

## THE COOPERATIVE SOCIETIES ACT, 1925

To facilitate the formation and working of Co-operative Societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business; the act Cooperative Societies, 1925 was promulgated for the Provinces of Pakistan.

**1. Short title.** This Act may be called the Cooperative Societies Act, 1925.

**2. Extent.** This Act extends to the [Punjab/Sindh/N.W.F.P./Baluchistan] whole of the Province except the Tribal Area.

**3. Definitions.** In this Act, unless there is any thing repugnant in the subject or context!

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

b. **"Committee"** means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted;

(bb) **"Financing Bank"** Means a society the main object of which is to make loans in cash or in kind to any other society or to any agriculturist who is not a member of a society or to both societies and such agriculturists;

c. **"Member"** includes a person joining in the application for the registration of a society or a person admitted to membership after registration in accordance with the rules and bye-laws applicable to such society;

d. **"Officer"** includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or under the bye laws of a society to give directions in regard to the business of such society;

e. **"Society"** means a society registered or deemed to be registered under this Act;

f. **"Registrar"** means a person appointed to perform the duties of a Registrar of Cooperative Societies under this Act;

g. **"Rules"** means rules made under this act;

h. (1) a **"Resource society"** means a society formed with object of obtaining for its members the credit, goods or services required by them;

(2) a **"Producers' society"** means a society formed with the object of producing and the disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society;

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

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

(5) a **"General Society"** means a society not falling under any of the four classes above mentioned.

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

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

**4. The Registrar.** The Provincial Government may appoint a person to be Registrar of Cooperative Societies for the Province or any portion of it, and may appoint a person or

persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of a Registrar under this Act.

#### **4-A. Power of Registrar to issue search warrant.**

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

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

#### **5. Societies which may be registered.**

Subject to the provisions here in after contained a society which has as its object the promotion of the economic interest of its members in accordance with cooperative principles or a society established with the object of facilitating the operation of such a society, may be registered under this Act with or without limited liability.

**6. Restrictions on interest of member of society with limited liability and a share capital.** Where the liability of the members of society is limited by shares, no member other have than society shall

a. Hold more than such portion of the share capital of the society subject to a maximum of one-fifth, as may be prescribed by the rule; or

b. Have or claim interest in the share of the society exceeding then thousand rupees provided that it the society is a housing society a member may have or claim an interest in the shares of the society not exceeding Rs.20,000.

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

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

#### **9. Application for registration.**

(1) For purpose of registration an application to register shall be made to he Registrar.

(2) The application shall be signed;

a. in the case of a society of which a member is a society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section(1) ; and

b. in the case of a society of which a member is a society by a duly authorised person on behalf of every such society and where all the members of the society are not societies, by ten other members, by all the them.

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

**10. Registration.** If the Registrar is satisfied that a society has complied with the provisions of this act and the rules and that its proposed bye-laws are not contrary to [any law for the time being in force] he may register and its bye laws.

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

**12. Annual general meeting.** Every society shall within a period of three months after the date fixed for making up its accounts for the year under the rules for the time being in force call a general meeting of its members.

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

- (1) on the requisition in writing of one fifth of the members of the society, or
- (2) at the instance of the Registrar

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

**15. Amalgamation or transfer of Societies.** (1) Any two more societies may, with the approval of the Registrar by a resolution passed by a three fourths majority of the members present at a special general meeting of each such society held for purpose, amalgamate as a single society; provide that each member has had clear fifteen days written notice of the resolution and the date of the meeting. Such an amalgamation may be effected without a dissolution, or a division of the funds, of the amalgamating societies. The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

**16. Amendment of the bye-laws of a society.** (1) No amendment of the bye-law of a society shall be valid until it is registered under this Act.

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

**16(A).** Power of Government to amend bye-laws.

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

**17(A) Special Provisions for membership of resource Societies.** Notwithstanding anything contained in this act and any other law for the time being in force.

**17(B) Transfer of Interest in a Housing Society.**

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

member.

**18. Votes of members.** (1) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the chairman shall have a casting vote. (2) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote in the affairs of such other registered society.

**18(A) Disqualification for being and for voting at an election of Director, Manager or other Officers of the Society.** A member of the society to which the provisions of this section have been applied to the Provincial Government by Notification in the Official Gazette shall be disqualified for being, and for voting at an election of, a Director, Manager or other officer of the society.

