

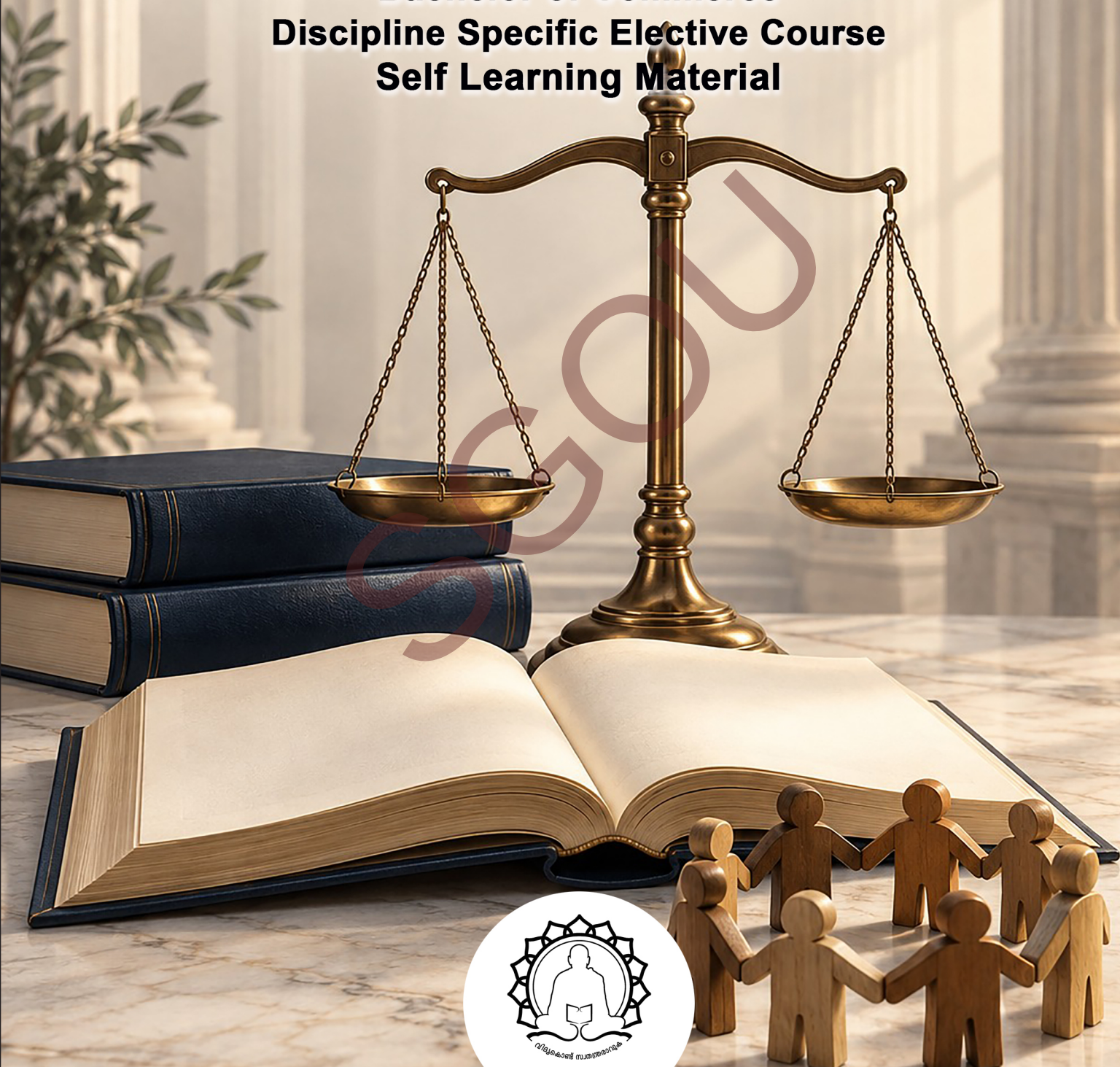
Co-operative Legal Systems

COURSE CODE: B21CM15DE

Bachelor of Commerce

Discipline Specific Elective Course

Self Learning Material



SREENARAYANAGURU
OPEN UNIVERSITY

SREENARAYANAGURU OPEN UNIVERSITY

The State University for Education, Training and Research in Blended Format, Kerala

SREENARAYANAGURU OPEN UNIVERSITY

Vision

To increase access of potential learners of all categories to higher education, research and training, and ensure equity through delivery of high quality processes and outcomes fostering inclusive educational empowerment for social advancement.

Mission

To be benchmarked as a model for conservation and dissemination of knowledge and skill on blended and virtual mode in education, training and research for normal, continuing, and adult learners.

Pathway

Access and Quality define Equity.

Co-operative Legal Systems

Course Code: B21CM15DE

Semester- VI

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The State University for Education, Training and Research in Blended Format, Kerala



Co-operative Legal Systems

Course Code: B21CM15DE

Semester- VI

Discipline Specific Elective Course

Bachelor of Commerce

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MESSAGE FROM VICE CHANCELLOR

Dear learner,

I extend my heartfelt greetings and profound enthusiasm as I warmly welcome you to Sreenarayanaguru Open University. Established in September 2020 as a state-led endeavour to promote higher education through open and distance learning modes, our institution was shaped by the guiding principle that access and quality are the cornerstones of equity. We have firmly resolved to uphold the highest standards of education, setting the benchmark and charting the course.

The courses offered by the Sreenarayanaguru Open University aim to strike a quality balance, ensuring students are equipped for both personal growth and professional excellence. The University embraces the widely acclaimed “blended format,” a practical framework that harmoniously integrates Self-Learning Materials, Classroom Counseling, and Virtual modes, fostering a dynamic and enriching experience for both learners and instructors.

The University aims to offer you an engaging and thought-provoking educational journey. The Bachelor of Commerce is one of the highly popular programmes due to the current need for skilled professionals in the field. This demand guided our approach as we developed the programme’s curriculum. The programme offers a comprehensive grasp of theoretical concepts alongside clear explanations of practical applications. We are careful to maintain a balance in the management components to preserve the integrity of the discipline. The Self Learning Material has been thoughtfully crafted to include illustrative examples. The Self-Learning Material has been meticulously crafted, incorporating relevant examples to facilitate better comprehension.

Rest assured, the university’s student support services will be at your disposal throughout your academic journey, readily available to address any concerns or grievances you may encounter. We encourage you to reach out to us freely regarding any matter about your academic programme. It is our sincere wish that you achieve the utmost success.

Best regards,



Dr. Jagathy Raj V. P.

01-08-2026

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1
BLOCK

Introduction to Co-operative Acts

Unit

Introduction to Co-operative Legislation

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ explain the meaning and importance of co-operative legislation.
- ◇ describe the need for legal regulation of co-operative societies.
- ◇ identify the major co-operative legislation introduced in India and Kerala.
- ◇ trace the evolution of co-operative legislation in India from the early legislation to the present legal framework.
- ◇ explain the important features and significance of the Co-operative Credit Societies Act, 1904 and the Co-operative Societies Act, 1912.
- ◇ discuss the contribution of the MacLagan Committee and other important committees to the development of co-operation in India.
- ◇ describe the development of co-operative legislation in Kerala.
- ◇ explain the major post-Independence developments in co-operative legislation and policy.
- ◇ discuss the significance of the Multi-State Co-operative Societies Act, 2002 and subsequent developments.
- ◇ examine the constitutional status of co-operative societies and the importance of the Ninety-Seventh Constitutional Amendment Act, 2011.

Prerequisite

Imagine a group of small farmers in a village in Kerala who need money to buy seeds, fertilisers and other agricultural

inputs before the planting season. None of them has enough savings, and the local moneylender is willing to provide the money, but at a very high interest rate. One farmer suggests, “Why don't we all come together, contribute a small amount and create an organisation through which we can obtain credit and help one another?” The idea sounds simple, but soon several questions arise: Who can become a member? Who will manage the money? How should the organisation be registered? Who will protect members' interests? What happens if the organisation fails to follow the rules? These questions show why co-operation alone is not enough. A proper legal framework is needed to give co-operative organisations a clear identity, protect members, regulate their activities and ensure democratic and responsible management. The journey from such simple community efforts to a structured system of co-operative legislation is the story that we are going to explore in this unit.

Keywords

Cooperation, Cooperatives, Cooperative Societies

Discussion

To understand the topic "Introduction to Cooperative Acts," it is important to first study the origin and development of the cooperative movement in India. Long before cooperative laws were enacted, Indian villages followed various forms of collective action. People jointly constructed and maintained village tanks, protected community forests such as Devarai and Vanarai, pooled food grains for common use, and operated chit funds. These activities reflected the traditional spirit of cooperation and resource sharing. Farmers also entered into seasonal partnerships to cultivate land together and distribute the harvest according to each person's contribution.

During the late nineteenth century, Indian farmers faced serious financial difficulties because they had little access to institutional credit. As a result, many became heavily indebted to moneylenders, leading to land loss and social unrest, including the Deccan Riots. The Famine Commissions of 1880 and 1901 recognised these problems and recommended establishing rural credit institutions to improve farmers' economic conditions.

Although proposals to establish agricultural banks were made in 1858 and 1881, they were not implemented immediately. The Famine Commission of 1901 further recommended forming Mutual Credit Associations, highlighting the effectiveness of collective responsibility and group lending in providing rural credit.

As cooperative activities became more widespread, a legal framework was needed to regulate and strengthen these organisations. Such legislation would ensure proper organisation, stability, and long-term growth of cooperative societies. Committees such as the Edward Law Committee played a key role in drafting India's first cooperative legislation.

A cooperative is a voluntary association of individuals who unite to achieve common economic, social, or cultural objectives. Initially, cooperatives mainly provided credit facilities to members who lacked access to formal banking services. They are governed by democratic principles, ensuring that every member has an equal voice in decision-making, generally following the principle of "one member, one vote."

The Cooperative Acts provide legal recognition to cooperative societies, specify members' rights and duties, and establish rules for their management and administration. By giving cooperatives a legal identity, these laws enable them to obtain financial assistance, expand their operations, and contribute more effectively to economic and social development.

Before the enactment of the Co-operative Credit Societies Act, 1904, organisations such as chit funds and village partnerships functioned without any formal legal framework. The 1904 Act enabled these groups to register as cooperative societies, function with greater transparency, and receive government recognition and support.

A clear understanding of these historical developments and fundamental concepts is essential for appreciating the reasons behind the introduction of Cooperative Acts and their significant contribution to the growth and development of the cooperative movement in India.

1.1.1 Introduction to Co-operative Legislation

The co-operative movement plays an important role in India's economic and social development. Co-operatives are organisations formed by people who voluntarily come together to meet their common economic, social and cultural needs through collective action. The basic idea behind co-operation is that individuals who may not possess sufficient resources individually can achieve greater economic strength by pooling their resources and working together. In this sense, co-operation represents the organised application of the principles of mutual help, self-help and collective responsibility.

The development of co-operation in India is closely associated with the problems faced by the rural population, particularly agriculturists, during the nineteenth and early twentieth centuries. Indian agriculture largely depended on rainfall, productivity was low, landholdings were often small and fragmented, and farmers had very limited access to institutional sources of finance. Without adequate institutional credit, agriculturists had to depend heavily on moneylenders and other private sources of finance. High interest rates, unfavourable lending conditions and the exploitation of indebted cultivators resulted in serious economic difficulties among the rural population.

The Government gradually realised that temporary financial assistance alone would not solve the underlying problem. A permanent institutional mechanism was necessary through which rural people could obtain credit on reasonable terms, develop the habit of thrift and collectively manage their financial affairs. This led to the introduction of co-operative legislation in India.

The history of formal co-operative legislation in India therefore began with the enactment of the Co-operative Credit Societies Act, 1904. This Act provided the first formal legal framework for establishing co-operative credit societies. The scope of co-operation was subsequently widened through the Co-operative Societies Act, 1912, and later through a series of provincial and State laws.

The Indian co-operative movement developed somewhat differently from the experience of many Western countries. In several Western countries, people first formed co-operative organisations voluntarily, and legislation was later introduced to regulate them. In India, the Government played a leading role in initiating the movement. Legislation was enacted first, and the Government subsequently encouraged people to form co-operative societies. Therefore, the Indian co-operative movement has often been described as an official or Government-promoted movement.

Co-operative legislation did not remain confined to agricultural credit. Over time, the legal framework expanded to cover agricultural marketing, consumer activities, housing, dairy, fisheries, labour, banking, processing and several other economic activities. Thus, the evolution of co-operative legislation reflects the changing economic and social needs of Indian society.

1.1.2 Meaning of Co-operative Legislation

Co-operative legislation is the body of laws enacted by competent legislative authorities for the formation, registration, management, supervision, regulation, auditing, development, and dissolution of co-operative societies.

A co-operative society is not merely an informal association of persons. Once it is registered under the relevant co-operative law, it acquires a legal identity and becomes subject to statutory rules. The law determines matters such as who can form a society, how it can be registered, members' rights and responsibilities, the management structure, the Registrar's powers, maintenance of accounts, audit, elections, dispute settlement, and winding up.

The need for such legislation arises from the special nature of co-operative organisations. Unlike ordinary business organisations that are primarily established to maximise returns to investors, co-operatives are based on collective ownership and democratic participation. Consequently, appropriate legislation is necessary to protect members' interests while maintaining democratic management, financial discipline, and accountability.

The legal framework also recognises the co-operative as an institution. It establishes the relationship between the society, its members and the Government. At the same time, good co-operative legislation should preserve the society's autonomy and not unnecessarily interfere with its democratic functioning.

The modern legal framework therefore attempts to balance two requirements. The first is regulation and accountability, and the second is autonomy and democratic functioning. This balance has been an important theme throughout the evolution of co-operative legislation in India.

1.1.3 Need for Co-operative Legislation

The introduction of co-operative legislation in India was closely connected with the economic difficulties of agriculturists. During the latter half of the nineteenth century, the rural population faced a severe shortage of institutional credit. Farmers depended heavily on private moneylenders, and indebtedness became widespread. In many cases, indebted farmers could not repay loans and eventually lost their agricultural land.

The Government introduced several measures before introducing co-operative legislation. The Deccan Agriculturists' Relief Act, 1879, the Land Improvement Loans Act, 1883, and the Agriculturists' Loans Act, 1884 were important measures intended to provide relief and financial assistance to agriculturists. The latter two measures were collectively referred to as the Taccavi Laws. These measures were important, but they did not provide a complete institutional solution to rural indebtedness.

The Government therefore began to explore the possibility of establishing agricultural banks and co-operative credit institutions. The Famine Commissions also highlighted the shortage of rural credit and the difficulties faced by agriculturists. The Famine Commission of 1901 particularly recommended establishing Mutual Credit Associations, which could provide credit based on collective responsibility.

Thus, the major reasons for introducing co-operative legislation included the need to provide affordable credit, protect agriculturists from exploitation, encourage thrift, develop collective responsibility, promote self-help and create permanent rural financial institutions.

The Government's objective was not merely to provide loans. It also aimed to develop an institutional system in which members would contribute their own resources, participate in decision-making, and accept collective responsibility for the organisation's functioning.

1.1.4 Traditional Forms of Co-operation in India

Although formal co-operative legislation began only in the twentieth century, the principles of co-operation had existed in Indian society for centuries. Rural communities traditionally depended on collective action to manage common resources and provide assistance to members during periods of difficulty.

Village communities jointly constructed and maintained irrigation tanks, forests and other common resources. Such community-managed forests were sometimes called Devarai or Vanarai. Villagers also practised collective grain storage and distribution, particularly to assist families facing shortages before the next harvest.

Traditional financial arrangements also reflected the spirit of co-operation. Chit Funds, Kuries in Travancore and Bhishies in Kolhapur provided informal mechanisms through which people could save and obtain financial assistance collectively. Similarly, agricultural arrangements such as Phads involved collective management of irrigation and sharing of water resources. Lanais represented another form of collective agricultural activity in which cultivators joined together for farming and shared the output according to their labour and contributions.

These traditional practices are important for understanding the development of co-operation in India because they demonstrate that the values of mutual assistance and collective responsibility were already present in Indian society. Formal legislation did not create the idea of co-operation; rather, it provided a legal and institutional framework for practices that had existed in various forms for a long period.

1.1.5 CO-OPERATIVE LEGISLATION IN INDIA AND KERALA

1.1.5.1 Co-operative Legislation in India

The formal legal history of co-operation in India begins with the Co-operative Credit Societies Act, 1904. The initial objective was narrow: to provide a legal framework for credit societies, particularly for agriculturists and rural communities. As experience was gained, it became clear that co-operation needed to cover activities beyond credit. This resulted in the enactment of the Co-operative Societies Act, 1912.

Co-operative legislation subsequently developed through different stages. The Government of India Act, 1919 transferred co-operation to the provincial sphere, enabling provinces to formulate their own laws. Later, the Government of India Act, 1935 continued co-operation as a provincial subject. Consequently, different provinces and, after Independence, different States developed their own co-operative laws.

This decentralised legislative structure remains significant. Co-operative societies whose objects are confined to one State are generally governed by the relevant State co-operative law, whereas societies operating across more than one State are governed by the central law relating to multi-State co-operative societies. The Ministry of Cooperation identifies the Multi-State Co-operative Societies Act, 2002 as the central legislation for such societies.

Thus, the legal framework for co-operation in India consists of both State-level co-operative legislation and central legislation relating to multi-State co-operative societies.

1.1.5.2 Co-operative Legislation in Kerala

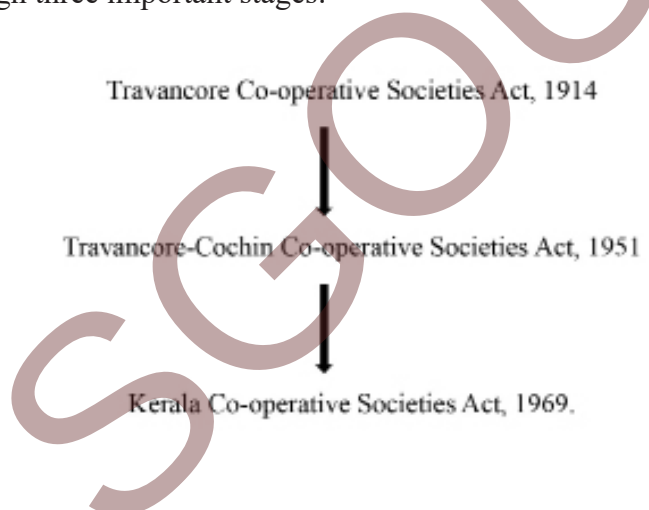
Co-operative legislation in Kerala has its roots in the legislative developments of the former princely State of Travancore. The history of co-operative legislation in Kerala is therefore closely linked to the region's political and administrative history.

The Travancore Co-operative Societies Act, 1914 marked an important stage in the development of the co-operative movement in Travancore. The legislation provided a formal legal framework for registering and operating co-operative societies in the State. The Trivandrum Central Co-operative Bank became the first co-operative bank registered under this legislation. After subsequent institutional developments and reorganisations, the institution ultimately became part of the present Kerala State Co-operative Bank, popularly known as Kerala Bank.

The formation of the State of Travancore-Cochin after the merger of Travancore and Cochin in 1949 created the need for a common legal framework for co-operative societies throughout the new State. Accordingly, the Travancore-Cochin Co-operative Societies Act, 1951 was enacted. This Act provided a common legal framework until it was subsequently replaced by the Kerala Co-operative Societies Act, 1969.

The enactment of the Kerala Co-operative Societies Act, 1969 represented an important stage in the development of co-operative legislation in Kerala. It replaced the earlier Travancore-Cochin legislation and became the principal legal framework governing co-operative societies in Kerala.

Therefore, the development of co-operative legislation in Kerala can broadly be understood through three important stages:



These legislative developments reflect the transformation of the co-operative movement from a relatively small rural credit movement into a broad institutional system covering banking, agriculture, marketing, consumer activities, housing, dairy, labour and other sectors.

1.1.6 EVOLUTION OF CO-OPERATIVE LEGISLATION IN INDIA

1.1.6.1 Background to the Co-operative Credit Societies Act, 1904

Co-operative legislation in India emerged through a gradual process. During the nineteenth century, the rural economy experienced considerable financial distress. Farmers had limited access to institutional credit and increasingly depended on private moneylenders.

The Government had already attempted to address agricultural indebtedness through various loan and relief measures. However, these measures did not create a permanent community-based credit system. There was therefore a growing recognition that agriculturists needed institutions through which they could obtain credit on reasonable terms.

In 1892, the Government of Madras appointed Sir Frederick Nicholson to examine the possibility of introducing agricultural banks. Nicholson studied European co-operative credit systems, particularly the system associated with Friedrich Wilhelm Raiffeisen in Germany. His first report, submitted in 1895 and known as “Find Raiffeisen”, advocated establishing co-operative credit institutions in India. He submitted a second report in 1897.

Another important contribution came from H. Dupernex, who published *People's Bank for Northern India* in 1900. His proposals highlighted successful European models of co-operative banking. At the same time, the Third Famine Commission of 1901 recommended the establishment of Mutual Credit Associations.

The recommendations of Nicholson, Dupernex and the Famine Commission created a strong case for formal legislation. Lord Curzon, the then Viceroy of India, appointed a committee under Sir Edward Law, with Frederick Nicholson and H. Dupernex as members, to prepare a draft law. This resulted in the enactment of the Co-operative Credit Societies Act, 1904.

1.1.6.2 Co-operative Credit Societies Act, 1904

The Co-operative Credit Societies Act, 1904 was the first major legislation relating specifically to co-operative societies in India. It was enacted on 25 March 1904 as Indian Act X of 1904. The Act contained 29 sections.

The legislation aimed to encourage the formation of primary co-operative credit societies that could provide affordable credit to agriculturists and rural communities. The legislation focused on rural indebtedness and farmers' dependence on moneylenders.

The Act created a legal mechanism to register and supervise co-operative credit societies. It also gave substantial powers to the Registrar and local Government authorities concerning registration, supervision and administration. Influenced by European co-operative experience, the Act provided the initial institutional foundation for the Indian co-operative movement.

The legislation received considerable response from rural communities. By the end of 1911, more than 5,000 co-operative societies had been registered, and membership had exceeded three lakh.

However, the first few years revealed that the Act had limited scope. It was primarily concerned with credit societies and did not adequately provide for non-credit societies or central co-operative organisations. These limitations created the need for a more comprehensive law.

1.1.6.3 Co-operative Societies Act, 1912

The Co-operative Societies Act, 1912 was enacted to overcome several limitations of the 1904 legislation. It significantly widened the scope of the co-operative movement.

Under the 1912 legislation, co-operative societies were no longer restricted to agricultural credit. The legal framework allowed societies to develop for different economic purposes. This included marketing societies, societies for artisans and weavers, consumer organisations and other non-credit societies.

The Act also facilitated the development of central co-operative institutions. The expanded legal framework encouraged the co-operative movement to shift from a narrow, credit-based structure to a broader system of economic co-operation.

The importance of the 1912 Act lies in its recognition that the economic needs of rural communities extended beyond credit. Farmers required access not only to loans but also to agricultural inputs, marketing facilities, processing arrangements and other economic services.

1.1.6.4 Maclagan Committee on Co-operation, 1914

The rapid growth of the co-operative movement created the need to examine its functioning. Accordingly, the Government appointed the Maclagan Committee on Co-operation in October 1914, chaired by Sir Edward Maclagan.

The Committee examined the problems affecting co-operative credit institutions and recommended measures for strengthening the movement. One of its most important recommendations was establishing a three-tier co-operative credit structure.

At the village level, Primary Co-operative Societies were to provide services directly to members. At the district level, Central Co-operative Banks were proposed to provide financial and organisational support to primary societies. At the provincial level, Provincial Co-operative Banks were expected to serve as the apex body.

This structure later became an important feature of the institutional organisation of rural co-operative credit in India. The Committee also stressed the importance of member education, staff training and professional development of co-operative personnel.

1.1.6.5 Travancore Co-operative Societies Act, 1914

While co-operative legislation was developing at the all-India level, important legislative developments were also taking place in the princely States. Travancore enacted the Travancore Co-operative Societies Act, 1914.

This Act provided a formal legal basis for establishing and running co-operative societies in Travancore. The development is particularly important from the Kerala perspective because it represents one of the earliest stages in the evolution of co-operative legislation in the region.

The Trivandrum Central Co-operative Bank became the first co-operative bank registered under the Act. Its later institutional development eventually contributed to

the formation of the present Kerala State Co-operative Bank.

1.1.6.6 Government of India Act, 1919

The Government of India Act, 1919, associated with the Montagu-Chelmsford reforms, brought about an important change in the administration of co-operation. The subject of co-operation was transferred from the Central Government to the Provincial Governments.

This change mattered because economic and social conditions varied considerably across provinces. Provincial Governments could now develop co-operative laws and institutions according to their regional requirements.

The decentralisation of legislative responsibility subsequently resulted in the development of different provincial co-operative laws. This constitutional arrangement eventually contributed to the present system, under which co-operative societies operating within one State are generally regulated by that State's law.

1.1.6.7 Development of Provincial Co-operative Legislation

Following the transfer of co-operation to the provinces, several provinces began developing their own co-operative laws.

The Bombay Co-operative Societies Act, 1925 was an important example. It introduced and strengthened democratic principles in co-operative functioning, including the principle of “one member, one vote.” This principle reflects the fundamental democratic character of co-operatives because voting rights are generally associated with membership rather than the amount of capital contributed.

The development of provincial legislation enabled co-operative societies to respond more closely to local economic conditions. At the same time, it created diversity in the legal framework because different provinces adopted different laws.

1.1.6.8 Royal Commission on Agriculture, 1928

The Royal Commission on Agriculture, appointed in 1928, examined the agricultural and co-operative sectors in India. Its recommendations recognised the continuing need for institutional agricultural finance.

One key recommendation was establishing Land Mortgage Banks to provide long-term agricultural credit. This was significant because short-term agricultural credit alone was insufficient for farmers who required finance for land improvement and other long-term investments.

The Commission's work therefore contributed to developing a broader agricultural credit structure in which co-operative institutions could play an important role.

1.1.6.9 Madras Co-operative Societies Act, 1932

The Madras Co-operative Societies Act, 1932 was enacted to consolidate and modernise the legal framework governing co-operative societies in the Madras Presidency.

The Act provided for the registration of societies and set out requirements relating to membership, liability, and management. Generally, registration required at least ten adult persons. Depending on the nature of the society, members could face limited or unlimited liability.

The Act also restricted individual shareholding in limited-liability societies to prevent excessive concentration of ownership. The Registrar was given important supervisory powers, including powers relating to inspection, audit and settlement of disputes.

The legislation illustrates the growing importance of legal supervision in maintaining financial discipline and proper management in co-operative societies.

After the reorganisation of States, the Madras legislation was gradually replaced by the laws of the successor States. In Kerala, the later development culminated in the Kerala Co-operative Societies Act, 1969.

1.1.6.10 Reserve Bank of India Act, 1934

The establishment of the Reserve Bank of India in 1934 marked another important stage in the institutional development of agricultural credit.

The Reserve Bank of India Act provided for an Agricultural Credit Department. This recognised the importance of organised agricultural credit and strengthened the institutional support available to rural credit organisations.

The role of co-operative institutions in agricultural credit was subsequently reinforced through various committees and policy initiatives. The Mehta Committee of 1937, for example, recommended that credit societies should be developed into multipurpose institutions capable of providing credit, agricultural inputs and marketing services.

1.1.6.11 Mehta Committee, 1937

The changing requirements of agriculture demonstrated that farmers needed more than credit. They needed seeds, fertilisers, agricultural inputs, marketing facilities and other services.

The Mehta Committee, appointed in 1937, therefore recommended the transformation of co-operative credit societies into multipurpose co-operative societies.

The idea behind multipurpose co-operatives was that the farmer could obtain several economic services through a single institution. Such societies could provide credit, supply agricultural inputs and assist in marketing agricultural produce.

This represented an important change in the philosophy of co-operative development. Co-operatives were increasingly viewed not merely as credit institutions but as comprehensive economic organisations serving the needs of their members.

1.1.6.12 Cooperative Planning Committee, 1945

In 1945, the Government constituted the Cooperative Planning Committee, chaired by Shri R. G. Saraiya.

The Committee examined the role of co-operative societies in India's economic development. It regarded co-operatives as suitable institutions for democratic economic planning and recommended their wider development in different sectors.

This marked the beginning of a broader understanding of co-operatives as instruments of economic and social development rather than merely institutions for rural credit.

1.1.6.13 Formation of Amul and the Development of Dairy Co-operation

An important development in the history of the Indian co-operative movement occurred in 1946 in Kheda District of Gujarat.

Milk producers in the region faced difficulties arising from the dominance of private dairy interests. Under the leadership of Tribhuvandas Patel, with the inspiration and support of national leaders including Sardar Vallabhbhai Patel, the milk producers organised themselves into co-operative societies.

On 14 December 1946, the Kheda District Cooperative Milk Producers' Union, popularly known as Amul, was established. The organisation subsequently became the foundation of the Anand pattern of dairy co-operation and later served as a model for dairy co-operatives throughout India.

The Amul experience showed that co-operative principles could be applied successfully not only to agricultural credit but also to production, processing, marketing, and distribution.

1.1.7 POST-INDEPENDENCE EVOLUTION OF CO-OPERATIVE LEGISLATION

1.1.7.1 Co-operatives and Economic Planning after Independence

After India became independent in 1947, the Government gave co-operatives an important role in the country's economic development strategy. Co-operatives were seen as instruments to extend economic opportunities to rural communities and weaker sections of society.

The Planning Commission incorporated co-operative development into successive Five-Year Plans. Co-operatives were expected to contribute to agricultural development, rural credit, marketing, processing, consumer distribution, housing and employment generation.

The post-Independence period therefore witnessed a significant expansion in the role of co-operative institutions.

1.1.7.2 First Five-Year Plan, 1951–1956

The First Five-Year Plan placed considerable importance on developing

co-operatives. It viewed co-operative principles as suitable for community development and encouraged the formation of different types of co-operative organisations.

The Plan encouraged the development of urban co-operative banks, workers' industrial co-operatives, consumer co-operative societies and housing co-operatives. It also emphasised co-operative education and training.

The objective was to develop co-operatives as institutions that could involve people directly in economic development.

1.1.7.3 All India Rural Credit Survey Committee, 1951

One of the most important developments in the post-Independence history of co-operative legislation was the appointment of the All India Rural Credit Survey Committee in 1951. The Committee is popularly known as the Gorwala Committee.

The Committee examined the rural credit system and submitted its report in 1954. It found that co-operative institutions had not reached a large proportion of the rural population. A substantial part of farmers' credit requirements continued to be met by non-institutional sources.

The Committee recommended an integrated rural credit structure and greater Government participation in the share capital of co-operative societies. It also recommended Government representation on co-operative boards, greater emphasis on education and training, and the establishment of the State Bank of India.

These recommendations strongly influenced the subsequent development of rural credit institutions and co-operative banking.

1.1.7.4 Second Five-Year Plan, 1956–1961

The Second Five-Year Plan attempted to make co-operatives an important organisational framework for economic development, particularly in agriculture.

The Plan aimed to ensure that every rural family became a member of at least one co-operative society. It also encouraged integrating credit and non-credit co-operatives.

Another important objective was to encourage Government participation while avoiding unnecessary interference with the autonomy of co-operative institutions.

The Plan also promoted co-operative marketing and processing. State marketing federations and the National Cooperative Marketing Federation (NAFED) became important institutions in this process.

1.1.7.5 National Development Council Resolution, 1958

The National Development Council adopted an important resolution on co-operative policy in 1958.

The resolution emphasised the village community as the basic unit of the co-operative movement. It also stressed the need for close coordination between village co-operative

societies and Panchayats.

The resolution further encouraged removing restrictive provisions in co-operative laws so societies could function more effectively.

1.1.7.6 Third Five-Year Plan, 1961–1966

The Third Five-Year Plan considerably expanded the scope of co-operative activity. The Plan encouraged co-operatives in agriculture, irrigation, processing, marketing, distribution, rural electrification, and housing.

The Plan also encouraged co-operatives in industries and gave particular importance to agro-processing. Sugar co-operatives and dairy co-operatives became important examples of applying co-operative principles to large-scale economic activities.

The development of the National Dairy Development Board (NDDB) and the spread of the Anand model further strengthened dairy co-operation in India.

1.1.7.7 National Institutions for Co-operative Development

The 1960s witnessed the establishment of several institutions that strengthened the co-operative sector. The Agricultural Refinance Corporation, established in 1962, supported long-term agricultural finance through co-operative institutions. The National Cooperative Development Corporation (NCDC) was established in 1963 to promote co-operative marketing, processing and other development activities. The National Dairy Development Board (NDDB) played a major role in extending the Anand model of dairy co-operation. The Vaikunth Mehta National Institute of Cooperative Management (VAMNICOM) was established at Pune in 1967 to provide professional education, training and research in co-operative management. These institutions helped expand co-operation beyond credit and supported professional management, finance, marketing, dairy development, and training.

1.1.7.8 Fourth, Fifth and Sixth Five-Year Plans

The Fourth Five-Year Plan (1969–1974) focused on strengthening the co-operative credit structure and improving the financial viability of co-operative institutions. Assistance was provided for management, share capital and rehabilitation of weak Central Co-operative Banks.

The Fifth Five-Year Plan (1974–1979) addressed loan overdues and regional disparities. It also emphasised professional management and the welfare of economically weaker sections.

The Sixth Five-Year Plan (1979–1985) focused on strengthening Primary Agricultural Credit Societies and transforming them into stronger multipurpose institutions. It also focused on dairy, fisheries, labour, and minor irrigation co-operatives.

1.1.7.9 NABARD Act, 1981

The National Bank for Agriculture and Rural Development Act, 1981 provided the statutory basis for NABARD.

NABARD began functioning on 12 July 1982. Its role included strengthening rural credit through refinance assistance to co-operative banks, commercial banks and Regional Rural Banks.

The establishment of NABARD represented another important stage in the institutional development of rural finance and demonstrated the continuing importance of co-operative credit institutions in rural development.

1.1.7.10 Model Cooperative Act, 1990

Economic liberalisation during the 1990s created a new competitive environment. Co-operative institutions increasingly had to compete with private sector organisations and other financial and business institutions.

This created a growing demand for greater autonomy, professional management, and reduced Government interference.

In 1990, the Planning Commission appointed an Expert Committee chaired by Choudhary Brahm Perkash. The Committee examined the condition of the co-operative movement and submitted a report in 1991 along with a draft Model Cooperative Law.

The Model Law aimed to encourage co-operatives to function as autonomous, self-managed and self-reliant organisations.

1.1.7.11 Parallel Co-operative Legislation

The recommendations for greater autonomy resulted in the development of what came to be known as Parallel Cooperative Acts in several States. These laws were intended mainly for self-reliant co-operatives that did not depend heavily on Government assistance in the form of share capital, loans or guarantees. The objective was to reduce excessive Government control and provide greater scope for democratic management and member participation. Several States adopted such legislation from the mid-1990s to the early 2000s.

1.1.7.12 Multi-State Co-operative Societies Act, 2002

As co-operative activities expanded beyond State boundaries, societies whose objects and operations were not confined to one State needed a separate legal framework.

The Multi-State Co-operative Societies Act, 2002 replaced the earlier 1984 legislation. It provides the legal framework for co-operative societies operating across more than one State.

The Act facilitates the voluntary formation and democratic functioning of multi-State co-operatives based on self-help and mutual aid, while providing functional autonomy.

The Central Registrar of Cooperative Societies administers multi-State co-operative societies. The Central Registrar handles registration, amendments to bye-laws,

management-related matters, elections, annual returns, audit reports, complaints, and liquidation.

1.1.7.13 National Cooperative Policy, 2002

The National Cooperative Policy, 2002 sought to promote comprehensive development of the co-operative movement.

The policy emphasised the development of co-operatives as:

autonomous, self-reliant, democratic and member-oriented organisations.

The Government recognised the importance of providing support to co-operatives while also protecting their independence and democratic character.

The policy also led to discussions concerning the need to replace restrictive and fragmented legal frameworks with laws that would provide greater autonomy to genuine co-operative organisations.

1.1.7.14 Producer Companies

Another important institutional development occurred through the introduction of the concept of Producer Companies.

Based on the recommendations of the Dr Y. K. Alagh Committee, the Companies Act framework was amended to provide for Producer Companies. The relevant provisions came into force in 2003.

Producer Companies combine certain features associated with co-operative organisations, particularly mutual assistance and producer participation, with the corporate form of organisation. They therefore provide producers with an alternative institutional mechanism for collective economic activity.

1.1.7.15 Vaidyanathan Committee, 2004

In 2004, the Government appointed the Task Force on Revival of Cooperative Credit Institutions, chaired by Professor A. Vaidyanathan.

The Committee examined the condition of rural co-operative credit institutions and concluded that financial assistance alone would not be sufficient for their long-term revival.

The Committee therefore recommended a combination of financial restructuring, legal reform and institutional restructuring. It also emphasised the need for appropriate State-level legislative reforms and stronger management of co-operative credit institutions.

1.1.7.16 Ninety-Seventh Constitutional Amendment Act, 2011

One of the most important developments in the constitutional history of co-operatives was the Constitution (Ninety-Seventh Amendment) Act, 2011. The Amendment gave

constitutional recognition to co-operative societies through three major measures. First, the right to form co-operative societies was included within Article 19(1)(c). Second, Article 43B was introduced as a Directive Principle of State Policy. It directs the State to promote the voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies. Third, Part IX-B was inserted into the Constitution, containing provisions relating to co-operative societies. The Amendment therefore sought to strengthen the constitutional position of co-operatives and emphasise their democratic and autonomous character.

However, the constitutional position requires an important qualification. In *Union of India v. Rajendra N. Shah*, the Supreme Court held that Part IX-B did not apply to co-operative societies operating solely within a State because the required State ratification had not been obtained. The provisions continued to apply to multi-State co-operative societies.

This judgment is important because it reaffirmed the constitutional division of legislative powers between the Union and the States regarding co-operative societies.

1.1.7.17 Multi-State Co-operative Societies (Amendment) Act, 2023

The Multi-State Co-operative Societies (Amendment) Act, 2023 introduced several reforms to the legal framework governing multi-State co-operative societies.

The amendments addressed areas such as elections, rehabilitation, reconstruction, development funds and audit. The reforms also strengthened provisions relating to representation of women and Scheduled Castes and Scheduled Tribes on boards.

These reforms aim to strengthen transparency, accountability, and democratic governance while enabling multi-State co-operative societies to function effectively in a changing economic environment.

1.1.7.18 Present Constitutional and Legal Position

The evolution of co-operative legislation demonstrates that the legal framework has changed considerably over time. Initially, legislation focused primarily on providing rural credit. Gradually, the scope expanded to include non-credit activities, marketing, processing, consumer services, dairy, housing, banking and other sectors.

At present, the legal framework operates at both State and Union levels. Co-operative societies whose objects are confined to one State are generally governed by the relevant State co-operative legislation, while multi-State co-operative societies are governed by the Multi-State Co-operative Societies Act, 2002. The Central Registrar handles the registration and regulatory processes for multi-State co-operative societies.

The Ministry of Cooperation, established in 2021, represents a further institutional development in the national administration of the co-operative sector. The Ministry's current official framework includes the constitutional provisions relating to co-operatives, State co-operative Acts, the Multi-State Co-operative Societies Act, 2002 and its 2023 amendment.

The evolution of co-operative legislation in India reflects the country's changing economic and social needs. The movement began primarily as a response to rural indebtedness and the exploitation of agriculturists by moneylenders. The Co-operative Credit Societies Act, 1904 provided the movement with its first formal legal foundation. The Co-operative Societies Act, 1912 subsequently widened the scope of co-operation beyond credit.

