaller body set up by either of them unless that matter is specifically included in the agenda which is circulated to all members at least fifteen clear days or seven days in advance, respectively.
- (iv) Should a difference of opinion in respect of any matter arise between a nominated member of the committee and other members thereof, the opinion of the nominated member shall be recorded in the minutes of the meeting in the words of the nominated members and the minutes shall also be got signed from the nominated member. As required by sub-section (2) of Section 29, the Chairman or the Chief Executive Officer shall, as soon as possible, make a reference to the Government and if no reference is made within seven days of the date of the meeting the Registrar may, on receipt of a report from a nominated member, make reference to the government for getting its decision.

(2) In a society in which shares have been subscribed by the Government and of which another Co-operative Society is a member the Registrar may after such inquiry as he may deem fit and after giving the person concerned a reasonable opportunity of showing cause, remove any member of the committee who has been guilty of any act of omission or commission resulting in financial loss to the society.

**111. Service of order.** *Section 131(2)(xl)*—Any order, decision or award and other document required under the Act or any rule made thereunder to be served upon any cooperative society or any person shall, save as otherwise provided in the Act or such rules, be served.—

- (a) If the document is addressed to the co-operative society:-
- (i) by delivering it to the Secretary, the President, the Chairman, the Managing Director, the Manager or any other person to whom the management of the co-operative society concerned is entrusted for the time being; or
  - (ii) by sending it by registered post to the persons mentioned in sub-clause (i);
- (b) if the document is addressed to the member, creditor or any other person;
- (i) by tendering or delivering it to him; or
  - (ii) by sending it by registered post to him; or
  - (iii) if such person cannot be found, by affixing on some conspicuous part of his last known place of residence or business; or
  - (iv) if none of the means aforesaid is available, by publishing it in the "Sehkari Parkash" and some leading Hindi newspaper having wide circulation in the locality.

**112. Appointment of relatives to any office.** *Section 131(l)(xxxix)*~ Save in a producer society, no relative of any member of the committee or of any other officer of a Co-operative Society shall be appointed to any office in the Co-operative Society except with the previous sanction of the Registrar.

**113. Repeal -** The Punjab Co-operative Society Rules, 1963, are hereby repealed :

Provided that any action taken, order issued, by laws made under the provisions of the rules hereby repealed shall, in so far as it is not inconsistent with the provisions of these rules, be deemed to have been taken, issued or made under provisions of these rules.

## FORMS

### FORM I

(See rule 5)

#### APPLICATION FOR REGISTRATION OF A CO-OPERATIVE SOCIETY

We, the undersigned, hereby apply for the registration of a co-operative society, as proposed hereunder under Section 7(1) of the Haryana Co-operative Society Act, 1984, and enclose herewith three copies of the bye-laws as required by rule 8.

1. Name of proposed co-operative society
2. Class of co-operative society and whether limited or un-limited.
3. Address to be registered.
4. Area of operation.
5. Main objects.
6. Number of members at present.
7. Occupation of members.
8. Capital with details of shares, admission fees and deposits, if any.
9. Value of share and mode of payment.
10. Names of members of the Managing Committee elected by the Promoter members.
11. Name of applicant for purposes of correspondence by the Registrar
12. Particulars for the Promoter members :-