**19. Restrictions on transfer of share or interest.**

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

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

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

**21. Copy of Act, etc. to be open to inspection.** Every society shall keep open to inspection at all reasonable times at the registered address of the society.

- a) a copy of this act.
- b) A copy of the rules governing such society,
- c) A copy of the bye laws, of such society, and
- d) A register of its members

**22. Audit.** The Registrar shall be himself or by some person authorized by him in writing by general or special order in this behalf audit the accounts of every society once at least in every year.

**22(A). Power of Registrar to exercise powers under section 50-A in the course of and audit.** Where in the course of an audit under section 22 it appears to the Registrar that there exists any such ground as is specified in section 50-A he may, of his own motion or on the application of the person authorised by him under section, 22 exercise the powers specified in section 50-A.

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

**24. Prior claim of society.** Subject to any prior claim of the Crown in respect of land revenue of any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent.

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

**26. Share or interest not liable to attachment.** Subject to the provisions of section 25, the share or interest of a member in the capital of a society or in any provident fund established under section 41 of this Act shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member, and [neither the official assignee under the insolvency (Karachi Division and Dacca) Act, 1909 nor a Receiver under the Provincial Insolvency Act 1920, shall, be entitled to or have any claim on such share or interest.

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

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

(2) A society shall subject to the provision of Section 25 and unless prevented by an order of a competent court pay to such nominee, heir or legal representative, as the case may be all other moneys due to the deceased member from the society.

(3) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

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

**29. Liability of the estates of deceased members.** The estate of a deceased member shall be liable for a period of one year from the date of his decease for the debts of a society as they existed at the time of his death.

**30. Register of members.** Any register or list of members or shares kept by any society shall be prima facie evidence of any of the following particulars entered therein the date at which the name of any person was entered in such register or list as a member; (b) the date at which any such person ceased to be a member

**31. Admissibility of copy of entry as evidence.** A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a society shall, if duly certified in such manner as may be prescribed by the rules, be admissible in evidence

of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would if produced, have been admissible to prove such matters.

**32. Exemption from compulsory registration of instruments relating to shares [etc] of society.**

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

(2) any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any rights, title, or interest to or in immovable property except in so far as it entitles whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or (3) any endorsement upon or transfer of any debentures issued by any society

**33. Power to exempt from income Tax duty, registration and court fees.**

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

(2) The Provincial Government by notification in the Office Gazette may in the case of any society or class of societies, remit.

**33A. Provincial Government may give loans or guarantee interest.** (1) Except with the general or special sanction of the Registrar [and subject to such terms and conditions as he may impose] a society shall not make a loan to any person other than a member.

**34. Restrictions on loans.** (1) Except with the general or special sanction of the Registrar a society shall not make a loan to any person other than a member.

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

**35. Restrictions on borrowing.** A society shall receive deposits and loans from persons who are not members only to such extent under such conditions as may be prescribed by the rules or bye laws of the society.

**36. Restrictions on other transactions with non-members.** Consumers, Producers and Housing Societies may to the extent permitted by their bye laws trade with persons who are not members, but the transactions of a Resource society with persons other than members except as provided under section 34 or 35 shall be subject to such prohibitions and restrictions if any as the Provincial Government may by rules prescribe.

**37. Investment of funds.** A society may invest or deposit its funds in the Government Savings Bank; or (b) in any of the securities specialized in section 20 of the Trusts Act, 1882. (c) in the shares or on the security of any other society provided that no such investment shall be made in the shares of any society other than one with limited liability; or (d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar; or (e) in any other mode permitted by the rules.

**38. Restrictions on dividend.** No society shall pay a dividend to its members at a rate exceeding 10 per cent.

**39. Reserve fund.**

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

(2) In the case of a Resource or Producers society at least 1/4<sup>th</sup> of the net profits of the society each year shall be carried to the reserve fund and in the case of other society at least 1/10<sup>th</sup> of the net profits of the society each year shall be carried to the reserve fund and such reserve fund may be used in the business of the society or may be invested subject to the provisions of section 37 as may be general or special order direct or may with the previous sanction of [Provincial Government] be used in part for some public purpose likely to promote the objects of this Act or for some purpose of provincial or local interest.