The transfer of co-operation to the provinces under the Government of India Act, 1919 created the basis for State-level co-operative legislation. Over the following decades, different provinces developed their own legal frameworks to meet local requirements. In Kerala, this process resulted in the Travancore Co-operative Societies Act, 1914, the Travancore-Cochin Co-operative Societies Act, 1951 and eventually the Kerala Co-operative Societies Act, 1969.

After Independence, co-operatives were incorporated into national development planning. The Five-Year Plans, rural credit committees and national institutions expanded the role of co-operatives from credit institutions into multipurpose organisations engaged in agriculture, marketing, processing, dairy, housing, consumer distribution and other activities.

The later period saw a shift in emphasis from Government-controlled co-operation to autonomous, democratic, and self-reliant co-operation. The Model Cooperative Law, the Multi-State Co-operative Societies Act, the National Cooperative Policy, and constitutional developments reflected this changing approach.

Thus, the history of co-operative legislation in India can be viewed as a movement through several broad stages: rural credit, expansion of co-operative activities, provincialisation, post-Independence development planning, institutional expansion, autonomy and constitutional recognition. The legal framework continues to evolve in response to changing economic conditions and the need to balance Government regulation with the autonomy and democratic character of co-operative organisations.

The historical development also demonstrates an important principle: legislation alone cannot ensure the success of co-operatives. Effective co-operative institutions require democratic member participation, professional management, financial discipline, education and training, transparency and genuine commitment to the principles of mutual assistance and self-help.

In this way, co-operative legislation provides the legal foundation, while active member participation gives life and practical meaning to the co-operative movement.

Recap

- ◇ Co-operative legislation refers to the laws that provide for the formation, registration, management, regulation and development of co-operative societies.
- ◇ The main reason for introducing co-operative legislation in India was to provide affordable credit to agriculturists and reduce their dependence on moneylenders.
- ◇ The Co-operative Credit Societies Act, 1904 was the first co-operative legislation in India and mainly dealt with co-operative credit societies.
- ◇ The Co-operative Societies Act, 1912 widened the scope of co-operation by permitting the formation of credit as well as non-credit co-operative societies.
- ◇ The Maclagan Committee, 1914 recommended a three-tier co-operative credit structure consisting of Primary Societies, Central Co-operative Banks and Provincial Co-operative Banks.
- ◇ The Government of India Act, 1919 transferred co-operation from the Central Government to the Provincial Governments, encouraging the development of provincial co-operative laws.
- ◇ In Kerala, co-operative legislation developed through the Travancore Co-operative Societies Act, 1914, the Travancore-Cochin Co-operative Societies Act, 1951, and the Kerala Co-operative Societies Act, 1969.
- ◇ After Independence, co-operatives became an important instrument of rural development, agricultural credit, marketing, dairy, housing and other economic activities.
- ◇ The Multi-State Co-operative Societies Act, 2002 provided a legal framework for co-operative societies operating in more than one State, while the 97th Constitutional Amendment, 2011 gave constitutional importance to co-operative societies.
- ◇ The evolution of co-operative legislation has gradually moved from credit and Government control towards wider activities, democratic functioning, autonomy, self-reliance and professional management.

Objective Questions

1. The first cooperative legislation enacted in India was:
2. The Co-operative Credit Societies Act, 1904 primarily dealt with:
3. Who conducted important investigations into rural credit before the 1904 Act?
4. The Co-operative Societies Act, 1912 introduced:
5. The Government of India Act, 1919 made cooperation a:
6. Which Act introduced the principle of "One Member, One Vote"?
7. The Gorwala Committee recommended the creation of:
8. NABARD was established in:
9. Producer Companies were introduced in:
10. The 97th Constitutional Amendment was enacted in:

Answers

1. Co-operative Credit Societies Act, 1904
2. Agricultural credit societies
3. Frederick Nicholson
4. Non-credit cooperative societies
5. Provincial subject
6. Bombay Co-operative Societies Act, 1925
7. State Bank of India
8. 1982
9. 2003
10. 2011

Self-Assessment Questions

1. Explain the evolution of co-operative legislation in India from the Co-operative Credit Societies Act, 1904 to the present legal framework.
2. Explain the main provisions and significance of the Co-operative Credit Societies Act, 1904 and the Co-operative Societies Act, 1912.
3. Discuss the development of co-operative legislation in India during the pre-independence period.
4. Explain the development of co-operative legislation and the co-operative movement in Kerala.
5. Trace the major developments in co-operative legislation in India after Independence.
6. Explain the need for co-operative legislation.
7. Write a short note on the MacLagan Committee, 1914.

Assignments

1. Analyse the evolution of co-operation legislation in India.
2. Prepare a detailed report on evolution of co-operation legislation in Kerala.
3. Compare the co-operative legislation in India after and before Independence.

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Unit 2

Co-operative Acts

Learning Outcomes

Upon successful completion of this unit, learners will be able to:

- ◇ Trace the evolution of co-operative legislation in India, from the Co-operative Credit Societies Act, 1904 to the Multi-State Co-operative Societies Act, 2002.
- ◇ Explain the objectives, features, and significance of the major co-operative legislations, including the Co-operative Credit Societies Act, 1904, the Co-operative Societies Act, 1912, the Madras Co-operative Societies Act, 1932, and the Multi-State Co-operative Societies Act, 2002.
- ◇ Examine the administrative structure and regulatory framework of co-operative societies, including the powers and functions of the Registrar of Co-operative Societies.
- ◇ Compare the major co-operative legislations with respect to their objectives, legal provisions, governance systems, and contribution to the co-operative movement in India.
- ◇ Evaluate the role of co-operative legislation in promoting rural development, institutional finance, democratic governance, financial accountability, and socio-economic progress.
- ◇ Develop the ability to interpret and apply the principles of co-operative legislation in academic, legal, and practical contexts relating to co-operative societies. describe social aspects of cooperation

Prerequisite

Before studying the Cooperative Acts, learners should acquire a basic understanding of the origin, concept, and historical development of the co-operative movement in India. The spirit of cooperation existed in Indian society long before formal laws were enacted and was reflected in practices such as collective farming, community irrigation, shared management of common resources, chit funds, and mutual aid. The widespread indebtedness of farmers during the late nineteenth century, together with the recommendations of the Famine Commissions and the contributions of Sir Frederick Nicholson, H. Dupernex, and the Edward Law Committee, led to the enactment of the Co-operative Credit Societies Act, 1904, which laid the foundation for organised co-operative legislation in India.

Learners should also be familiar with the fundamental principles and objectives of co-operative societies, including voluntary membership, democratic control, equality, self-help, and the principle of "one member, one vote." Understanding the role of Cooperative Acts in regulating the formation, registration, administration, auditing, and supervision of co-operative societies is essential. In addition, knowledge of the evolution of co-operative legislation—from the Co-operative Societies Act, 1912 to the Kerala Co-operative Societies Act, 1969, the Multi-State Co-operative Societies Act, 2002, and the 97th Constitutional Amendment Act, 2011—will enable learners to appreciate the contribution of co-operative law to democratic governance, financial inclusion, rural development, and the socio-economic advancement of India.

Keywords

Famine Commissions , Multi-State Co-operative Societies

Discussion

The development of the co-operative movement in India was closely connected with the development of legislation. In the early stages, co-operative institutions were mainly established to provide credit to farmers and rural communities who depended heavily on private moneylenders. The Co-operative Credit Societies Act, 1904 provided the first legal foundation for the co-operative movement in India. The Co-operative Societies Act, 1912 subsequently widened the scope of co-operation by recognising both credit and non-credit societies.

A major constitutional development took place in 1919, when co-operation became a provincial subject, giving provinces greater responsibility for developing and regulating

co-operative societies. This led to provincial legislation, including the Madras Co-operative Societies Act, 1932. As co-operative organisations grew and operated across State boundaries, separate legislation became necessary. This resulted in the Multi-State Co-operative Societies Act, 1984. The 1984 Act was later replaced by the Multi-State Co-operative Societies Act, 2002, which introduced a more comprehensive framework for administering and managing multi-state co-operative societies.

Thus, the history of co-operative legislation in India reflects a gradual shift from credit-based rural co-operation to diversified, democratic, and multi-state co-operative institutions.

1.2.1 The Co-operative Credit Societies Act, 1904

1.2.1.1 Introduction

The Co-operative Credit Societies Act, 1904 was the first legislation enacted in India specifically to provide a legal framework for co-operative societies. It came into force on 25 March 1904 during British rule.

The Act's main purpose was to provide institutional credit to farmers and rural communities and reduce their dependence on private moneylenders. At the time, many Indian farmers depended heavily on moneylenders, who often charged high interest rates. This indebtedness often led to the loss of agricultural land and other assets.

The Act was influenced by the development of co-operative credit institutions in Europe and was modelled partly on the English Friendly Societies Act, 1896. It contained 29 sections and represented the beginning of organised co-operative legislation in India.

1.2.1.2 Background of the Act

During the late nineteenth century, the economic condition of Indian agriculturists was a serious concern. Farmers frequently required loans for agricultural activities, household expenditure and other emergencies. Institutional sources of rural credit were poorly developed; therefore, farmers depended mainly on moneylenders.

Moneylenders often provided loans at high interest rates. This increased indebtedness among farmers and, in many cases, the loss of their land.

The Government began to examine the possibility of introducing co-operative credit institutions in India. After studying European co-operative credit systems, Sir Frederick Nicholson strongly supported establishing co-operative credit institutions in India. H. Dupernex also supported the development of people's banks.

Following these recommendations, the Government appointed the Edward Law Committee to examine the matter and suggest suitable legislation. The recommendations ultimately resulted in the enactment of the Co-operative Credit Societies Act, 1904.

The Act therefore marked the beginning of the organised co-operative movement in India.

1.2.1.3 Objectives of the Act

The major objectives of the Co-operative Credit Societies Act, 1904 were:

1. To encourage habits of thrift and saving among people.
2. To promote self-help and mutual assistance.
3. To provide farmers and rural communities with an organised source of credit.
4. To reduce the dependence of farmers on private moneylenders.
5. To protect agriculturists from exploitative lending practices.
6. To provide legal recognition to co-operative credit societies.
7. To promote rural economic development through affordable institutional credit.

1.2.1.4 Salient Features of the Act

Minimum Membership

At least ten persons residing in the same village or town, or belonging to the same class, caste or occupation, could establish a co-operative society.

The common background of members was intended to promote mutual trust and make collective management easier.

Limited Scope

The Act recognised only co-operative credit societies. It did not provide for consumer, housing, marketing, industrial or other non-credit societies.

Therefore, the scope of the Act was mainly confined to providing credit to members.

Classification of Societies

The Act classified societies broadly into rural and urban societies.

Rural societies generally operated with unlimited liability, while urban societies could operate with either limited or unlimited liability depending on their constitution.

Registrar of Co-operative Societies

One of the important contributions of the Act was the creation of the office of the Registrar of Co-operative Societies.

The Registrar was responsible for functions such as:

1. Registration of societies.
2. Supervision of societies.
3. Inspection of societies.
4. Audit of accounts.
5. Conducting inquiries.
6. General regulation of co-operative institutions.

Maintenance and Audit of Accounts

Registered societies were required to maintain proper accounts. They were also subject to annual audit.

This provision promoted financial discipline and protected members' interests.

Reserve Fund

The Act included provisions on the use of profits.

Rural societies were not permitted to distribute dividends and were required to transfer profits to a Reserve Fund. Urban societies were required to transfer at least one-fourth of their profits to the Reserve Fund before distributing dividends.

The provision helped societies build financial strength.

Restrictions on Shareholding

The Act restricted individual shareholding to prevent the concentration of ownership and control in the hands of a few members.

Statutory Exemptions

Registered societies were provided with certain exemptions from:

1. Stamp duty.
2. Registration fees.
3. Certain taxes.

These concessions encouraged the establishment of co-operative societies.

1.2.1.5 Administration and Management

The Registrar of Co-operative Societies largely supervised the administration of Co-operative Societies.

The Registrar was responsible for registration, inspection, inquiry, audit and general supervision.

A registered society acquired the status of a body corporate. This gave it a separate legal identity. It could:

1. Own property.
2. Enter into contracts.
3. Institute legal proceedings.
4. Continue its existence despite changes in membership.

The Act also contained provisions relating to loans, investments, reserve funds, accounts, inspection, inquiry, dissolution and the rule-making powers of the Government.

1.2.1.6 Achievements of the Act

The Co-operative Credit Societies Act, 1904 played an important role in establishing the organised co-operative movement in India.

The Act encouraged the formation of co-operative credit societies across the country. It demonstrated that organised institutional credit could provide an alternative to dependence on private moneylenders.

The movement received considerable public support. By 1911, more than 5,300 co-operative societies had been registered, with membership exceeding three lakh.

The growth of these societies created confidence in the co-operative system and encouraged the Government to consider a broader legal framework.

1.2.1.7 Limitations of the Act

Although the Act was an important beginning, it had several limitations.

1. It recognised only credit societies.
2. It did not provide for consumer, housing, marketing, industrial or processing societies.
3. It did not adequately provide for central or federal co-operative societies.
4. The prohibition on dividends in rural societies reduced the incentive to contribute additional capital.
5. The distinction between rural and urban societies created administrative difficulties.
6. Unlimited liability in rural societies could discourage membership.
7. The Act did not adequately meet the growing needs of a developing co-operative movement.

These limitations created the need for a broader law, resulting in the Co-operative Societies Act, 1912.

1.2.1.8 Significance of the Act

The Co-operative Credit Societies Act, 1904 occupies a landmark position in the history of co-operation in India.

Its major contribution was establishing the first statutory framework for co-operative credit institutions. It also introduced the office of the Registrar and provided legal recognition to co-operative societies.

Although its scope was limited, the Act demonstrated the usefulness of co-operation in providing rural credit and promoting economic self-reliance. It therefore laid the foundation for the wider co-operative legislation that followed.

1.2.2 The Co-operative Societies Act, 1912

1.2.2.1 Introduction

The Co-operative Societies Act, 1912 was enacted to overcome the limitations of the Co-operative Credit Societies Act, 1904.

The 1904 Act was mainly concerned with credit societies. As the co-operative movement expanded, societies needed to engage in activities beyond credit.

The 1912 Act therefore extended legal recognition to both credit and non-credit co-operative societies. It provided a wider legal framework for the registration, management, supervision, audit and dissolution of co-operative societies.

The Act played an important role in transforming co-operation from a movement mainly concerned with rural credit into a broader socio-economic movement.

1.2.2.2 Objectives of the Act

The major objectives of the Act were:

1. To improve the economic welfare of members.
2. To encourage thrift, self-help and mutual assistance.
3. To expand the co-operative movement beyond credit societies.
4. To promote co-operative activities in agriculture, marketing, housing, production and consumer services.
5. To provide a comprehensive legal framework for co-operative societies.
6. To promote democratic management.
7. To establish effective supervision and audit.
8. To strengthen the financial stability of co-operative institutions.

1.2.2.3 Salient Features of the Act

Recognition of Credit and Non-Credit Societies

The most important improvement was recognizing both credit and non-credit co-operative societies.

This allowed societies to operate in areas such as:

1. Agriculture.
2. Consumer services.
3. Housing.
4. Marketing.
5. Production.
6. Industry.

Minimum Membership

A society could generally be registered with at least ten adult members having a common economic interest.

Limited and Unlimited Liability

The Act permitted societies to function with either limited liability or unlimited liability, depending on their nature and constitution.

Registered Bye-laws

Registered societies were required to have bye-laws governing their internal administration.

The bye-laws dealt with matters such as:

1. Membership.
2. Meetings.
3. Elections.
4. Management.
5. Financial administration.
6. Internal procedures.

Registrar of Co-operative Societies

The Registrar continued to play an important role in administering co-operative societies.

The Registrar could:

1. Register societies.
2. Supervise their activities.
3. Conduct inspections.
4. Conduct audits.
5. Hold inquiries.
6. Ensure compliance with the law.

Corporate Status

A registered society became a body corporate with a separate legal identity.

It could own property, enter into contracts, sue and be sued, and continue its existence despite changes in membership.

Financial Administration

The Act contained provisions relating to:

1. Accounts.
2. Audit.

3. Investment of funds.
4. Reserve funds.
5. Borrowing.
6. Lending.
7. Distribution of profits.

Dissolution

The Act also provided procedures for dissolving and liquidating co-operative societies and settling their assets and liabilities.

1.2.2.4 Important Provisions

The Act dealt with various aspects of co-operative administration, including:

1. Registration of societies.
2. Registration and amendment of bye-laws.
3. Membership.
4. Voting rights.
5. Transfer of shares.
6. Maintenance of accounts.
7. Annual audit.
8. Inspection and inquiry.
9. Investment of funds.
10. Reserve funds.
11. Distribution of profits.
12. Dissolution and liquidation.
13. Rule-making powers of the Government.

1.2.2.5 Advantages of the Act

The Act made several important contributions to the development of co-operation in India.

First, it widened the scope of co-operation by recognising non-credit societies.

Second, it established a more comprehensive framework for registration, management, audit, inspection and dissolution.

Third, it strengthened democratic participation by recognising members' role in managing societies.

Fourth, the Act granted registered societies corporate status, enabling them to function as independent legal entities.

Finally, the Act created favourable conditions for the expansion of co-operative

societies into agriculture, housing, consumer services, marketing, production and other economic activities.

1.2.2.6 Significance of the Act

The Co-operative Societies Act, 1912 was an important milestone in the history of co-operative legislation in India.

It transformed co-operation from a movement mainly focused on credit into a wider economic and social movement. It also provided the legal foundation for later provincial and State co-operative laws.

The Act therefore played an important role in the expansion, diversification and institutional development of the Indian co-operative movement.

1.2.3 Co-operation as a State Subject in 1919

1.2.3.1 Background

Constitutional changes introduced during British rule influenced the development of co-operative legislation in India.

The Government of India Act, 1919 introduced dyarchy in the provinces. Under this arrangement, provincial governments took over certain subjects.

Co-operation was made a provincial subject in 1919. This was an important development because it allowed provincial governments to take greater responsibility for promoting, developing, and regulating co-operative societies.

1.2.3.2 Meaning of Co-operation as a Provincial Subject

When co-operation became a provincial subject, provincial governments increasingly took responsibility for developing co-operative institutions.

This allowed different provinces to frame legislation according to their own local economic and social conditions.

As a result, co-operative legislation gradually became more region-specific.

1.2.3.3 Importance of the 1919 Development

Transferring co-operation to the provinces had several important consequences.

1. Provincial governments received greater responsibility for co-operative development.
2. Local conditions could be considered while framing co-operative policies.
3. Provinces could develop their own administrative arrangements.
4. Provincial co-operative legislation became increasingly important.
5. The development of co-operative societies became more closely connected with local agricultural and economic conditions.

This constitutional development eventually contributed to the growth of separate provincial co-operative laws, including the Madras Co-operative Societies Act, 1932.

1.2.3.4 Development after 1919

After co-operation became a provincial subject, different provinces began developing their own co-operative laws and administrative systems.

The growing diversity of co-operative activities also created a need for legislation that could meet the specific requirements of different regions.

In the Madras Presidency, these developments eventually resulted in the enactment of the Madras Co-operative Societies Act, 1932.

1.2.4 The Madras Co-operative Societies Act, 1932

1.2.4.1 Introduction

The Madras Co-operative Societies Act, 1932 (Act VI of 1932) was enacted to consolidate and amend the law relating to co-operative societies in the former Madras Presidency.

The Act provided a comprehensive legal framework for the registration, administration, management, supervision, audit and dissolution of co-operative societies.

It reflected the growing importance of co-operative institutions in the region's economic and social development.

1.2.4.2 Objectives of the Act

The major objectives of the Act were:

1. To promote co-operative principles.
2. To encourage thrift and self-help.
3. To promote mutual assistance among members.
4. To provide a legal framework for the formation and registration of co-operative societies.
5. To ensure proper administration and management.
6. To maintain financial discipline.
7. To promote democratic administration.
8. To provide effective supervision and audit.

1.2.4.3 Salient Features of the Act

Registration of Societies

A co-operative society could generally be registered with at least ten adult members.

The requirement was intended to ensure that a society was based on collective

participation rather than individual ownership.

Common Bond among Members

In lending societies, members were generally connected through a common locality, class, caste, tribe or occupation.

Such a common bond encouraged trust and mutual assistance among members.

Limited and Unlimited Liability

The Act permitted societies to function with either limited or unlimited liability.

In societies with limited liability, restrictions were placed on individual shareholding or interest to prevent excessive concentration of ownership.

Corporate Status

After registration, a co-operative society became a body corporate with perpetual succession and a common seal.

It could:

1. Own property.
2. Transfer property.
3. Enter into contracts.
4. Sue and be sued in its own name.

1.2.4.4 Role of the Registrar

The Registrar of Co-operative Societies exercised extensive powers under the Act.

The Registrar was responsible for:

1. Registration of societies.
2. Approval and amendment of bye-laws.
3. Supervision of administration.
4. Inspection.
5. Inquiry.
6. Audit.
7. Ensuring compliance with the Act.

Where a managing committee failed to perform its duties properly or acted contrary to law, the Registrar could take appropriate action under the relevant provisions, including Section 72, relating to supersession or dissolution of the committee and appointment of a Special Officer where applicable.

1.2.4.5 Audit and Inspection

Regular audit was an important feature of the Act.

The Registrar had powers to inspect accounts, examine the affairs of societies and conduct inquiries where necessary.

These provisions promoted:

1. Transparency.
2. Accountability.
3. Financial discipline.
4. Proper management.

1.2.4.6 Rights and Privileges of Co-operative Societies

The Act provided several legal rights and privileges to registered societies.

First Charge

A registered co-operative society could have a first charge over specified assets, crops or other interests of members in respect of certain outstanding loans or dues.

This strengthened the society's ability to recover amounts due from members.

Statutory Exemptions

Certain legal and financial concessions were provided to encourage the formation and development of co-operative societies.

These included exemptions relating to:

1. Registration of specified instruments.
2. Stamp duty.
3. Registration fees.

1.2.4.7 Settlement of Disputes

The Act provided a specialised mechanism for resolving disputes connected with co-operative societies.

Disputes generally had to be referred to the Registrar for arbitration or decision rather than taken directly to ordinary civil courts.

This helped provide a specialised and comparatively economical mechanism for dispute settlement.

1.2.4.8 Repeal and Successor Legislation

The Madras Co-operative Societies Act, 1932 is no longer in force.

Following the reorganisation of States and the development of modern State

co-operative legislation, later enactments replaced it.

In Tamil Nadu, it was eventually replaced by the Tamil Nadu Co-operative Societies Act, 1961, and subsequently by the Tamil Nadu Co-operative Societies Act, 1983.

In Kerala, the Act's application to the former Malabar region was eventually replaced by the Kerala Co-operative Societies Act, 1969.

Thus, the 1932 Act represents an important historical stage in the development of regional co-operative legislation.

1.2.4.9 Significance of the Act

The Madras Co-operative Societies Act, 1932 was an important development in South Indian co-operative legislation.

It strengthened:

1. Registration and legal recognition.
2. Democratic administration.
3. Financial discipline.
4. Audit and inspection.
5. Registrar supervision.
6. Legal rights of co-operative societies.
7. Dispute settlement.

Although it has now been replaced, the Act contributed significantly to the development of the co-operative movement in the regions that formed part of the former Madras Presidency.

1.2.5 The Multi-State Co-operative Societies Act, 1984

1.2.5.1 Introduction

The growth of co-operative institutions created a new requirement. Some co-operative societies began operating beyond the boundaries of a single State.

State co-operative laws were generally designed to regulate societies functioning within a particular State. Therefore, they were not suitable for societies whose membership or activities extended across two or more States.

To address this situation, Parliament enacted the Multi-State Co-operative Societies Act, 1984.

The Act provided a central legal framework for co-operative societies operating in more than one State.

1.2.5.2 Need for the Act

The Act became necessary because:

1. Some co-operative societies had activities extending beyond one State.
2. State laws could not effectively regulate multi-state societies.
3. A common legal framework was required.
4. Cross-State co-operative activities were increasing.
5. There was a need for uniform rules relating to registration, management and supervision.

1.2.5.3 Main Features of the 1984 Act

The Act provided a legal framework for:

1. Registration of multi-state co-operative societies.
2. Administration and management.
3. Supervision and regulation.
4. Maintenance of accounts.
5. Audit.
6. Management of funds.
7. Dispute settlement.
8. Reorganisation.
9. Liquidation and winding up.

The Act therefore represented an important step towards creating a national framework for co-operative societies operating across State boundaries.

1.2.5.4 Limitations of the 1984 Act

Over time, several weaknesses became apparent in the 1984 legislation.

The Act was increasingly seen as inadequate to meet the needs of a changing co-operative sector.

Important concerns included:

1. Limited operational autonomy.
2. Need for stronger democratic governance.
3. Need for more effective elections and member participation.
4. Need for greater transparency and accountability.
5. Need for improved financial administration.
6. Need for clearer dispute resolution mechanisms.
7. Need for more professional management.

These developments created the need for a new and more comprehensive law.

The Multi-State Co-operative Societies Act, 2002 was therefore enacted to replace the 1984 Act.

1.2.6 Replacement of the 1984 Act: Multi-State Co-operative Societies Act, 2002

1.2.6.1 Introduction

The Multi-State Co-operative Societies Act, 2002 replaced the Multi-State Co-operative Societies Act, 1984.

Parliament enacted the Act to provide a modern legal framework for co-operative societies whose members, objectives, and business activities extend across the boundaries of more than one State.

The 2002 Act sought to provide greater autonomy to multi-state co-operative societies while also ensuring democratic governance, transparency, accountability and proper supervision.

1.2.6.2 Need for Replacement of the 1984 Act

The 1984 Act had become less suitable for the changing requirements of the co-operative sector.

The major reasons for replacement included:

1. The need for greater autonomy.
2. The need for democratic governance.
3. The need for effective elections.
4. The need for greater member participation.
5. The need for improved financial administration.
6. The need for transparency and accountability.
7. The need for professional management.
8. The need for more effective dispute resolution.
9. The 2002 Act was therefore introduced as a more comprehensive framework.

1.2.6.3 Objectives of the Multi-State Co-operative Societies Act, 2002

The major objectives of the Act are:

Modern Legal Framework

To provide an updated legal framework for co-operative societies operating in more than one State.

Voluntary Formation

To promote voluntary formation and participation in co-operative societies.

Democratic Governance

To ensure that co-operative societies function according to democratic principles and that members participate in their administration.

Autonomy

To provide greater operational independence to co-operative societies and reduce unnecessary governmental interference.

Professional Management

1. To encourage efficient and professional administration.
2. Transparency and Accountability
3. To strengthen financial discipline through proper accounting, audit and accountability.
4. Sustainable Development
5. To facilitate the long-term growth and efficient functioning of multi-state co-operative societies.

1.2.6.4 Salient Features of the Act

Registration of Multi-State Co-operative Societies

The Act provides for the registration of co-operative societies whose membership and business activities extend beyond one State.

A central legal framework governs such societies rather than separate State co-operative laws.

Corporate Status

A registered multi-state co-operative society becomes a body corporate with perpetual succession and a common seal.

It can:

1. Own property.
2. Enter into contracts.
3. Sue and be sued.
4. Conduct activities in its own name.
5. Democratic Election of the Board
6. The Act provides for the democratic election of the Board of Directors.

This enables members to participate in selecting the body responsible for managing the society.

Powers of the Board and Chief Executive

The Act specifies the powers, functions and responsibilities of the Board of Directors and the Chief Executive.

This helps establish clear responsibility and accountability within the organisation.

Audit and Financial Administration

Multi-state co-operative societies must maintain proper accounts and undergo a statutory audit.

This promotes:

1. Financial discipline.
2. Transparency.
3. Accountability.
4. Proper management of funds.
5. Central Registrar

The Central Registrar of Co-operative Societies administers and regulates multi-state co-operative societies.

The Central Registrar performs statutory functions relating to registration, inspection, supervision and regulation.

Reorganisation

The Act contains provisions relating to:

1. Amalgamation.
2. Division.
3. Transfer of assets and liabilities.
4. Liquidation.
5. Winding up.

These provisions provide a legal mechanism to restructure and close societies when necessary.

Settlement of Disputes

The Act provides mechanisms for settling disputes relating to multi-state co-operative societies.

This provides a specialised legal framework for dealing with disputes.

1.2.6.5 Advantages of the 2002 Act

The Act provides several important advantages.

1. It provides greater autonomy to multi-state co-operative societies.

2. It strengthens democratic governance.
3. It provides a clearer framework for Board elections.
4. It promotes professional management.
5. It strengthens financial accountability through audits.
6. It promotes transparency in administration.
7. It enables societies to operate across State boundaries under a single central framework.
8. It encourages greater member participation.
9. It provides mechanisms for reorganisation and dispute settlement.

1.2.6.6 Significance of the Act

The Multi-State Co-operative Societies Act, 2002 is an important milestone in the development of co-operative legislation in India.

It provides a common legal framework for societies operating across State boundaries and promotes:

1. Democratic governance.
2. Member participation.
3. Professional management.
4. Financial accountability.
5. Operational autonomy.
6. Transparency.
7. Sustainable development.

The Act also reflects the constitutional objective of promoting autonomous and democratically controlled co-operative societies.

The 97th Constitutional Amendment Act, 2011 further strengthened the constitutional recognition of co-operative societies.

1.2.6.7 Multi-State Co-operative Societies (Amendment) Act, 2023

The Multi-State Co-operative Societies Act, 2002 was subsequently amended through the Multi-State Co-operative Societies (Amendment) Act, 2023, which came into force on 3 August 2023.

The amendment introduced changes intended to strengthen:

1. Democratic governance.
2. Transparency.
3. Accountability.
4. Member participation.
5. Professional administration.

6. Financial management.

Therefore, the current understanding of the law should reflect the 2023 amendment to the 2002 Act.

1.2.7 Evolution of Co-operative Legislation in India

The development of co-operative legislation is a gradual process.

Table 1.2.1 Evolution of Co-operative Legislation in India

Year	Legislation / Development	Major Significance
1904	Co-operative Credit Societies Act	First statutory framework for co-operative credit societies
1912	Co-operative Societies Act	Expanded co-operation to credit and non-credit societies
1919	Co-operation became a provincial subject	Greater provincial responsibility for co-operative development
1932	Madras Co-operative Societies Act	Regional legal framework for co-operatives in the Madras Presidency
1984	Multi-State Co-operative Societies Act	Central framework for societies operating across State boundaries
2002	Multi-State Co-operative Societies Act	Replaced the 1984 Act with a modern legal framework
2023	Multi-State Co-operative Societies (Amendment) Act	Further strengthened governance and transparency

The history of co-operative legislation in India demonstrates the gradual development of the co-operative movement from a small rural credit initiative into a broad economic and social institution.

The Co-operative Credit Societies Act, 1904 marked the beginning of statutory co-operative legislation in India. It primarily focused on providing rural credit and reducing dependence on moneylenders.

The Co-operative Societies Act, 1912 widened the scope of co-operation by recognising both credit and non-credit societies. It provided a more comprehensive framework for registration, administration, audit and supervision.

In 1919, co-operation became a provincial subject, which encouraged the development of regional co-operative laws. The Madras Co-operative Societies Act, 1932 was an important example of such regional legislation.

With the emergence of co-operative societies operating across State boundaries, the Multi-State Co-operative Societies Act, 1984 was enacted. However, changing requirements and the need for greater autonomy, democratic governance, transparency, and professional management led to its replacement by the Multi-State Co-operative Societies Act, 2002.

The 2002 Act remains the central legal framework for multi-state co-operative societies, subject to subsequent amendments, including the 2023 amendment.

Thus, the evolution of co-operative legislation can be viewed as a movement from rural credit → diversified co-operation → provincial regulation → multi-state co-operation → greater autonomy and democratic governance.

Recap

- ◇ The Co-operative Credit Societies Act, 1904 marked the beginning of formal co-operative legislation in India, mainly to provide institutional credit to farmers and reduce dependence on moneylenders.
- ◇ The Co-operative Societies Act, 1912 widened the scope of co-operation by recognising both credit and non-credit co-operative societies and providing a broader legal framework for their registration and administration.
- ◇ In 1919, co-operation became a provincial subject, giving provincial governments greater responsibility for the promotion, development and regulation of co-operative societies.
- ◇ The Madras Co-operative Societies Act, 1932 provided a comprehensive regional framework for the registration, management, supervision, audit and development of co-operative societies in the former Madras Presidency.
- ◇ The Multi-State Co-operative Societies Act, 1984 was introduced to regulate co-operative societies whose activities extended across more than one State, providing a common Central legal framework.
- ◇ The Multi-State Co-operative Societies Act, 2002 replaced the 1984 Act and introduced a more modern framework focusing on autonomy, democratic governance, professional management, transparency and accountability.
- ◇ Overall, co-operative legislation in India evolved from a limited focus on rural credit in 1904 to a wider system covering diverse co-operative activities and societies operating across State boundaries.

Objective Questions

1. The first cooperative legislation enacted in India was:
2. The Co-operative Credit Societies Act, 1904 came into force on:
3. The 1904 Act was mainly enacted to:
4. The Co-operative Credit Societies Act, 1904 was modelled on the:
5. The 1904 Act recognised only:
6. The office created under the 1904 Act for supervision of cooperative societies was:
7. Which of the following was a limitation of the 1904 Act?
8. The Co-operative Societies Act, 1912 was enacted mainly to:
9. The 1912 Act recognised:
10. A registered cooperative society under the 1912 Act became a:
11. The 1912 Act permitted societies with:
12. The 1912 Act laid the foundation for:
13. The Madras Co-operative Societies Act was enacted in:
14. The Act applied to the:
15. Disputes under the Madras Act were generally referred to:
16. The Madras Act was replaced in Kerala by the:

Answers

1. Co-operative Credit Societies Act, 1904
2. 25 March 1904
3. Provide institutional credit to farmers
4. English Friendly Societies Act, 1896
5. Credit societies
6. Registrar of Cooperative Societies
7. Recognition only of credit societies
8. Remove the deficiencies of the 1904 Act
9. Credit and non-credit cooperative societies
10. Body Corporate
11. Either limited or unlimited liability

12. State Cooperative Laws
13. 1932
14. Madras Presidency
15. Registrar
16. Kerala Co-operative Societies Act, 1969

Self-Assessment Questions

1. Explain the Cooperative Credit Societies Act, 1904.
2. Discuss the Co-operative Societies Act, 1912, with special reference to its objectives, important provisions and contribution to the development of the co-operative movement in India.
3. Explain the development of co-operative legislation in India from the Co-operative Credit Societies Act, 1904 to the Co-operative Societies Act, 1912 and the transfer of co-operation to the provincial level in 1919.
4. Discuss the salient features of the Madras Co-operative Societies Act, 1932 and examine its role in the regulation and development of co-operative societies.
5. Explain the Multi-State Co-operative Societies Act, 1984 and critically examine the need for its replacement by the Multi-State Co-operative Societies Act, 2002

Assignments

1. Trace the evolution of co-operative legislation in India from the Co-operative Credit Societies Act, 1904 to the Co-operative Societies Act, 1912. Discuss the major objectives, features and significance of both Acts.
2. Explain the significance of making co-operation a provincial subject in 1919. Examine how this change influenced the growth and administration of co-operative societies in India.
3. Discuss the major provisions of the Madras Co-operative Societies Act, 1932. Examine its role in the registration, management, audit, supervision and regulation of co-operative societies.
4. Explain the need, objectives and salient features of the Multi-State Co-operative Societies Act, 1984. What challenges led to the need for new legislation?

5. Discuss the Multi-State Co-operative Societies Act, 2002 as a replacement for the 1984 Act. Examine how the 2002 Act strengthened autonomy, democratic management, transparency and accountability in multi-state co-operative societies.

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Unit

History of Co - Operative Legislation in Kerala

Learning Outcomes

On successful completion of this unit, students will be able to:

- ◇ Trace the evolution of cooperative legislation in Kerala, from the pre-independence era to the enactment of the Kerala Co-operative Societies Act, 1969.
- ◇ Recognise the different cooperative laws that governed the regions of Malabar, Travancore, and Cochin before the formation of the State of Kerala, and understand their historical importance.
- ◇ Explain the need for a uniform cooperative law following the reorganisation of States in 1956 and assess the importance of establishing a single legal framework for cooperative societies in Kerala.
- ◇ Discuss the objectives of the Kerala Co-operative Societies Act, 1969, with particular emphasis on voluntary membership, democratic governance, financial accountability, and the protection of members' interests.
- ◇ Describe the fundamental cooperative principles incorporated in the Kerala Co-operative Societies Act, 1969, including self-help, cooperation, democratic management, and collective responsibility.
- ◇ **Examine the key provisions of the Kerala Co-operative Societies Act, 1969**, relating to registration, administration, supervision, auditing, inquiry, dispute settlement, and winding up of cooperative societies.
- ◇ **Evaluate the functions and powers of the Registrar of Cooperative Societies** in ensuring effective regulation, financial discipline, supervision, and proper administration of cooperative societies in Kerala.
- ◇ **Assess the significance of the Kerala Co-operative Societies Act, 1969** in creating a unified legal

framework and encouraging the growth and development of the cooperative movement in the State.

- ◇ **Analyse the role of cooperative legislation in promoting the development of major sectors in Kerala**, including agriculture, cooperative banking, housing, dairy, consumer services, and rural development.
- ◇ **Develop the ability to critically analyse the evolution of cooperative legislation in Kerala** and apply the principles of cooperative law to academic studies, legal interpretation, and practical issues involving cooperative societies.

Prerequisite

The evolution of co-operative legislation in Kerala is closely associated with the historical development of the three regions that constitute the present State of Kerala: Travancore, Cochin, and Malabar. Before the formation of Kerala State in 1956, these regions were administered under different political and administrative systems. Consequently, co-operative societies also developed under separate legal frameworks. The introduction of co-operative legislation provided an organised legal basis for the formation, registration, management, supervision and financial administration of co-operative societies.

The early development of co-operative legislation in the region can be traced to the wider growth of the co-operative movement in India following the enactment of the Co-operative Credit Societies Act, 1904. The legislation encouraged the formation of credit societies to provide affordable credit to farmers and other sections of society and to reduce dependence on moneylenders. The movement gradually expanded from credit societies to agricultural, consumer, banking, housing, industrial and other forms of co-operative organisations.

Keywords

Regional Co-operative Legislations, Cochin Co-operative Societies Act, 1913, Travancore Co-operative Societies Act, 1914

Discussion

In Travancore and Cochin, separate co-operative laws were subsequently introduced. The Cochin Co-operative Societies Act, 1913 and the Travancore Co-operative Societies Act, 1914 provided the legal foundation for the organised co-operative movement in these regions. The Malabar region, which formed part of the Madras Presidency, was administered under the co-operative legislation applicable to the Madras Presidency. After the integration of Travancore and Cochin and, later, the formation of Kerala State in 1956, the need for a uniform co-operative law became increasingly important. This development ultimately resulted in the enactment of the Kerala Co-operative Societies Act, 1969.

Thus, the history of co-operative legislation in Kerala reflects a gradual shift from region-specific legislation to a unified Statewide legal framework.

1.3.1 Cochin Co-operative Societies Act, 1913

The organised co-operative movement in the Cochin region received an important legal foundation with the enactment of the Cochin Co-operative Societies Act, 1913. The Act provided a statutory framework for forming and running co-operative societies in the Cochin State. It reflected the growing recognition of co-operation as an institutional mechanism for improving the economic conditions of farmers, small producers and other economically weaker sections.

Before the introduction of specific regional legislation, co-operative activities were governed by the Co-operative Credit Societies Act, 1904, enacted at the all-India level. However, the movement's expansion created a need for legislation suited to Cochin's administrative and economic conditions. The Cochin Co-operative Societies Act, 1913, therefore became an important milestone in the development of co-operative institutions in the region.