**40. Restrictions on distribution of profit.** Subject to the provisions of Section 38 the balance of the profits of a society after making the prescribed provision for the reserve fund may together with any available profits of past years be distributed among its members and in the case of Consumer's and Producers societies also among persons who are not members to the extent and under the conditions prescribed by the rules or by the bye laws of such societies.

**41. Provident fund.** Any society may establish a provident fund for its members out of contributions from such members in accordance with bye law made by the society in this behalf and may contribute to such provident fund from its net profits after the prescribed payments have been made to the reserve fund business of the society but shall be invested under the provisions of Section 37 and provided further, that no part of such provident fund shall be considered as an asset of the society.

**42. Contribution to charitable purpose.** With the approval of the Registrar and after the payments prescribed by the sub-section (2) of Section 39 have been made to the reserve fund, any society

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

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

a. on the requisition of society duly authorised by rules made in this behalf to make such requisition, in respect of one of its members such member being itself a society;

b. on the application of a majority of the Committee of the society

c. on the application of 1/3<sup>rd</sup> of the members of the society.

3. All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require. (4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

**44. Inspection of books of indebted society.** (1) The Registrar may, on the application of a creditor of a society, inspect or direct some person authorised by him by order writing in his behalf to inspect the books of the society.

**44-A. Inspection of books by financing bank.** A financing bank shall have the right to inspect the books of any society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all

reasonable time have free access to the books, accounts documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

**44-B. Power of Registrar to exercise powers under Section 50-A in the course of an inquiry or inspection.**

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

**44-C. Power to remove officers.** An officer of a society, by whatever name called, may be removed by the Registrar, if, on an enquiry, he is satisfied that the said officer.

**44-D. Power of Registrar to give directions.**

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

**44-E. Special measures.** If it appears to the Registrar that in the interest of the members of the society or its depositors it is necessary that the moneys received any other assets of the society, whether held in the name of that society or any other person, or protected and preserved, the registrar or any other person authorised by him, may without prejudice to any other action or proceedings which may be taken against the society under any law for the time being in force.

**45. Cost of inquiry.** Where an inquiry is held under section 43 or an inspection is made under section 44 the Registrar may apportion the costs, or such part of the costs, as he may think right between the society, the members or creditor demanding the inquiry or inspection, the officers or former officers, and the members of past members of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 44-A of the books of any society other than an Agricultural Credit society the liability of which is unlimited.

**46. Recovery of cost.** Any sum awarded by way of cost under section 45 may be recovered on application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

**47. Winding up.** If the Registrar, after an inquiry has been held under section 43 or after an inspection has been made under section 44 [or section 44-A] or on receipt of an application made by three fourths of the members of a society present at a special general meeting, called for the purpose or of his own motion, in the case of a society that has not commenced working or has ceased working or possesses shares or members deposits not

exceeding Rs.500, or a society the shares or deposits of the members of which are in jeopardy is of the opinion that the society ought to be wound up he may issue an order directing to be wound up and when necessary may appoint a liquidator for the purpose and fix his remuneration.

**48. Society may be wound up if membership is reduced.** Where it is a condition of the registration of a society that it shall consist of at least ten members who are majors, the Registrar may be order in writing direct the society to be wound up if at any time it is proved to his satisfaction that the membership has been reduced to less than ten such members.

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

**50. Powers of a liquidator.** A liquidator appointed under section 47 shall have power with the sanction of the Registrar to do all or any of the following things.pay any class or classes of creditors in full; make any compromise or arrangement with creditor or persons claiming to be creditor or having or alleging themselves to have any claim present or future whereby the society may be rendered liable.

**50-A. Power of Registrar to assess damage against delinquent promoters etc.**

Where, in the course of the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, or, where the society is acting under sub-section(4) of section 34 as agent of the financing bank, has made any payment contrary to the instruction of the financing bank the Registrar may, on the application of the liquidator of any creditor or contributory, examine into conduct of such person and make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society or of the financing bank by way of compensation in regard to the misapplication retainer, misfeasance or breach of trust as the Registrar thinks just. (2) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

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

**52. Disposal of surplus assets.** After all the liabilities including the paid up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the bye laws of the society and when no object is so described to any object of public utility determined by the

general meeting of the society and approved by the Registrar or they may in consultation with them either be assigned by the Registrar in whole or in part to any or all.