1.3.1.1 Background of Co-operative Movement in Cochin

The co-operative movement in Cochin developed mainly in response to the financial difficulties faced by farmers and ordinary community members. Rural households often depended on private moneylenders for credit and were vulnerable to high interest rates and unfavourable borrowing conditions. Co-operative societies offered an alternative system based on collective savings, mutual assistance and democratic participation.

The enactment of the Cochin Co-operative Societies Act gave legal recognition to such institutions and established a formal mechanism through which societies could be organised and supervised. Registration under the legislation gave societies a recognised legal identity and enabled them to conduct their activities under prescribed rules.

The movement gradually expanded beyond simple credit activities. Co-operative institutions began supporting agricultural development, savings, banking, and other economic activities. The development of central institutions further strengthened the co-operative structure in Cochin.

1.3.1.2 Cochin Co-operative Societies Act, 1913

The Cochin Co-operative Societies Act, 1913, was designed to provide a legal framework for establishing and administering co-operative societies. It established the basis for registering societies and prescribed rules governing their organisation, membership, management, and financial affairs.

The legislation was significant because it transformed co-operation from an informal practice of mutual assistance into a legally recognised institutional system. Societies could operate under approved bye-laws and under the supervision of the competent co-operative authority.

The Act also contributed to accountability within co-operative institutions. Proper maintenance of accounts, inspection, and supervision were necessary to protect members' interests and ensure that societies' resources were used for their intended purposes.

1.3.1.3 Development of Co-operative Banking in Cochin

The growth of primary co-operative societies created the need for stronger financial institutions to support them. An important development was the establishment of the Cochin Central Co-operative Bank in 1918. Central co-operative banking institutions played an important role in mobilising funds and providing financial assistance to primary societies.

The development of co-operative banking strengthened the institutional structure of the movement. Primary societies could obtain financial support from higher-level co-operative institutions, while members could access credit through their local societies. This helped establish a system based on mutual financial support and institutional co-operation.

1.3.1.4 Role of Co-operative Education in Cochin

The growth of co-operation required not only legislation and financial institutions but also public awareness. Co-operative education helped members understand the principles, objectives and responsibilities associated with co-operative organisations.

The publication of “Sahakarana Prabodhini”, associated with the Cochin co-operative movement, helped disseminate co-operative ideas and education. Such initiatives helped spread awareness regarding savings, collective action, democratic management and mutual assistance.

1.3.1.5 Significance of the Cochin Co-operative Societies Act

The Cochin Co-operative Societies Act, 1913 occupies an important place in the history of co-operative legislation in Kerala. Its major significance lies in providing a formal legal foundation for co-operative institutions in Cochin. It encouraged the development of registered societies, established administrative supervision and supported the expansion of the co-operative movement.

The legislation also laid the groundwork for later developments in co-operative banking and other forms of co-operative activity. However, the Act was applicable only within the Cochin region. Separate legislation in Travancore and different legal arrangements in Malabar meant there was still no common co-operative law for the entire geographical area that later became Kerala.

1.3.2 Travancore Co-operative Societies Act, 1914

The co-operative movement in Travancore developed rapidly during the early twentieth century. The enactment of the Travancore Co-operative Societies Act, 1914 marked a major stage in the institutional development of co-operation in the region. The Act provided the legal basis for establishing and regulating co-operative societies and gave administrative recognition to the growing co-operative movement.

The legislation was introduced amid growing awareness that collective economic action could provide an effective solution to the credit problems faced by farmers and ordinary households. The Act helped transform the emerging movement into a structured system of legally recognised institutions.

1.3.2.1 Background of Co-operative Movement in Travancore

The need for institutional credit was an important factor behind the growth of co-operation in Travancore. Farmers and small economic units often struggled to obtain credit at reasonable rates. The co-operative principle offered a mechanism for individuals to pool resources and obtain financial assistance on a mutual basis.

The government recognised the movement's usefulness and created an administrative structure to support its development. The appointment of C. Govinda Pillai as the first Registrar of Co-operative Societies in Travancore in 1914 was an important step in establishing systematic government supervision of co-operative institutions.

The Registrar's office became an important component of the co-operative administrative system. A specialised authority could organise registration, supervision, and other regulatory functions.

1.3.2.2 Travancore Co-operative Societies Act, 1914

The Travancore Co-operative Societies Act, 1914 established the legal foundation for co-operative societies in Travancore. It provided for the formal registration and administration of co-operative societies and recognised co-operation as an organised institutional mechanism to promote members' economic interests.

The Act helped establish principles concerning membership, management, liability, financial administration and supervision. Legal recognition of societies was important because it built greater confidence among members and enabled societies to operate under approved rules and bye-laws.

The legislation also strengthened the role of the Registrar and the co-operative administration. Government supervision was intended to ensure that societies operated according to law and maintained proper standards of financial and organisational management.

1.3.2.3 Development of Co-operative Banking in Travancore

The development of co-operative credit institutions led to the emergence of a structured co-operative banking system in Travancore. The Trivandrum Central Co-operative Bank was organised in 1915 and commenced its operations in 1916. It became an important institution in the development of co-operative banking in the region.

The institution subsequently underwent organisational changes and became part of the broader evolution of the central co-operative banking structure. The development of central banking institutions enabled primary co-operative societies to obtain financial support and helped strengthen the flow of institutional credit.

This development illustrates the gradual shift from individual village-level societies to a multi-tier co-operative credit structure, in which primary societies operated at the local level and higher-level institutions supported their financial needs.

1.3.2.4 Evolution of the Travancore Co-operative Banking Structure

The history of co-operative banking in Travancore is closely connected with the broader evolution of co-operative legislation. The central co-operative banking institution developed through different organisational stages as the political and administrative structure of the region changed.

After the integration of Travancore and Cochin, the co-operative banking structure also changed. The Travancore Central Co-operative Bank, and later the Travancore-Cochin Central Co-operative Bank, became important stages in the development of the present State-level co-operative banking system.

This historical development ultimately contributed to the establishment of the Kerala State Co-operative Bank, which later became part of the institutional structure known as Kerala Bank.

1.3.2.5 Significance of the Travancore Co-operative Societies Act

The Travancore Co-operative Societies Act, 1914 was significant because it provided an organised legal and administrative foundation for the co-operative movement in Travancore. It supported the establishment of registered societies, encouraged institutional credit and strengthened government supervision.

The Act also contributed to the development of co-operative banking and helped create an institutional network that could mobilise savings and provide credit. Its importance extends beyond the individual societies formed under it because it helped develop Kerala's broader co-operative infrastructure.

1.3.3 Co-operative Legislation in Malabar

Although the prescribed syllabus refers specifically to the Cochin Co-operative Societies Act, Travancore Co-operative Societies Act and Kerala Co-operative Societies Act, 1969, understanding Malabar is necessary to appreciate the evolution of co-operative legislation in present-day Kerala.

Unlike Travancore and Cochin, the Malabar region was part of the Madras Presidency before the formation of Kerala. Therefore, co-operative societies in Malabar were governed by the co-operative legislation applicable to the Madras Presidency.

1.3.3.1 Early Development of Co-operation in Malabar

The co-operative movement in Malabar was influenced by the wider Indian co-operative movement that developed after the Co-operative Credit Societies Act, 1904. The formation of agricultural credit societies provided farmers with an alternative source of institutional credit.

An early agricultural credit society was registered at Palakkad in 1904. The growth of such societies demonstrated the usefulness of co-operation in addressing rural credit requirements.

The Malabar Co-operative Central Bank, established at Calicut in 1917, also contributed to the development of co-operative credit by supporting primary co-operative societies.

1.3.3.2 Madras Co-operative Societies Act, 1932

As Malabar formed part of the Madras Presidency, co-operative societies in the region came under the Madras Co-operative Societies Act, 1932. The legislation provided a broader regulatory framework covering matters such as registration, management, supervision, audit and settlement of disputes.

The application of Madras legislation to Malabar further demonstrates that, before the formation of Kerala, the present State did not have a single co-operative legal system. Instead, different regions operated under different administrative and legislative arrangements.

1.3.4 Co-operative Legislation after the Integration of Travancore and Cochin

A significant change occurred with the integration of Travancore and Cochin in 1949. Creating a common administrative unit increased the need for uniform legislation governing co-operative societies in the merged State.

1.3.4.1 Travancore-Cochin Co-operative Societies Act, 1951

Following the integration of Travancore and Cochin, the Travancore-Cochin Co-operative Societies Act, 1951 was introduced to provide a common legal framework for co-operative societies in the merged State.

This development represented an important transitional stage in the evolution of co-operative legislation. Earlier, Travancore and Cochin had operated under separate co-operative laws. The new legislation attempted to establish greater uniformity in the regulation and administration of co-operative institutions within the merged State.

However, Malabar continued to have a separate administrative and legislative history until the formation of Kerala.

1.3.5 Kerala Co-operative Societies Act, 1969

The formation of the State of Kerala in 1956 brought together the regions of Travancore-Cochin and Malabar, along with the Kasaragod area. Integrating these regions created the need for a common legal framework for co-operative societies throughout the State.

The earlier existence of different co-operative laws created differences in administrative procedures, registration systems, supervision and other aspects of co-operative management. A uniform legislation was therefore necessary to provide consistency and strengthen the co-operative movement.

The Kerala Co-operative Societies Act, 1969 was enacted to fulfil this requirement. The Act came into force on 15 May 1969 and became the principal legislation governing co-operative societies in Kerala.

1.3.5.1 Need for the Kerala Co-operative Societies Act, 1969

The main need for enacting the Kerala Co-operative Societies Act was to establish a uniform legal framework for the entire State.

Before the Act, the co-operative movement was regulated through different legal arrangements in different regions. This system made sense when Travancore, Cochin and Malabar functioned under separate administrations. After the formation of Kerala, however, continuation of separate legal systems could create difficulties in administration and regulation.

A common law was therefore required to ensure uniformity in the registration, organisation, management, audit, supervision and dissolution of co-operative societies.

1.3.5.2 Objectives of the Kerala Co-operative Societies Act, 1969

The Kerala Co-operative Societies Act, 1969 provides an organised legal framework for the development and regulation of co-operative societies in Kerala. The legislation provides the basis for registering and operating co-operative societies and establishes mechanisms for their supervision and control.

The Act seeks to promote members' economic interests through co-operative organisation. It also aims to encourage democratic management, responsible financial administration and accountability in co-operative institutions.

Another important objective is to protect members' interests and ensure that co-operative societies use their resources in accordance with their objectives, registered bye-laws, and applicable legal provisions.

1.3.5.3 Registration of Co-operative Societies

Registration is a fundamental aspect of the co-operative legal framework. The Act provides the legal mechanism through which eligible groups can establish co-operative societies.

Registration gives the society recognised legal status and enables it to conduct activities in accordance with the Act and its registered bye-laws. The registration process also enables the competent authority to maintain regulatory oversight over the co-operative sector.

Thus, registration is not merely a formal procedure; it establishes the legal identity and regulatory relationship of a co-operative society with the co-operative administration.

1.3.5.4 Management and Democratic Administration

The Kerala co-operative system is based on democratic participation. Members constitute the foundation of a co-operative society, and the management structure is designed to facilitate member participation in decision-making.

The Act provides a legal framework for the constitution and functioning of managing committees and for conducting the affairs of registered societies. Democratic management matters because a co-operative is established primarily for the collective benefit of its members rather than the exclusive benefit of external investors.

1.3.5.5 Audit and Financial Accountability

Financial accountability is essential to the successful functioning of co-operative societies because they manage members' savings, deposits, loans, and other financial resources.

The Kerala Co-operative Societies Act provides for the audit of co-operative societies and establishes mechanisms for examining their financial records and accounts. Audit helps identify errors, irregularities and financial weaknesses and promotes transparency in the management of society funds.

Regular financial supervision also helps members and regulatory authorities assess the financial health and performance of co-operative institutions.

1.3.5.6 Inspection, Inquiry and Supervision

The Act provides mechanisms for inspecting and inquiring into co-operative societies where necessary. These provisions are important for maintaining proper administration and protecting members' interests.

Inspection enables the competent authority to examine a society's functioning, while inquiry can be undertaken to investigate matters relating to a society's constitution, working, financial condition, or management.

Such regulatory mechanisms strengthen accountability and help ensure that co-operative societies operate in accordance with law and their approved objectives.

1.3.5.7 Settlement of Disputes

Disputes may arise among members, between members and societies, or between co-operative societies in the course of their activities. The Kerala Co-operative Societies Act provides a statutory mechanism for dealing with specified disputes connected with the affairs of co-operative societies.

A specialised legal mechanism is important because it provides an institutional method for resolving disputes and helps maintain the orderly functioning of co-operative organisations.

1.3.5.8 Winding up of Co-operative Societies

The Act also provides provisions for winding up co-operative societies. A society may have to be wound up when it becomes financially or organisationally incapable of continuing its activities or when circumstances specified under the law arise.

The winding-up provisions establish a legal procedure for dealing with the assets, liabilities and affairs of the society. This ensures closure occurs through an organised legal process rather than an informal termination of activities.

1.3.5.9 Importance of the Kerala Co-operative Societies Act, 1969

The Kerala Co-operative Societies Act, 1969 represents a major milestone in the development of the co-operative movement in Kerala. It replaced the fragmented regional approach with a common legal framework for co-operative societies throughout the State.

The Act strengthened the institutional structure of co-operation by providing provisions on registration, membership, management, audit, supervision, inquiry, dispute settlement, and winding up. It also strengthened the role of the co-operative administration in maintaining accountability and proper functioning of societies.

The legislation therefore transformed the co-operative movement from a collection of regionally regulated institutions into a more integrated statewide system.

1.3.6 Evolution from Regional Laws to a Unified Co-operative Law

The evolution of co-operative legislation in Kerala reflects a gradual process of legal integration. In the early stage, the three regions that now constitute Kerala followed different legal arrangements.

The Cochin Co-operative Societies Act, 1913 provided the legal foundation for co-operation in Cochin, while the Travancore Co-operative Societies Act, 1914 performed a similar role in Travancore. Malabar, being part of the Madras Presidency, was governed by the co-operative legislation applicable to that administrative region.

The integration of Travancore and Cochin in 1949 created the need for common legislation, resulting in the Travancore-Cochin Co-operative Societies Act, 1951. The formation of Kerala in 1956 further increased the need for a comprehensive law applicable throughout the State. This requirement was ultimately addressed by the Kerala Co-operative Societies Act, 1969.

The historical development may therefore be represented as:

Regional co-operative laws → Integration of Travancore and Cochin → Formation of Kerala State → Need for uniform legislation → Kerala Co-operative Societies Act, 1969

This progression demonstrates that co-operative legislation evolved alongside political and administrative changes in Kerala.

1.3.7 Comparative Development of Co-operative Legislation in Kerala

Table 1.3.1 Comparative Development of Co-operative Legislation in Kerala

Period	Region/State	Major Legislation	Historical Significance
1904	British India	Co-operative Credit Societies Act, 1904	Provided the early statutory foundation for co-operative credit
1913	Cochin	Cochin Co-operative Societies Act, 1913	Established a legal framework for co-operative societies in Cochin
1914	Travancore	Travancore Co-operative Societies Act, 1914	Provided the legal foundation for organised co-operation in Travancore
1932	Malabar	Madras Co-operative Societies Act, 1932	Regulated co-operative societies in Malabar under the Madras Presidency
1949	Travancore-Cochin	Integration of Travancore and Cochin	Created the need for common co-operative administration
1951	Travancore-Cochin	Travancore-Cochin Co-operative Societies Act, 1951	Established a common legal framework for the merged State
1956	Kerala	Formation of Kerala State	Created the need for State-wide co-operative legislation
1969	Kerala	Kerala Co-operative Societies Act, 1969	Established a unified legal framework for co-operative societies in Kerala

1.3.8 Significance of the Evolution of Co-operative Legislation in Kerala

The evolution of co-operative legislation has played a major role in shaping the co-operative sector in Kerala. The early regional Acts provided the foundation for the establishment and growth of primary co-operative societies. These institutions gradually expanded their activities from credit to banking, agriculture, consumer services, housing, marketing, industry and other areas.

The subsequent development of common legislation was important for achieving uniformity in administration. The Kerala Co-operative Societies Act, 1969 provided a comprehensive legal framework for the functioning of co-operative societies throughout the State. It strengthened registration, supervision, audit, democratic management and financial accountability.

The evolution also demonstrates the close relationship between law and institutional development. As the co-operative movement expanded, existing legal arrangements had to be adapted to changing economic and administrative requirements. The movement from separate regional laws towards a unified State law reflects the broader integration of Kerala's co-operative sector.

The evolution of co-operative legislation in Kerala began when Travancore, Cochin and Malabar were administered separately. The Cochin Co-operative Societies Act, 1913 provided a statutory foundation for co-operation in Cochin, while the Travancore Co-operative Societies Act, 1914 established a similar legal framework in Travancore. Malabar, being part of the Madras Presidency, followed the co-operative legislation applicable to that region.

The integration of Travancore and Cochin in 1949 led to the Travancore-Cochin Co-operative Societies Act, 1951, an important step toward legal uniformity. After the formation of Kerala State in 1956, different regional legal traditions made a common legal framework necessary.

The enactment of the Kerala Co-operative Societies Act, 1969, which came into force on 15 May 1969, marked the most important stage in this process. The Act established a common statutory framework for the registration, management, audit, supervision, dispute settlement and winding up of co-operative societies in Kerala.

Thus, the history of co-operative legislation in Kerala can be viewed as a transition from regional legislation to integrated State-wide legislation, reflecting the growth and institutional maturity of the co-operative movement.

Recap

- ◇ Cochin Co-operative Societies Act, 1913 provided the legal foundation for co-operative societies in Cochin.
- ◇ The Act helped farmers and ordinary people obtain institutional credit and reduce dependence on private moneylenders.
- ◇ Travancore Co-operative Societies Act, 1914 established a legal and administrative framework for co-operative societies in Travancore.
- ◇ The appointment of the first Registrar of Co-operative Societies in Travancore in 1914 strengthened government supervision.
- ◇ Malabar was governed by the co-operative legislation applicable to the Madras Presidency, including the Madras Co-operative Societies Act, 1932.
- ◇ The integration of Travancore and Cochin in 1949 created the need for a common co-operative law.
- ◇ The Travancore-Cochin Co-operative Societies Act, 1951 provided a common legal framework for the merged State.
- ◇ The formation of Kerala State in 1956 created the need for uniform co-operative legislation throughout the State.
- ◇ The Kerala Co-operative Societies Act, 1969 came into force on 15 May 1969 and became the principal law governing co-operative societies in Kerala.
- ◇ The Act provides for registration, management, audit, supervision, dispute settlement and winding up, creating a unified legal framework for co-operative societies in Kerala.

Objective Questions

1. Which Act marked the beginning of organised cooperative legislation in Cochin?
2. Who took the initiative to enact the Cochin Co-operative Societies Act, 1913?
3. Who was the first Registrar of Cooperative Societies in Travancore?
4. Which was the first cooperative bank established under the Travancore Co-operative Societies Act, 1914?
5. The Malabar region was governed by which cooperative legislation before the formation of Kerala?

6. Where was the earliest agricultural credit society in Kerala established?
7. Which institution later became the Koduvayoor Urban Co-operative Bank?
8. Which Act established a common cooperative legal framework after the merger of Travancore and Cochin?
9. The Kerala Co-operative Societies Act came into force on:
10. The Kerala Co-operative Societies Act, 1969 primarily aimed to:

Answers

1. Cochin Co-operative Societies Act, 1913
2. Sir Rajagopalachari
3. C. Govinda Pillai
4. Trivandrum Central Co-operative Bank
5. Madras Co-operative Societies Act, 1932
6. Palakkad
7. Koduvayoor Aikya Nanaya Sangam
8. Travancore-Cochin Co-operative Societies Act, 1951
9. 15 May 1969
10. Replace all regional cooperative laws with a uniform legal framework

Self-Assessment Questions

1. Explain the Cochin Co-operative Societies Act, 1913 and its importance in the development of co-operation in Cochin.
2. Explain the Travancore Co-operative Societies Act, 1914 and its role in the development of the co-operative movement in Travancore.
3. Describe the development of co-operative legislation in Travancore, Cochin and Malabar before the formation of Kerala State.
4. Explain the major provisions and importance of the Kerala Co-operative Societies Act, 1969.

Assignments

1. Explain the historical background of the cooperative movement in Kerala. Why was a uniform cooperative law needed after the formation of Kerala State?
2. Describe the origin and development of the cooperative movement in Cochin. Discuss the significance of the Cochin Co-operative Societies Act, 1913 and the role of the Cochin Central Co-operative Bank.
3. Trace the development of the cooperative movement in Travancore. Explain the importance of the Travancore Co-operative Societies Act, 1914 and the evolution of the Trivandrum Central Co-operative Bank into Kerala Bank.
4. Discuss the growth of the cooperative movement in the Malabar region. Explain the contribution of the Madras Co-operative Societies Act, 1932 and the role of the Malabar Co-operative Central Bank.
5. Compare the cooperative legislations that governed Travancore, Cochin, and Malabar before the formation of Kerala. How did these regional laws differ from a unified State legislation?
6. Explain the important features of the Madras Co-operative Societies Act, 1932. Why was this Act eventually replaced in Kerala?
7. Discuss the circumstances that led to the enactment of the Travancore-Cochin Co-operative Societies Act, 1951. What was its significance in the evolution of cooperative legislation in Kerala?
8. Describe the objectives and major features of the Kerala Co-operative Societies Act, 1969. How did it establish a uniform legal framework for cooperative societies in Kerala?
9. Examine the contribution of important personalities and institutions, such as Sir Rajagopalachari, C. Govinda Pillai, the Cochin Central Co-operative Bank, and the Malabar Co-operative Central Bank, to the development of the cooperative movement in Kerala.
10. Evaluate the overall evolution of cooperative legislation in Kerala from the pre-independence period to the Kerala Co-operative Societies Act, 1969. Explain how cooperative legislation has contributed to the growth of the cooperative movement and socio-economic development of the State.

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Unit 4

Amendments in Co-Operative Legislations in Kerala

Learning Outcomes

After completing this unit, learners will be able to:

- ◇ Trace the development of the Kerala Co-operative Societies Act, 1969 and describe the objectives and importance of the major amendments introduced between 1971 and 2023.
- ◇ Discuss the significant reforms brought about through various amendment Acts, particularly those relating to governance, membership, elections, auditing, dispute settlement, and financial administration of co-operative societies.
- ◇ Describe the institutional changes introduced by the amendments, including the establishment of bodies such as the Co-operative Tribunal, Co-operative Arbitration Court, Co-operative Election Commission, Co-operative Ombudsman, and Kerala Bank.
- ◇ Critically assess the impact of the 2010, 2013, 2019, 2022, and 2023 amendments on democratic functioning, financial accountability, transparency, digital governance, and the protection of members' interests in co-operative societies.
- ◇ Examine the legal framework that promotes autonomy, accountability, and professional management of co-operative societies in line with constitutional principles and contemporary administrative practices.
- ◇ Evaluate the contribution of legislative reforms to the growth and modernisation of Kerala's co-operative movement, with particular emphasis on improved governance, strengthened auditing, effective dispute resolution, and the restructuring of the co-operative banking sector.

Prerequisite

Before studying this unit, learners should have a basic understanding of the Kerala Co-operative Societies Act, 1969, including its objectives, principles, organisational structure, and how co-operative societies function. Familiarity with democratic governance, membership, management, auditing, elections, and dispute resolution will help learners appreciate the purpose and significance of the various amendments to the Act and their role in strengthening the co-operative movement in Kerala.

Keywords

Co-operative Movement , Democratic Governance , Member Participation, Financial Discipline , Kerala Bank.

Discussion

Amendments in Co-operative Legislation in Kerala

1.4.1 Discussion

The Kerala Co-operative Societies Act, 1969 is the principal legislation governing co-operative societies in Kerala. Since its enactment, the co-operative sector has undergone considerable changes in its membership, administration, financial activities, governance, technology and institutional structure. To respond to these changing requirements, the Act has been amended several times.

The amendments have addressed different aspects of co-operative administration, including democratic governance, managing committees, elections, membership, auditing, financial accountability, dispute settlement, employee welfare, co-operative banking and modern management. While the earlier amendments mainly concentrated on administrative and organisational matters, the later amendments increasingly focused on transparency, professional management, member protection and technological development.

Among the various amendments, the 2010 and 2013 Amendments are particularly important. The 2010 Amendment emphasised democratic and autonomous functioning, grievance redressal, auditing and modern management. The 2013 Amendment further strengthened democratic governance, financial accountability, auditing and professional administration.

1.4.2 Need for Amendments to Co-operative Legislation

The co-operative sector continuously changes with economic, social, technological, and administrative developments. Therefore, the legal framework governing co-operative societies must also be updated periodically.

The major reasons for amending the Kerala Co-operative Societies Act include the following:

- ◇ To strengthen democratic governance of co-operative societies.
- ◇ To improve the administration and management of co-operative institutions.
- ◇ To protect the rights and interests of members.
- ◇ To improve financial accountability and auditing.
- ◇ To strengthen the election process.
- ◇ To provide effective mechanisms for grievance redressal and dispute settlement.
- ◇ To promote professional management.
- ◇ To improve employee welfare.
- ◇ To respond to technological and economic changes.
- ◇ To strengthen transparency and accountability.

Thus, amendments have enabled the co-operative legislation to remain relevant to the changing requirements of the co-operative sector.

1.4.3 Major Amendments to the Kerala Co-operative Societies Act, 1969

The Kerala Co-operative Societies Act, 1969 has undergone several amendments since its enactment. The important amendments can be understood chronologically.

1.4.3.1 Kerala Co-operative Societies (Amendment) Act, 1971

The 1971 Amendment introduced changes relating to member disqualification, the constitution of managing committees, and the tenure of committee members. The amendment aimed to ensure that eligible persons participated in the management of co-operative societies and that managing committees functioned according to clearly defined legal provisions.

1.4.3.2 Kerala Co-operative Societies (Amendment) Act, 1974

The 1974 Amendment introduced provisions reserving seats for Scheduled Castes and Scheduled Tribes in managing committees. It also changed the term of office for committee members and certain administrative powers of the Registrar.

The amendment promoted wider representation and strengthened the administration of co-operative societies.

1.4.3.3 Kerala Co-operative Societies (Amendment) Act, 1986

The 1986 Amendment introduced changes relating to Government nomination, election qualifications and Government directions to co-operative societies. It also strengthened provisions concerning audit and surcharge proceedings.

The amendment aimed to improve governance and establish greater accountability for financial irregularities.

1.4.3.4 Kerala Co-operative Societies (Amendment) Act, 1987

The 1987 Amendment addressed the term of office of committee members, qualifications for membership, and supersession of managing committees. These provisions were intended to promote accountability and ensure proper administration of co-operative societies.

1.4.3.5 Kerala Co-operative Societies (Amendment) Act, 1988

The 1988 Amendment introduced provisions relating to the liquidation of co-operative societies. It also established the Co-operative Tribunal to hear appeals against specified Registrar decisions. This strengthened the appellate and dispute-resolution mechanism under co-operative legislation.

1.4.3.6 Kerala Co-operative Societies (Amendment) Act, 1992

The 1992 Amendment introduced changes relating to the administration of societies when an elected managing committee was not functioning. It limited the period for which the Registrar could appoint a committee to manage a society to three years.

It also provided for extending the tenure of an administrator for a maximum of twelve months, subject to the provisions of law. The Secretary of the State Co-operative Union was also included as an ex officio member of the managing committee.

1.4.3.7 Kerala Co-operative Societies (Amendment) Act, 1993

The 1993 Amendment dealt with continuity in the administration of co-operative societies. Where a newly elected managing committee could not assume office within the prescribed period, the existing committee or administrator could continue for a limited period. Such extension could not exceed three months or the date on which the new committee assumed charge, whichever was earlier.

1.4.3.8 Kerala Co-operative Societies (Amendment) Act, 1995

The 1995 Amendment introduced changes relating to the term of office of committee members, disqualification of members and supersession of managing committees. The amendment sought to strengthen accountability and improve the governance of co-operative institutions.

1.4.3.9 Kerala Co-operative Societies (Second Amendment) Act, 1997

The 1997 Second Amendment introduced the Co-operative Arbitration Court for dealing with specified disputes in the co-operative sector. It also introduced changes relating to District Co-operative Banks, membership and voting rights. The amendment further restricted the voting rights of certain ex officio members and prescribed a maximum dividend of 20 per cent for central societies, subject to the applicable provisions.

1.4.3.10 Kerala Co-operative Societies (Amendment) Act, 2000

The 2000 Amendment introduced several important institutional reforms. The following are the reforms introduced:

It permitted local self-government institutions to become members of co-operative societies. It also introduced mechanisms such as the Deposit Guarantee Scheme, Consortium Lending Scheme and Co-operative Development and Welfare Fund.

An independent Co-operative Election Commission was also established. The government introduced separate Audit and Vigilance Wings and a Co-operative Examination Board to strengthen transparency, supervision, and professional administration.

1.4.3.11 Kerala Co-operative Societies (Amendment) Act, 2002

The 2002 Amendment introduced changes relating to District Co-operative Banks, voting rights, election and removal of committee office-bearers.

It also introduced a Self-Financing Pension Scheme, thereby strengthening employee welfare in co-operative institutions.

1.4.4 Kerala Co-operative Societies (Amendment) Act, 2010

The Kerala Co-operative Societies (Amendment) Act, 2010 was an important step towards modernising the co-operative legal framework in Kerala. The amendment responded to the changing economic, technological and social environment in which co-operative societies operated.

The amendment emphasised democratic functioning, autonomy, self-management, transparency, and accountability. It also recognised the importance of scientific and technological development and professional management in the modern co-operative sector.

1.4.4.1 Objectives of the 2010 Amendment

The major objectives of the 2010 Amendment were:

- ◇ To strengthen democratic functioning.
- ◇ To encourage greater participation of members.
- ◇ To promote autonomous and self-managed co-operative institutions.

- ◇ To encourage scientific and technological development.
- ◇ To promote professional management.
- ◇ To improve transparency and accountability.
- ◇ To establish an effective grievance redressal mechanism.
- ◇ To strengthen the audit system.
- ◇ To improve financial accountability.

1.4.4.2 Revision of the Preamble

One important feature of the 2010 Amendment was the revision of the Preamble of the Kerala Co-operative Societies Act, 1969.

The revised Preamble emphasised that co-operative societies should function as democratic and autonomous institutions based on recognised co-operative principles.

It also recognised the wider role of co-operative societies in:

- ◇ Scientific and technological development
- ◇ Healthcare
- ◇ Market intervention
- ◇ Excellence in management

The revision reflected the changing role of co-operative institutions in economic and social development.

1.4.4.3 Establishment of the Co-operative Ombudsman

A major institutional reform introduced through the 2010 Amendment was establishing the Co-operative Ombudsman.

The Ombudsman provides an independent mechanism for examining complaints relating to co-operative societies. Members and other stakeholders can use this mechanism to seek redressal of grievances.

The establishment of the Ombudsman strengthened:

- ◇ Transparency
- ◇ Accountability
- ◇ Member protection
- ◇ Grievance redressal
- ◇ Public confidence

Thus, the Ombudsman became an important mechanism for protecting members' interests and improving administration.

1.4.4.4 Strengthening of the Audit System

The 2010 Amendment strengthened provisions relating to co-operative audit.

The 2010 Amendment strengthened the Director of Co-operative Audit's responsibilities to improve the quality and effectiveness of auditing. The audit process helps examine the financial records and transactions of co-operative societies.

Effective auditing helps in:

- ◇ Detecting financial irregularities
- ◇ Ensuring proper maintenance of accounts
- ◇ Improving financial discipline
- ◇ Protecting members and depositors
- ◇ Promoting transparency
- ◇ Improving financial stability

1.4.4.5 Strengthening Financial Accountability

The amendment gave greater importance to financial accountability in co-operative institutions.

It sought to ensure systematic examination of financial transactions and timely identification of irregularities. These measures were intended to reduce financial mismanagement and promote responsible financial practices.

Strong financial accountability is particularly important because co-operative societies manage members' savings, deposits, and other financial resources.

1.4.4.6 Improvement of Administrative Structure

The amendment introduced and revised certain statutory definitions and legal terminology to reduce ambiguity in interpreting the Act.

Clearer definitions relating to institutions such as the Co-operative Ombudsman and the Director of Co-operative Audit helped improve administrative efficiency and the practical implementation of the legislation.

1.4.4.7 Promotion of Modern Co-operative Development

The 2010 Amendment recognised that co-operative societies should adapt to modern developments.

It encouraged co-operative institutions to contribute to:

- ◇ Scientific and technological progress
- ◇ Healthcare
- ◇ Market intervention

◇ Professional management

These provisions reflected the expanding role of co-operative societies in modern economic and social development.

1.4.4.8 Significance of the 2010 Amendment

The 2010 Amendment marked an important stage in modernising co-operative legislation in Kerala.

The establishment of the Co-operative Ombudsman strengthened grievance redressal, while auditing reforms improved financial accountability. The revised Preamble reinforced the democratic and autonomous character of co-operative societies.

Overall, the amendment aimed to make co-operative institutions more transparent, accountable, professionally managed and responsive to their members.

1.4.5 Kerala Co-operative Societies (Amendment) Act, 2011

The 2011 Amendment introduced provisions mainly relating to employee welfare, dispute resolution, and women's representation.

1.4.5.1 Employee Welfare

The amendment provided for the Kerala State Co-operative Employees Welfare Fund and Welfare Board. This strengthened welfare measures for employees working in co-operative institutions.

1.4.5.2 Co-operative Arbitration Court

The amendment also introduced changes to the functioning of the Co-operative Arbitration Court, strengthening the mechanism for settling disputes.

1.4.5.3 Women's Representation

The amendment revised provisions relating to the representation of women members in managing committees, thereby promoting wider participation in the management of co-operative societies.

1.4.6 Kerala Co-operative Societies (Amendment) Act, 2013

The Kerala Co-operative Societies (Amendment) Act, 2013 was another important stage in the modernisation of co-operative legislation. It sought to strengthen democratic governance, financial accountability, professional management and transparency in co-operative societies.

The amendment also sought to reflect constitutional principles concerning the democratic, autonomous and member-oriented character of co-operative societies.

1.4.6.1 Objectives of the 2013 Amendment

The major objectives were:

- ◇ To strengthen democratic management.
- ◇ To promote member participation.
- ◇ To improve transparency and accountability.
- ◇ To strengthen financial discipline.
- ◇ To improve auditing and financial supervision.
- ◇ To clarify statutory definitions.
- ◇ To clearly define executive responsibilities.
- ◇ To promote professional management.
- ◇ To strengthen the autonomy of co-operative societies.

1.4.6.2 Introduction of New Definitions

The amendment introduced or revised important statutory definitions.

Assisted Society refers to a co-operative society receiving specified forms of financial assistance from the Government.

Auditing of Accounts refers to the systematic examination of the financial transactions, books, records and other relevant affairs of a co-operative society.

Chief Executive refers to the person responsible for the day-to-day administration of the co-operative society, irrespective of the designation used.

These definitions helped reduce ambiguity and supported uniform interpretation of the Act.

1.4.6.3 Strengthening Financial Accountability

The 2013 Amendment strengthened provisions relating to financial accountability and auditing.

The audit process was intended to ensure proper examination of accounts and financial transactions and to identify irregularities early.

Effective auditing helps protect the interests of members and improves financial discipline within co-operative institutions.

1.4.6.4 Improved Governance

The amendment strengthened governance by clearly defining the responsibilities of the Chief Executive.

A clearly defined executive role helps improve day-to-day administration and establishes accountability between the managing committee and the executive administration.

This contributed to more professional and efficient management of co-operative societies.

1.4.6.5 Democratic Functioning

The 2013 Amendment reaffirmed the democratic character of co-operative societies.

It emphasised:

- ◇ Democratic elections
- ◇ Member participation
- ◇ Accountability of managing committees
- ◇ Autonomous functioning
- ◇ Professional management
- ◇ Transparency

These principles help ensure that co-operative societies remain member-oriented organisations.

1.4.6.6 Alignment with Constitutional Principles

The 2013 Amendment was associated with the constitutional principles concerning co-operative societies introduced through the Constitution (Ninety-seventh Amendment) Act, 2011.

The constitutional approach emphasised the democratic, autonomous, and member-driven character of co-operative societies, along with regular elections, professional management, transparency, and accountability.

The amendment sought to strengthen these principles within the Kerala co-operative legal framework.

1.4.6.7 Significance of the 2013 Amendment

The 2013 Amendment strengthened the legal framework by improving democratic governance, financial accountability, auditing and professional administration.

Clarifying statutory definitions improved interpretation of the Act, while strengthened auditing provisions promoted financial discipline. Clearer responsibilities for the Chief Executive also supported efficient administration.

Thus, the amendment helped make co-operative institutions more democratic, transparent, accountable, and professionally managed.

1.4.7 Kerala Co-operative Societies (Amendment) Act, 2019

The 2019 Amendment introduced important reforms in the co-operative banking sector.

1.4.7.1 Restructuring of Co-operative Banking

A major objective was to facilitate the restructuring of the State's co-operative banking system and the formation of Kerala Bank.

1.4.7.2 Major Areas of Reform

The amendment dealt with:

- ◇ Amalgamation of co-operative banks
- ◇ Transfer of assets and liabilities
- ◇ District Co-operative Banks
- ◇ Membership
- ◇ Management
- ◇ Appointment of administrators
- ◇ Recovery of loans and other dues
- ◇ Employees and transitional arrangements

The amendment therefore marked an important development in restructuring Kerala's co-operative banking sector.

1.4.8 Kerala Co-operative Societies (Amendment) Act, 2022

The 2022 Amendment introduced a change relating to the concept of an active member.

1.4.8.1 Change Relating to Active Member

The amendment extended the relevant period under the applicable provision from two years to three years.

This change was intended to provide greater continuity in determining active member status and to address practical issues relating to membership.

1.4.8.2 Retrospective Effect

The amendment was given retrospective effect from 13 January 2022, subject to the provisions of the amending legislation.

1.4.9 Kerala Co-operative Societies (Amendment) Act, 2023

The 2023 Amendment represented another stage in the modernisation of co-operative legislation.

1.4.9.1 Major Areas of Reform

The amendment focused on areas such as:

- ◇ Governance
- ◇ Auditing
- ◇ Transparency
- ◇ Digital administration
- ◇ Accountability

The amendment reflected the growing importance of technology and computerised systems in administering co-operative societies.

1.4.10 Overall Development of Amendments

The amendment history of the Kerala Co-operative Societies Act, 1969 shows a gradual transformation of the co-operative legal framework.

The early amendments mainly concentrated on membership, managing committees, tenure, elections and administrative control.

Later amendments increasingly focused on financial accountability, auditing, dispute resolution, employee welfare, and institutional governance.

The 2010 Amendment placed particular emphasis on democratic and autonomous functioning, grievance redressal, auditing, and modern management.

The 2013 Amendment further strengthened democratic governance, financial accountability, professional administration and the role of the Chief Executive.

Subsequent amendments addressed co-operative banking restructuring, membership requirements, digital administration, and accountability.

Thus, the amendments reflect the continuous adaptation of co-operative legislation to the changing needs of society and the co-operative sector.

1.4.11 Summary of Major Amendments

Table 1.4.1 Summary Major Amendments

Year	Major Area
1971	Disqualification, managing committees and tenure
1974	Reservation, committee tenure and Registrar's powers
1986	Government nomination, election qualifications, audit and surcharge
1987	Committee tenure, membership and supersession
1988	Liquidation and Co-operative Tribunal
1992	Administrator and committee tenure
1993	Continuity of administration
1995	Committee tenure, disqualification and supersession
1997	Arbitration Court, membership, voting and dividend
2000	Election Commission, audit, vigilance and financial protection
2002	District Co-operative Banks, voting, office-bearers and pension
2010	Democratic autonomy, Ombudsman, audit and modern management
2011	Employee welfare, Arbitration Court and women's representation
2013	Democratic governance, financial accountability and professional administration
2019	Co-operative banking restructuring and Kerala Bank
2022	Active member provision
2023	Governance, audit, transparency and digital administration

1.4.12 Importance of Amendments in Co-operative Legislation

The amendments to the Kerala Co-operative Societies Act have played an important role in strengthening the co-operative sector.

1.4.12.1 Strengthening Democratic Governance

The amendments have improved provisions relating to elections, managing committees, membership and member participation.

1.4.12.2 Improving Financial Accountability

Changes relating to auditing, financial supervision and surcharge have strengthened financial discipline.

1.4.12.3 Protecting Members

Grievance redressal mechanisms and improvements in membership and voting provisions have strengthened the protection of members' interests.

1.4.12.4 Promoting Professional Management

The amendments have increasingly recognised the need for professional administration and clearly defined executive responsibilities.

1.4.12.5 Strengthening Dispute Resolution

The establishment of the Co-operative Tribunal and Co-operative Arbitration Court strengthened mechanisms for handling disputes and appeals.

1.4.12.6 Promoting Employee Welfare

Welfare and pension-related provisions have contributed to employees' social security and welfare in the co-operative sector.

1.4.12.7 Modernising Co-operative Institutions

Later amendments have recognised the importance of technology, digital administration, modern management, and institutional restructuring.

The Kerala Co-operative Societies Act, 1969 has developed continuously through a series of amendments introduced in response to the changing needs of the co-operative sector. The earlier amendments concentrated mainly on membership, managing committees, elections and administration, while subsequent amendments increasingly addressed financial accountability, auditing, dispute settlement, employee welfare and professional management.

The 2010 Amendment marked an important step towards modernising the co-operative sector through democratic autonomy, grievance redressal, stronger auditing and modern management. The 2013 Amendment further strengthened democratic governance, financial accountability, professional administration and transparency.

The later amendments extended the legal framework to address co-operative banking restructuring, active membership, digital administration and accountability. Therefore, the amendment history of the Kerala Co-operative Societies Act demonstrates the continuous development of co-operative legislation in response to the changing economic, social, technological and institutional environment.

Recap

- ◇ The Kerala Co-operative Societies Act, 1969 has been amended several times to strengthen democratic governance, financial accountability, member protection and professional management.
- ◇ The major amendments from 1971 to 2002 mainly dealt with managing committees, membership, elections, reservation, audit, Registrar's powers, dispute settlement and co-operative banking.

- ◇ The 1971 and 1974 amendments strengthened provisions relating to disqualification, constitution and tenure of managing committees, while also providing reservation for SC/ST communities.
- ◇ The 1986, 1987 and 1988 amendments introduced further changes in government nomination, election qualifications, audit, surcharge, committee tenure, supersession, liquidation and the Co-operative Tribunal.
- ◇ The 1992, 1993, 1995 and 1997 amendments improved provisions relating to administrators, managing committees, disqualification, dispute settlement, the Co-operative Arbitration Court, voting rights and co-operative banking.
- ◇ The 2000 and 2002 amendments introduced important institutional and financial measures such as the Deposit Guarantee Scheme, Co-operative Development and Welfare Fund, Election Commission, Audit and Vigilance Wings, Co-operative Examination Board and pension-related provisions.
- ◇ The 2010 amendment was a major step towards modernising co-operatives by emphasising autonomy, democratic self-management, professional administration, scientific and technological development, improved audit and financial accountability.
- ◇ The 2011 amendment strengthened employee welfare, introduced welfare-related institutional arrangements, strengthened the Arbitration Court and provided greater emphasis on women's representation.
- ◇ The 2013 amendment sought to align co-operative legislation with constitutional principles relating to co-operative societies and strengthened democratic functioning, auditing, financial accountability, member participation, autonomy and professional management.
- ◇ The 2019, 2022 and 2023 amendments continued the modernisation of co-operative legislation through co-operative banking restructuring, active membership provisions, improved governance, auditing, transparency, digital administration and accountability, showing the continuous evolution of Kerala's co-operative legal framework.

Objective Questions

1. Which Amendment Act introduced reservation of seats for Scheduled Castes and Scheduled Tribes in managing committees?.
2. Which Amendment established the Co-operative Tribunal?
3. Which Amendment introduced the Co-operative Arbitration Court?.

4. Which Amendment created the Co-operative Election Commission?
5. Which Amendment established the Co-operative Ombudsman?
6. The Kerala Co-operative Societies (Amendment) Act, 2013 was enacted to implement the principles of which Constitutional Amendment?
7. Which Amendment facilitated the establishment of Kerala Bank?
8. Under the Kerala Co-operative Societies (Amendment) Act, 2022, the period for an "active member" was extended from two years to how many years?
9. Which Amendment introduced statutory recognition of IT audits and digital governance in co-operative societies?

Answers

1. The Kerala Co-operative Societies (Amendment) Act, 1974
2. The Kerala Co-operative Societies (Amendment) Act, 1988.
3. Answer: The Kerala Co-operative Societies (Second Amendment) Act, 1997
4. The Kerala Co-operative Societies (Amendment) Act, 2000.
5. The Kerala Co-operative Societies (Amendment) Act, 2010.
6. The Constitution (Ninety-seventh Amendment) Act, 2011.
7. The Kerala Co-operative Societies (Amendment) Act, 2019.
8. Three years.
9. The Kerala Co-operative Societies (Amendment) Act, 2023 (Act 9 of 2024)

Self-Assessment Questions

1. What were the main objectives of the Kerala Co-operative Societies (Amendment) Act, 1971?
2. How did the Kerala Co-operative Societies (Amendment) Act, 1988 strengthen the dispute resolution mechanism?
3. What major institutional reforms were introduced by the Kerala Co-operative Societies (Amendment) Act, 2000?

4. Discuss the significance of the Co-operative Ombudsman introduced under the Kerala Co-operative Societies (Amendment) Act, 2010.
5. What measures were introduced by the Kerala Co-operative Societies (Amendment) Act, 2010 to strengthen financial accountability and auditing?
6. How did the Kerala Co-operative Societies (Amendment) Act, 2013 align the Act with the Constitution (Ninety-seventh Amendment) Act, 2011?
7. Explain the major features of the Kerala Co-operative Societies (Amendment) Act, 2019.
8. What changes were introduced by the Kerala Co-operative Societies (Amendment) Act, 2022 regarding the definition of an active member?
9. What are the objectives of the Kerala Co-operative Societies (Amendment) Act, 2023?
10. How have the various amendments to the Kerala Co-operative Societies Act, 1969 contributed to the growth and modernisation of the co-operative movement in Kerala?

Assignments

1. Discuss the evolution of the Kerala Co-operative Societies Act, 1969 through its major amendments from 1971 to 2023.
2. Examine the major reforms introduced by the Kerala Co-operative Societies (Amendment) Act, 2010 and evaluate their significance in strengthening the co-operative movement in Kerala.
3. Analyse the objectives, important features, and significance of the Kerala Co-operative Societies (Amendment) Act, 2013.
4. Explain the salient features of the Kerala Co-operative Societies (Amendment) Act, 2019. How did it facilitate the establishment of Kerala Bank and reform the co-operative banking sector?
5. Critically evaluate the impact of the Kerala Co-operative Societies (Amendment) Acts of 2022 and 2023 on governance, auditing, transparency, digital administration, and the functioning of co-operative societies in Kerala.

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2 BLOCK

Registration And Membership of Co - Operative Societies

Unit

The Kerala Co-operative Societies Act, 1969 (Act 21 of 1969)

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ Explain the objectives and significance of the Preamble of the Kerala Co-operative Societies Act, 1969.
- ◇ Describe the role of co-operative societies as self-governing democratic institutions in promoting equity, social justice and economic development.
- ◇ Identify and explain the important definitions provided under Section 2 of the Kerala Co-operative Societies Act, 1969.
- ◇ Differentiate between important types of co-operative societies and key statutory terms defined under the Act.

Prerequisite

A well-known example from Kerala's co-operative sector is the growth of Uralungal Labour Contract Co-operative Society (ULCCS), which began in 1924 when a group of labourers joined together to obtain work and improve their economic conditions. By working collectively, members secured contracts, created employment, and gradually developed the society into a major co-operative institution. As these societies grew in size and activity, clear rules became necessary for membership, management, elections, accounts, disputes, and government supervision. This need for an organised legal framework led to the development of laws governing co-operative societies in Kerala, including the Kerala Co-operative Societies Act, 1969. The Act's Preamble sets out its broad objectives, while its definitions clarify the terms and institutions used in the Act.

Keywords

Orderly Development, Co-Operative Principles, Self-Governing Institutions, Democratic Institutions, Scientific and Technological Development, Health Care, Market Intervention, Management Excellence. Etc.

Discussion

Co-operative societies play an important role in promoting collective effort, democratic participation and economic development among their members. In Kerala, the co-operative movement has developed into a strong institutional network covering areas such as agriculture, banking, credit, marketing, consumer services and rural development. To regulate the formation, functioning, management and supervision of co-operative societies in the State, the Kerala Co-operative Societies Act, 1969 (Act 21 of 1969) was enacted. The Act provides the legal framework within which co-operative societies operate and establishes principles of democratic management, accountability, member participation, and effective administration. The Preamble explains the legislation's broad objectives and purpose, while Section 2 defines key terms used throughout the Act. Understanding the Preamble and these key definitions is therefore essential for developing a clear understanding of the legal structure and functioning of co-operative societies in Kerala.

2.1.1 Kerala Co-operative Societies Act 1969

The co-operative movement plays an important role in the economic and social development of Kerala. Co-operative societies operate in various areas such as agricultural credit, banking, marketing, housing, consumer activities, dairy development, production and welfare activities. To provide a proper legal framework for the establishment and functioning of these societies, the Kerala Co-operative Societies Act, 1969 (Act 21 of 1969) was enacted.

The main objective of the Act is to consolidate, amend and unify the laws relating to co-operative societies in the State of Kerala. The Act provides provisions relating to the registration, membership, management, administration, supervision, audit and general functioning of co-operative societies.

The Preamble explains the basic philosophy and objectives behind the legislation. Section 2 contains important definitions of terms used in the Act. Understanding the Preamble and these definitions is essential to understanding the legal framework of the co-operative sector in Kerala.

2.1.1.1 Preamble of the Kerala Co-operative Societies Act, 1969

The Preamble expresses the purpose and legislative philosophy of the Kerala Co-operative Societies Act, 1969. It states that the Act is intended to ensure the orderly

development of the co-operative sector in the State by organising co-operative societies in accordance with co-operative principles and as self-governing democratic institutions.

The Preamble seeks to achieve the objectives of:

1. Equity
2. Social justice
3. Economic development
4. Scientific and technological development
5. Health care
6. Market intervention
7. Management excellence in the co-operative sector

It also emphasises the need to consolidate, amend and unify the laws relating to co-operative societies in Kerala.

2.1.1.2 Text of the Preamble

The Preamble provides:

“WHEREAS with a view to provide for the orderly development of the Co-operative sector in the State, it is essential to organize the Co-operative Societies in accordance with Co-operative principles as self governing democratic institutions, to achieve the objects of equity, social justice and economic development, as envisaged in the directive principles of State Policy of the Constitution of India, and to promote scientific and technological development, health care, market intervention and management excellence in the Co-operative Sector, it is expedient to consolidate, amend and unify the law relating to Co-operative societies in the State.”

The Preamble therefore provides the basic direction for understanding the objectives and purpose of the Act.

2.1.2 Significance of the Preamble

The Preamble is significant because it explains the purpose for which the Kerala Co-operative Societies Act was enacted. It provides an overall understanding of the policy, philosophy and objectives of co-operative legislation in Kerala.

2.1.2.1 Orderly Development of the Co-operative Sector

One of the Act's primary objectives is the orderly development of the co-operative sector in Kerala. The Act provides a common legal framework for establishing and running co-operative societies. Co-operative societies operate in several areas, including:

1. Agriculture
2. Credit
3. Banking

4. Marketing
5. Housing
6. Production
7. Consumer activities
8. Dairy development

The Act facilitates the systematic development and proper functioning of co-operative institutions in these areas.

2.1.2.2 Promotion of Co-operative Principles

The Preamble requires co-operative societies to function according to co-operative principles. These principles provide the foundation for the democratic and member-oriented functioning of co-operative societies. Co-operative principles promote:

1. Democratic participation
2. Member control
3. Mutual assistance
4. Equality among members
5. Service to members
6. Community welfare

Thus, the Act seeks to ensure that co-operative societies function according to the basic values of co-operation.

2.1.2.3 Self-Governing Democratic Institutions

The Preamble recognises co-operative societies as self-governing democratic institutions. Members participate in the affairs of the society through:

1. General body meetings
2. Elections
3. Voting
4. Decision-making
5. Participation in the management of the society

The management of a co-operative society is expected to remain accountable to its members.

2.1.2.4 Promotion of Equity

The Preamble identifies equity as one of the important objectives of co-operative institutions.

Co-operative societies seek to provide fair opportunities to members and promote equitable participation in their activities. The co-operative model is based on mutual assistance rather than exploitation.

Equity helps to ensure that the benefits of co-operative activities are fairly distributed among members.

2.1.2.5 Promotion of Social Justice

The Preamble emphasises social justice. Co-operative societies can provide economic and social support to different sections of society. They can particularly benefit:

1. Small farmers
2. Small producers
3. Workers
4. Consumers
5. Economically weaker sections
6. Persons requiring institutional credit

Through these activities, co-operatives contribute to inclusive development and social welfare.

2.1.2.6 Promotion of Economic Development

Co-operative societies contribute to economic development by mobilising their members' savings, resources, and efforts. They support activities such as:

1. Agricultural development
2. Credit facilities
3. Production
4. Marketing
5. Distribution
6. Employment generation
7. Rural development

Therefore, the co-operative sector contributes significantly to the economic development of Kerala.

2.1.2.7 Constitutional Significance

The objectives of the Preamble are connected with the Directive Principles of State Policy contained in the Constitution of India.

The Preamble therefore reflects broader constitutional objectives such as:

1. Social welfare
2. Economic justice
3. Equality
4. Democratic participation
5. Inclusive development

The co-operative sector can therefore contribute towards achieving wider social and economic objectives.

2.1.2.8 Scientific and Technological Development

The Preamble recognises the importance of scientific and technological development in the modern co-operative sector. The use of technology can improve:

1. Banking services
2. Accounting systems
3. Member services
4. Record management
5. Digital transactions
6. Administrative efficiency

Thus, the Act recognises the need for modern and technology-oriented co-operative institutions.

2.1.2.9 Promotion of Health Care

The Preamble includes health care among the areas that may be promoted through the co-operative sector. Co-operative institutions can undertake welfare-oriented activities and provide services that contribute to the well-being of their members and the community.

2.1.2.10 Market Intervention

Co-operative societies can play an important role in market intervention, particularly in relation to agricultural and consumer products. Market intervention may help in:

1. Marketing agricultural products
2. Supporting producers
3. Improving distribution
4. Reducing exploitation by intermediaries
5. Providing goods and services to consumers

For example, a marketing co-operative can help farmers obtain better market access for their products.

2.1.2.11 Management Excellence

The Preamble emphasises management excellence in the co-operative sector.

Efficient management is necessary for:

1. Proper utilisation of resources
2. Financial discipline

3. Effective administration
4. Better member services
5. Accountability
6. Sustainable development

Professional and efficient management strengthens the performance of co-operative societies.

2.1.2.12 Consolidation and Unification of Co-operative Law

The Act seeks to consolidate, amend and unify the law relating to co-operative societies in Kerala. It provides a legal framework covering important aspects such as:

1. Registration
2. Membership
3. Management
4. Administration
5. Supervision
6. Audit
7. Dispute settlement
8. General functioning

This helps to maintain a common legal framework for co-operative societies in the State.

2.1.2.13 Amendments to the Preamble

Amendments to the Preamble reflect the changing requirements of the co-operative sector. Act 1 of 2000 introduced the concept of co-operative societies as self-governing democratic institutions.

Act 7 of 2010 expanded the objectives of the Preamble by incorporating areas such as:

1. Scientific development
2. Technological development
3. Health care
4. Market intervention
5. Management excellence

These amendments reflect the changing role and requirements of co-operative institutions in the modern economy.

2.1.2.14 Preamble as an Aid to Interpretation

The Preamble can help clarify the object, purpose, and legislative policy of the Act. When a provision of the Act is unclear or ambiguous, the Preamble may be considered to

understand the intention behind the legislation. However, the Preamble cannot override a clear provision of the Act. Where the wording of a statutory provision is clear, the provision itself will prevail.

2.1.2.15 Overall Significance of the Preamble

The Preamble provides the philosophical foundation of the Kerala Co-operative Societies Act, 1969. It presents co-operatives as democratic and self-governing institutions intended to promote:

1. Orderly development
2. Democratic governance
3. Self-government
4. Equity
5. Social justice
6. Economic development
7. Scientific and technological development
8. Health care
9. Market intervention
10. Management excellence

2.1.3 Important Definitions under Section 2

Section 2 of the Kerala Co-operative Societies Act, 1969 contains important definitions of terms used throughout the Act. These definitions provide specific meanings to important legal and administrative terms.

2.1.3.1 Apex Society – Section 2(a)

An Apex Society means a society:

1. Having the whole of Kerala as its area of operation;
2. Having only other societies with similar objects as its members; and
3. Declared as an apex society by the Registrar.

An apex society generally occupies the highest level in the structure of co-operative institutions within the State.

2.1.3.2 Assisted Society – Section 2(aa)

An Assisted Society means a co-operative society which has received assistance from the Government in the form of:

1. Share capital

2. Loan
3. Grant
4. Other financial assistance
5. Government guarantee for repayment of loans, interest or deposits

Thus, Government financial support is an important feature of an assisted society.

2.1.3.3 Auditing of Accounts of Co-operative Societies – Section 2(ab)

Auditing the accounts of co-operative societies means a detailed examination of a society's financial transactions, overdue debts, books of account, documents, and other business records.

It includes:

1. Examination of financial transactions
2. Verification of books of accounts
3. Examination of documents
4. Examination of overdue debts
5. Preparation of an audit report
6. Inquiry into the affairs of the society
7. Examination of subsidiary institutions
8. Assessment of the correctness of accounts

The audit also considers the extent to which the activities of the society promote the economic welfare of members in accordance with co-operative principles.

2.1.3.4 Anand Pattern Milk Co-operative Society – Section 2(ac)

An Anand Pattern Milk Co-operative Society means a Primary Dairy Co-operative Society, also known as *Ksheerolpadaka Sahakarana Sangam*, registered on or after 1 January 1980 and functioning according to the Anand Pattern model bye-laws.

1. Its principal activities include:
2. Procuring milk
3. Marketing milk and milk products
4. Supplying marketable surplus to the Regional Co-operative Milk Producers' Union
5. Providing inputs to dairy farmers within its area of operation

2.1.3.5 Administrative Audit – Section 2(ad)

Administrative Audit means a detailed assessment of the affairs of a co-operative society.

It covers:

1. Constitution of the society
2. Management
3. Establishment
4. Records
5. Internal controls
6. Compliance
7. Performance
8. Information technology systems

An administrative audit therefore examines not only financial matters but also the society's overall administrative functioning.

2.1.3.6 Common Software for Primary Agricultural Credit Societies – Section 2(db)

Common Software for Primary Agricultural Credit Societies means a centralised software solution covering the complete day-to-day functions of Primary Agricultural Credit Societies.

The use of common software helps improve efficiency, standardisation, and digital management of primary agricultural credit activities.

2.1.3.7 Consortium – Section 2(dc)

A Consortium means a formal association of co-operative societies formed around a common objective.

It may be established for:

1. Raising funds
2. Providing financial assistance
3. Establishing a new entity
4. Undertaking activities for a public purpose

The formation of such a consortium requires approval from the State Government, wherever required by law.

2.1.3.8 Bye-laws – Section 2(b)

Bye-laws mean the registered bye-laws of a co-operative society which are in force at the relevant time. Bye-laws provide detailed rules relating to the internal functioning, administration and management of the society.

2.1.3.9 Circle Co-operative Union – Section 2(c)

A Circle Co-operative Union means a Circle Co-operative Union constituted under Section 88 of the Act.

2.1.3.10 Central Society – Section 2(d)

A Central Society means a society:

1. Having jurisdiction over one or more Revenue Districts but not the whole State;
2. Having only other societies as members; and
3. Declared as a central society by the Registrar or Government.

2.1.3.11 Chief Executive – Section 2(da)

A Chief Executive means an employee of a co-operative society, irrespective of designation, who performs the functions of a chief executive under the Act, Rules or bye-laws.

The definition may also include a government officer or an employee of another institution or co-operative society who performs such functions.

2.1.3.12 Committee – Section 2(e)

Committee means the governing body of a co-operative society, by whatever name it is called, to which the management of the affairs of the society is entrusted. The Committee is therefore responsible for the overall management and administration of the society.

2.1.3.13 Co-operative Arbitration Court – Section 2(ea)

Co-operative Arbitration Court means a court constituted under Section 70A of the Act. It deals with matters assigned to it under the relevant provisions of the Act.

2.1.3.14 Consortium Lending Scheme – Section 2(eb)

Consortium Lending Scheme means the Consortium Lending Scheme framed under Section 57C of the Act.

2.1.3.15 Co-operative Development and Welfare Fund – Section 2(ec)

Co-operative Development and Welfare Fund means the fund established under Section 57A of the Act for purposes connected with the development and welfare of the co-operative sector.

2.1.3.16 Co-operative Ombudsman – Section 2(ecc)

Co-operative Ombudsman means the person or persons appointed under Section 69A(2) to function as the Co-operative Ombudsman.

2.1.3.17 Co-operative Principles – Section 2(eccc)

Co-operative Principles means the co-operative principles specified in Schedule II to

the Act. These principles provide the basic framework for the democratic and member-oriented functioning of co-operative societies.

2.1.3.18 Co-operative Service Examination Board – Section 2(ed)

Co-operative Service Examination Board means the Co-operative Service Examination Board constituted under Section 80B of the Act.

2.1.3.19 Co-operative Society or Society – Section 2(f)

A Co-operative Society or Society means a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969.

2.1.3.20 Co-operative Society with Limited Liability – Section 2(g)

A Co-operative Society with Limited Liability is a society in which the liability of members for the debts of the society, upon winding up, is limited according to its bye-laws.

1. The liability may be limited to:
2. The unpaid amount on the shares held by members; or
3. The amount which members have undertaken to contribute to the assets of the society.

2.1.3.21 Co-operative Society with Unlimited Liability – Section 2(h)

A Co-operative Society with Unlimited Liability is a society in which, upon winding up, members are jointly and severally liable for the obligations of the society and for contributing towards any deficit in its assets.

2.1.3.22 Deposit Guarantee Scheme – Section 2(ha)

Deposit Guarantee Scheme means the Deposit Guarantee Scheme framed under Section 57B of the Act.

2.1.3.23 Director of Co-operative Audit – Section 2(hb)

Director of Co-operative Audit means the Director of Co-operative Audit appointed under Section 63(1). It also includes an officer to whom the Government delegates all or any of the Director's powers under Section 63(3).

2.1.3.24 Dispute – Section 2(i)

Dispute means any matter concerning the:

1. Business of a society
2. Constitution of a society
3. Establishment of a society

4. Management of a society

which is capable of being the subject of litigation.

It also includes a claim relating to any amount payable to or by a society, whether or not the claim is admitted.

2.1.3.25 District Co-operative Bank – Section 2(ia)

A District Co-operative Bank means a central society which formerly had jurisdiction over one Revenue District and included Primary Agricultural Credit Societies and Urban Co-operative Banks as members. The legal position concerning District Co-operative Banks has changed following statutory transfer and amalgamation arrangements. Therefore, students should understand this definition in the context of the relevant amendments and statutory provisions.

2.1.3.26 Federal Co-operative Society – Section 2(ib)

A Federal Co-operative Society means a society:

1. Having more than one district as its area of operation;
2. Having the Government, individuals and other co-operative societies as members; and
3. Subject to the statutory conditions relating to individual membership.

Individuals may not constitute more than 25 per cent of the membership, subject to the statutory provisions applicable to societies registered before the relevant amendment.

2.1.3.27 Financing Bank – Section 2(j)

A Financing Bank means a co-operative society:

1. Having only other co-operative societies as members; and
2. Whose principal object is to raise money and lend it to its members.

2.1.3.28 General Body Meeting – Section 2(k)

General Body Meeting means a meeting of members who are entitled to vote in the affairs of the society. The General Body Meeting is an important institution of democratic participation in a co-operative society.

2.1.3.29 Member – Section 2(l)

A Member means:

1. A person who joins the application for registration of a co-operative society; or
2. A person admitted as a member after registration in accordance with the Act,

Rules and bye-laws.

3. The definition also includes a nominal member or associate member.

2.1.3.30 Miscellaneous Societies – Section 2(la)

Miscellaneous Societies means societies prescribed by the Rules which:

1. Accept deposits only from their members;
2. Do not accept deposits from nominal or associate members;
3. Undertake welfare-oriented business activities according to their bye-laws; and
4. Issue loans only to members,
5. subject to the conditions prescribed under the Act and Rules.

2.1.3.31 Nominal or Associate Member – Section 2(m)

A Nominal or Associate Member means a member who has only those privileges and rights, and is subject only to those liabilities, which are specified in the bye-laws of the society.

2.1.3.32 Officer – Section 2(n)

Officer includes:

1. President
2. Vice-President
3. Chairman
4. Vice-Chairman
5. Secretary
6. Manager
7. Committee member
8. Treasurer
9. Liquidator
10. Administrator

Any other person empowered under the Rules or bye-laws to give directions concerning the business of a co-operative society

2.1.3.33 Prescribed – Section 2(o)

Prescribed means prescribed by the Rules made under the Kerala Co-operative Societies Act, 1969.

2.1.3.34 Prescribed Period – Section 2(oa)

Prescribed Period means the period of limitation specified in Schedule III to the Act.

2.1.3.35 Primary Agricultural Credit Society – Section 2(oaa)

A Primary Agricultural Credit Society means a Service Co-operative Society, Service Co-operative Bank, Farmers' Service Co-operative Bank or Rural Bank whose principal object is to undertake agricultural credit activities and provide agricultural loans and advances.

Its area of operation is generally confined to a:

1. Village
2. Panchayat
3. Municipality

subject to the relevant statutory provisions.

2.1.3.36 Primary Credit Society – Section 2(ob)

A Primary Credit Society means a society other than an apex or central society whose principal object is to raise funds for lending to its members.

2.1.3.37 Primary Co-operative Agricultural and Rural Development Bank – Section 2(oc)

A Primary Co-operative Agricultural and Rural Development Bank means a society whose area of operation is confined to a taluk and whose principal object is to provide long-term credit for agricultural and rural development activities, subject to the statutory conditions applicable to such societies.

2.1.3.38 Primary Co-operative Society – Section 2(od)

A Primary Co-operative Society means a society having jurisdiction over:

1. An entire Revenue District; or
2. A specified area within a Revenue District

and having individuals and/or other co-operative societies as its members.

2.1.3.39 Registrar – Section 2(p)

Registrar means the Registrar of Co-operative Societies appointed under Section 3(1) of the Act. The term also includes any person on whom all or any of the powers of the Registrar under the Act have been conferred.

2.1.3.40 Rules – Section 2(q)

Rules means the Rules made under the Kerala Co-operative Societies Act, 1969.

2.1.3.41 Scheduled Castes – Section 2(qa)

Scheduled Castes means the Scheduled Castes in relation to Kerala as specified in the Constitution (Scheduled Castes) Order, 1950.

2.1.3.42 Scheduled Tribes – Section 2(qb)

Scheduled Tribes means the Scheduled Tribes in relation to Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950.

2.1.3.43 Social Co-operative Societies – Section 2(qba)

Social Co-operative Societies means primary co-operative societies formed for the welfare of particular social groups.

These may include societies formed for:

1. Differently abled persons
2. Aged persons
3. Transgender persons
4. Depressed persons
5. Mentally challenged persons

Such societies aim to promote the social and economic welfare of their members.

2.1.3.44 Special Officer – Section 2(qc)

A Special Officer means an officer not below the rank of Assistant Registrar appointed by the Registrar for purposes specified under the Act.

The functions of a Special Officer may include:

1. Taking custody of the assets and liabilities of a society
2. Registering new societies
3. Constituting committees
4. Performing other functions provided under Section 28

2.1.3.45 State – Section 2(r)

State means the State of Kerala.

2.1.3.46 State Co-operative Agricultural and Rural Development Bank – Section 2(ra)

A State Co-operative Agricultural and Rural Development Bank means an apex society having only Primary Co-operative Agricultural and Rural Development Banks as its members and functioning under the relevant law governing such institutions.

2.1.3.47 State Co-operative Bank – Section 2(rb)

A State Co-operative Bank means an apex society having only District Co-operative Banks as its members.

2.1.3.48 State Co-operative Election Commission – Section 2(rc)

State Co-operative Election Commission means the State Co-operative Election Commission constituted under Section 28B of the Act.

2.1.3.49 State Co-operative Union – Section 2(s)

State Co-operative Union means the State Co-operative Union established under Section 89 of the Act.

2.1.3.50 Tribunal – Section 2(t)

Tribunal means the Tribunal constituted under Section 81 of the Act.

2.1.3.51 Urban Co-operative Bank – Section 2(ta)

An Urban Co-operative Bank means a society registered under the Act which:

- ◇ Has its area of operation in urban areas;
- ◇ Carries on banking business; and
- ◇ Has obtained the required licence from the Reserve Bank of India.

2.1.3.52 Urban Co-operative Societies – Section 2(taa)

Urban Co-operative Societies means co-operative societies whose principal object is to undertake non-agricultural credit activities and raise funds for lending to their members. Their area of operation is generally confined to a:

1. Municipality; or
 2. Corporation
- subject to the relevant statutory provisions.

2.1.3.53 Vigilance Officer – Section 2(tb)

Vigilance Officer means the Vigilance Officer appointed under Section 68A of the Act.

2.1.3.54 Youth Co-operative Societies – Section 2(v)

Youth Co-operative Societies means co-operative societies registered within one district to promote entrepreneurship, new technology, innovation, and start-ups, and to generate employment and income.

Their objectives include:

1. Promoting entrepreneurship
2. Encouraging new technology
3. Promoting innovation
4. Supporting start-ups
5. Generating employment
6. Generating income
7. Promoting youth welfare

2.1.3.55 Year – Section 2(u)

Year means the period beginning on 1 April and ending on 31 March of the succeeding year. Where a society or class of societies has obtained prior sanction from the Registrar to prepare its accounts to another date, the year means the period ending on the date approved by the Registrar.

Table 2.1.4 Important Definitions

Term	Meaning
Apex Society	Society having the whole of Kerala as its area of operation and having other societies as members
Assisted Society	Society receiving financial or other assistance from the Government
Bye-laws	Registered rules governing the internal functioning of a society
Committee	Governing body entrusted with the management of the society
Co-operative Principles	Principles specified in Schedule II
Co-operative Society	Society registered or deemed to be registered under the Act
Dispute	Matter relating to the business, constitution, establishment or management of a society capable of litigation
Financing Bank	Society whose principal object is to raise money and lend it to members

General Body Meeting	Meeting of members entitled to vote in the affairs of the society
Member	Person admitted to membership according to the Act, Rules and bye-laws
Officer	Person holding a position responsible for management or administration
Prescribed	Prescribed by the Rules
Registrar	Registrar of Co-operative Societies appointed under Section 3
Rules	Rules made under the Act
State Co-operative Union	Union established under Section 89
Tribunal	Tribunal constituted under Section 81
Urban Co-operative Bank	Urban co-operative society carrying on banking business with the required RBI licence
Year	Normally the period from 1 April to 31 March

The Kerala Co-operative Societies Act, 1969 provides the legal framework for the organisation and functioning of co-operative societies in Kerala. The Preamble explains the philosophy and objectives of the legislation. It emphasises the orderly development of the co-operative sector and the organisation of co-operative societies as self-governing democratic institutions.

The major objectives reflected in the Preamble include equity, social justice, economic development, scientific and technological development, health care, market intervention and management excellence. The Preamble also highlights the importance of consolidating, amending and unifying the law relating to co-operative societies in Kerala.

Section 2 provides key definitions necessary to understand the Act. Terms such as Apex Society, Assisted Society, Bye-laws, Committee, Co-operative Society, Member, Registrar, Financing Bank, Primary Agricultural Credit Society, Urban Co-operative Bank and State Co-operative Union have specific statutory meanings.

Therefore, a proper understanding of the Preamble and important definitions provides a strong foundation for studying the other provisions of the Kerala Co-operative Societies Act, 1969.

Recap

1. The Kerala Co-operative Societies Act, 1969 (Act 21 of 1969) provides the legal framework for co-operative societies in Kerala.
2. The Act aims to consolidate, amend and standardise the laws relating to co-operative societies in the State.
3. It promotes the development of co-operatives as democratic and self-governing institutions.
4. The Preamble highlights objectives such as equity, social justice and economic progress.
5. It also recognises the importance of scientific and technological development, health care, market intervention and management excellence.
6. The Preamble reflects the principles of democratic participation, member control, fairness and social welfare.
7. Co-operative societies support weaker sections and promote activities such as agriculture, credit, production, marketing and employment.
8. The Preamble has constitutional and interpretative significance, particularly in relation to the Directive Principles of State Policy.
9. Section 2 provides important definitions such as Member, Committee, Co-operative Society, Bye-laws, Dispute, Registrar and Financing Bank, which help in understanding the Act.
10. In simple terms, the Preamble explains the purpose and philosophy of the Act, while Section 2 explains the important terms used in the Act.

Objective Questions

1. Which of the following is an objective mentioned in the Preamble of the Act?
2. An Apex Society operates over:
3. Which section defines an “Assisted Society”?
4. The internal rules of a co-operative society are known as:
5. Under Section 2(e), a “Committee” means:
6. A “Dispute” under Section 2(i) includes a matter touching the:
7. Who is appointed under Section 3(1) of the Act?

Answers

1. Social justice
2. The whole State of Kerala
3. Section 2(aa)
4. Bye-laws
5. Governing body entrusted with the management of the society.
6. Business, constitution, establishment or management of a society
7. Registrar of Co-operative Societies

Self-Assessment Questions

1. Explain the objectives and significance of the Preamble to the Kerala Co-operative Societies Act, 1969.
2. Discuss how co-operative societies promote equity, social justice and economic development.
3. Explain the constitutional significance of the Preamble and its role in the interpretation of the Act.
4. What are the major objectives of the Kerala Co-operative Societies Act, 1969? Explain.
5. Define the important terms under Section 2 of the Kerala Co-operative Societies Act, 1969.
6. Explain the meaning and significance of any five important definitions under Section 2 of the Act.

Assignments

1. Examine the objectives and importance of the Preamble to the Kerala Co-operative Societies Act, 1969.
2. Evaluate the contribution of co-operative societies towards achieving equity, social justice and economic development in Kerala.
3. Discuss how the Preamble assists in interpreting the provisions of the Act and explain the limitations of its interpretative role.
4. Explain the importance of democratic functioning and self-governance in co-operative societies.
5. Examine the significant definitions contained in Section 2 of the Kerala Co-operative Societies Act, 1969, with particular reference to Apex Society, Assisted Society, Central Society, Committee and Chief Executive.
6. Explain the meaning and legal importance of the terms Co-operative Society, Co-operative Principles, Dispute, Member, Nominal or Associate Member and Registrar as defined under Section 2 of the Act.

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SGOU

Unit

Registration of Co-Operative Societies

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ Explain the meaning and importance of registration of co-operative societies under the Kerala Co-operative Societies Act, 1969.
- ◇ Describe the procedure for registration of co-operative societies, including the preliminary steps, application, required documents, scrutiny and issue of the registration certificate.
- ◇ Identify and explain the contents and importance of bye-laws of co-operative societies and the procedure for their amendment.
- ◇ Explain the statutory provisions relating to change of name and change of liability of co-operative societies.
- ◇ Describe the procedures and legal effects of amalgamation, transfer of assets and liabilities, and division of co-operative societies.

Prerequisite

A foundational knowledge of co-operative societies and the principles governing their establishment and operation is essential for studying this unit. Learners should understand the objectives of forming a co-operative society, the functions of promoters, the significance of preliminary and promoters' meetings, membership, share capital, area of operation, and bye-laws. They should also possess a general awareness of the Kerala Co-operative Societies Act, 1969 and the Rules framed under it, especially the legal provisions relating to registration. Learners should also be familiar with the legal status and administrative structure of a registered co-operative society,

including the rights, responsibilities, and liabilities of its members and the role of registered bye-laws. A basic understanding of bye-law amendments, changes relating to a society's identity or liability, and restructuring through amalgamation, transfer of assets and liabilities, and division will help learners understand the detailed provisions discussed in this unit.

Keywords

Co-operative Society , Registration, Promoters, Bye-laws , Registrar , Limited Liability , Amendment , Membership , Amalgamation , Division

Discussion

Co-operative societies are formed to promote the common economic and social interests of their members through collective effort. For proper functioning, they need a clear legal framework to regulate formation, administration, and restructuring. The Kerala Co-operative Societies Act, 1969 provides this framework by prescribing procedures for registration; the contents and amendment of bye-laws; changes in name and liability; and the amalgamation and division of co-operative societies. Understanding these provisions helps learners to appreciate how co-operative societies are legally established, managed and reorganised in Kerala.

2.2.1 Registration of Co-operative Societies

Registering a co-operative society under the Kerala Co-operative Societies Act, 1969 involves a series of preliminary and statutory steps. The process begins when persons with a common co-operative objective come together to form the proposed society. Sections 4 to 8, read with the relevant provisions of the Kerala Co-operative Societies Rules, 1969, contain the principal statutory provisions governing registration. The promoters first discuss the proposed society and then take formal steps to register it.

2.2.1.1 Preliminary Meeting

The formation of a co-operative society begins with a preliminary meeting of interested persons who share a common co-operative objective. The meeting considers the necessity and objectives of the proposed society, area of operation, activities, membership and share capital. It also helps the promoters assess the proposed society's economic viability and establish its basic structure.

2.2.1.2 Promoters' Meeting

The promoters' meeting is held to take formal decisions on establishing the society. The promoters finalise the society's name, objects, area of operation, membership requirements, and share capital; prepare the proposed bye-laws; and authorise a Chief Promoter to complete the registration formalities and submit the necessary documents to the competent authority.

2.2.1.3 Eligibility for Registration – Section 4

Section 4 of the Kerala Co-operative Societies Act, 1969 prescribes the basic eligibility for registration. A society may be registered when its objectives promote the economic interests of its members or public interests in accordance with co-operative principles. Registration may be refused if the proposed society is likely to be economically unsound or adversely affect the development of the co-operative movement.

2.2.1.4 Registration with Limited Liability – Section 5

Section 5 deals with registration with limited liability. A society registered with limited liability generally uses the word “Limited”, or its equivalent in an Indian language, as the last word of its name. The provision establishes the nature and extent of members' financial responsibility towards the society.

2.2.1.5 Application for Registration – Section 6

After completing the preliminary arrangements, the applicants submit an application for registration to the Registrar in the prescribed form. It must contain the required information and be accompanied by three copies of the proposed bye-laws. Where the applicants are individuals, they must satisfy the prescribed minimum number and family requirements, and the applicants or their authorised representatives must duly sign the application.

2.2.1.6 Documents and Requirements – Rule 3

Rule 3 of the Kerala Co-operative Societies Rules, 1969 supplements Section 6 by specifying additional documents required for registration. These include the proposed bye-laws, a bank certificate showing the society's credit balance, details of contributions towards share capital and entrance fee, and a scheme demonstrating its economic soundness. These documents help the Registrar assess the feasibility and statutory compliance of the proposed society.