**53. Surplus assets of housing society.** Where the society directed to be wound up is a housing society, its assets, both moveable and immovable, shall for the purposes of winding up or dissolution of the society jointly vest subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said society in general meeting specifically called for the purpose and one shall be nominated by the Provincial Cooperative Institute. Such persons shall for the purpose of winding up or dissolution of the society by the Joint Liquidators and shall have all the powers of the liquidator under this act. They may, with the sanction of the Registrar continue the working of the society, or may subject to his sanction and in consultation with the members of the society in general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned and when all the liabilities of the society are met may dispose of the surplus assets of the society if any, as provided in section 52.

**54. Arbitration.** If any dispute touching the business of a society other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society arises

- a. between members or past members of the society or persons claiming through a member or past member or;
- b. between members or past members or persons so claiming and any past or present officer agent or servant of the society or;
- c. between the society or its committee and past or present members of the society or;
- d. Between the society or its committee and any past or present officer agent or servant of the society or a surety of such officer agent or servant whether such surety is or is not a member of the society or;

**54-A Registrar's power to set aside the award and order the dispute to be referred back to arbitration.** In the case of any award made by the arbitrators under section 54 the Registrar if he is not one of such arbitrators, may of his own motion or on the application of any of the parties to the award by an order in writing recording reason therefore;

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

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar.

**56. Appeal against award of arbitrator.** Any party aggrieved by any decision of the Registrar's nominee made under section 54 or sub-section(3)of section 54-A or an order passed under section 55 by the Registrar's nominee or arbitrator may within one month of the date of the award or order appeal to the Registrar and the Registrar shall decide the appeal.

**57. Finality of award in certain orders.** The award of arbitrators or a decision by the Registrar or his nominee under section 54 or section 54-A or an order passed in appeal by

he Registrar under section 56 shall subject to the provision of sections 64 and 64-A, be final and conclusive and shall not be liable to be called in question in any civil or revenue court.

**58. Powers to before attendance.** Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 43 or shall make an inspection under section 44 or shall wind up a society or shall arbitrate, such Registrar or person authorized, as the case may be shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence and to compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure-1908 (V of 1908).

**59. Money how recovered.** Every order passed by a liquidator under section 50, or by the Registrar under section 50-A, or by the Registrar or his nominee or arbitrators on disputes referred to him or them under clause (g) of section 50 or under section 54 or under sub-section (3) of section 54-A, every order passed in appeal under section 65 every order passed by the Provincial Government in appeal against orders under section 50, 50-A, 54 or sub-section(3) of section 54-A and every order passed under section 64-A shall, it not carried out.

**59-A. Transfer of property which cannot be sold.** When in execution of an order sought to be executed under section 59, any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the issue of certificate of the Registrar, Liquidator or Assistant Registrar under clause (a) or (b) of sub-section (1), the Court or the Collector, as the case may be, may, with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and the said property or the portion shall be delivered to the society in the prescribed manner.

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

a. "Collector" includes an officer appointed by the Provincial Government to discharge any of the functions of the Collector under this Chapter;

b. "defaulter" means a person (including his legal representatives if he is dead) from whom any such debt or outstanding demand as is referred to in Section 59-C is recoverable;

c. words and expressions used herein and not herein before defined shall have the meanings respectively assigned to them by the Sind Land Revenue Code, 1879, or any other law relating to land revenue in force in the area.

**59-C. Case in which application for distant may be made.** Where any debt or outstanding demand is due to a society of any member of past member or is due to a society, which is authorised by the Registrar under sub-section (1) of section 34 to make loans to non-members, from any person who is not member of a society, the society may, in addition to any other remedy to which it is entitled by law, present an application to the Registrar requesting him to recover the debt or outstanding demand by detaining, while in the possession of the defaulter any crop or other produce belonging to him, whether the same is growing or is ungathered or has been reaped or gathered.

**59-D. Form of application.**

(1) Every application under the last foregoing shall specify:

- a. particulars of land on which the crop or produce is or has been grown;
- b. the name of the defaulter;
- c. a detailed account of the debts and outstanding demands due to the society;
- d. the nature and approximate value of the crop or produce to be distrained;
- e. if the crop or produce is growing or is un-gathered, the time at which it is likely to be fit to be reaped or gathered; and
- f. if the crop or produce has been reaped or gathered, the place where it is kept or such other particulars as may suffice for its identification.