2.2.1.7 Submission, Scrutiny and Verification

The Chief Promoter submits the completed application and supporting documents to the competent Registrar or authorised authority. The application is scrutinised for compliance with the Act and Rules, and the accompanying documents are verified. If defects or deficiencies are identified, the Registrar communicates them to the Chief Promoter for correction and resubmission before the application proceeds to further consideration.

2.2.1.8 Examination and Decision by the Registrar – Section 7

Under Section 7, the Registrar examines whether the proposed society satisfies the requirements of the Act and Rules. The Registrar considers its objects, area of operation, bye-laws, and economic soundness, and may seek additional information or conduct an enquiry before deciding on registration.

2.2.1.9 Registration of the Society – Section 7

When the Registrar is satisfied that the statutory requirements have been fulfilled, the society and its bye-laws may be registered under Section 7 within 60 days. A proposed credit society must have collected at least ₹2.5 lakh as share capital and a proposed non-credit society at least ₹1 lakh. This minimum-capital condition does not apply to co-operative societies of Scheduled Castes/Scheduled Tribes, fisheries, women, transgender persons, Primary Anand Pattern Milk Co-operative Societies, schools, colleges and traditional industries. If registration is refused, the Registrar must communicate the reasons within 15 days; Section 7(3) provides a representation mechanism where the application is not disposed of within 60 days.

2.2.1.10 Issue of Registration Certificate – Section 8

After registration, the Registrar issues the Registration Certificate under Section 8. The certificate, bearing the Registrar's signature and seal, serves as conclusive evidence of registration and contains the registration number and date of registration. It is accompanied by the approved and registered bye-laws and marks the formal completion of the registration process.

2.2.1.11 Legal Status after Registration – Section 9

Under Section 9, a registered co-operative society acquires the status of a body corporate with perpetual succession and a common seal. It can acquire, hold and dispose of property, enter into contracts, and institute or defend legal proceedings in its registered name. Thus, registration gives the society its statutory corporate identity.

2.2.2 Bye-laws of Co-operative Societies

2.2.2.1 Contents of Bye-laws of Co-operative Societies

Under the Kerala Co-operative Societies Act, 1969, Section 13A deals with the subject matter and validity of bye-laws, while Rule 5 of the Kerala Co-operative Societies Rules, 1969 specifies the principal matters that may be incorporated in them. The bye-laws must always conform to the provisions of the Act and the Rules and cannot contain any provision inconsistent with them. Following are the contents of bylaws of Co-operative Societies.

1. Name and Address

The bye-laws should specify the society's name, address and, where applicable, branch locations, establishing its official identity and principal place of operation.

2. Area of Operation

The bye-laws should define the geographical area in which the society conducts its activities and provides services, helping determine its operational and membership scope.

3. Objects of the Society

The bye-laws should clearly state the objectives and proposed activities of the society, which must remain consistent with co-operative principles and the Kerala Co-operative Societies Act and Rules.

4. Funds and Share Capital

The bye-laws should provide for the raising, maintenance and utilisation of funds and share capital and regulate their management in accordance with the Act and Rules.

5. Membership

The bye-laws should prescribe the qualifications and conditions for admission to membership, ensuring that only eligible persons are admitted in accordance with statutory and bye-law requirements.

6. Rights, Duties and Liabilities

The bye-laws should define members' rights, privileges, duties and liabilities and regulate their participation and relationship with the society, subject to the Act and Rules.

7. Liability for Society's Debts

The bye-laws may determine members' financial responsibility for the society's debts and obligations, but such liability must remain within the limits prescribed by the Act and Rules.

8. Withdrawal and Penalties

The bye-laws may prescribe conditions for withdrawal from membership and penalties for failure to comply with members' obligations, subject to the Act and Rules.

9. Consequences of Default

The bye-laws may specify the consequences of members' defaults, such as failure to meet financial or other obligations, while ensuring that any action remains legally authorised.

10. Sale or Disposal of Members' Produce

In producer-oriented societies, the bye-laws may regulate the collection, marketing, sale or disposal of members' produce and establish the terms governing such transactions.

11. Conclusion on Bye-laws

The bye-laws provide the internal framework for the organisation, administration and business management of a co-operative society. They must comply with the Kerala

Co-operative Societies Act and Rules, while Rule 5 identifies the principal matters that may be included in them.

2.2.3 Amendment of Bye-laws

Sections 12, 13, and 13A of the Kerala Co-operative Societies Act, 1969 primarily regulate the amendment of a co-operative society's bye-laws. These provisions cover three aspects: Section 12 governs the procedure for registering amendments, Section 13 specifies when an amendment becomes effective, and Section 13A requires the bye-laws to remain consistent with the Act and the Rules.

Section 12 – Registration of Amendment

Under Section 12, an amendment to the bye-laws becomes legally valid only after registration under the Act. The Registrar follows the prescribed procedure, consults the appropriate Co-operative Union and, where applicable, the financing bank. After registration, the Registrar issues a certificate as proof of registration; if registration is refused, the Registrar must communicate the reasons to the society. The application must generally be disposed of within 90 days.

Section 13 – Commencement of Amendment

Section 13 determines when a registered amendment to the bye-laws becomes effective. Ordinarily, the amendment comes into force from the date of registration. However, where the amendment specifies a particular date for its operation, it becomes effective from that date.

Section 13A – Subject Matter and Validity of Bye-laws

Section 13A requires the bye-laws and their amendments to be consistent with the Kerala Co-operative Societies Act, 1969 and the Rules. Therefore, even an amendment approved by the members cannot legally operate if it conflicts with statutory provisions. Rule 5 specifies the principal matters that may be included in the bye-laws.

Important Legislative Amendments

The statutory framework governing bye-laws has been modified through subsequent amendments. Kerala Act 1 of 2000 introduced Section 13A, expressly requiring bye-laws to conform to the Act and Rules, while Kerala Act 8 of 2013 amended Section 12 and restructured provisions relating to the amendment of bye-laws.

Relationship between Sections 12, 13 and 13A

Sections 12, 13 and 13A operate together as a statutory framework for amendment of bye-laws. Section 12 deals with registration of the amendment, Section 13 determines when it comes into force, and Section 13A ensures that its contents comply with the Act and Rules.

2.2.4 Change of Name and Liability of Co-operative Societies

Under the Kerala Co-operative Societies Act, 1969, specific statutory provisions regulate changes in the name of a co-operative society and the liability of its members.

These provisions ensure that any alteration affecting the society's identity or its members' financial responsibility is carried out under the Act and under the supervision of the competent authority.

2.2.4.1 Change of Name of a Co-operative Society – Section 10

Under Section 10 of the Kerala Co-operative Societies Act, 1969, a co-operative society may change its name by amending its registered bye-laws.

1. Section 10(1)

A society may change its name by amending its bye-laws.

2. Section 10(2)

When the name is changed, the Registrar shall enter the new name in the register of co-operative societies in place of the former name and amend the certificate of registration accordingly.

3. Section 10(3)

Change of name does not affect the rights or obligations of the society and does not make any legal proceedings defective. Proceedings that could have been continued or commenced in the former name may be continued or commenced in the new name.

2.2.4.2 Change of Liability – Section 11

- ◇ Section 11(1): Subject to the Act and Rules, a society may change the form or extent of its liability by amending its bye-laws.
- ◇ Section 11(2): After passing a resolution to change liability, the society must give written notice to all members and creditors. They have two months from the date of service of notice to withdraw their shares, deposits or loans, as applicable.
- ◇ Section 11(3): A member or creditor who does not exercise this option within the prescribed two-month period is deemed to have consented to the change.
- ◇ Section 11(4): The amendment changing the form or extent of liability cannot be registered or take effect until either:

all members and creditors have given, or are deemed to have given, their assent; or the claims of members and creditors who exercised their withdrawal option have been paid in full.

2.2.4.3 Effect of Change in Liability – Sections 12, 13 and 13A

Any alteration in the nature or extent of members' liability is significant because it may affect both members' financial obligations and creditors' interests. Such a change cannot therefore be treated as an ordinary internal administrative decision. Where the change requires modifying the registered bye-laws, the statutory procedure for amending bye-laws must be followed.

In such cases, Section 12 governs the registration of the amendment, Section 13 determines when the amendment becomes effective, and Section 13A requires the bye-laws and amendments to remain consistent with the Act and Rules. Consequently, any amendment affecting the liability of members must satisfy all these statutory requirements.

2.2.5 Amalgamation and Division of Co-operative Societies

Section 14 of the Kerala Co-operative Societies Act, 1969, read with Rule 13 of the Kerala Co-operative Societies Rules, 1969, principally regulates the amalgamation, transfer of assets and liabilities, and division of co-operative societies. Section 14 provides the statutory framework for restructuring co-operative societies and prescribes procedures intended to protect the interests of members and creditors.

2.2.5.1 Transfer of Assets and Liabilities

Under Section 14(1)(a), a co-operative society may transfer all or part of its assets and liabilities to another society according to the prescribed procedure. The transfer resolution must include the relevant details, and members and creditors are protected by being given an opportunity to withdraw their shares, deposits, or loans within the prescribed period.

2.2.5.2 Division of a Society

Section 14(1)(b) permits a co-operative society to divide itself into two or more societies when its size, structure or area of operation makes such division appropriate. The proposal must provide for the distribution of assets and liabilities and safeguard the interests of members and creditors.

2.2.5.3 Amalgamation of Societies

Under Section 14(2), two or more co-operative societies may amalgamate to form a new society. The general body of each participating society must approve the proposal according to the prescribed procedure and majority, and the resolution must include the necessary details of the amalgamation.

2.2.5.4 Resolution and its Particulars

Section 14(3) requires resolutions relating to transfer, division or amalgamation to contain complete particulars of the proposed transaction. This enables members, creditors and the Registrar to understand the nature and consequences of the proposed restructuring.

2.2.5.5 Notice to Members and Creditors

Under Section 14(4), the company must give written notice of the proposed restructuring to members and creditors, allowing them to withdraw their shares, deposits, or loans within the prescribed period. Failure to exercise this right within the prescribed period is treated as assent to the transaction.

2.2.5.6 Effect of the Resolution

A resolution for amalgamation, transfer or division does not become effective merely upon being passed. Under Section 14(6), it becomes operative after the required consent is obtained or deemed to have been obtained, or after the claims of members and creditors who exercised their withdrawal rights have been satisfied.

2.2.5.7 Legal Effect of Transfer

Section 14(7) provides that a resolution transferring assets and liabilities itself operates as the conveyance for vesting them in the transferee society. Therefore, a separate conveyance is not required merely to give effect to such a statutory transfer.

2.2.5.8 Publication of the Approved Scheme

Under the current Section 14(8), the detailed scheme for transfer of assets and liabilities or merger, prepared by the society and approved by the Registrar, must be published by both the Registrar and the society.

2.2.5.9 Merger under Section 14(2A)

The 2023 amendment inserted Section 14(2A), permitting one or more societies to merge with another society through simple-majority general-body resolutions, subject to the receiving society's approval and the other statutory safeguards. The former Registrar-directed division provision in Section 14(9) is no longer current.

2.2.5.10 Legislative Amendments

The Kerala Co-operative Societies (Amendment) Act, 2013 removed the earlier requirement of prior Registrar approval. The Kerala Co-operative Societies (Amendment) Act, 2023 restored prior Registrar approval, adopted a simple-majority requirement, inserted Section 14(2A) on merger, and revised Section 14(8) on publication of the approved scheme. Consult the current Act and Rule 13 together.

Recap

- ◇ A co-operative society is formed by persons sharing a common objective, with decisions on its purpose, activities, membership and capital.
- ◇ Promoters finalise the basic structure, prepare bye-laws and appoint a Chief Promoter, subject to Section 4 requirements.
- ◇ The application and supporting documents are submitted to the Registrar and scrutinised before registration under Section 7.
- ◇ Registration under Sections 8 and 9 gives the society a certificate and corporate status with perpetual succession and legal capacity.
- ◇ Bye-laws regulate the society's name, objectives, area, funds, membership, rights and liabilities.
- ◇ Sections 12, 13 and 13A govern registration, commencement and statutory validity of amendments to bye-laws.
- ◇ Changes in name or members' liability must follow the prescribed statutory procedure and comply with the Act and Rules.
- ◇ Section 14 regulates transfer of assets and liabilities, division and amalgamation, while protecting members and creditors and providing powers to the Registrar.

Objective Questions

1. Under which section of the Kerala Co-operative Societies Act, 1969 is the eligibility for registration of a co-operative society prescribed?
2. Which section deals with the application for registration of a co-operative society?
3. Under which section is the Registration Certificate issued by the Registrar?
4. Which section requires the bye-laws of a co-operative society to conform to the Act and Rules?
5. Which section primarily regulates the amalgamation, transfer of assets and liabilities, and division of co-operative societies?
6. Under which section does a registered co-operative society acquire the status of a body corporate?

Answers

1. Section 4.
2. Section 6
3. Section 8.
4. Section 13A.
5. Section 14.
6. Section 9.

Self-Assessment Questions

1. Explain the procedure for registration of a co-operative society under Sections 4 to 9 of the Kerala Co-operative Societies Act, 1969.
2. What are the essential matters that should be incorporated in the bye-laws of a co-operative society? Explain their significance.
3. Explain the legal provisions relating to amendment of bye-laws under Sections 12, 13 and 13A of the Kerala Co-operative Societies Act, 1969.
4. Discuss the statutory provisions governing change of name and liability of members of a co-operative society.
5. Explain the provisions relating to amalgamation, transfer of assets and liabilities, and division of co-operative societies under Section 14.

Assignments

1. Prepare a detailed note on the procedure for registration of a co-operative society under the Kerala Co-operative Societies Act, 1969, covering the role of promoters, eligibility, application, scrutiny, registration and issue of the registration certificate.
2. Explain the contents and importance of bye-laws of a co-operative society, with particular reference to membership, area of operation, objects, funds, share capital, and the rights, duties and liabilities of members.
3. Analyse the procedure for amendment of bye-laws under Sections 12, 13 and 13A of the Kerala Co-operative Societies Act, 1969, explaining registration, commencement and conformity with the Act and Rules.

4. Discuss the legal provisions relating to change of name and liability of members of a co-operative society, including the effect of amendments affecting members' financial liability.
5. Examine the provisions relating to amalgamation, transfer of assets and liabilities, and division of co-operative societies under Section 14, with special emphasis on the protection of members and creditors and the powers of the Registrar.

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Unit 3

Membership in Co-Operative Societies

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ Explain the qualifications required for membership in co-operative societies under the Kerala Co-operative Societies Act, 1969.
- ◇ Identify the major rights and liabilities of members of co-operative societies.
- ◇ Describe the provisions relating to shares, voting, participation in management and access to society records.
- ◇ Explain the grounds and procedure for removal and expulsion of members.
- ◇ Apply the legal provisions relating to membership, rights, liabilities and expulsion to simple situations in co-operative societies.

Prerequisite

Anu wanted to join the local housing co-operative society because she planned to construct a small house for her family. She submitted her application and was surprised when the secretary explained that membership was not simply a matter of submitting an application and paying the membership fee. She had to meet the conditions prescribed by law and the society's bye-laws. After becoming a member, Anu had the right to attend general body meetings, vote on important matters, and participate in the society's democratic functioning. However, she also had certain responsibilities. She had to make the required payments, follow the bye-laws and act in the interest of the society. Later, another member repeatedly violated the bye-laws and created difficulties for the society. The general body had to consider whether disciplinary action, including

expulsion, was necessary. This situation raises some important questions: Who can become a member of a co-operative society? What rights does membership provide? What responsibilities accompany those rights? Can a member be removed or expelled? What procedure must be followed? Answering these questions helps us understand the legal framework governing membership in co-operative societies.

Keywords

Membership, Registered Bye-laws, Membership Rights, Voting Rights, Member Liabilities, Past Member Liability, Expulsion, General Body

Discussion

2.3.1 Qualification for Membership in a Co-operative Society

In Kerala, Section 16 of the Kerala Co-operative Societies Act, 1969 mainly governs eligibility for membership in a co-operative society. For individuals, the essential qualifications concern age, mental capacity, residence or occupation within the society's area of operation and, where applicable, the likelihood of benefiting directly from the specified activities of the society. In addition to individuals, other co-operative societies, local self-government institutions, the Government, and Government-approved bodies of persons may also be admitted as members. Therefore, eligibility must be determined with reference to Section 16, the Rules, and the registered bye-laws of the concerned society.

2.3.1.1 General Principle of Membership

Membership is the basic foundation of a co-operative society. A co-operative society is formed when individuals voluntarily associate to meet their common economic and social needs through democratic management. The principle of voluntary and open membership enables persons who can make use of the society's services and are prepared to fulfil the responsibilities of membership to join it.

However, membership is not an absolute right. Admission is subject to the requirements of the Kerala Co-operative Societies Act, 1969, the Kerala Co-operative Societies Rules, 1969 and the registered bye-laws of the society.

2.3.1.2 Section 16 of the Kerala Co-operative Societies Act, 1969

Section 16 identifies the categories of persons and institutions eligible for membership in a co-operative society. These include:

- ◇ An individual satisfying the prescribed qualifications

- ◇ Another co-operative society
- ◇ A local self-government institution
- ◇ The Government
- ◇ An incorporated or unincorporated body of persons approved by the Government

Thus, membership is not confined to individuals and may also be available to eligible institutions and organisations under the Act, Rules and bye-laws.

2.3.1.3 Individual Must Have Attained 18 Years of Age

Under Section 16(1)(a)(i), an individual seeking membership should ordinarily have completed 18 years of age. Therefore, a minor cannot generally become an ordinary member of a co-operative society.

An exception applies to societies established exclusively for the benefit of school or college students, where persons below eighteen years may participate as members.

For a Youth Co-operative Society, Section 16(1)(a)(ia) requires an individual member to be below 45 years of age. On attaining 45 years, the membership ceases, and the person becomes an associate member of the society.

2.3.1.4 Applicant Should Be of Sound Mind

Section 16(1)(a)(ii) requires an individual seeking membership to be of sound mind.

This condition is important because membership involves various legal rights and obligations, including:

- ◇ Holding shares
- ◇ Voting
- ◇ Participating in the general body
- ◇ Entering into transactions with the society
- ◇ Fulfilling membership obligations

Therefore, mental capacity is treated as an essential qualification for individual membership.

2.3.1.5 Residence or Occupation of Land Within the Area of Operation

Under Section 16(1)(a)(iii), an individual must either:

- ◇ Reside within the society's area of operation, or
- ◇ Be in occupation of land situated within that area

The area of operation is the geographical area in which the society is authorised to conduct its activities under its registered bye-laws.

This requirement ensures that the applicant has a genuine connection with the locality and the activities served by the society.

2.3.1.6 Another Co-operative Society May Become a Member

Section 16(1)(b) permits one co-operative society to become a member of another co-operative society.

This provision is particularly important in the federal structure of the co-operative movement. For example:

- ◇ Primary co-operative societies may become members of central or federal societies.
- ◇ Central co-operative societies may become members of apex societies.

Such membership is subject to the Act, Rules and relevant bye-laws.

2.3.1.7 Local Self-Government Institution May Become a Member

Section 16 also permits a local self-government institution to become a member of a co-operative society.

Where legally permitted and consistent with the objectives of the society, this provision enables local administrative institutions to participate in co-operative activities and contribute to matters connected with the purposes of the society.

2.3.1.8 Government May Become a Member

The Government is also included among the categories eligible for membership under Section 16.

Government participation may be particularly relevant in societies where the State promotes co-operative activities or provides financial assistance to specific categories of co-operative societies.

2.3.1.9 Body of Persons May Become a Member with Government Approval

A body of persons, whether incorporated or unincorporated and whether established under a law or otherwise, may become a member if it has received the necessary Government approval through a general or special order.

Therefore, the mere existence of an organisation does not automatically make it eligible for membership where such approval is required.

2.3.1.10 Applicant Should Be Capable of Benefiting from the Specified Activity

Where a society is established to promote the economic interests of its members through a particular or specified activity, an applicant should ordinarily be admitted

only when they are likely to receive a direct benefit from that activity, unless the Rules provide otherwise.

This requirement ensures a proper relationship between:

- ◇ The objectives of the society
- ◇ Its activities
- ◇ The economic interests of the proposed member

2.3.1.11 Compliance with Registered Bye-laws

Meeting the statutory requirements under Section 16 alone is not sufficient. The applicant must also comply with the registered bye-laws of the concerned society, provided they are consistent with the Act and Rules.

The bye-laws may prescribe:

- ◇ Eligible classes of persons
- ◇ Area of operation
- ◇ Application procedure
- ◇ Share subscription
- ◇ Entrance fee
- ◇ Other conditions for admission

Consequently, membership requirements may differ according to the nature and objectives of different co-operative societies.

2.3.1.12 Payment of Share Capital and Other Amounts

Admission to membership generally requires compliance with the financial conditions prescribed by the Act, Rules and bye-laws, including taking the required shares and making the prescribed payments.

Section 19 separately deals with restrictions on exercising membership rights until the required payments have been made.

Thus:

Eligibility for membership $\neq$ Immediate exercise of all membership rights

A person may satisfy the conditions for membership but may have to fulfil prescribed financial requirements before exercising particular rights.

2.3.1.13 Membership Must Relate to the Objects of the Society

A person seeking membership should have a genuine relationship with the purposes for which the society has been established, particularly when the society is intended to serve a specific occupation, activity or economic purpose.

The proviso to Section 16 reflects this requirement by providing that, in appropriate cases, the proposed member should be likely to obtain a direct benefit from the specified activity of the society.

2.3.1.14 Admission Is Subject to the Act, Rules and Bye-laws

Admission to membership is governed by three levels of requirements:

Kerala Co-operative Societies Act, 1969 – provides the statutory framework.

Kerala Co-operative Societies Rules, 1969 – provide applicable procedural and additional requirements.

Registered bye-laws of the society – prescribe conditions relating to the particular nature and objectives of the society.

Therefore, compliance with only one of these requirements does not by itself confer an unconditional right to membership.

2.3.2 RIGHTS AND LIABILITIES OF MEMBERS OF A CO-OPERATIVE SOCIETY

Chapter III of the Kerala Co-operative Societies Act, 1969, particularly Sections 19 to 26, deals with various rights and liabilities of members of co-operative societies. Members are entitled to participate in the management of the society, exercise voting rights, obtain relevant information, take part in general body proceedings and hold shares subject to legal restrictions. At the same time, members must make prescribed payments, comply with the Act, Rules and bye-laws, observe the conditions of membership, and discharge the financial and other liabilities arising from their membership.

2.3.2.1 Right to Exercise Membership Rights – Section 19

A member becomes entitled to exercise the rights attached to membership after fulfilling the prescribed requirements relating to payments or acquiring the required interest in the society.

The Kerala Co-operative Societies Rules or the registered bye-laws determine the amount to be paid or the interest to be acquired.

Therefore, admission to membership by itself does not necessarily give a member an immediate right to exercise every membership right.

2.3.2.2 Right to Participate in Management – Section 16A

Members have the right to participate in the management of the society in accordance with the Act, Rules, and registered bye-laws.

Democratic control requires members to participate in:

- ◇ Decision-making
- ◇ Determining policies
- ◇ General body activities
- ◇ Administration of the society

In primary co-operative societies, democratic participation generally follows the principle of one member, one vote, subject to the qualifications and restrictions prescribed by law.

2.3.2.3 Right to Obtain Information – Section 19B

Members are entitled to inspect important records of the society free of charge at reasonable times at its registered office.

These records include:

- ◇ Current Kerala Co-operative Societies Act
- ◇ Kerala Co-operative Societies Rules
- ◇ Registered bye-laws
- ◇ Register of members
- ◇ Latest audited balance sheet and accounts
- ◇ Records relating to the member's transactions

This right promotes transparency and enables members to stay informed about the society's financial and administrative affairs.

2.3.2.4 Right to Vote – Section 20

A member who satisfies the prescribed qualifications has the right to vote in the affairs of the society in accordance with the Act and its bye-laws.

Voting enables members to participate in decisions concerning the administration and functioning of the society through the general body and other legally recognised procedures.

2.3.2.5 Right to Participate in General Body Decisions

The general body provides an important forum for members to participate in the democratic administration of the society.

Eligible members may:

- ◇ Participate in discussions
- ◇ Express their views
- ◇ Vote on matters placed before the general body
- ◇ Participate in decisions affecting the society

This right reflects the fundamental principle of democratic member control.

2.3.2.6 Right to Hold Shares Subject to Statutory Restrictions – Section 22

A member has the right to acquire and hold shares in the society, subject to the limitations imposed by the Act, Rules and registered bye-laws.

Section 22 prescribes restrictions on the amount of shares that an individual member may hold.

Hence, the right to hold shares is regulated and cannot be exercised beyond the statutory or bye-law limits.

2.3.2.7 Right Relating to Transfer of Shares or Interest – Section 23

A member may possess an interest in the shares or capital of the society, but such interest cannot be transferred freely.

Any transfer of shares or other interest must comply with:

- ◇ Section 23
- ◇ Applicable Rules
- ◇ Registered bye-laws

Therefore, a member must fulfil the prescribed legal requirements before transferring their interest in the society.

2.3.2.8 Right to Withdraw Shares Subject to Restrictions – Section 24

A member may seek withdrawal of shares or other interest in the society, but such withdrawal is regulated by Section 24 and the applicable Rules and bye-laws.

These restrictions are intended to:

- ◇ Protect the financial stability of the society
- ◇ Safeguard the interests of other members
- ◇ Prevent sudden withdrawal of capital

Thus, withdrawal cannot be treated as an unrestricted right.

2.3.2.9 Right of Interest to Pass on Death – Section 25

When a member dies, the society deals with his or her interest in accordance with Section 25, applicable legal provisions, and the registered bye-laws.

The provision establishes a mechanism for dealing with the deceased member's shares or other interest in the society and regulates how such interest may be dealt with after death.

LIABILITIES OF MEMBERS

2.3.2.10 Liability to Make Required Payments

A member is responsible for making all payments required under the Act, Rules and registered bye-laws, including prescribed amounts relating to membership and shares.

Until the required payments are made or the prescribed interest is paid, the member may not be entitled to exercise the relevant membership rights under Section 19.

2.3.2.11 Liability to Comply with the Act, Rules and Bye-laws

Every member must observe and comply with:

- ◇ Kerala Co-operative Societies Act, 1969
- ◇ Kerala Co-operative Societies Rules, 1969
- ◇ Registered bye-laws of the society
- ◇ Valid decisions taken according to the legal framework

Failure to comply with applicable provisions may result in consequences prescribed by law or by the bye-laws.

2.3.2.12 Liability in Respect of Society's Debts

A member's financial liability depends on the nature of the society and the type of liability prescribed for it.

The extent of a member's financial responsibility is determined by the Act, Rules and registered bye-laws.

Distinguish an individual member's liability from the society's separate legal liability as a body corporate.

2.3.2.13 Liability of a Past Member – Section 26

A person does not necessarily become free from every liability immediately after ceasing to be a member.

Section 26 specifically provides for the liability of:

- ◇ A former member
- ◇ The estate of a deceased member

Subject to the conditions prescribed by law, certain liabilities arising from former membership may continue even after membership has ended.

2.3.2.14 Liability of the Estate of a Deceased Member

The estate of a deceased member may continue to be responsible for certain liabilities under Section 26.

Consequently, the death of a member does not automatically extinguish every liability associated with membership. The nature, extent and duration of such liability are determined by the Act and applicable provisions governing the society.

2.3.2.15 Liability to Observe Democratic Discipline of the Society

Members are expected to participate responsibly in the democratic administration of the society and to respect decisions validly made in accordance with the Act, Rules and bye-laws.

Democratic member control involves not only enjoying participation rights but also exercising those rights responsibly so the society's affairs are conducted effectively and according to co-operative principles.

2.3.3 Removal and Expulsion of Members of a Co-operative Society

Section 17 of the Kerala Co-operative Societies Act, 1969 governs the expulsion of members of a co-operative society. Expulsion is a disciplinary measure taken when a member acts against the interests of the society or violates its bye-laws. It is different from ordinary cessation of membership.

Under Section 17, expulsion requires a resolution of the general body at a specially convened meeting, supported by at least two-thirds of the members present and voting. The member must be allowed to present their case. The society must communicate the resolution to the member within 15 days. Expulsion may also result in forfeiture of shares, and the expelled member is barred from re-admission to the same society for one year from the date of expulsion.

2.3.3.1 Grounds for Expulsion

A member may be expelled when:

- ◇ His or her conduct is against the interests of the society
- ◇ The member fails to comply with the provisions of the society's bye-laws

Thus, expulsion is intended to deal with conduct that adversely affects the society or serious violations of the rules governing membership.

2.3.3.2 Expulsion by the General Body – Section 17(1)

Expulsion cannot ordinarily be carried out merely through a decision of the managing committee.

Under Section 17(1), it must be based on a resolution passed by the general body at a special meeting convened specifically for expulsion.

The resolution must be supported by not less than two-thirds of the total number of members present and voting at that meeting.

2.3.3.3 Opportunity to Make Representation – Section 17(2)

A member against whom expulsion is proposed must be given a proper opportunity to make a representation.

The member should be allowed to explain the circumstances and respond to the allegations before the general body decides.

This provision ensures procedural fairness in the disciplinary process.

2.3.3.4 Communication of the Expulsion Resolution – Section 17(3)

Once the general body passes the expulsion resolution, it must communicate a copy of the resolution to the concerned member within fifteen days of its passing.

This ensures that the member receives formal notice of the decision and becomes aware of the consequences of expulsion.

2.3.3.5 Forfeiture of Shares – Section 17(4)

Expulsion may have financial consequences for the member.

Under Section 17(4), the shares held by an expelled member may be forfeited.

Therefore, expulsion can result not only in the loss of membership and associated rights but also in the forfeiture of the member's shares.

2.3.3.6 Restriction on Re-admission

A member who has been expelled under Section 17(1) cannot be admitted again to the same co-operative society for one year from the date of expulsion.

This restriction prevents an expelled member from immediately seeking fresh membership and reinforces the disciplinary nature of expulsion.

2.3.3.7 Expulsion Must Follow the Statutory Procedure

Because expulsion terminates membership and may also affect the member's financial interest in the society, the procedure prescribed under Section 17 must be followed.

The essential requirements include:

1. A legally recognised ground for expulsion
2. A specially convened general body meeting
3. Opportunity for the member to make a representation
4. Approval by the required two-thirds majority of members present and voting
5. Communication of the resolution within fifteen days
6. Compliance with the statutory consequences of expulsion

2.3.3.8 Distinction Between Removal and Expulsion

The expression “expulsion” is specifically recognised in Section 17 of the Kerala Co-operative Societies Act and refers to the disciplinary termination of membership on specified grounds. The term “removal” may have a broader meaning and can refer generally to cessation of membership or removal from a particular position. Therefore, removal should not automatically be treated as equivalent to statutory expulsion. Section 17 specifically deals with member expulsion.

Recap

- ◇ Membership qualification is mainly governed by Section 16 of the Kerala Co-operative Societies Act, 1969, along with the Rules and registered bye-laws.
- ◇ An individual member should generally be 18 years or above, of sound mind, and should reside or occupy land within the society’s area of operation, subject to statutory exceptions.
- ◇ Other co-operative societies, local self-government institutions, Government and approved bodies of persons may also become members, subject to the prescribed conditions.
- ◇ Membership should have a direct relationship with the objects and activities of the society, particularly where the society is formed to serve a specific economic or occupational group.
- ◇ Members must fulfil the prescribed share capital, payment and other membership requirements before exercising the relevant membership rights.
- ◇ Members have important rights, including participation in management, voting, participation in general body decisions, inspection of records and holding shares subject to legal restrictions.
- ◇ Members also have important liabilities, such as making required payments, complying with the Act, Rules and bye-laws, and meeting applicable financial obligations.
- ◇ The interest of a member in shares may be transferred, withdrawn or dealt with after death only in accordance with the Act, Rules and registered bye-laws.
- ◇ Expulsion of members is governed by Section 17. It requires a specially convened general body meeting, the required two-thirds majority of members present and voting, and an opportunity for the member to make a representation.

- ◇ Expulsion may involve forfeiture of shares and a one-year restriction on re-admission to the same society; therefore, membership involves both valuable rights and important responsibilities.

Objective Questions

1. What is the ordinary minimum age for becoming a member of a co-operative society?
2. Is membership an absolute right of an applicant?
3. Which section deals with the voting rights of members?
4. Which section provides the right of members to obtain information about the society?
5. Which section deals with the liability of past members and the estate of deceased members?
6. Who has the power to pass the resolution for expulsion of a member?
7. What may happen to the shares of an expelled member?
8. What type of meeting is required for expulsion of a member?
9. For how long is an expelled member barred from re-admission to the same society?
10. Within how many days must the expulsion resolution be communicated to the member?

Answers

1. 18 years.
2. No. Admission is subject to the Act, Rules and registered bye-laws.
3. Section 20.
4. Section 19B.
5. Section 26.
6. The General Body.
7. The shares may be forfeited.
8. A specially convened General Body meeting.
9. One year from the date of expulsion.
10. 15 days.

Self-Assessment Questions

1. What are the main qualifications required for membership in a co-operative society under Section 16 of the Kerala Co-operative Societies Act, 1969?
2. Explain the important rights of members relating to management, voting, information and shares under the relevant provisions of the Act.
3. What are the major liabilities of members, and to what extent can the liability of a past or deceased member continue under Section 26?
4. What are the grounds and procedure for expulsion of a member under Section 17?
5. Distinguish between removal or cessation of membership and expulsion, and explain the consequences of expulsion.

Assignments

1. Explain the qualifications for membership in a co-operative society under Section 16 of the Kerala Co-operative Societies Act, 1969.
2. Discuss the rights of members, including management, voting, access to information, holding shares, transfer and withdrawal of interests under the relevant provisions of the Act.
3. Examine the liabilities of members, including their financial obligations, compliance with the Act, Rules and bye-laws, and the continuing liability of past and deceased members under Section 26.
4. Explain the grounds and procedure for expulsion of members under Section 17, including the General Body meeting, required majority and opportunity for representation.
5. Distinguish between removal and expulsion of members and discuss the consequences of expulsion, including communication of the resolution, forfeiture of shares and restriction on re-admission.

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Unit

Rights of Members

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ Explain the rights of members relating to withdrawal and transfer of shares in co-operative societies.
- ◇ Describe the restrictions on holding shares under the Kerala Co-operative Societies Act, 1969.
- ◇ Explain the provisions relating to nomination and transfer of a deceased member's share or interest.
- ◇ Identify the legal conditions governing members' shares and interests.
- ◇ Analyse the importance of these provisions in protecting the financial stability and democratic character of co-operative societies.

Prerequisite

Ravi had been a member of a local co-operative society for several years and had accumulated shares in the society. When he needed money for an urgent personal expense, he decided to withdraw his shares. At the same time, his friend Suresh, who was also a member, wanted to transfer his shares to another person. When they approached the society, the secretary explained that members could not freely withdraw or transfer their shares whenever they wished. Legal conditions had to be followed. The secretary also advised Ravi to nominate someone to deal with his share or interest in the society in the event of his death. Ravi then realised that membership involved not only rights but also certain legal restrictions designed to protect the society's capital. This situation raises an important question: Why does the law regulate how members hold, transfer, withdraw, and pass on their shares? The answer lies in maintaining a balance between members' rights and the financial stability of the co-operative society.

Keywords

Shareholding , Share Capital , Transfer of Shares , Withdrawal of Shares , Committee Approval , Registered Bye-laws , Nomination , Heir , Legal Representative , Financial Stability

Discussion

A co-operative society is owned and controlled by its members, and shares represent members' financial interest in the society. However, members cannot always deal with their shares in the same way as ordinary investments. The law places certain conditions on the transfer and withdrawal of shares, limits the amount of shares that a member can hold, and provides a mechanism for nomination so that a member's interest can be settled after death. These provisions protect the society's financial stability while safeguarding the legitimate interests of its members. This unit examines members' rights relating to withdrawal and transfer of shares, restrictions on holding shares, and nomination under the Kerala Co-operative Societies Act, 1969.

2.4.1 Withdrawal and Transfer of Shares by Members

A member of a co-operative society has a financial interest in the society through the shares held. However, shares and interests in a co-operative society cannot be freely transferred or withdrawn. The Kerala Co-operative Societies Act, 1969, together with the Rules and registered bye-laws, prescribes conditions for transfer and withdrawal. These restrictions are intended to protect the capital, financial stability and continuity of the society.

2.4.1.1 Transfer of Shares or Interest – Section 23

Section 23 regulates the transfer of a member's share or interest in the capital of a co-operative society. A member cannot freely transfer the share or interest without satisfying the conditions prescribed by the Act, Rules and registered bye-laws.

The important conditions relating to transfer include:

1. The member should have held the share or interest for the prescribed period.
2. The transfer should comply with the provisions of the Act, Rules and registered bye-laws.
3. The transfer should satisfy the requirements relating to the maximum shareholding prescribed under Section 22.
4. The transfer is subject to the approval or requirements prescribed for the society.

The provision prevents members from immediately transferring their financial interest after acquiring shares and helps maintain stability in the membership and capital structure of the society.

2.4.1.2 Withdrawal of Shares – Section 24

Section 24 deals with the withdrawal of shares or interest by members. A member does not have an unrestricted right to withdraw shares from a co-operative society. Withdrawal is subject to the provisions of the Act, Rules and registered bye-laws.

The important requirements include:

1. The member should satisfy the prescribed conditions relating to the period for which the share has been held.
2. Withdrawal should be made in accordance with the registered bye-laws of the society.
3. The withdrawal should comply with the statutory restrictions applicable to the society.

These restrictions protect the society's capital and prevent premature withdrawal of members' financial interests.

2.4.1.3 Importance of Regulation of Transfer and Withdrawal

The regulation of transfer and withdrawal of shares is important because it:

1. Protects the capital of the co-operative society.
2. Maintains financial stability.
3. Prevents premature withdrawal of members' interests.
4. Ensures orderly changes in members' financial interests.
5. Supports the continuity of the society's activities.

Thus, the law attempts to balance individual members' financial rights with the co-operative society's collective financial interests.

2.4.2 Restriction on Holding Shares

Section 22 of the **Kerala Co-operative Societies Act, 1969** regulates the amount of share capital that a member may hold in a co-operative society. This restriction prevents excessive concentration of shareholding and preserves the democratic character of co-operative societies.

2.4.2.1 Maximum Limit of Shareholding – Section 22

An ordinary member cannot hold shares beyond the maximum limit prescribed under the Act. Generally, an individual member's holding is restricted to the prescribed proportion of the society's total share capital, subject to the provisions of the Act and applicable notifications.

The restriction prevents a single member from acquiring an excessively large financial interest in the society.

2.4.2.2 Power of Government to Prescribe a Higher Limit

The Government has the power, subject to the provisions of the Act, to prescribe a higher maximum limit of shareholding for particular classes of co-operative societies.

Therefore, the permissible limit may vary according to the nature and class of the society and the limits prescribed by the Government.

2.4.2.3 Special Categories of Members

Certain categories of members may be subject to separate provisions relating to shareholding. These may include:

1. Government.
2. Approved boards.
3. Corporations.
4. Other co-operative societies.

The shareholding of these categories is regulated under the applicable provisions.

2.4.2.4 Special Restriction on Urban Co-operative Banks

For an **Urban Co-operative Bank holding a Reserve Bank of India licence**, the applicable provision places a specific restriction on the maximum shareholding of an individual member. The member's holding is subject to the limit prescribed under the relevant provision of Section 22.

2.4.2.5 Objectives of Restriction on Holding Shares

The restriction on holding shares serves the following purposes:

1. Prevents concentration of shareholding in the hands of one member.
2. Protects the democratic character of the co-operative society.
3. Prevents excessive financial influence by an individual member.
4. Supports balanced participation among members.
5. Protects the financial structure and stability of the society.

Thus, restriction on shareholding ensures that the principle of **democratic member control** is not weakened merely because a member holds a larger amount of share capital.