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

**59-E. Procedure on receipt of application.** A society shall at the time of making an application under Section 56-C, file before the Registrar such documentary evidence, if any, as it may consider necessary for the purpose of proving the statements made in the application.

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

**59-G. Service of notice of demand and the grounds of distraint.**

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

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

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

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

**59-I. Sale proclamation to be issued unless demand is satisfied.** Unless the demand amount is immediately paid, the distraining officer shall issue a proclamation in the local language of the area of the intended sale specifying the particulars of the property distrained and the demand amount for which it is distrained and shall further notify that he will, at a place and on a day specified, not being less than three or more than seven days from the date of the distraint, sell the distrained property by public auction.

**59-J. Place of Sale.** The sale shall be held:

- a. in the case of growing crop, on or near the land on which such crop has been grown, or
- b. if the crop or produce has been reaped or gathered, at or near the place where it is kept.

**Provided that** the distraining officer may direct the sale to be held at the nearest place of

public resort, if he is of opinion that the crop or produce is thereby likely to sell to greater advantage.

**59-K. Provisions relating to growing crops.**

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

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

**59-M. Postponement of Sale.**

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

**59-N. Payment of purchase money.** The price of each lot shall be paid at the time sale or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall forthwith be resold.

**59-O. Certificate be given to the purchaser.** When the purchase money has been paid in full the officer holding the sale shall grant a receipt for the same and the sale shall become absolute as against all persons whomsoever.

**59-P. Proceeds of sale how to be applied.** When any property is sold under this Chapter the proceeds of the sale shall be applied to defraying the costs of distraint and sale and to the payment of the amount for which the distraint was made and the surplus, if any, shall be paid to the persons whose property has been sold.

**59-Q. Certain person may not purchase.** No officer or other person having any duty to perform in connection with any distraint or sale made under this Chapter and no officer or servant of any society shall, either directly or indirectly, acquire or attempt to acquire any interest in the property sold.

**59-R. Procedure where demand is paid before the sale.** If at any time after a distraint has been made under this Chapter and before the sale of the distrained property the defaulter or any other person deposits with Collector or with the distraining officer the demand amount together with such costs as may have been incurred after the service of the notice of demand, the order of distraint shall not be executed.

**59-S. Distraint of property which is under attachment.** Where an order of distraint issued under this Chapter and an order made by a Civil Court for attachment or sale relate to the same property, the order of distraint shall prevail, but if the property is sold under the order of distraint the surplus proceeds of the sale shall not be paid under Section 59-P to the owner of the property without the sanction of the Court by which the order of attachment or sale was made.

**59-T. Suit for compensation for wrongful distraint and appeals.** No appeal shall lie against an order made by Registrar or the Collector under this Chapter, but a person whose

property is distrained on an application made under Section 59-C may institute a suit against the applicant for recovery of compensation if such an applicant is not competent under that section.

**59-U. Saving** Nothing contained in this Chapter shall affect the operation of the provisions of Chapter XI of the Sind Land Revenue Code 1879, or the relevant provisions of any other law relating to the land revenue in force in the area in so far as they give priority to claims of the Provincial Government to any moneys recoverable under the provisions of that Chapter over any other debt, demand or claim.

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

**a. Default by a society officer or member.** A society with a working capital of Rs.50,000 or more or an officer or member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Act, or rules made there under required to give, send do or allow to be done; or

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

**c. Willful furnishing of false information.** A society or an officer or member thereof willfully makes a false return or furnishes false information; or

**d. Disobedience of summons, requisition or order.** Any person willfully or without any reasonable excuse disobeys and summons, requisition or lawful written order issued under the provisions of this act or rules made here under or does not furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act or rules made there under.

**61. Penalty for Offences not otherwise provided for.** Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding [One thousand rupees]

**62. Prohibition of use of the word "Cooperative".**

(1) No person other than a registered society shall without the sanction of the Provincial Government trade or carry on business under any name or title of which the word "Cooperative" or its vernacular equivalent forms part;

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

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

**62-A. Penalty.** However, contravenes the provisions of sub-section (3) of section 44-C or any directions given by the Registrar under section 44-D shall be guilty of an offence punishable with imprisonment of either description for a term of six months or with fine or with both.

**63. Cognizance of offences.** No court shall take cognizance of any offence punishable under this act except on a complaint in writing made by the Registrar or by a person duly authorized for the purpose by him.