2.4.3 NOMINATION BY MEMBERS

Nomination is an important facility available to members for dealing with their share or interest in a co-operative society after their death. Section 25 of the Kerala Co-operative Societies Act, 1969, read with the applicable Rules and registered bye-laws, is the relevant provision.

2.4.3.1 Right to Nominate

A member may nominate a person to whom the member's share or interest in the society may be transferred after the member's death.

Nomination enables the society to identify the person nominated by the deceased member and facilitates the orderly settlement of the member's interest.

2.4.3.2 Transfer of Interest on Death – Section 25

When a member dies, the member's share or interest in the society is dealt with in accordance with Section 25, the Rules, and the registered bye-laws.

Where a valid nomination exists, the society may deal with the deceased member's share or interest in accordance with the applicable legal requirements.

2.4.3.3 Nominee

Where a member has made a valid nomination, the society may transfer the deceased member's share or interest to the nominee, subject to the provisions of the Act, Rules and registered bye-laws.

The nominee therefore provides a clear reference point for the society when settling the deceased member's interest.

2.4.3.4 Absence of Nomination

If a member dies without making a nomination, the society may deal with the member's share or interest in favour of the person recognised as the heir or legal representative, subject to the requirements of the Act, Rules and registered bye-laws.

2.4.3.5 Payment of Value of Share or Interest

Subject to the applicable legal provisions, the nominee, heir or legal representative may require the society to pay the value of the deceased member's share or interest instead of transferring the share or interest.

The value is determined under the Rules and registered bye-laws.

2.4.3.6 Importance of Nomination

Nomination is important because it:

1. Facilitates the settlement of a deceased member's interest.
2. Helps the society identify the person nominated by the member.
3. Reduces administrative difficulties.
4. Supports continuity in dealing with the member's financial interest.
5. Helps avoid unnecessary delay in settlement, subject to applicable legal requirements.

The Kerala Co-operative Societies Act, 1969, the Rules, and the registered bye-laws regulate members' rights relating to shares. **Section 23** regulates the transfer of shares or interest, while **Section 24** deals with withdrawal. These provisions restrict the free transfer or withdrawal of members' financial interests to protect the society's capital and financial stability.

Section 22 restricts the amount of share capital a member may hold, thereby preventing excessive concentration of ownership and influence. The Government may prescribe different limits for particular classes of co-operative societies, subject to the Act.

Section 25 deals with nomination and the treatment of a deceased member's share or interest. A member may nominate a person, and where there is no nomination, the interest may be dealt with in accordance with the applicable provisions relating to the heir or legal representative. Thus, the provisions relating to transfer, withdrawal, shareholding restrictions, and nomination seek to protect both members' financial interests **and the** collective interests of the co-operative society.

Recap

- ◇ Section 23 regulates the transfer of shares or interest of members, subject to the Kerala Co-operative Societies Act, Rules and registered bye-laws.
- ◇ Section 24 regulates the withdrawal of shares and protects the financial stability and capital of the co-operative society.
- ◇ Section 22 places restrictions on the maximum amount of shares that a member can hold and prevents excessive concentration of shareholding.
- ◇ Section 25 provides for nomination and the transfer or settlement of a deceased member's share or interest in favour of the nominee, heir or legal representative, as applicable.
- ◇ The provisions relating to transfer, withdrawal, shareholding and nomination balance the financial rights of individual members with the collective interests and democratic character of co-operative societies.

Objective Questions

1. What is the general maximum limit of shareholding for an ordinary member?
2. Who can prescribe a higher shareholding limit for particular classes of societies?

3. For how long must a member generally have held a share or interest before its transfer?
4. Who must approve the transfer of a member's share or interest?
5. What minimum period of holding is mentioned for withdrawal of shares?
6. To whom may a deceased member's share or interest be transferred when there is a valid nomination?
7. Can the nominee, heir or legal representative require payment instead of transfer of the share or interest?
8. What are the main purposes of restricting the holding of shares?
9. What is the main purpose of nomination by a member?
10. Who may receive the deceased member's interest when there is no nominee?

Answers

1. It is generally not more than one-fifth of the total share capital of the society.
2. The Government.
3. At least three years.
4. The Committee of the society.
5. Three years.
6. To the nominee specified by the member.
7. Yes, they may require payment of its value, subject to the applicable provisions.
8. To prevent concentration of shareholding, protect democratic control and maintain financial stability.
9. To facilitate the orderly and timely settlement of the member's share or interest after death.
10. A person recognised as the heir or legal representative, subject to statutory requirements.

Self-Assessment Questions

1. What are the conditions for transferring shares or interest under Section 23 of the Kerala Co-operative Societies Act, 1969?
2. What restrictions are imposed on the withdrawal of shares under Section 24?
3. What is the maximum shareholding limit applicable to an ordinary member under Section 22?
4. Why does the Act impose restrictions on the holding of shares by members?
5. How is the share or interest of a deceased member dealt with under Section 25 when a nominee exists or when there is no nominee?
6. What is the importance of nomination in the settlement of a deceased member's share or interest?

Assignments

1. Explain the restrictions on holding shares under Section 22 of the Kerala Co-operative Societies Act, 1969, and discuss their importance in maintaining democratic control.
2. Discuss the conditions for transfer of shares or interest under Section 23, including the holding period, Committee approval and shareholding restrictions.
3. Analyse the provisions relating to withdrawal of shares under Section 24 and explain how they protect the financial stability of a co-operative society.
4. Explain the procedure for dealing with the share or interest of a deceased member under Section 25, distinguishing between cases where a nominee exists and where there is no nominee.
5. Prepare a note on nomination by members, explaining its purpose, the role of the nominee, and the rights of the heir or legal representative.
6. Compare Sections 22, 23, 24 and 25 and prepare a table showing the subject matter, major conditions and purpose of each provision. Explain how these provisions collectively protect the capital, financial stability and democratic character of co-operative societies

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3
BLOCK

Management of Co - Operatives

Unit

Meetings of Co-Operative Societies

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ Explain the purpose of meetings in co-operative societies.
- ◇ Distinguish between Annual General Meetings and Special General Meetings.
- ◇ Describe the procedures for conducting different types of general meetings.
- ◇ Identify the powers and functions of the General Body.
- ◇ Outline the role of members in the decision-making process of co-operative societies.

Prerequisite

Imagine a group of farmers who have formed a co-operative society to buy seeds, fertilizers and farming equipment together. Since the society belongs to all its members, the committee cannot make important decisions alone. Members meet at regular intervals to discuss the society's activities, examine its financial position, and make decisions about its future.

Once a year, all members come together for a regular annual meeting to review the society's performance, approve important matters, and discuss plans for the coming year. If an urgent issue arises during the year, such as a major financial decision or a matter requiring immediate approval, the members may be called for a special meeting. During these meetings, members collectively exercise their authority over the society's affairs.

This example shows that meetings are an important part of democratic administration in a co-operative society. Before studying this topic, learners should have a basic idea of the

general body, managing committee and democratic participation of members. This background will help them understand the Annual General Meeting, Special General Meeting and the powers of the General Body.

Keywords

Annual General Meeting (AGM), Special General Body Meeting (SGM), General Body, Statutory Meeting, Notice, Agenda, Quorum, Voting, Audit Report, Democratic Control

Discussion

3.1.1. ANNUAL GENERAL MEETING OF A CO-OPERATIVE SOCIETY

3.1.1.1 Meaning and Legal Status — Section 27 and Section 29

The general body is the final authority of a co-operative society under Section 27. The Annual General Meeting (AGM) is the regular statutory meeting through which members exercise this authority. Section 29 specifically provides for the Annual General Body Meeting and its statutory business. The AGM enables members to review the society's activities and financial performance and exercise democratic control.

3.1.1.2 Statutory Basis — Sections 27–30

Sections 27 to 30 of the Kerala Co-operative Societies Act, 1969 contain the principal statutory provisions on general meetings. Section 27 deals with the final authority of the society, Section 28 with the committee, Section 29 with the Annual General Body Meeting and Section 30 with Special General Body Meetings. The conduct of meetings is also subject to the Rules and registered bye-laws.

3.1.13. Time for Holding AGM — Section 29(1)

A general body meeting of the society is required to be held **within six months of the close of the financial year**. Section 29(1) specifies the statutory purposes for which the meeting is held.

3.1.14. Purposes and Business of AGM — Section 29(1)

The important business of the AGM includes:

- ◇ approval of the budget relating to the programme of activities for the ensuing year;
- ◇ election of committee members, where due;

- ◇ consideration of the audit report and follow-up action taken by the committee;
- ◇ consideration of the annual report;
- ◇ review of operational deficit or loss, where applicable;
- ◇ approval of the programme of activities;
- ◇ review of the annual report and accounts of subsidiary organisations, where applicable;
- ◇ consideration of bye-law amendments;
- ◇ disposal of net profit; and
- ◇ consideration of other matters brought before the meeting in accordance with the bye-laws.

3.1.1.5. Convening the AGM — Section 29(1), (3) and (4)

Ordinarily, the Board/Managing Committee convenes the AGM within the prescribed period. If the Board fails to convene it within the statutory period, **Section 29(3)** empowers the Registrar or a person authorised by the Registrar to convene the AGM within the prescribed additional period. The society bears the expenditure incurred for such a meeting.

3.1.1.6. Failure to Hold AGM — Section 29(3) and (4)

Failure to convene the AGM within the prescribed period may have statutory consequences. Under Section 29(4), members of the Board whom the Registrar considers responsible for the failure may be subject to **disqualification for one term**, in addition to other liabilities under the Act, after being given a reasonable opportunity of being heard.

3.1.1.7. Notice of AGM — Section 29(5)

Section 29(5) requires notice of the general meeting to be given to every member, stating the **place, date and hour of the meeting together with the agenda**, in the manner prescribed. The detailed requirements concerning notice are supplemented by the Kerala Co-operative Societies Rules and the society's bye-laws.

3.1.1.8. Agenda of AGM — Section 29(1) and (5)

The agenda contains the matters proposed for consideration by the general body. It should include the statutory business prescribed under Section 29, such as the annual report, audit report, budget, programme of activities, election matters, profit disposal and other permissible matters. The agenda must accompany the notice as prescribed.

3.1.1.9. Quorum — Rules and Bye-laws

Quorum means the minimum number of members required for validly conducting a meeting. The supplied material states that the quorum is determined by the applicable provisions of the Act, Rules and bye-laws. The specific numerical quorum should

therefore be stated with reference to the applicable Rule and the particular society's bye-laws rather than assigning a general figure.

3.1.1.10. Conduct of the Meeting — Section 29 and applicable Rules/ Bye-laws

The AGM is conducted by the authorised office-bearer in accordance with the Act, Rules and bye-laws. The proceedings ordinarily include recording attendance, verifying quorum, confirming previous minutes, taking up the agenda, presenting reports and accounts, discussion, voting where necessary and recording decisions in the minutes.

3.1.1.11. Annual Report — Section 29(1)

The AGM places the annual report before members for consideration. It provides members with information regarding the society's activities and performance during the preceding year and enables them to examine the functioning of the Board and seek necessary explanations. Section 29 expressly includes consideration of the **annual report** as AGM business.

3.1.1.12. Audited Accounts, Liability Disclosures and Attendance — Section 29

The AGM considers the audited accounts, audit report and follow-up action. It must also consider the detailed list of liabilities due to the society from committee members, employees and their family members for the previous financial year. The Registrar or a deputed person, and the Director of Co-operative Audit or a deputed person, have the right to attend committee and general body meetings [Section 29(1)(cc), Section 29(1)(ce) and Section 29(2)].

3.1.1.13. Appropriation of Profit — Section 29(1); Section 56

The AGM considers the **disposal or appropriation of net profit** in accordance with the Act, Rules and bye-laws. Section 56 deals specifically with the **disposal of net profit** of co-operative societies.

3.1.1.14. Democratic Control and Member Participation — Sections 16A, 19A, 20 and 21

Member participation and voting are important aspects of democratic administration. The Act includes provisions on member participation in management (Section 16A), member participation (Section 19A), votes of members (Section 20), and the manner of exercising votes (Section 21). These provisions support the democratic character of the AGM.

3.1.1.15. Voting at the AGM — Sections 20 and 21

The Act, Rules, and bye-laws govern voting at the AGM. Section 20 deals with members' votes, while Section 21 deals with the **manner of exercising votes**. The

voting system reflects the principle of democratic participation, subject to statutory qualifications and exceptions.

3.1.1.16. Minutes of the AGM — Rules and Bye-laws

The proceedings and decisions of the AGM must be properly recorded in the minutes book. The minutes ordinarily contain the date and venue, attendance, quorum, matters discussed, resolutions passed and voting results. The minutes constitute the official record of the proceedings of the general body.

3.1.1.17. Importance of AGM — Sections 27 and 29

The AGM is important because it provides a mechanism for member participation, democratic management, accountability, financial transparency and scrutiny of the Board. Since the general body is the final authority under Section 27 and Section 29 prescribes important annual business, the AGM occupies a central position in the governance of a co-operative society.

The Annual General Meeting is the principal statutory forum through which members exercise the final authority of the co-operative society. Section 29 provides the central statutory framework for the AGM, including its timing, purposes, notice, and the consequences of failing to convene it. Along with Sections 27, 20, 21, 56, and 63, and the applicable Rules and bye-laws, these provisions ensure democratic participation, accountability, financial scrutiny, and proper administration of co-operative societies.

3.1.2. Special General Body Meeting of a Co-operative Society

3.1.2. 1. Meaning – Section 30, Kerala Co-operative Societies Act, 1969

A Special General Body Meeting (SGM) is a meeting of the general body convened to consider specific, urgent or special matters requiring the decision or approval of the members. Unlike the Annual General Meeting, which mainly deals with regular annual statutory business, a Special General Body Meeting is convened whenever a particular matter requires consideration by the general body.

3.1.2. 2. Statutory Basis – Section 30(1), KCS Act, 1969 and Rule 36, KCS Rules, 1969

The Special General Body Meeting is principally governed by Section 30 of the Kerala Co-operative Societies Act, 1969. The procedure is also subject to Rule 36 of the Kerala Co-operative Societies Rules, 1969 and the registered bye-laws of the society.

3.1.2. 3. Purpose of the Special General Body Meeting – Section 30(1), KCS Act, 1969

The main purpose of an SGM is to enable members to take decisions on matters which cannot conveniently be postponed until the next Annual General Meeting, require

immediate attention, require specific approval of the general body, or are required to be placed before the general body under the Act, Rules or bye-laws.

3.1.2. 4. Matters Considered at the Meeting – Section 30(3) and Rule 36(2), KCS Rules, 1969

A Special General Body Meeting generally considers the specific matters for which it has been convened. The notice and agenda should clearly state the business to be transacted. Members should be allowed to discuss and decide the matters placed before them.

3.1.2. 5. Convening of the Meeting – Section 30(1), (2) & (3) and Rule 36(1), KCS Rules, 1969

The committee of a co-operative society may call a Special General Body Meeting at any time. The committee must convene the meeting within one month of receiving a written requisition from the Registrar or the prescribed number of members.

Under Rule 36(1), the committee shall call the meeting within one month from receipt of a written requisition from the Registrar or from one-fifth of the total number of members. If the committee fails to convene the meeting, the Registrar or a person authorised by him may call the meeting.

3.1.2. 6. Notice of the Meeting – Section 30 and Rule 36, KCS Rules, 1969

Proper notice is essential for conducting a Special General Body Meeting. The notice should clearly state the name of the society, date, time, venue, and the specific business or agenda to be considered. The notice should be issued in accordance with the Act, Rules and registered bye-laws.

3.1.2. 7. Quorum – Rule 36(2), KCS Rules, 1969

The required quorum must ordinarily be present before the Special General Body Meeting can transact business. The applicable quorum is determined by the Act, Rules and registered bye-laws.

Where a Special General Body Meeting is summoned by the Registrar or an authorised person under Rule 36(2), the meeting may exercise the powers of a meeting called under the bye-laws notwithstanding that the quorum fixed by the bye-laws is not present.

3.1.2. 8. Conduct of the Meeting – Rule 36(2), KCS Rules, 1969

The meeting shall be conducted in accordance with the Act, Rules and registered bye-laws. The usual procedure includes recording attendance, verifying quorum where applicable, stating the purpose of the meeting, placing the specified matter before the members, discussion, voting where necessary and recording the decision in the minutes.

Where the Registrar convenes the meeting, he may direct who shall preside over the meeting and what matters shall be discussed.

3.1.2. 9. Voting and Resolutions – Sections 20, 21, 27 and 30, KCS Act, 1969

Where a matter requires a decision of the general body, it is determined according to the voting procedure prescribed by the Act, Rules and registered bye-laws. The decision should be recorded as a resolution in the meeting minutes.

Section 27 provides that the final authority in a co-operative society vest in the general body. Sections 20 and 21 deal with members' votes and how to exercise them, while Section 30 provides for Special General Body Meetings.

3.1.2. 10. Minutes of the Meeting – KCS Act, Rules and Registered Bye-laws

The proceedings and decisions of the Special General Body Meeting should be properly recorded in the minutes book. The minutes should indicate attendance, quorum, matters considered, discussions, resolutions passed and voting results, wherever applicable.

Note: The supplied material does not identify a specific section or rule exclusively governing the minutes of an SGM. Therefore, no specific section number is inserted here.

3.1.2. 11. Difference Between AGM and SGM – Sections 29 and 30, KCS Act, 1969

Annual General Meeting	Special General Body Meeting
Section 29, KCS Act, 1969	Section 30, KCS Act, 1969
Held as the regular annual statutory meeting	Held for a specific or special purpose
Deals with prescribed annual statutory business	Deals mainly with the specific matter for which it is convened
Reviews annual activities and financial matters	Considers urgent or particular matters requiring general body decision
Ordinarily held once in each co-operative year	May be held whenever required
Governed principally by Section 29	Governed principally by Section 30

3.1.2. 12. Importance of the Special General Body Meeting – Sections 27 and 30, KCS Act, 1969

The Special General Body Meeting is important because it enables a co-operative society to obtain the democratic approval of its members on important matters without waiting for the next Annual General Meeting. It promotes member participation, transparency and democratic decision-making.

Section 27 recognises the general body as the final authority in a society, while Section 30 provides the statutory mechanism for convening a Special General Body Meeting.

The Special General Body Meeting under Section 30 of the Kerala Co-operative Societies Act, 1969, read with Rule 36 of the Kerala Co-operative Societies Rules, 1969, is an important mechanism of democratic governance in a co-operative society.

3.1.3 Powers of the General Body of a Co-operative Society

Under Section 27(1) of the Kerala Co-operative Societies Act, 1969, the General Body is recognised as the final authority of a co-operative society. However, its powers are subject to the provisions of the Act, the Rules and the registered Bye-laws of the society.

3.1.3 .1. General Authority – Section 27

The General Body is the highest decision-making body in the society. Nevertheless, it cannot interfere with powers specifically assigned to the Committee or other officers under the Act, Rules, or Bye-laws.

3.1.3 .2. Constitution of the Committee – Section 28

The General Body is responsible for constituting the Committee in accordance with the Bye-laws. The Committee is then entrusted with the management of the society. The elected Committee ordinarily has a statutory term of five years.

3.1.3 .3. Approval of the Annual Budget – Section 29

The Annual General Body Meeting examines and approves the budget prepared for the society's proposed activities for the coming financial year.

3.1.3 .4. Election of Committee Members

The General Body participates in the election of Committee members in accordance with the procedure prescribed by the Act and Rules. Election of Committee members is one of the matters dealt with at the Annual General Body Meeting.

3.1.3 .5. Examination of the Audit Report

The General Body considers the audit report along with the action taken by the Committee on the audit observations. It also examines the annual report of the society.

3.1.3 .6. Approval of the Programme of Activities

The General Body examines and approves the programme of activities prepared by the Committee for the forthcoming year.

3.1.3 .7. Consideration of Operational Loss

If the society incurs an operational loss or faces a deficit, the General Body reviews the financial situation and considers measures proposed to reduce or eliminate such loss.

3.1.3 .8. Amendment of Bye-laws

The General Body considers proposals to amend the registered Bye-laws and approves such amendments in accordance with the procedure prescribed under the Act and Rules. Amendment of Bye-laws is specifically included among the matters considered by the Annual General Body Meeting.

3.1.3 .9. Disposal of Net Profit

The General Body determines how the net profit of the society is to be utilised or distributed, subject to the requirements of the Act, Rules and Bye-laws.

3.1.3 .10. Review of Subsidiary Organisations

Where a society has a subsidiary organisation, the General Body examines its annual report and financial accounts.

3.1.3 .11. Supervision of the Committee

By examining the annual report, audit report, accounts and programme of activities, the General Body exercises an important supervisory function over the Committee and its administration of the society.

3.1.3 .12. Consideration of Other Matters

The General Body may take up and consider other matters that are properly brought before it in accordance with the registered Bye-laws of the society.

3.1.3 .13. Representative General Body – Section 27(2)

In societies satisfying the prescribed requirements, a Representative General Body may be established through an amendment of the Bye-laws. Such a body may exercise specified powers of the General Body, but it cannot exercise the power of conducting elections to the Committee.

3.1.3 .14. Special General Body Meeting – Section 30

A Special General Body Meeting may be convened by the Committee. The Committee must also call such a meeting when it receives a valid requisition from the Registrar or from the prescribed number or proportion of members.

3.1.4 Limitations on the Powers of the General Body

Although the General Body is the final authority, its powers are not unlimited. It must exercise its authority within the framework of:

1. The Kerala Co-operative Societies Act, 1969;
2. The Kerala Co-operative Societies Rules;
3. The registered Bye-laws of the society; and
4. Powers specifically assigned to the Committee, Registrar or other statutory authorities.

Therefore, Section 27 establishes the General Body as the highest internal authority of a co-operative society, while Sections 28, 29 and 30 and other provisions of the Act prescribe its specific functions and powers.

Recap

- ◇ Under Section 27(1) of the Kerala Co-operative Societies Act, 1969, the General Body functions as the final authority of a co-operative society.
- ◇ The authority of the General Body must be exercised in accordance with the Act, Rules and registered Bye-laws of the society.
- ◇ It forms the Committee in accordance with the Bye-laws and assigns the management of the society to the Committee.
- ◇ It examines and sanctions the annual budget prepared for the society's proposed activities.
- ◇ It conducts the election of Committee members following the procedure established by law.
- ◇ It reviews the audit report, the action taken on audit findings and the society's annual report.
- ◇ It evaluates and approves the programme of activities planned for the coming year.
- ◇ When the society incurs an operational loss or deficit, it considers appropriate steps to reduce or overcome the loss.
- ◇ It considers proposals for changing the registered Bye-laws and approves them in accordance with the prescribed legal procedure.

- ◇ It decides how the society's net profit should be utilised or distributed, subject to the applicable legal provisions.
- ◇ Where a subsidiary organisation exists, it examines its annual report and financial accounts.
- ◇ By scrutinising reports, accounts and activity programmes, the General Body exercises oversight over the functioning of the Committee.
- ◇ It can also consider other matters that are properly placed before it in accordance with the society's Bye-laws.
- ◇ Under **Section 27(2)**, a Representative General Body may exercise specified powers of the General Body, but it cannot conduct elections to the Committee.
- ◇ Therefore, although the General Body is the highest internal authority, its powers are not unrestricted and must be exercised within the Act, Rules, Bye-laws and the powers assigned to the Committee, Registrar and other statutory authorities.

Objective Questions

1. Within what period should the Annual General Body Meeting be held after the close of the financial year?
2. Which section deals with Special General Body Meetings?
3. Which Rule of the Kerala Co-operative Societies Rules, 1969 deals with Special General Body Meetings?
4. Who is ordinarily responsible for convening the Annual General Meeting?
5. What is the minimum number of members required for a meeting to be validly called?
6. Which section deals with the votes of members?
7. Who may convene the AGM if the Board fails to convene it within the prescribed period?
8. Which section deals with the audit of co-operative societies?
9. What is the primary purpose of a Special General Body Meeting?
10. Under which section of the Kerala Co-operative Societies Act, 1969 is the General Body recognised as the final authority of a society?
11. Under which section does the General Body constitute the Committee of a co-operative society?
12. Which body approves the annual budget relating to the programme of activities of the society?

Answers

1. Within six months.
2. Section 30.
3. Rule 36.
4. The Board/Managing Committee.
5. Quorum.
6. Section 20.
7. The Registrar or a person authorised by the Registrar.
8. Section 63.
9. To consider specific, urgent or special matters requiring the decision or approval of the General Body.
10. Section 27(1).
11. Section 28.
12. The General Body.

Self-Assessment Questions

1. Explain the legal position of the General Body as the final authority of a co-operative society.
2. Describe the major powers and functions of the General Body under the Kerala Co-operative Societies Act, 1969.
3. Explain the role of the General Body in the constitution and election of the Committee.
4. Discuss the important matters that are required to be considered at the Annual General Body Meeting.
5. What is a Special General Body Meeting? Explain its purpose and the circumstances in which it may be convened.
6. Distinguish between an Annual General Body Meeting and a Special General Body Meeting.
7. Explain the role of the General Body in examining the audit report, annual report and financial affairs of the society.
8. Discuss the powers of the General Body regarding amendment of Bye-laws and disposal of net profit.
9. Explain the limitations imposed on the powers of the General Body by the Act, Rules and registered Bye-laws.

Assignments

1. Explain the meaning, statutory basis, purposes, procedure and importance of the Annual General Meeting under the Kerala Co-operative Societies Act, 1969.
2. Examine the circumstances in which a Special General Body Meeting may be convened and explain the procedure for convening it under Section 30 and Rule 36.
3. Prepare a comparative study of the Annual General Meeting and Special General Body Meeting with reference to their purpose, timing, statutory provisions and business transacted.
4. Discuss the powers of the General Body as the final authority of a co-operative society, with particular reference to Sections 27, 28 and 29.
5. Analyse the role of General Body Meetings in promoting democratic participation, transparency, accountability and effective management of co-operative societies.
6. Examine the role of the General Body in approving the budget and programme of activities, considering audit reports, reviewing losses, amending Bye-laws and disposing of net profits.

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SGOU

Unit 2

Committees of Co-Operative Societies

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ Explain the constitution and composition of the committee of a co-operative society.
- ◇ Describe the term of office and the procedure for the election of committee members and office-bearers.
- ◇ Explain the reservation provisions for weaker sections in committee representation.
- ◇ Identify the grounds for disqualification of committee members and the role of the Registrar in dealing with disqualification.
- ◇ Apply the relevant provisions of the Kerala Co-operative Societies Act and Rules to committee-related situations.

Prerequisite

A group of members forms a co-operative society to run a common business for their mutual benefit. Since not all members can participate in day-to-day management, they elect a committee to manage the society's affairs. The committee is constituted according to the provisions of the law, Rules, and the society's bye-laws.

The committee does not continue permanently. It has a specified term, after which the prescribed process constitutes a new committee. To ensure proper representation, certain seats may be reserved for weaker or specified sections of members. At the same time, a person who does not meet the prescribed legal conditions or is disqualified cannot become a committee member.

Thus, the effective functioning of a co-operative society depends on a properly constituted and representative commit-

tee. Before studying this topic, learners should have a basic knowledge of the members, general body and managing committee of a co-operative society. This background will help them learn about the constitution of the committee, its term, reservation for weaker sections and disqualification of committee members.

Keywords

Co-operative Society, General Body, Managing Committee, Constitution of Committee, Election, Term of Committee, Reservation, Nomination, Disqualification, Office-Bearers

Discussion

3.2.1 CONSTITUTION OF THE COMMITTEE OF CO-OPERATIVE SOCIETIES

The constitution of the committee refers to the formation and composition of the managing committee responsible for the management and administration of a co-operative society. Under the Kerala Co-operative Societies Act, 1969, the General Body has an important role in constituting the committee, while the committee exercises the management powers entrusted to it by the Act, Rules and bye-laws.

3.2.1.1. General Body as the Final Authority – Section 27

The General Body is the final authority of a co-operative society, subject to the provisions of the Act, Rules and registered bye-laws. It exercises democratic control over the society and has an important role in the constitution of its managing committee.

3.2.1.2. Constitution of the Committee – Section 28

Section 28 of the Kerala Co-operative Societies Act, 1969 deals with the constitution of the committee. The committee is constituted in accordance with the provisions of the Act, Rules and the registered bye-laws of the society.

The committee is entrusted with managing the affairs of the society. Thus, while the General Body remains the final authority, the committee is responsible for day-to-day management and implementing decisions in accordance with law.

3.2.1.3. Election of Committee Members

Committee members are elected in accordance with the statutory provisions, Rules and the bye-laws of the society. The election process provides members with an opportunity to participate in the democratic administration of the society.

The voting rights of members are governed principally by Sections 20 and 21, subject to the qualifications, restrictions and exceptions provided under the Act and Rules.

3.2.1.4.Powers and Responsibilities of the Committee

Once constituted, the committee is responsible for the management and administration of the society. Its functions include implementing decisions of the General Body, managing the affairs of the society, supervising its activities and exercising the powers assigned to it by the Act, Rules and bye-laws.

3.2.1.5.Relationship Between General Body and Committee

The General Body and the committee perform different but complementary functions. Under Section 27, the General Body is the final authority, whereas Section 28 provides for the constitution of the committee to manage the affairs of the society.

Therefore, the committee must exercise its powers within the framework of the Kerala Co-operative Societies Act, 1969, the Kerala Co-operative Societies Rules, 1969 and the registered bye-laws.

Section 28, titled “Appointment of Committee,” provides the statutory framework for constituting the managing committee of a co-operative society. The General Body constitutes the committee under the registered bye-laws and entrusts it with managing the society's affairs. The current statutory text provides for a five-year term, calculated from the date of election.

3.2.1.6.Constitution of the Committee – Section 28(1)

The General Body of the society is responsible for constituting the committee. The committee must be constituted in accordance with the society's registered bye-laws. Once constituted, the committee is entrusted with managing the affairs of the society.

Thus, Section 28 establishes a clear relationship between the General Body and the committee: the General Body is the final authority under Section 27, while the committee manages the society.

3.2.1.7.Term of the Committee – Section 28(1)

The committee is constituted for a period of five years. The Act specifically provides that, notwithstanding anything contained in the bye-laws, five years from the date of election will be taken as the term of the committee.

Therefore, the term of the committee is determined by the statutory provision rather than by a contrary provision in the bye-laws.

3.2.1.8.First Committee of a Newly Registered Society – Section 28(1)

In the case of a society newly registered under the Act, the persons who signed the application for registration may appoint a committee to conduct its affairs for three months from the date of registration.

The Registrar may permit the committee to continue for a further period where necessary. However, the temporary committee ceases to function once a committee is constituted in accordance with the registered bye-laws.

3.2.1.9.Nomination to the First Committee – Section 28(1)

Where the bye-laws so provide, the Government or the Registrar may nominate all or any members of the first committee, including the President or Chairman, subject to the statutory period applicable to such nomination.

This provision is intended to facilitate the initial functioning of a newly registered society until its regular committee is constituted.

3.2.1.10.Powers of Nominated Members – Section 28

A person nominated to the committee under the statutory provision has the powers of an elected committee member and holds office subject to the conditions governing the nomination. The statutory framework therefore distinguishes between the elected committee and situations where nomination is permitted.

3.2.1.11. Composition of the Committee

Section 28, the applicable provisions of the Act and Rules, and the registered bye-laws govern the committee's composition and number of members. The Act also contains specific provisions concerning representation and reservation for particular categories and types of societies. Accordingly, the exact composition should be determined based on the type of co-operative society concerned.

Current Section 28(1CA) reserves two committee seats for members not exceeding 40 years of age on the nomination date: one from the non-reserved category and one woman from the category reserved under Section 28A(1).

Under Section 28(1G), the committee must co-opt two persons with the prescribed banking-service background or specialisation in co-operation/co-operative management, management, agriculture, economics, commerce, public finance, law, rural development or information technology. Such co-opted members cannot vote in a society election in that capacity or be elected as office-bearers.

Section 28(2A) limits a committee member of a credit society to three consecutive terms, whether a term was served wholly or partly.

For example, Section 28AA provides for reservation of seats in the committees of Urban Co-operative Banks for members possessing banking experience or specified professional qualifications.

3.2.1.12.Election and Democratic Constitution

The regular committee is constituted through the democratic process prescribed by the Act, Rules and bye-laws. Members who satisfy the statutory requirements participate in the election process, subject to applicable qualifications and disqualifications.

The Kerala High Court has recognised that Section 28 provides for the constitution of the committee to manage the affairs of the society and that the right to elect and contest elections is subject to statutory limitations.

3.2.1.13.Election of Office-Bearers – Rule 38

After the committee is constituted under Section 28, Rule 38 of the Kerala Co-operative Societies Rules, 1969 provides for convening the committee to elect its President and other office-bearers.

The Secretary, Chief Executive, or other officer performing the functions of the Secretary or Chief Executive must convene the committee within the prescribed period. The committee then elects its President and other office-bearers and authorises the concerned officers to take charge from the outgoing office-bearers.

3.2.1.14.Management of the Society

Once constituted, the committee is entrusted with managing the affairs of the society. This includes exercising the powers and performing the functions assigned to the committee under the Act, Rules and bye-laws.

However, the committee does not replace the General Body. The General Body remains the final authority under **Section 27**, while the committee manages the society within the powers conferred upon it.

3.2.1.15.Importance of Section 28

Section 28 is important because it provides the legal foundation for the management structure of a co-operative society. It:

- ◇ identifies the General Body as the authority that constitutes the committee;
- ◇ prescribes the term of the committee;
- ◇ provides for the first committee of a newly registered society;
- ◇ permits nomination in specified circumstances;
- ◇ connects the committee's constitution with the registered bye-laws; and
- ◇ entrusts the management of the society's affairs to the constituted committee.

3.2.2 TERM OF THE COMMITTEE

The term of office of the committee is determined by the provisions of the Kerala Co-operative Societies Act, the Rules framed under the Act, and the registered bye-laws of the society. Thus, the formation and continuation of a committee must comply with the statutory requirements applicable to the concerned category of co-operative society.

3.2.2.1. General Term – Five Years

Under Section 28(1) of the Kerala Co-operative Societies Act, 1969, the General Body elects or constitutes the committee for five years, subject to the provisions of

the registered bye-laws. The committee administers and manages the affairs of the co-operative society.

3.2.22. Commencement and Calculation of the Term

The five years is reckoned from the date of election of the committee. The Explanation to Section 28(1) makes it clear that, irrespective of any contrary provision in the bye-laws, the term of the committee shall be treated as five years from the date of its election.

3.2.2.3. Newly Registered Societies

In a newly registered co-operative society, the persons who signed the application for registration may form a temporary committee to manage the society's affairs. Such a committee can function for three months from the date of registration, or for any additional period the Registrar considers necessary. Its tenure comes to an end when a committee is constituted in accordance with the bye-laws.

3.2.2.4. Extension of the Term in Exceptional Situations

The Act also provides for a limited extension of the existing committee's term in certain exceptional circumstances. This applies where a new committee cannot be constituted or take charge before the existing committee's term expires. Any such extension must comply with the conditions, restrictions, and time limits prescribed under Section 28.

3.2.3 RESERVATION FOR WEAKER SECTIONS IN THE COMMITTEES OF CO-OPERATIVE SOCIETIES

The Kerala Co-operative Societies Act, 1969 provides for representation of women and members belonging to Scheduled Castes and Scheduled Tribes in the committees of co-operative societies. Section 28A contains this provision and specifically deals with reservation in the committee.

1. Statutory Provision – Section 28A

Section 28A provides for reservation of seats for women members and members belonging to Scheduled Castes or Scheduled Tribes in the committee. The provision operates notwithstanding anything contained in the Act, Rules or the registered bye-laws of the society.

Under the provision:

- ◇ Three seats in the committee are reserved for women members.
- ◇ One seat is reserved for a member belonging to the Scheduled Castes or Scheduled Tribes.

2. Reservation for Women Members

The reservation of seats for women is intended to promote their effective participation in the administration and decision-making process of co-operative societies. Currently, three seats in the committee are reserved for women members.

Reservation does not restrict women members from contesting other seats. A woman member may also contest and be elected to a **non-reserved seat** through the ordinary election process. Thus, the reservation provision does not prevent women from obtaining representation beyond the seats specifically reserved for them.

3. Reservation for SC/ST Members

One seat in the committee is reserved for a member belonging to the Scheduled Castes or Scheduled Tribes. This provision aims to ensure the participation of historically disadvantaged sections in the democratic administration of co-operative institutions.

An SC/ST member is also entitled to contest a non-reserved seat. Therefore, reservation does not prevent such a member from being elected through the general category.

4. Nomination in the Absence of Required Representation

Section 28A(3) provides a mechanism to ensure that the prescribed representation is achieved. If women or SC/ST members are not represented in the elected committee, the Government or the Registrar may nominate eligible women or SC/ST members from among the members of the society.

This provision ensures that the statutory objective of reservation is not frustrated merely because candidates belonging to the reserved categories were not elected in the ordinary election.

5. Objectives of Reservation

The reservation provisions are intended to achieve the following objectives:

1. To promote inclusive and democratic administration of co-operative societies.
2. To encourage the participation of women in the decision-making process.
3. To ensure representation of SC/ST members in co-operative institutions.
4. To provide historically disadvantaged sections with opportunities to participate in the administration of co-operative societies.
5. To strengthen the democratic functioning of co-operative institutions.

The Kerala High Court has recognised the broader social objective underlying reservation in co-operative committees. Co-operative societies operate at the grassroots level as institutions of democratic participation, and reservation can provide disadvantaged groups with opportunities to gain experience in administration and governance.

6. Important Distinction

The expression “**weaker sections**” should not be treated as covering every economically weaker group for Section 28A. Under the present statutory scheme in Kerala, Section 28A specifically provides reservation for **women and SC/ST members**.

Accordingly, the provision should not be described as creating a general reservation for all economically weaker sections unless another specific statutory or regulatory provision provides for such reservation.

7. Summary of Reservation under Section 28A

Provision	Nature of Representation
Section 28A(1)	Three seats reserved for women members
Section 28A(1)	One seat reserved for an SC/ST member
Section 28A(2)	Reserved-category members may also contest non-reserved seats
Section 28A(3)	Government/Registrar may nominate members where the required representation is absent.

3.2.4 Disqualification of Committee Members of a Co-operative Society

The Kerala Co-operative Societies Act, 1969 and the Kerala Co-operative Societies Rules, 1969 prescribe certain conditions under which a person becomes ineligible to be elected or appointed as a member of the committee of a co-operative society. The principal provisions governing such disqualifications are **Section 28(2) of the Act and Rule 44 of the Kerala Co-operative Societies Rules, 1969**.

1. Disqualification under Section 28(2)

Section 28(2) specifies certain restrictions on a person's eligibility to become or continue as a committee member.

(a) Membership in more than one society of the same type

A person cannot simultaneously serve as a committee member of more than one co-operative society of the same type.

(b) Membership in more than two societies of different types

A person becomes disqualified if they hold committee membership in more than two co-operative societies belonging to different types.

(c) Restriction on holding the office of President or Chairman

Subject to the circumstances permitted under Section 28(3), a person may serve on the committee of an apex or central society of the same type. However, a person cannot hold the position of **President or Chairman in more than one society of the same type**.