**64. Appeals.** An appeal against an order or decision of or sanctioned by the Registrar under section 10, 16, 45, 47, 50 50-A, 54 or sub-section 54-A may be made by any party aggrieved or affected by the order of decision to the Provincial Government within two months of the date of the communication of the order.

**64-A. Power of Provincial Government and the Registrar to call for proceedings of Subordinate Officer and to pass orders thereon.** The Provincial Government and the Registrar may call for an examine the record of any inquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to the Provincial Government or the Registrar that any decision or order or proceedings so called for should be modified, or annulled or reserved, the Provincial Government or the Registrar, as the case may be, may pass such orders thereon as to it or him may seem fit.

**64-AA. Finality of orders of Provincial Government.** An order passed in appeal under section 64 or in revision under section 64-A by the Provincial Government shall be final and conclusive and shall not be liable to be called on question in any civil or revenue court.

**65. Recovery of sums due to the Government.**

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

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

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

**65-A.** A member of a society may execute an agreement in favour of a society providing that his employer shall be competent to deduct every month from the salary or wages payable to him by the employer such amount not exceeding the amount prescribed by the rules, as may be specified in the application and pay the amount so deducted to the society in the satisfaction of any debt or other damage owing by the members to the society.

**65-B. Officers of societies to be public servants.** Every officer of the society, including cooperative Bank, shall be deemed to be a public servant within the meanings of the section 21 of the Pakistan Penal Code, 1860.(XLV of 1860).

**66. Power to exempt societies from conditions as to registration.** Notwithstanding any thing contained in this act the Provincial Government may; by special order in each case and subject to such conditions, if any as it may impose, exempt any society from any

of the requirements of this Act as to registration.

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

**68. Companies Ordinance not to apply.** The provision of the Companies Ordinance, 1984 (XLVII of 1984) shall not apply to societies, registered under this Act.

**69. Branches, etc., of Societies outside the Province.** Every Cooperative Society registered outside the Province of Punjab / Sind / N.W.F.P / Baluchistan which has or establishes a branch or place of business in the province shall within six months from the commencement of this act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the bye laws and amendments and if these are not written in the English language, a certified translation in English thereof, and shall submit to the Registrar such returns and information as are submitted by similar societies in the Province in addition to those submitted to the Registrar of the Province where it is registered.

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

**70-A. Bar of Jurisdiction.** Notwithstanding any thing provided in any other law for the time being in force, but save as expressly provided in this Act.

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

**72. Repeal and Savings:** (1) The following enactments are hereby repealed:-

a. the Cooperative Societies Act, 1912; and

b. the Bombay Cooperative Societies Act, 1925 as applicable to the District of Karachi.

(2) Every society now existing which has been registered under the cooperative Credit Societies Act, 1904 or under the Cooperative Societies Act, 1912 shall be deemed to be registered under this Act and its bye laws shall so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(3) All rules regulations, notifications and order made or issued under this Act and in force at the time of the commencement of the Province Ordinance, 1965 shall so far as may be extend and apply until altered amended or rescinded by the competent authority, to the areas to which this Act, has been extended by the Sind Cooperative

Societies (Amendment) Ordinance, 1965.

(4) The repeal of the Acts specified in sub section (1) here in after referred to as the repealed Act shall not.

**72-A. Construction of references to Cooperative Societies Act, 1912 in enactments.**

All reference to the Cooperative Societies Act, 1912, occurring in and enactment made by any authority in Pakistan and for the time being in force in the Province of Sind shall, in the application to the said Province and such enactment be read and construed as references to this Act and anything done or any proceedings commenced in pursuance of any such enactment on or after the date on which this Act shall have come into operation shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Cooperative Societies Act, 1912 had been the reference to this Act, and no such thing or proceedings, shall be deemed to have been invalid on the ground that such enactment did not reference to this Act, and no such thing or proceeding shall be deemed to have been involved on the ground that such enactment did not refer to this Act.

**72-B. Validity of transfer made under section 59(a) of Sind VII of 1925.** (Rep. by the Sind Laws (Adapting, Revision, Repeal and Declaration) Ordinance, 1955 (Sind V of 1955), section 6, Sch. II).

**73. Repeal.** (Rep. by the Sind Laws (Adapting, Revision, Repeal and Declaration) Ordinance, 1955 (Sind V of 1955), section 6, Sch. II).

**SCHEDULE**

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