2. Additional Disqualifications under Rule 44

Rule 44 prescribes several other circumstances in which a member becomes ineligible for election or appointment to the committee. These include a person who:

- ◇ is already disqualified under Section 28;
- ◇ is a near relative of a paid employee of the society;
- ◇ has defaulted in repayment of a loan obtained from the society or another society, subject to the prescribed conditions;
- ◇ has been convicted of an offence resulting in the relevant statutory disqualification and the prescribed period has not yet expired;
- ◇ has a direct or indirect interest in a contract, sale, purchase or other transaction with the society, except where the Rule permits it;
- ◇ is employed as a legal adviser or legal practitioner, other than in an honorary capacity, in circumstances covered by the Rule;
- ◇ is a paid employee of the society or another society, subject to the specified exceptions;
- ◇ is a minor, nominal member or associate member, or falls within another category specifically excluded by the Rule;
- ◇ has applied to be adjudicated as a bankrupt, is an uncertified bankrupt, or is an undischarged insolvent;
- ◇ carries on a business similar to the business conducted by the society;
- ◇ is disqualified under any other provision of the society's bye-laws;
- ◇ was a member of a committee that was superseded and the prescribed one-year period has not yet expired; or
- ◇ has been subjected to surcharge proceedings under **Section 68** of the Act.

3. Disqualification Arising After Election

Disqualification may arise even after a person has been elected to the committee. If an existing committee member subsequently incurs a disqualification prescribed under Rule 44, the person ceases to hold the office of committee member.

The Rule also covers cases where it is later discovered that the person was already disqualified on the date of the election.

4. Disqualification on Account of Loan Default

Mere existence of an outstanding loan amount does not automatically result in disqualification. The prescribed procedure must be followed first.

The member must be served with a notice requiring payment of the defaulted amount. If the member fails to clear the outstanding amount within the prescribed period after receiving the notice, the relevant disqualification may arise.

5. Declaration by the Registrar

When a person is disqualified from being a committee member, the Registrar may take action either on their own initiative or on a representation made by a member of the society or its financing bank.

The Registrar may issue a written order declaring that the person shall cease to be a member of the committee from the date on which the disqualification arose.

6. Effect of Disqualification

Disqualification may operate at two different stages:

◇ Before election or appointment:

A person who is already disqualified cannot be validly elected or appointed as a committee member.

◇ After election or appointment:

If an existing committee member subsequently incurs a statutory disqualification, the person ceases to hold office, subject to compliance with the procedure prescribed by law.

7. Effect of Defect in the Constitution of the Committee – Section 105

Section 105 provides that an act performed by a society, its committee or an officer does not ordinarily become invalid merely because there is a defect in the constitution of the committee or because an officer was disqualified.

However, this protection is not available where a competent authority has already declared the relevant defect or disqualification.

In summary, Section 28(2) mainly regulates restrictions on holding committee positions in multiple co-operative societies, whereas **Rule 44** sets out a broader range of disqualifications relating to personal status, financial default, employment, conflicts of interest, insolvency, business activities and other statutory or bye-law restrictions. Together, these provisions regulate the eligibility and continued membership of persons serving on the committees of co-operative societies.

Recap

- ◇ The General Body is the supreme authority of a co-operative society under Section 27 of the Kerala Co-operative Societies Act, 1969.
- ◇ The managing committee is constituted under Section 28 to manage the affairs of the society.
- ◇ The committee is formed in accordance with the Act, Rules, and registered bye-laws of the society.

- ◇ The term of the committee is generally five years from the date of election.
- ◇ Special provisions apply to the first committee of a newly registered society.
- ◇ Committee members are elected through a democratic election process as prescribed by law.
- ◇ Rule 38 governs the election of the President and other office-bearers after the committee is constituted.
- ◇ Section 28A reserves three seats for women and one seat for a Scheduled Caste/Scheduled Tribe member in the committee.
- ◇ If the required representation is not secured through election, eligible members may be nominated.
- ◇ The reservation provisions promote inclusive participation and democratic governance in co-operative societies.
- ◇ Section 28(2) and Rule 44 specify the eligibility conditions and grounds for disqualification of committee members.
- ◇ Disqualification may arise due to multiple committee memberships, loan default, convictions, conflicts of interest, employment restrictions, insolvency, or similar business activities.
- ◇ A member may be disqualified before election or during the term of office, and the Registrar has the authority to declare that the member must vacate the position.
- ◇ Section 105 protects certain acts of the society or committee despite specified defects in its constitution, subject to legal limitations.

Objective Questions

1. Who is the final authority of a co-operative society under the Kerala Co-operative Societies Act, 1969?
2. Which section of the Kerala Co-operative Societies Act deals with the constitution of the committee?
3. What is the statutory term of a committee of a co-operative society?
4. Who is entrusted with the management of the affairs of a co-operative society?
5. Which rule provides for the election of the President and other office-bearers of the committee?
6. How many seats are reserved for women members in the committee under Section 28A?

7. How many seats are reserved for SC/ST members in the committee under Section 28A?
8. Can a woman member contest a non-reserved seat in the committee election?
9. Which authority may nominate women or SC/ST members if the required representation is absent in the elected committee?
10. Under which rule are additional disqualifications of committee members prescribed?

Answers

1. The General Body.
2. Section 28.
3. Five years from the date of election.
4. The Committee.
5. Rule 38 of the Kerala Co-operative Societies Rules, 1969.
6. Three seats.
7. One seat.
8. Yes, a woman member can contest and be elected to a non-reserved seat.
9. The Government or the Registrar.
10. Rule 44 of the Kerala Co-operative Societies Rules, 1969.

Self-Assessment Questions

1. Explain the respective roles of the General Body and the managing committee in the administration of a co-operative society with reference to Sections 27 and 28.
2. Describe the manner in which the committee is constituted and explain its statutory term under Section 28 of the Kerala Co-operative Societies Act, 1969.
3. Discuss the reservation provisions under Section 28A for women and Scheduled Caste/Scheduled Tribe members. What are the main purposes of providing such reservation?
4. Examine the principal grounds on which a committee member may be disqualified under Section 28(2) of the Act and Rule 44 of the Kerala Co-operative Societies Rules, 1969.

5. Explain the consequences of a committee member becoming disqualified after election and discuss the role of the Registrar in determining and declaring such disqualification.

Assignments

1. Discuss the formation of the managing committee of a co-operative society under Section 28 of the Kerala Co-operative Societies Act, 1969. Explain the role and responsibilities of the General Body in constituting the committee.
2. Prepare a detailed study on the term of office of the committee, covering the computation of its five-year tenure, the provisions concerning the first committee of a newly registered society and the circumstances in which the term may be extended.
3. Analyse the provisions of Section 28A relating to reservation for women and Scheduled Caste/Scheduled Tribe members. Discuss the significance and objectives of reservation in promoting representative and democratic administration.
4. Examine the various grounds of disqualification prescribed under Section 28(2) and Rule 44. Categorise the different grounds and explain how such disqualifications affect a person's eligibility to serve on the committee.
5. Explain the circumstances in which a person may incur disqualification after being elected as a committee member. Describe the procedure adopted by the Registrar and the consequences of such disqualification for continuation in office.
6. Examine the provisions of Section 105 concerning defects in the constitution of a committee or the disqualification of an officer. Explain their impact on acts carried out by the society, committee or concerned officer.

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Unit

Elections of Co-Operative Societies

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ Explain the concept and significance of elections in co-operative societies.
- ◇ Describe the constitution and powers of the State Co-operative Election Commission.
- ◇ Outline the procedure for conducting elections in co-operative societies.
- ◇ Identify the stages involved in the election process from notification to declaration of results.
- ◇ Distinguish the roles of the Election Commission and the co-operative society in conducting elections.

Prerequisite

Imagine a village library that is owned and managed by its members. Every three years, members need to choose a new committee to manage the library's books, finances, and daily activities. To make sure the election is fair, an independent teacher from a nearby school is appointed to supervise the entire process. The teacher announces the election date, prepares the list of eligible voters, accepts nominations from interested members, conducts secret voting, counts the votes, and declares the winners. Since everyone follows the same rules, the members trust the election results.

A co-operative society works in a similar democratic way. Members do not simply appoint a managing committee; they elect it through a structured and legally regulated process. Before studying this unit, learners should be familiar with the basic structure of a co-operative society, the role of the managing committee, and the importance of democratic participation by members. This background will help them understand the role

of the State Co-operative Election Commission and the procedures followed in conducting co-operative society elections.

Keywords

Discussion

3.3.1 Meaning of Election

Election is the statutory process through which members of a co-operative society elect members to its managing committee. The election is conducted in accordance with the Kerala Co-operative Societies Act, 1969, the Kerala Co-operative Societies Rules, 1969 and the bye-laws of the society.

3.3.1.1 Significance of Elections in Co-operative Societies

Elections are essential for the democratic functioning of a co-operative society. They enable members to participate in the society's administration by choosing representatives to form and manage the managing committee.

- ◇ The major significance of elections includes:
- ◇ Ensuring democratic participation of members.
- ◇ Providing an opportunity to choose representatives.
- ◇ Promoting accountability of the managing committee.
- ◇ Ensuring continuity in the democratic administration of the society.
- ◇ Strengthening members' confidence in the management of the society.

3.3.1.2 Election to the Managing Committee – Section 28

Members of a co-operative society elect the members of its managing committee in accordance with the provisions of the Act, Rules, and the society's registered bye-laws.

The managing committee is responsible for managing the affairs of the society within the framework of the law and the bye-laws.

3.3.1.3 Reservation in the Committee – Section 28A

Section 28A provides for reservation of seats in the managing committee for specified categories of members, including women members and members belonging to Scheduled Castes or Scheduled Tribes, subject to the statutory provisions.

3.3.1.4 Election of President and Vice-President – Section 28AB

Section 28AB contains provisions relating to the election and removal of the President, Vice-President and other office-bearers, wherever applicable.

3.3.2 State Co-operative Election Commission

The State Co-operative Election Commission (SCEC) is a statutory authority responsible for the superintendence, direction and control of the preparation of electoral rolls and the conduct of elections to co-operative societies.

3.3.2.1 Constitution of the State Co-operative Election Commission

The State Government constitutes the State Co-operative Election Commission through a Gazette notification.

The Commission consists of not more than three members, including:

- ◇ State Chief Co-operative Election Commissioner; and
- ◇ Co-operative Election Commissioners.

The relevant provisions of the Kerala Co-operative Societies Act govern the Commission's qualifications and composition.

3.3.2.2 Objectives of the State Co-operative Election Commission

The principal objectives of the Commission are to ensure that elections are:

- ◇ Free and fair.
- ◇ Transparent and impartial.
- ◇ Conducted according to law.
- ◇ Completed within the prescribed period.
- ◇ Free from improper interference.

3.3.2.3 Functions of the State Co-operative Election Commission

1. The major functions of the Commission include:
2. Preparation and control of electoral rolls.
3. Conduct and supervision of elections.
4. Determination of the election programme.
5. Appointment or authorisation of election officers.
6. Supervision of polling and counting.
7. Ensuring compliance with election laws and procedures.
8. Declaration of election results through authorised election authorities.
9. Taking necessary measures for the proper conduct of elections.

3.3.4 Powers of the State Co-operative Election Commission

1. Power of Superintendence, Direction and Control

The Commission exercises overall superintendence, direction and control over the preparation of electoral rolls and the conduct of elections to co-operative societies.

2. Power Relating to Electoral Rolls

The Commission has authority over the preparation, publication and finalisation of electoral rolls in accordance with the Act and Rules.

3. Power to Determine the Election Programme

The Commission determines the election programme specifying the different stages of the election, such as nomination, scrutiny, withdrawal, polling, counting and declaration of results.

4 Power to Appoint Election Officers

The Commission may designate or nominate Government officers and employees to assist in conducting elections. It may also authorise appropriate election officers to perform specified election duties.

5. Power Relating to Nomination and Scrutiny

Through authorised election officers, the Commission ensures that nomination papers are received and scrutinised in accordance with the prescribed requirements.

6. Power to Supervise Polling and Counting

The Commission supervises polling and counting to ensure compliance with the prescribed election procedure.

7. Power to Issue Directions

The Commission may issue appropriate directions to election officers and concerned co-operative societies for the proper and lawful conduct of elections.

8 Power Relating to Election Expenses

The Commission has statutory powers relating to election expenses. It may, in accordance with the Act and applicable provisions, fix, alter or revise limits relating to election expenditure for different classes of co-operative societies.

9. Power to Take Necessary Measures

The Commission may take appropriate measures authorised by law to ensure the proper conduct of elections, including action relating to postponement or rescheduling where legally warranted.

10. Control Over Election Machinery

Election officers entrusted with election duties function under the direction and supervision of the State Co-operative Election Commission.

11.Power to Ensure Compliance

The Commission may take measures authorised by law to ensure compliance with the Act, Rules, bye-laws and prescribed election procedures.

3.3.5 Importance of the State Co-operative Election Commission

An independent election authority helps ensure elections are conducted in a fair, impartial, transparent, and systematic manner. It strengthens democratic administration and promotes confidence among members of co-operative societies.

3.3.6 Election Procedure

Elections to the managing committee of a co-operative society are conducted through a prescribed statutory procedure under the supervision of the State Co-operative Election Commission. The major stages of the election procedure are as follows:

1.Preparation of Electoral Roll

The electoral roll contains the names of members who are legally entitled to exercise their voting rights. The preparation and control of the electoral roll are carried out in accordance with the applicable statutory provisions.

2.Publication of Voters' List

The electoral roll or voters' list is published as prescribed so that eligible members can verify their inclusion and exercise their voting rights.

3 . Election Notification

The election process begins with issuing the prescribed election notification or election programme. It specifies the various stages of the election and the dates within which they are to be completed.

4.Appointment of Election Officers

The State Co-operative Election Commission may designate or nominate Government officers and employees to assist in conducting the election. The authorised officers perform the duties assigned to them at different stages of the election.

5.Filing of Nomination Papers

Eligible members who wish to contest the election submit nomination papers in the prescribed form within the specified period.

6.Scrutiny of Nominations

The authorised election officer scrutinises the nomination papers to determine whether the candidates satisfy the prescribed legal requirements. The officer rejects invalid nominations and accepts valid nominations.

7. Withdrawal of Candidature

Candidates whose nominations have been accepted may withdraw their candidature within the prescribed period. After the withdrawal period ends, the Commission prepares the final list of contesting candidates.

8. Uncontested Election

If the number of validly nominated candidates is equal to or less than the number of seats to be filled, the election may be completed without a contested poll, following the prescribed procedure.

9. Polling

Where the number of valid candidates exceeds the number of available seats, a poll is conducted. Eligible members exercise their voting rights according to the prescribed procedure under the supervision of authorised election officers.

10. Counting of Votes

After polling is completed, the votes are counted according to the prescribed procedure. Election officers ensure the votes are properly counted and recorded.

11. Declaration of Election Results

After counting is completed, the candidates obtaining the required number of votes are declared elected. The results are formally declared and recorded in accordance with the statutory procedure.

12. Election of President and Vice-President

Where applicable, the President, Vice-President and other office-bearers are elected in accordance with the relevant provisions of the Act and the prescribed procedure.

13. Reservation of Seats

Where seats are reserved for specified categories of members under Section 28A, the election to such reserved seats is conducted in accordance with the applicable statutory provisions.

14. Election Expenses

Election expenses are regulated in accordance with the provisions of the Act, Rules and directions of the State Co-operative Election Commission.

15. Postponement or Rescheduling of Election

Where circumstances recognised by law make it impracticable to conduct an election as scheduled, appropriate action may be taken by the competent authority in accordance with the Act, Rules and applicable orders.

Recap

- ◇ The election of a co-operative society is a statutory process through which members elect the managing committee according to the Kerala Co-operative Societies Act, 1969, Rules and the society's bye-laws.
- ◇ The State Co-operative Election Commission, constituted under Section 28B, exercises superintendence, direction and control over the preparation of electoral rolls and the conduct of elections.
- ◇ The election process includes preparation of the electoral roll, publication of the voters' list, notification, nomination, scrutiny, withdrawal, finalisation of candidates, polling, counting and declaration of results.
- ◇ The Commission is responsible for preparing the electoral roll, appointing election officers, fixing the election programme and supervising the different stages of the election.
- ◇ The Commission may issue directions to ensure compliance with the Act, Rules, bye-laws and the approved election programme.
- ◇ Section 28B and Rule 35A are the principal provisions governing the election procedure.
- ◇ Section 28A deals with reservation in the managing committee, while Section 28AB deals with the election and removal of the President, Vice-President and other office-bearers, wherever applicable.
- ◇ Section 28B also contains provisions relating to election expenses and assistance from Government officers and employees.
- ◇ Overall, the election system promotes free, fair, transparent and impartial democratic administration by enabling members to elect their representatives.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 deals with the State Co-operative Election Commission?
2. Which provision deals with the election procedure conducted by the State Co-operative Election Commission?
3. Who is responsible for the preparation and control of the electoral roll?
4. Which section deals with reservation of seats in the committee?
5. Under which section are provisions made for the election of the President and Vice-President?
6. What is the first significant stage in the election process?
7. Who scrutinises the nomination papers of candidates?
8. What happens after the counting of votes is completed?

Answers

1. Section 28B.
2. Rule 35A of the Kerala Co-operative Societies Rules.
3. The State Co-operative Election Commission.
4. Section 28A.
5. Section 28AB.
6. Preparation of the electoral roll.
7. The authorised election officer.
8. The candidates who obtain the required number of votes are declared elected.

Self-Assessment Questions

1. Explain the meaning and importance of elections in co-operative societies.
2. Describe the constitution, functions and major powers of the State Co-operative Election Commission under Section 28B.
3. Explain the various stages involved in the election procedure of a co-operative society under Rule 35A.

4. Discuss the role of election officers in conducting elections and explain the provisions relating to election expenses.
5. Explain the provisions relating to reservation in the committee and the election of the President and Vice-President under Sections 28A and 28AB. Discuss the important matters that are required to be considered at the Annual General Body Meeting.
6. What is a Special General Body Meeting? Explain its purpose and the circumstances in which it may be convened.
7. Distinguish between an Annual General Body Meeting and a Special General Body Meeting.
8. Explain the role of the General Body in examining the audit report, annual report and financial affairs of the society.
9. Discuss the powers of the General Body regarding amendment of Bye-laws and disposal of net profit.
10. Explain the limitations imposed on the powers of the General Body by the Act, Rules and registered Bye-laws.

Assignments

1. Explain the role, responsibilities and powers of the State Co-operative Election Commission under Section 28B.
2. Describe the complete election process of a co-operative society under Rule 35A, beginning with the preparation of the electoral roll and concluding with the declaration of results.
3. Discuss the various stages involved in filing nominations, scrutinising nomination papers and withdrawing candidature in co-operative society elections.
4. Examine the powers of the State Co-operative Election Commission concerning election officers, preparation of the election programme, polling, counting of votes and declaration of results.
5. Discuss the statutory provisions relating to reservation in the managing committee under Section 28A and the election of the President and Vice-President under Section 28AB.
6. Evaluate the significance of an independent and properly regulated election system in promoting free, fair, transparent and democratic administration of co-operative societies.

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Unit 2

Appointment of Delegates

Learning Outcomes

After completing this unit, the learner will be able to;

- ◇ Explain the purpose of appointing delegates in a co-operative society
- ◇ Describe the circumstances leading to the supersession of a committee.
- ◇ State the role of an Administrator and an Administrative Committee.
- ◇ Explain the procedure for the seizure of books and records.
- ◇ Outline the legal measures adopted to ensure proper administration of a co-operative society.

Prerequisite

The Green Harvest Co-operative Society had an elected committee that managed the society's daily activities. For several years, the committee worked well, collected savings, granted loans, and held regular meetings.

Later, problems began to arise. Committee members stopped attending meetings, important decisions were delayed, and the account books were not maintained properly. Members became worried because they could not get clear information about the society's funds.

The Registrar first tried to ensure that the society functioned properly. In some situations, representatives called delegates could act on behalf of members in larger societies. If the committee continued to fail in its duties, the law allowed the committee to be removed temporarily and an Administrator or an Administrative Committee to take charge until proper management was restored. To protect the society's records

and prevent misuse, the authorities could also take custody of important books and documents.

This story shows that a co-operative society has legal mechanisms to maintain proper administration, protect members' interests, and restore democratic management when the elected committee cannot perform its responsibilities.

Keywords

Administrator, Administrative Committee, Registrar, Seizure of Records

Discussion

The management of co-operative societies involves several statutory mechanisms to ensure proper administration, accountability and protection of the society's interests. The content covers supersession of committees, appointment of Administrators and Administrative Committees, and securing or seizure of books and records under the Kerala Co-operative Societies Act, 1969. These provisions enable the competent authorities to intervene when statutory requirements are not complied with and ensure continuity of the society's administration, preservation of records and proper supervision of its affairs.

3.4.1 Appointment of Delegates

In large co-operative societies, it may not always be practical for every member to participate directly in the General Body meetings. In such situations, the law permits the appointment of delegates to represent members in the General Body and exercise the rights entrusted to them under the Act, Rules, and the society's bye-laws.

The system of delegates helps ensure democratic participation while enabling large societies to conduct their affairs efficiently.

Purpose of Appointment of Delegates

1. Represents members in large co-operative societies.
2. Facilitates effective conduct of General Body meetings.
3. Ensures democratic participation through elected representatives.
4. Enables smooth decision-making where direct participation of all members is impractical.

3.4.2 Supersession of the Committee of a Co-operative Society

In Kerala, Section 32 of the Kerala Co-operative Societies Act, 1969, primarily regulates the supersession of the committee of a co-operative society, which forms part of the provisions dealing with the management of co-operative societies.

Supersession refers to the statutory removal of the elected managing committee before the completion of its normal term and the subsequent appointment of an Administrator or Administrative Committee to manage the society. It is an exceptional statutory measure and should not be resorted to merely because the Registrar differs from the decisions taken by the elected committee.

3.4.2.1 Power of the Registrar

Under Section 32, the Registrar is empowered to supersede the committee when the conditions prescribed by the Act are satisfied. However, the Registrar must exercise this power strictly in accordance with the procedure and safeguards laid down in the Act.

Section 32 specifically deals with supersession of the committee, whereas Section 33 separately deals with appointing a new committee or Administrator in situations such as failure to constitute a committee.

3.4.2.2 Grounds for Supersession

Supersession may be ordered only on the grounds recognised by the Act. These include:

- ◇ Persistent failure to discharge statutory or administrative responsibilities.
- ◇ Negligence or conduct detrimental to the interests of the society.
- ◇ Failure to obey lawful directions or orders.
- ◇ Wilful disobedience in the execution of orders referred to in Section 76.
- ◇ Other circumstances specifically provided under Section 32.

The 2023 Amendment introduced wilful disobedience in executing orders referred to in Section 76 as an additional ground under Section 32(1)(ba).

3.4.2.3 Opportunity to the Committee

Since supersession terminates the authority of an elected committee, the concerned committee must be given the opportunity contemplated under Section 32 before the supersession order is issued.

The Act also contains provisions relating to service of the notice or order on the President, Vice-President or the person holding the relevant charge. It specifies when such service is deemed to constitute service on the committee.

3.4.2.4 Period of Supersession

Ordinarily, the period of supersession is six months. If a new committee cannot be constituted or cannot assume office within this period in accordance with the bye-laws, the period may, subject to the statutory conditions, be extended for up to a further six months.

The Act also provides for consultation with the Circle Co-operative Union in the circumstances specified under Section 32. For an apex or central society, consultation is required with the State Co-operative Union.

3.4.2.5 Special Provision for Banking Societies

Where a co-operative society carries on banking business, a special limitation applies. The appointment of an Administrator or Administrative Committee cannot exceed one year in the aggregate, subject to the statutory proviso.

3.4.2.6 Constitution of a New Committee

The Administrator or Administrative Committee is intended only as a temporary arrangement. Before its term expires, necessary steps must be taken to constitute a new elected committee in accordance with the society's bye-laws.

3.4.2.7 Disqualification of Members of the Superseded Committee

Supersession may also affect the eligibility of members of the superseded committee. Under Section 32, a member of a committee that has been superseded becomes disqualified, from the date of the supersession order, from contesting an election to or being nominated to the committee of any society or from being appointed as an Administrator, for the next one term, subject to the statutory provisions.

3.4.2.8 Difference between Sections 32 and 33

Section 32	Section 33
Deals with supersession of an existing committee.	Deals with appointment of a new committee or Administrator in specified situations.
Applies to an existing committee.	Applies where a committee cannot be constituted or function in the circumstances specified by law.
Results in statutory removal of the committee.	Provides for an interim administrative arrangement.
Requires compliance with the grounds and safeguards prescribed under Section 32.	Operates according to the circumstances prescribed under Section 33.

Thus, Section 32 primarily concerns removing an existing committee, whereas Section 33 deals with situations involving failure to constitute or otherwise establish a functioning committee.

3.4.2.9 Important Principle

The Registrar's power to supersede a committee is statutory and must be exercised strictly in accordance with Section 32. Since supersession affects an elected representative body, the prescribed grounds, procedure, opportunity to the committee, consultation requirements and period of supersession must all be properly observed.

3.4.3 Appointment of Administrator of a Co-operative Society

An Administrator is a person appointed to take charge of the management and affairs of a co-operative society when its elected committee has been superseded or when the law requires an interim administrative arrangement.

3.4.3.1 Appointment Following Supersession

Under Section 32 of the Kerala Co-operative Societies Act, 1969, when the committee of a co-operative society is superseded, the Registrar may appoint an Administrator or Administrative Committee to administer the affairs of the society.

3.4.3.2 Powers and Control of the Administrator

The Administrator operates under the Registrar's supervision and control and must follow the directions issued by the Registrar.

Subject to the limitations prescribed by the Act, the Administrator may exercise the powers and discharge the functions that would ordinarily be exercised by the committee or officers of the society.

3.4.3.3 Functions of the Administrator

During interim administration, the Administrator is responsible for ensuring the proper functioning of the society. The principal functions may include:

- ◇ Managing the routine and day-to-day activities of the society.
- ◇ Safeguarding the property, assets and interests of the society.
- ◇ Maintaining accounts, registers and other official records.
- ◇ Carrying out lawful decisions and directions.
- ◇ Undertaking necessary administrative measures.
- ◇ Taking steps for the formation of a new elected committee.

3.4.3.4 Duration of Appointment

The Administrator's appointment is intended to be temporary.

Normally, the supersession period is six months. If a new committee cannot be constituted or cannot assume office during that period, the tenure may be extended for up to a further six months, subject to the conditions prescribed by law.

In the case of a co-operative society engaged in banking business, a special statutory restriction applies, under which the aggregate period of appointment of an Administrator or Administrative Committee cannot exceed one year, subject to the applicable statutory proviso.

3.4.3.5 Responsibility to Constitute a New Committee

An Administrator is appointed only as an interim arrangement and is not expected to continue indefinitely. Before the prescribed period ends, appropriate steps must be taken to constitute a new elected committee in accordance with the society's bye-laws.

3.4.3.6 Appointment under Section 33

The appointment contemplated under Section 33 is distinct from supersession under Section 32. Section 32 concerns the supersession of an existing committee, whereas Section 33 provides for the appointment of a new committee or Administrator in specified circumstances, including situations where a committee cannot be constituted.

3.4.4 Administrative Committee of a Co-operative Society

An Administrative Committee is a temporary body appointed to manage the affairs of a co-operative society when the elected committee has been superseded or when the circumstances specified under the Kerala Co-operative Societies Act require an interim management arrangement.

3.4.4.1 Appointment

Under Section 32 of the Kerala Co-operative Societies Act, 1969, after supersession of the elected committee, the Registrar may appoint an Administrator or an Administrative Committee to manage the society's affairs.

The Administrative Committee functions as an interim management body until a new elected committee is constituted.

3.4.4.2 Composition

Under the current Section 32(1)(d), the persons appointed to an Administrative Committee must be selected from among the members of the society. They perform the functions entrusted to the interim body under the Act and the Registrar's order.

3.4.4.3 Powers and Functions

The Administrative Committee may exercise the powers and perform the functions of the superseded committee, subject to the Act, Rules, bye-laws and the directions of the Registrar.

Its principal functions include:

- ◇ Managing the day-to-day affairs of the society.

- ◇ Protecting the assets and interests of the society.
- ◇ Maintaining proper accounts and records.
- ◇ Implementing lawful directions and decisions.
- ◇ Taking necessary administrative measures.
- ◇ Taking steps for constituting a new elected committee.

The source material specifically states that the appointed committee or Administrator may exercise the powers and functions of the committee or officers of the society, subject to statutory controls.

3.4.4.4 Enrolment of Members during Interim Administration

Under Section 32(4), an Administrator or Administrative Committee may enrol members, but those members have no voting rights unless an elected committee ratifies their membership.

Section 33(2) applies the same rule to enrolment under interim administration. If the elected committee refuses ratification, it must state the reasons.

3.4.4.5 Control of the Registrar

The Administrative Committee does not function independently of the Registrar. It operates under the Registrar's control and must comply with directions issued by him.

3.4.4.6 Temporary Nature

An Administrative Committee is intended only as a temporary arrangement. Its purpose is to ensure that the society continues to function until a properly constituted elected committee takes charge.

Ordinarily, the period of supersession is six months, with provision for a further extension of up to six months subject to the statutory requirements.

3.4.4.7 Constitution of a New Committee

The Administrative Committee must take the necessary steps to constitute a new elected committee before the expiry of the prescribed period. It cannot be treated as a permanent substitute for an elected committee.

3.4.4.8 Relationship between Sections 32 and 33

- ◇ Section 32 deals with supersession of an existing committee and the consequent appointment of an Administrator or Administrative Committee.
- ◇ Section 33 deals with appointment of a new committee or Administrator in specified circumstances, including failure to constitute a committee.

3.4.5 Seizure of Books and Records of a Co-operative Society

The books, accounts, registers and other records of a co-operative society are essential for examining its financial and administrative affairs. The Kerala Co-operative Societies Act, 1969 provides legal mechanisms to secure, inspect, and take possession of such records when necessary for the proper administration and supervision of the society.

3.4.5.1 Section 34 – Securing Possession of Records, etc.

The principal statutory provision dealing with the securing and seizure of the books, records and property of a co-operative society is Section 34 of the Kerala Co-operative Societies Act, 1969, titled "Securing Possession of Records, etc."

Section 34 provides different procedures depending upon the circumstances in which possession of the records is required.

3.4.5.2 Circumstances Covered by Section 34

Section 34 becomes relevant in situations such as:

- ◇ Reconstitution of the committee by the General Body.
- ◇ Removal or supersession of the committee by the Registrar under Section 32.
- ◇ Appointment of a new committee or Administrator under Section 33.
- ◇ Winding up of the society under Section 71.

It applies where the outgoing committee members, President, or Secretary in custody of the society's records and property refuse to hand over charge to the newly constituted committee, Administrator, Liquidator, President, or Secretary.

3.4.5.3 Section 34(1) – Application to the Magistrate

Where the above circumstances arise, the new committee, Administrator, Liquidator, President or Secretary may seek possession of the records and property.

For this purpose, an application may be made to the Magistrate having jurisdiction over the area in which the society functions, but such an application requires the Registrar's prior sanction.

3.4.5.4 Section 34(2) – Search and Seizure by Police

Upon receiving the application, the Magistrate may issue a warrant authorising a Police Officer not below the rank of Sub-Inspector to:

- ◇ Enter and search the premises where the records or property are kept or believed to be kept.
- ◇ Seize the records and property of the society.

After seizure, the records and property are handed over to the new committee, Administrator, Liquidator, President or Secretary, as applicable.

3.4.5.5 Section 34(3) – Direct Seizure by Registrar or Authorised Officer

Section 34(3) provides a separate power to the Registrar or an officer not below the rank of Assistant Registrar authorised by the Registrar.

This power may be exercised while conducting an audit, inspection, inquiry or supervision, when the officer has reason to suspect serious irregularities or is satisfied that the records or property of the society are at risk.

The relevant circumstances include:

- ◇ Gross negligence in the discharge of duties.
- ◇ Misappropriation or misuse of society funds.
- ◇ Irregularities in recording proceedings.
- ◇ Irregularities in maintaining accounts or books.
- ◇ Likelihood of tampering with or destruction of records.
- ◇ Likelihood of misappropriation or improper use of the funds or property of the society.

In such circumstances, the authorised officer may take possession of any or all of the books, registers, securities, documents, cash in hand and account books of the society. The Registrar may remove the seized records and property and deal with them according to the directions of the Registrar.

3.4.5.6 Section 34(4) – Preparation of Inventory

When books, records or property are seized under Section 34(3), the Registrar or authorised officer must prepare an inventory in duplicate specifying the items seized.

The officer conducting the seizure must sign the inventory. The officer, employee or member from whose custody the records or property were taken should also sign the inventory as a witness.

If that person refuses to sign, the seizing officer must obtain the signatures of two or more persons as witnesses. A copy of the inventory must be supplied to the person from whose custody the records or property were seized.

3.4.5.7 Section 65 – Inquiry by the Registrar

The power of seizure under Section 34 should be distinguished from the Registrar's powers under Section 65, under which the Registrar or authorised person may require production of books, accounts, documents, securities, cash and other property during an inquiry.

3.4.5.8 Section 66 – Supervision and Inspection

Under Section 66, the Registrar or an authorised officer has powers to access and inspect the society's books, records, accounts, documents, securities, cash balance, and other property.

The officers and employees of the society are required to cooperate with the inspection and produce the relevant records when lawfully demanded.

3.4.5.9 Important Records Covered

The records that may be relevant for examination or securing possession include:

Cash books

Ledgers and day books

Minutes books

Membership registers

Share registers

Loan and deposit records

Vouchers and receipts

Account statements

Correspondence and files

Other documents connected with the affairs of the society

3.4.5.10 Purpose of Securing the Records

The primary purpose of securing books and records is to ensure that they remain available for audit, inspection, inquiry and other statutory proceedings.

It also helps prevent their concealment, destruction, alteration or manipulation and facilitates effective supervision of the society.

3.4.5.11 Difference between Sections 34, 65 and 66

Provision	Main Purpose
Section 34	Securing possession and seizure of records and property in specified circumstances
Section 65	Inquiry by the Registrar and production/access to books and records
Section 66	Supervision and inspection of books, records, accounts and property

Thus, Section 34 primarily deals with taking possession of records, while Sections 65 and 66 concern their production, examination, inquiry and inspection.

Recap

- ◇ Section 32 of the Kerala Co-operative Societies Act, 1969 primarily governs the supersession of the committee of a co-operative society.
- ◇ Supersession means the statutory removal of an elected committee before the expiry of its normal term on grounds recognised by law.
- ◇ Before issuing an order of supersession, the Registrar is required to follow the prescribed procedure and provide the committee with the opportunity required under the Act.
- ◇ After supersession, an Administrator or Administrative Committee may be appointed to manage the affairs of the society under the supervision and control of the Registrar.
- ◇ The Administrator or Administrative Committee is responsible for the proper management of the society and for taking steps towards the formation of a new elected committee.
- ◇ Section 33, which is separate from Section 32, provides for the appointment of a new committee or Administrator in specified situations, including failure to constitute a committee.
- ◇ Section 34 deals with securing possession and seizure of the books, records and property of a co-operative society in the circumstances specified by law.
- ◇ Under Sections 34(1) and 34(2), the prescribed process includes obtaining the Registrar's sanction, approaching the Magistrate and, where authorised, conducting search and seizure through a police officer.
- ◇ Section 34(3) enables the Registrar or an authorised officer to take possession of books, registers, securities, documents, cash and accounts when the specified irregularities or risks are present.
- ◇ Sections 65 and 66 deal respectively with inquiry and supervision/inspection, whereas Section 34 is primarily concerned with securing possession and seizure of records.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 deals with supersession of the committee?
2. What is meant by supersession of a committee?
3. Who has the power to supersede the committee under Section 32?
4. Which section deals with the appointment of a new committee or Administrator in specified circumstances?
5. Who may be appointed to manage a society after supersession of its committee?
6. Which section deals with securing possession and seizure of the books, records and property of a co-operative society?
7. Under Section 34(1), whose previous sanction is required before an application is made to the Magistrate?
8. Under Section 34(3), who may directly take possession of the books and records in the specified circumstances?

Answers

1. Section 32
2. Statutory removal of the elected committee before completion of its term
3. Registrar
4. Section 33
5. Administrator or Administrative Committee
6. Section 34
7. Registrar's
8. Registrar or authorised officer not below the rank of Assistant Registrar

Self-Assessment Questions

1. What is meant by supersession of the committee of a co-operative society under Section 32?
2. What are the grounds and procedural safeguards for supersession of a committee?
3. Explain the appointment, powers and functions of an Administrator or Administrative Committee.
4. Distinguish between Sections 32 and 33 of the Kerala Co-operative Societies Act, 1969.
5. Explain the procedure for securing and seizing books and records under Section 34, including the role of the Magistrate and police.
6. Distinguish the powers relating to seizure under Section 34, inquiry under Section 65, and supervision and inspection under Section 66.

Assignments

1. Explain the concept of supersession of the committee of a co-operative society under Section 32, including the grounds, procedure, safeguards and consequences of supersession.
2. Discuss the appointment, powers, functions and tenure of an Administrator or Administrative Committee, and explain the role of the Registrar in supervising their functioning.
3. Compare Sections 32 and 33 of the Kerala Co-operative Societies Act, 1969, highlighting the circumstances and legal consequences applicable under each provision.
4. Explain the procedure for securing and seizing books and records under Section 34, including the roles of the Registrar, Magistrate, police officer and authorised officer.
5. Prepare a comparative study of Sections 34, 65 and 66, explaining the differences between seizure of records, inquiry, supervision and inspection of a co-operative society.

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4
BLOCK

Privileges of
Co-operatives

Unit

Register of Members

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ explain the meaning and importance of the Register of Members in a co-operative society
- ◇ describe the provisions relating to Charge and Set-off in a co-operative society
- ◇ comprehend the evidentiary value of the Register of Members as prima facie evidence
- ◇ explain the circumstances relating to exemption from stamp duty for co-operative societies
- ◇ distinguish between the major legal provisions relating to membership records, charge and set-off, evidentiary value, and stamp duty exemption

Prerequisites

In Saphalam Co-operative Society, many people became members by purchasing shares. The secretary maintained a Register of Members containing their names, addresses, share details and other membership information.

One day, a member named Anil owed the society money. At the same time, the society owed Anil an amount. The secretary checked the society's records to determine his membership and financial position and whether the amount could be adjusted against his dues.

The Register of Members also helped establish that Anil was a member of the society. When the society needed to produce its records, the entries in the Register could serve as prima facie evidence of membership. The secretary also learned that certain documents relating to the society may receive exemption from stamp duty under the applicable law.

Thus, learners should first know the basic idea of membership and the importance of maintaining official records in a co-operative society. This provides the foundation for studying the Register of Members, Charge and Set-off, its evidentiary value, and exemption from stamp duty.

Keywords

Statutory Charge , Set-off , Outstanding Liability , Register of Members , Prima Facie Evidence , Register of Active Members , Membership Eligibility , Stamp Duty Remission , Government Notification , Compulsory Registration

Discussion

The Register of Members of a Co-operative Society is an important statutory record containing the particulars of all persons admitted as members of the society. It generally includes the member's name, address, date of admission, shareholding, and other prescribed particulars. The register provides an authentic record of the membership of the society and helps determine who is entitled to exercise membership rights, including voting and participation in the affairs of the society.

The society must maintain the register properly and keep it up to date in accordance with the applicable co-operative societies law and rules. Entries relating to admission, resignation, death, removal, disqualification, or cessation of membership should be recorded appropriately. This also helps verify members' eligibility, prepare electoral rolls, conduct general body meetings, and maintain transparency in the administration of the society.

4.1.1 Charge and Set-Off

The provisions relating to charge and set-off are mainly governed by Section 38 of the Kerala Co-operative Societies Act, 1969. These provisions enable a co-operative society to safeguard and recover amounts payable by its members. Section 39 complements Section 38 by protecting attachment of a member's share or interest. Sections 35 to 39 broadly cover members' rights and liabilities.

4.1.1.1 Statutory Charge – Section 38

Under Section 38, a co-operative society has a statutory charge over specified interests. It amounts belonging to a member in respect of any debt or outstanding liability due to the society. The charge may extend to:

- ◇ the member's share or interest in the capital of the society;
- ◇ the member's deposits;

- ◇ the share, interest or deposits of a past member or deceased member;
- ◇ dividend, bonus or profits payable to a member or past member; and
- ◇ corresponding amounts payable to the estate of a deceased member.

Thus, when a member has an unpaid loan or other liability towards the society, the society can exercise its statutory charge over the specified assets or amounts. The object is to protect the society's financial interests and facilitate recovery of its legitimate dues.

4.1.1.2 Set-off – Section 38

Section 38 also permits the society to set off any amount standing to the credit of, or payable to, a member, past member or the estate of a deceased member against any debt or outstanding demand due to the society.

For instance, if a member owes ₹50,000 to the society and is entitled to receive ₹30,000 as a deposit or other amount covered by Section 38, the society may adjust the ₹30,000 against the outstanding liability. The remaining amount payable by the member would therefore be ₹20,000.

4.1.1.3 Past Members and Deceased Members

The operation of Section 38 is not restricted to persons who are presently members. It also applies to past members and the estates of deceased members. Accordingly, amounts payable to a past member or to the estate of a deceased member may be applied towards satisfaction of any debt or outstanding demand due to the society.

4.1.1.4 Restriction relating to Reserve Fund

Section 38 contains a special restriction concerning a financing bank. Where a society is affiliated to a financing bank, the bank cannot claim a charge over money invested with it as the society's reserve fund if the financing bank is not the sole creditor of the society. In such a situation, the bank is also not entitled to set off the reserve-fund amount against a debt due from the society.

4.1.1.5 Protection under Section 39

Section 39 protects a member's share or interest in the capital of the society. Subject to Section 38, such share or interest is not liable to attachment or sale under a decree or order of a court for a debt or liability incurred by the member. Section 39 also protects the society's reserve fund when it is invested in accordance with Section 57.

Therefore, Section 38 and Section 39 should be read together. While Section 39 generally protects a member's share or interest from attachment, Section 38 recognises the society's statutory right of charge and set-off in respect of its outstanding dues.

4.1.1.6 Difference between Charge and Set-off

Table 4.1.1 Difference between Charge and Set-off

Charge	Set-off
Creates a statutory security in favour of the society.	Enables adjustment of an amount payable to the member against the member's debt.
Covers shares, interests, deposits and specified dividends, bonuses or profits.	Operates by applying amounts credited or payable to the member towards the outstanding debt.
Primarily secures the society's claim.	Directly reduces or satisfies the outstanding liability.
Relates to debts or outstanding demands due to the society.	Provides a means of applying amounts payable towards such debts or demands.

The essential distinction is that a charge secures the society's claim over specified assets or amounts, whereas set-off enables the society to adjust an amount payable to the member against the member's outstanding liability.

4.1.2 Register of Members as Prima Facie Evidence

The Register of Members is a significant statutory record maintained by a co-operative society. Section 102 of the Kerala Co-operative Societies Act, 1969 recognises the register or list of members or shares maintained by a society as *prima facie evidence* of the particulars recorded in it. Section 19B further gives members the right to inspect the Register of Members at the society's registered office during reasonable hours, without paying any fee.

4.1.2.1 Section 102 – Evidentiary Value of the Register

Under Section 102, the register or list of members or shares maintained by a co-operative society constitutes *prima facie evidence* of the entries contained in it. In particular, it can establish:

- ◇ the date on which a person's name was entered as a member; and
- ◇ the date on which the person ceased to be a member.

Accordingly, the register is an important document for determining the commencement and termination of membership.

4.1.2.2 Section 19B – Inspection by Members

Section 19B requires the society to make certain important documents available for inspection by its members, free of charge and at reasonable times at the registered office. These include the Act, Rules, registered bye-laws, Register of Members, latest audited balance sheet and accounts relating to the member's own transactions.

Thus, members have a statutory right to inspect the Register of Members and verify the membership records maintained by the society.

4.1.3 Section 16A – Eligibility to Continue as a Member

The maintenance of the membership register is also connected with Section 16A, which deals with the conditions for continuing as a member. A member may become ineligible, among other circumstances specified in the provision, by failing to use the services of the society for the prescribed period or by failing to attend three consecutive general meetings, subject to the applicable provisions relating to condonation.

Where a member becomes ineligible, the Committee may remove the person from membership after providing an opportunity to make a representation. The Committee must reflect such changes in the membership records.

4.1.4 Rule 18A – Register of Active Members

Rule 18A of the Kerala Co-operative Societies Rules, 1969 deals with maintaining the Register of Active Members. Under Rule 18A(2)(a), every society is required to maintain the register in Form No. 32, and responsibility for its proper maintenance rests with the Chief Executive.

The register contains the membership particulars needed to determine members' eligibility, particularly for participation and voting. Form No. 32, therefore, represents the Register of Active Members under Rule 18A and should be distinguished from the general register or list of members or shares referred to in Section 102.

4.1.4.1 Updating the Register – Rule 18A(2)(b)

Under Rule 18A(2)(b), the particulars relating to every member are required to be kept up to date. The register must be placed before the Committee within 60 days of the completion of each year.

This requirement ensures membership information remains current and can be used to determine members' eligibility.

4.1.4.2 Verification by the Committee – Rule 18A(2)(c)

After the register is submitted to it, the Committee is required under Rule 18A(2)(c) to scrutinise and certify the particulars entered by the Chief Executive.

The Committee must complete this examination and certification within 30 days of the date the register is placed before it.

4.1.4.3 Certificate to the Registrar – Rule 18A(2)(d)

According to Rule 18A(2)(d), the Chief Executive must submit a certificate to the Registrar confirming that the Register of Active Members has been properly updated.

The certificate must be forwarded within three months of the close of the year.

4.1.4.4 Submission to the Electoral Officer – Rule 18A(2)(e)

Rule 18A(2)(e) is particularly relevant in connection with elections to the Committee. The Chief Executive must submit the register to the Electoral Officer to verify the members eligible to vote.

Consequently, the Register of Active Members serves as an important basis for preparing and verifying the electoral roll and determining voting eligibility.

4.1.5 Rule 16 – Admission of Members

Rule 16 prescribes the conditions relating to admission to membership. Generally, a person seeking membership must submit a written application, obtain the Committee's approval, and satisfy the requirements prescribed by the Act, Rules, and the society's bye-laws.

Therefore, entries in the Register of Members should correspond to actual admission decisions and the applicable statutory and bye-law requirements.

4.1.6 Section 103 – Proof of Entries in Society's Books

Section 103 deals with the evidentiary value of entries contained in the books of a co-operative society. A properly certified copy of an entry in a book regularly maintained in the course of the society's business may be accepted in legal proceedings as *prima facie evidence* of the entry and the matters, transactions or accounts recorded therein, subject to the requirements prescribed by law.

4.1.7 Importance of the Register of Members

The Register of Members is useful for:

- ◇ determining the date of admission of a member;
- ◇ establishing the date of cessation of membership;
- ◇ verifying the current membership status;
- ◇ determining eligibility to exercise membership rights;
- ◇ identifying active members;
- ◇ verifying voting eligibility;
- ◇ assisting in the preparation and verification of electoral rolls; and
- ◇ providing documentary evidence in membership-related disputes.

Thus, Section 102 establishes the evidentiary importance of the Register of Members, Section 19B ensures the member's right to inspect it, and Rule 18A lays down the procedure for maintaining and updating the Register of Active Members in Form No. 32, particularly for determining voting and electoral eligibility.

4.1.8 Exemption from Stamp Duty for Co-operative Societies

The Kerala Co-operative Societies Act, 1969 contains provisions enabling the Government to grant remission of stamp duty to co-operative societies. The principal provision is Section 40(1)(a). However, this provision does not create a general or automatic exemption from stamp duty for every document executed by a co-operative society. Instead, the Government may, through a notification published in the Gazette, grant remission in respect of specified societies and specified classes of instruments.

4.1.8.1 Section 40(1)(a) – Remission of Stamp Duty

Under Section 40(1)(a), the Government is empowered to remit the stamp duty payable under the Kerala Stamp Act, 1959 in relation to specified instruments. These may include:

- ◇ instruments executed by or on behalf of a co-operative society;
- ◇ instruments executed by an officer or member of the society;
- ◇ instruments connected with the business of the society;
- ◇ specified classes of instruments; and
- ◇ awards or orders made under the Kerala Co-operative Societies Act.

The remission applies where, in the absence of such remission, the society, officer or member would otherwise be liable to pay the applicable stamp duty.

4.1.8.2 Remission is not an Automatic Exemption

Section 40 confers a power of remission on the Government rather than granting an unconditional exemption. Consequently, the mere fact that a document is connected with a co-operative society does not by itself make the document exempt from stamp duty.

The instrument must meet the requirements of Section 40 and the relevant Government notification issued under the provision.

4.1.8.3 Instrument Must Relate to the Society's Business

An important requirement under Section 40(1)(a) is that the instrument should have a connection with the business of the co-operative society. Merely establishing that a person executing the document is an officer or member of the society is not sufficient. The instrument must also have the required connection with the society's business.

4.1.8.4 S.R.O. No. 75/60

The Government had previously issued S.R.O. No. 75/60, which provided remission of stamp duty and certain registration-related charges in specified transactions involving co-operative societies. The government issued this notification under the earlier co-operative societies legislation.

After the enactment of the Kerala Co-operative Societies Act, 1969, the continued applicability of the earlier notification became an issue. According to the source material, Section 110(2) of the 1969 Act preserves the notification to the extent it remains consistent with the provisions of the present Act.

4.1.8.5 Limitation in Respect of Instruments Executed by Members

The scope of Section 40 may differ from the broader wording of the earlier S.R.O. No. 75/60. Questions have arisen about whether remission applies to instruments such as sale deeds executed by members in favour of a society or by a society in favour of its members.

Therefore, while determining whether stamp-duty remission is available, it is necessary to consider:

- ◇ the capacity in which the person executes the document;
- ◇ the nature of the instrument;
- ◇ the person legally responsible for paying the stamp duty; and
- ◇ whether the transaction is connected with the business of the society.

4.1.8.6 Section 40(1)(b) – Registration Fees and Court Fees

The scope of Section 40(1) is not restricted to stamp duty. Under Section 40(1)(b), the Government may also remit certain:

- ◇ fees payable under laws relating to the registration of documents; and
- ◇ court fees.

Thus, the provision enables remission of specified registration and court fees in addition to stamp duty.

4.1.8.7 Section 40(2) – Exemption from Certain Taxes

Section 40(2) separately empowers the Government to exempt specified classes of co-operative societies from certain taxes. The source material identifies the following:

- ◇ agricultural income tax;
- ◇ tax on the sale or purchase of goods; and
- ◇ tax on professions, trades, callings and employments.

These exemptions also depend on the issuance of an appropriate Government notification.

4.1.8.8 Section 41 – Exemption from Compulsory Registration

Section 41 deals with exemption from the compulsory registration of specified instruments. It should therefore be distinguished from Section 40. Section 40 primarily

concerns remission of stamp duty, registration fees, court fees and specified taxes, whereas Section 41 relates to compulsory registration of certain instruments.

In summary, Section 40(1)(a) of the Kerala Co-operative Societies Act, 1969 is the principal provision dealing with remission of stamp duty for co-operative societies. The benefit is not automatic merely because a transaction involves a co-operative society. It depends upon the conditions contained in Section 40 and the applicable Government notification. In particular, the nature of the instrument, the person liable for stamp duty, and its connection with the business of the society are relevant in determining whether remission can be claimed.

Recap

- ◇ Section 38 provides co-operative societies with the legal means to secure and recover debts and other outstanding amounts payable by their members.
- ◇ The statutory charge may cover a member's shares, deposits, dividends, bonuses and profits, and can also extend to past members and the estates of deceased members.
- ◇ Section 39 safeguards a member's share or interest from attachment or sale, subject to the rights and powers of the society recognised under Section 38.
- ◇ Under Section 102, the Register of Members has evidentiary significance in determining the beginning and termination of membership, while Section 19B provides members with the right to inspect the register.
- ◇ Rule 18A requires the society to maintain the Register of Active Members in Form No. 32 and provides for its regular updating, verification and certification.
- ◇ The Register of Active Members is important for establishing voting eligibility and electoral rolls, and is submitted to the Electoral Officer for verification.
- ◇ Under Section 40(1)(a), the Government may provide remission of stamp duty through notification in respect of specified instruments connected with co-operative societies, subject to the prescribed conditions.
- ◇ Section 40 also provides for remission or exemption relating to registration fees, court fees and specified taxes, while Section 41 deals with exemption from compulsory registration of specified instruments.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 deals mainly with charge and set-off?
2. Under Section 38, a co-operative society may exercise a statutory charge over:
3. Which section provides prima facie evidentiary value to the Register of Members?
4. Under Rule 18A, the Register of Active Members is maintained in:
5. Which provision enables the Government to remit stamp duty in respect of specified instruments relating to co-operative societies?
6. Is remission of stamp duty under Section 40 automatic for every document connected with a co-operative society?
7. Which section deals with exemption from compulsory registration of specified instruments?

Answers

1. Section 38
2. Shares, interests, deposits and specified amounts payable to the member
3. Section 102
4. Form No. 32
5. Section 40(1)(a)
6. No
7. Section 41

Self-Assessment Questions

1. Explain the concept of statutory charge under Section 38 of the Kerala Co-operative Societies Act, 1969. What interests and amounts of a member can be covered by such charge?
2. What is set-off under Section 38? Explain how a co-operative society can adjust amounts payable to a member against the member's outstanding debt.

3. Discuss the evidentiary value of the Register of Members under Section 102 and explain the right of members to inspect the register under Section 19B.
4. Explain the requirements under Rule 18A for maintaining, updating and verifying the Register of Active Members.
5. Explain the scope of remission of stamp duty under Section 40(1)(a). Is the remission automatic for every instrument connected with a co-operative society? Give reasons.

Assignments

1. Explain the statutory charge and right of set-off available to a co-operative society under Section 38 of the Kerala Co-operative Societies Act, 1969. Distinguish between charge and set-off.
2. Discuss the protection available to a member's share or interest under Section 39 and explain how Section 38 operates as an exception to such protection.
3. Examine the evidentiary value of the Register of Members under Section 102 and explain the importance of maintaining the Register of Active Members under Rule 18A.
4. Analyse the provisions relating to remission of stamp duty under Section 40(1)(a), including the conditions that must be satisfied before remission can be claimed.
5. Differentiate between Sections 40 and 41 of the Kerala Co-operative Societies Act, 1969, with particular reference to stamp duty, registration fees, court fees and compulsory registration.

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Unit

Provisions of Taxes and Dues

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ list the major taxes and fees applicable to co-operative societies
- ◇ describe the provisions relating to deduction and recovery of dues payable to co-operative societies
- ◇ identify documents that are exempt from compulsory registration under the relevant provisions
- ◇ distinguish between documents requiring compulsory registration and those enjoying exemption
- ◇ explain the importance of complying with statutory requirements relating to taxes, dues and registration

Prerequisites

Meenam Co-operative Society is a registered co-operative society engaged in providing financial and other services to its members. During the preparation of its annual accounts, the society had to pay various taxes, fees and other statutory dues. Some members had also failed to pay amounts due to the society.

The society decided to recover these dues from members under applicable legal provisions. While updating its records, the secretary also found that certain documents relating to the society's transactions were required to be registered. However, some documents were exempt from compulsory registration under the law.

The committee therefore had to determine:

1. What taxes and fees were payable by the society.
2. How dues payable to the co-operative society could be deducted or recovered.
3. Which documents were exempt from compulsory registration.

This case provides the basic background for studying the legal provisions relating to Taxes and Fees, Deduction of Dues of Co-operatives, and Exemption from Compulsory Registration of Certain Documents.

Keywords

Stamp Duty Remission , Registration Fees , Court Fees , Tax Exemption, Statutory Charge , Set-off , Deduction of Dues , Compulsory Registration

Discussion

Co-operative societies are formed to advance the economic and social welfare of their members through mutual support and collective efforts. Considering their significant role in society, the Kerala Co-operative Societies Act, 1969 grants them various statutory privileges and concessions. These provisions aim to ease their functioning, minimise financial and procedural obligations, and promote the efficient performance of their activities.

The major privileges include concessions on stamp duty, registration fees, court fees, and specified taxes under Section 40, along with exemption from compulsory registration of certain specified instruments under Section 41. The Act also provides mechanisms such as charge and set-off to facilitate the recovery of amounts due from members. These privileges are available subject to the provisions of the Act, relevant Government notifications and the prescribed conditions.

4.2.1 Privileges of Co-operative Societies Relating to Taxes and Fees

The Kerala Co-operative Societies Act, 1969 provides co-operative societies with certain statutory concessions concerning stamp duty, registration fees, court fees and specified taxes. These benefits are intended to reduce the financial burden associated with the functioning and transactions of co-operative societies.

Section 40 provides a statutory framework for granting concessions to co-operative societies in respect of certain taxes, fees and duties. However, the provision does not mean that every co-operative society is automatically exempt from all taxes and fees.

The benefit depends upon:

- ◇ The nature of the society;
- ◇ The particular transaction or instrument;
- ◇ The applicable Government notification; and
- ◇ The conditions prescribed under the relevant law.

Therefore, a society must verify whether a particular exemption or remission applies before claiming the benefit.

4.2.1.1 Remission of Stamp Duty – Section 40(1)(a)

Under Section 40(1)(a), the Government has the power to grant remission of stamp duty payable under the Kerala Stamp Act, 1959 in respect of specified instruments. This may include instruments executed by or on behalf of a co-operative society, its officers or members, provided that the instrument is connected with the business of the society.

The concession helps reduce the cost of executing important documents related to the society's activities.

4.2.1.2 Remission of Registration Fees – Section 40(1)(b)

The Government may also grant remission of certain fees payable under laws governing document registration. As a result, specified transactions of co-operative societies may receive relief from applicable registration fees.

This concession encourages societies to complete necessary legal transactions with a reduced financial burden.

4.2.1.3 Remission of Court Fees – Section 40(1)(b)

Section 40(1)(b) further empowers the Government to remit specified court fees in matters falling within the scope of the provision.

This provides financial relief to co-operative societies in eligible legal proceedings and helps them pursue legal remedies without incurring the full burden of court fees where Government notifications permit.

4.2.1.4 Exemption from Certain Taxes – Section 40(2)

Section 40(2) enables the Government to exempt specified categories of co-operative societies from certain taxes. The taxes mentioned include:

- ◇ Agricultural income tax;
- ◇ Tax on the sale or purchase of goods; and
- ◇ Tax on professions, trades, callings and employments.

These exemptions promote the growth of co-operative societies by reducing recurring tax liabilities.

4.2.1.5 Concessions Subject to Government Notification

The benefits provided under Section 40 are not automatic. The applicable remission or exemption generally depends upon the issuance of an appropriate Government notification. The concerned society or transaction must also satisfy the conditions prescribed for obtaining the benefit.

Therefore, societies can claim these concessions only when they fulfil the statutory requirements and the Government has authorised the concession through notification.

The statutory privileges relating to taxes and fees lessen certain financial burdens faced by co-operative societies. However, these benefits operate subject to the provisions of the Kerala Co-operative Societies Act, applicable Government notifications and the prescribed conditions.

4.2.2 Deduction of Dues of Co-operative Societies

Apart from granting concessions, the Kerala Co-operative Societies Act, 1969 also provides co-operative societies with statutory methods for recovering amounts owed by their members. One principal mechanism is the charge and set-off under Section 38, read with the protection under Section 39.

These provisions enable societies to recover outstanding dues without immediately resorting to lengthy legal proceedings.

4.2.2.1 Adjustment of Amounts Payable to Members

When a member has an outstanding debt or liability towards the society, the society may adjust any amount standing to the member's credit or otherwise payable to the member against the outstanding dues.

This ensures that amounts already payable by the society can be used to reduce unpaid liabilities.

4.2.2.2 Adjustment from Deposits

The society may use deposits or other amounts payable to a member to discharge or reduce the member's liability towards the society. This adjustment strengthens the society's financial security while ensuring lawful recovery.

4.2.2.3 Adjustment of Dividend, Bonus or Profit

Any dividend, bonus or profit payable to a member may also be utilised towards settlement of the member's outstanding debt to the society.

Instead of paying the member directly, the society may first appropriate such amounts towards outstanding dues.

4.2.2.4 Dues of Former and Deceased Members

The recovery mechanism also extends beyond existing members. Amounts payable to a former member or to the estate of a deceased member may be applied towards any dues owed to the society.

This provision prevents liabilities from remaining unpaid merely because membership has ceased or the member has died.

4.2.2.5 Statutory Charge

Section 38 confers a statutory charge on the society over specified interests and amounts belonging to a member in respect of debts or other liabilities payable to the society.

A statutory charge gives the society a legal right over specified amounts for recovering its dues.

4.2.2.6 Right of Set-off

Set-off permits the society to appropriate an amount payable to a member towards the member's outstanding liability.

Example: If a member owes ₹50,000 to the society and has ₹30,000 standing to their credit, the society may adjust ₹30,000 against the debt, leaving a balance liability of ₹20,000. This provision allows recovery through adjustment rather than requiring immediate legal action.

4.2.2.7 Protection of Member's Share – Section 39

Section 39 generally protects a member's share or interest in the capital of the society from attachment or sale under a court decree for the member's debt, subject to Section 38.

Therefore, Sections 38 and 39 should be considered together. While Section 38 protects the society's right to recover its dues, Section 39 protects the member's share from attachment by outside creditors, except where the society's statutory rights are involved.

The deduction of co-operative dues refers to the lawful adjustment of amounts payable to, or standing to the credit of, a member against debts or outstanding demands owed to the society. The principal mechanisms are the statutory charge and set-off under Section 38, supported by the protection available under Section 39.

4.2.3 Exemption from Compulsory Registration of Certain Documents

Section 41 of the Kerala Co-operative Societies Act, 1969 exempts certain specified instruments from compulsory registration. This provision is separate from Section 40, which deals mainly with concessions relating to stamp duty, registration fees, court fees and specified taxes.

Section 41 aims to simplify procedural requirements for specified documents connected with the functioning of co-operative societies.

4.2.3.1 Statutory Exemption

Section 41 grants a specific statutory exemption from compulsory registration to instruments that fall within the scope of the provision.

This exemption operates directly under the Act for the specified instruments covered by the provision.

4.2.3.2 Limited Application

The exemption does not extend to every document a co-operative society executes. It applies only to those particular instruments that are covered by Section 41.

Therefore, societies cannot claim a blanket exemption for all their documents.

4.2.3.3 Difference from Stamp Duty Remission

The exemption from compulsory registration should be distinguished from the remission of stamp duty available under Section 40(1)(a). The two provisions operate in different areas.

Stamp duty remission reduces financial liability, whereas exemption from compulsory registration reduces procedural requirements.

4.2.3.4 Distinction Between Sections 40 and 41

Table 4.2.1 Distinction Between Sections 40 and 41

Section 40	Section 41
Deals with remission of stamp duty, registration fees, court fees and specified taxes.	Deals with exemption from compulsory registration of specified instruments.
Provides financial concessions.	Provides procedural convenience.
Operates subject to Government notification and prescribed conditions.	Applies only to instruments covered by the Act.

The objective of Section 41 is to provide procedural convenience to co-operative societies by relieving specified instruments from compulsory registration. However, the exemption is confined to the instruments covered by the Act and should not be treated as a general exemption applicable to all documents of co-operative societies.

Illustrative Case

Lakshmi Co-operative Society

Lakshmi Co-operative Society provides loans to its members. One of its members, Anil, has an outstanding loan amount. Anil is employed and receives a regular salary. When he obtained the loan, he authorised deduction from his salary towards the amount payable to the society.

When Anil failed to make the required payments, the society followed the statutory procedure for recovering the dues through salary deduction.

At the same time, the society had to execute certain instruments relating to its shares and debentures. Before presenting the documents for registration, the secretary examined whether Section 41 exempted the instruments. The society also incurred expenses for stamp duty, registration fees, and other statutory charges. The secretary therefore examined whether the society and the relevant transactions were eligible for any remission or exemption under Section 40 and applicable Government notifications.

The case shows:

The case demonstrates how three different provisions operate:

Section 40 → Concessions relating to taxes, fees and duties

Section 37 → Deduction from salary towards society's dues

Section 41 → Exemption from compulsory registration of specified instruments

Together, these provisions provide important financial, recovery and procedural facilities to co-operative societies.

Recap

- ◇ The Kerala Co-operative Societies Act, 1969 provides co-operative societies with various statutory concessions concerning stamp duty, registration fees, court fees and specified taxes.
- ◇ Under Section 40(1)(a), the Government may allow remission of stamp duty on specified instruments associated with the business of a co-operative society.
- ◇ Section 40(1)(b) provides for remission of specified registration fees and court fees in eligible cases, subject to the applicable provisions.
- ◇ Under Section 40(2), specified categories of co-operative societies may receive exemption from certain taxes, including taxes relating to agricultural income, sale or purchase of goods, and professions, trades, callings and employments, subject to the applicable conditions.

- ◇ The concessions relating to taxes, fees and duties are not automatic and are subject to applicable Government notifications and prescribed conditions.
- ◇ A co-operative society can recover certain dues from its members through the statutory deduction from salary or wages, subject to the requirements prescribed under the Act.
- ◇ The salary deduction mechanism enables the society to recover amounts due from a member through the employer or salary-disbursing authority in accordance with the prescribed procedure.
- ◇ Section 41 provides exemption from compulsory registration for specified instruments connected with co-operative societies, subject to the scope and conditions of the provision.
- ◇ The exemption from compulsory registration under Section 41 is distinct from the tax, fee and duty concessions provided under Section 40.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 deals with remission of stamp duty?
2. Under which provision may the Government remit specified registration fees and court fees?
3. Which of the following is a tax from which specified co-operative societies may be exempted under Section 40(2)?
4. Are the concessions relating to taxes and fees under the Act automatic?
5. Which section provides for charge and set-off for recovery of dues from members?
6. Which of the following amounts may be adjusted towards a member's outstanding liability?
 - a. Deposits
 - b. Dividends
 - c. Bonuses and profits
 - d. All of the above
7. Which section generally protects a member's share or interest in the capital of the society from attachment or sale under a court decree?
8. Which section provides exemption from compulsory registration for certain specified instruments?

Answers

1. Section 40(1)(a)
2. Section 40(1)(b)
3. Agricultural income tax
4. No, they are generally subject to Government notification and prescribed conditions
5. Section 38
6. All of the above
7. Section 39
8. Section 41

Self-Assessment Questions

1. Explain the statutory privileges available to co-operative societies in relation to stamp duty, registration fees, court fees and specified taxes under Section 40 of the Kerala Co-operative Societies Act, 1969.
2. What are the conditions governing the remission or exemption of taxes and fees available to co-operative societies?
3. Explain how a co-operative society can recover the dues owed by its members through charge and set-off under Section 38.
4. Discuss the different amounts, such as deposits, dividends, bonuses and profits, that may be adjusted towards a member's outstanding liability.
5. Explain the protection provided to a member's share or interest under Section 39 and its relationship with Section 38.
6. Explain the exemption from compulsory registration under Section 41 and distinguish it from the concessions available under Section 40.

Assignments

1. Discuss the statutory privileges available to co-operative societies relating to stamp duty, registration fees, court fees and specified taxes under Section 40 of the Kerala Co-operative Societies Act, 1969.

2. Examine the conditions governing remission and exemption from taxes and fees available to co-operative societies, with particular reference to Government notifications.
3. Explain the statutory charge and set-off mechanism under Section 38 for recovery of dues from members of a co-operative society.
4. Analyse the adjustment of deposits, dividends, bonuses and profits towards the outstanding liabilities of members, including the position of past and deceased members.
5. Compare Sections 40 and 41 of the Kerala Co-operative Societies Act, 1969, with reference to tax and fee concessions and exemption from compulsory registration of specified instruments.

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Unit

Inspection of Co-operative Societies

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ describe the purpose and importance of enquiry, inspection and supervision of co-operative societies
- ◇ identify the authorities responsible for conducting enquiry, inspection and supervision under the relevant co-operative laws
- ◇ outline the procedures involved in conducting an enquiry, inspection and supervision of co-operative societies
- ◇ explain the procedure for initiating and completing surcharge proceedings against persons responsible for loss or misappropriation of society funds
- ◇ distinguish between enquiry, inspection, supervision and surcharge proceedings based on their purpose and procedure

Prerequisites

Sunrise Co-operative Society is managed by a committee elected by its members. The society maintains books of accounts, registers, minutes of meetings, loan records and other documents relating to its activities. The committee is responsible for properly managing the society's affairs and maintaining accurate records.

During the annual review, the competent authority noticed some irregularities in the society's accounts and records. The competent authority therefore decided to examine the society's affairs in detail. The records had to be checked, the functioning of the society had to be supervised, and the persons responsible for any financial loss had to be identified.

This situation creates a need for enquiry, inspection, and supervision of co-operative societies. Where an enquiry establishes that a person has caused loss to the society through misappropriation, breach of trust, negligence or other misconduct, surcharge proceedings may be initiated to recover the amount from the person responsible.

Keywords

Registrar, Inquiry, Inspection, Supervision, Audit, Surcharge, Financial Accountability, Misappropriation, Natural Justice, Regulatory Compliance

Discussion

4.3.1 Inquiry By Registrar

Section 65 of the Kerala Co-operative Societies Act, 1969 provides for an inquiry into the constitution, working and financial condition of a co-operative society. The provision enables the Registrar to examine the affairs of a society when circumstances require a detailed investigation into its administration, management, accounts, records, transactions or financial affairs. The primary objective of such an inquiry is to identify irregularities, mismanagement, financial loss, violations of statutory provisions, or other deficiencies, and to ensure that the society functions in accordance with the Act, Rules, bye-laws, and accepted principles of co-operative management.

4.3.1.1 Power of the Registrar to order an inquiry

The Registrar may initiate an inquiry into the affairs of a co-operative society under Section 65. The inquiry may be undertaken when circumstances indicate the need for an examination of the society's affairs, including suspected irregularities, improper administration, financial loss or non-compliance with the statutory framework. The purpose is to ascertain the actual position of the society and determine whether its affairs are being conducted properly.

4.3.1.2 Matters covered by the inquiry

An inquiry under Section 65 may examine various aspects of the society, including:

- ◇ constitution and membership of the society;
- ◇ functioning of the managing committee;
- ◇ administration and management;
- ◇ financial condition of the society;
- ◇ books of accounts, registers and other records;

- ◇ loans and advances granted by the society;
- ◇ utilisation of society funds;
- ◇ transactions involving members, officers or employees;
- ◇ compliance with the Act, Rules and bye-laws; and
- ◇ suspected irregularities, misappropriation or financial loss.

These matters correspond to the areas identified in the uploaded material as subjects of investigation.

4.3.1.3 Appointment of an inquiry officer

The Registrar may conduct the inquiry personally or authorise another person to do so. The officer entrusted with the inquiry may examine relevant records and obtain information necessary for determining the true state of affairs of the society.

4.3.1.4 Production of books and records

To conduct an effective inquiry, the authority may require the production of books, accounts, registers, documents, and other records relating to the affairs of the society. Persons responsible for the management or custody of such records may also be required to furnish information and assist in the inquiry.

4.3.1.5 Duty to cooperate with the inquiry

The committee, officers and employees of the society are expected to provide the records, documents and information required for the inquiry. Cooperation is essential because the inquiry aims to obtain a complete and accurate picture of the society's affairs. Failure to comply with lawful requirements may result in consequences under the Co-operative Societies Act and Rules.

4.3.1.6 Relationship between audit, inquiry and inspection

The Act separately provides for audit under Section 64, inquiry under Section 65 and supervision and inspection under Section 66. These provisions form part of the statutory framework for oversight of co-operative societies. Section 64 deals with audit, Section 65 with inquiry by the Registrar, and Section 66 with supervision and inspection.

Thus, an inquiry under Section 65 may be distinguished from a routine inspection or audit because its principal purpose is to investigate the constitution, working and financial condition of the society and to ascertain whether irregularities or other deficiencies exist.

4.3.1.7 Inquiry report

Under Section 65(2)(d), persons related to or involved in the inquiry must receive notice stating the matter of inquiry and an opportunity of being heard, by registered post or in person. The detailed report under Section 65(2A) must identify the defects,

the amount of misappropriation and other loss, and quantify individual liability. If an offence under Section 94 is revealed, the inquiry officer prepares a special report for the Registrar, who forwards a copy simultaneously to the Police or the Vigilance Officer for detailed investigation.

4.3.1.8 Further action following inquiry

An inquiry under Section 65 is primarily a fact-finding and investigative process. Where the findings disclose irregularities or loss, appropriate proceedings may be initiated under other provisions of the Act. Depending upon the nature of the findings, this may include measures for recovery of loss, surcharge, rectification of defects or other statutory action.

In particular, Section 68 provides for surcharge proceedings in cases where loss has been caused to a society through acts or omissions falling within the scope of that provision. Section 68 therefore may become relevant where the inquiry establishes financial loss or responsibility requiring statutory recovery.

4.3.1.9 Directions by the Registrar – Section 66A

Section 66A supplements the supervisory framework, under which the Registrar may issue general directions and guidelines to co-operative societies to further the purposes of the Act or implement Government policies for the benefit of members and the general public.

4.3.1.10 Suspension of officers – Section 66B

Where an inquiry under Section 65, inspection under Section 66 or audit under Section 64 discloses serious misconduct by an officer covered by Section 66B, the Registrar may, for reasons recorded in writing, direct the committee to suspend the officer in the circumstances specified in that section, including cases involving suspected misappropriation, manipulation of accounts, forgery or destruction or tampering with records.

4.3.1.11 Submission of returns – Section 66C

Section 66C requires every co-operative society to submit prescribed returns to the Registrar within the statutory period after the close of the financial year. These returns provide important information on the society's activities, audited accounts, surplus disposal, and amendments to its bye-laws, thereby assisting regulatory supervision.

4.3.1.12 Cost of inquiry – Section 67

Section 67 deals with the cost of an inquiry or inspection in the circumstances specified in the Act. The provision regulates how the expenses connected with an inquiry or inspection are to be dealt with and provides safeguards concerning liability for such costs.

4.3.1.13 Importance of Section 65

Section 65 plays an important role in maintaining accountability, transparency and financial discipline in co-operative societies. It enables the Registrar to examine the actual functioning of a society and identify administrative or financial irregularities at an appropriate stage. The uploaded material similarly emphasises that the provision helps protect the interests of the society and its members.

An inquiry under Section 65 of the Kerala Co-operative Societies Act, 1969 is an important statutory mechanism for examining the constitution, administration, working and financial condition of a co-operative society. It enables the Registrar to investigate suspected irregularities and obtain relevant records and information. The inquiry findings may provide the basis for further proceedings under other provisions of the Act. In this way, Section 65 contributes to the proper management, financial integrity, accountability and lawful functioning of co-operative societies.

4.3.2 Inspection and Supervision Procedures of a Co-operative Society

Inspection and supervision are important statutory mechanisms for ensuring the proper administration, financial discipline and lawful functioning of co-operative societies. Under the Kerala Co-operative Societies Act, 1969, the Registrar has powers to supervise and inspect the affairs of societies and ensure compliance with the Act, Rules, and bye-laws. Section 66 specifically deals with supervision and inspection, while Sections 64 and 65 provide for audit and inquiry respectively.

4.3.2.1 Audit as a basis for supervision – Section 64

Section 64 deals with the scope and procedure for auditing a co-operative society. Audit includes examining matters such as overdue debts, verifying cash balances and securities, and valuing the society's assets and liabilities. Audit findings may provide a basis for further supervisory or corrective action.

4.3.2.2 Supervision of the working of the society – Section 66(1)

Under Section 66(1), the Registrar is required to supervise, or cause to be supervised by an authorised person, the working of every society as frequently as he considers necessary. Such supervision may also include inspection of the books of the society.

4.3.2.3 Inspection of books – Section 66(2)

Under Section 66(2), the Registrar may, on his own motion or on an application by a creditor, inspect or direct an authorised person to inspect the books of the society. Where inspection is requested by a creditor, the creditor must satisfy the Registrar that the debt is due, that payment has been demanded and that the demand has not been satisfied within a reasonable period. The creditor may also be required to deposit security towards the cost of inspection.

4.3.2.4 Inspection of records and properties – Section 66(4)

The Registrar or authorised inspecting officer may obtain access to and inspect the books, records, accounts, documents, securities, cash balances, and other properties belonging to the society. The officer may also require persons responsible for their custody to produce them for inspection.

4.3.2.5 Duty of officers and employees – Section 66(4A)

The officers and employees of the society have a statutory duty to co-operate with and assist in the supervision or inspection. They must furnish information and produce books, records, and cash balances when demanded by the authorised officer. Failure to comply may attract the consequences provided under the Act.

4.3.2.6 Calling for corrective action – Section 66(5)

Where inspection or supervision reveals defects or irregularities, the Registrar or authorised officer may issue a written direction to the society or its officers requiring them to take specified action within the period mentioned in the order. This provision enables the supervisory authority to secure rectification of deficiencies identified during inspection.

4.3.2.7 Inspection by Apex Society, Federal Society or Financing Bank – Section 66(7)–(10)

An Apex Society, Federal Co-operative Society or financing bank has the right to inspect the books of a registered society affiliated to it through its officers. Such officers may examine books, accounts, documents, securities, cash and other properties and call for information, statements and returns necessary to ascertain the financial condition of the society and the safety of amounts lent to it. The inspecting institution may also report to the Registrar regarding appropriate action.

4.3.2.8 Periodic inspection and inquiry – Section 66(11)

Section 66(11) empowers the Registrar or authorised subordinate officers to conduct an inquiry based on a petition received and to inspect the affairs of a society periodically. For this purpose, the expression “affairs of a society” includes matters relating to its administration, management and business.

4.3.2.9 Inquiry by Registrar – Section 65

Inspection and supervision should be distinguished from a formal inquiry under Section 65. Under Section 65, the Registrar may conduct an inquiry into the constitution, working and financial condition of a society when the statutory conditions for such inquiry are satisfied. An inquiry is therefore a more specific fact-finding mechanism, whereas Section 66 primarily concerns continuing supervision and inspection.

4.3.2.10 Power to issue directions – Section 66A

Under Section 66A, the Registrar may issue general directions and guidelines to co-operative societies for furthering the purposes of the Act and implementing Government policies for the benefit of members and the general public. Such directions form an important part of the supervisory framework.

4.3.2.11 Suspension of certain officers – Section 66B

Where, during an inquiry under Section 65, inspection under Section 66, audit under Section 64 or a vigilance proceeding, the Registrar is satisfied that an officer has acted detrimentally to the interests of the society or its members and there is reason to believe that the officer has been involved in matters such as misappropriation, manipulation of accounts, forgery or destruction/tampering of records, the Registrar may, for recorded reasons, direct the committee to suspend the responsible officer.

4.3.2.12 Submission of returns – Section 66C

Every co-operative society must submit the annual returns specified in Section 66C(1) within six months after the close of the financial year. In addition, Section 66C(2), inserted by Act 9 of 2024, requires quarterly returns on credit activities, certified by the chief executive. The Registrar reviews them, and the society must submit a rectification report based on that evaluation after each quarter. Failure to submit on time may attract a fine up to ₹10,000, based on the prescribed classification and category of the society. The precise form and classification should be taken from the applicable Rules or notification rather than assumed.

4.3.2.13 Cost of inquiry or inspection – Section 67

Section 67 deals with the cost of an inquiry under Section 65 or an inspection under Section 66 when conducted on the application of a creditor. The Registrar may apportion the cost among the persons or entities specified in the provision, but a person proposed to be made liable must be given a reasonable opportunity of being heard.

4.3.2.14 Special inspection of certain societies – Section 74C

Section 74C provides for special inspection of apex, federal and central societies. The Registrar must inspect, or cause their affairs to be inspected, every year, and the inspecting officers have the powers specified under Section 66(4).

Inspection and supervision under the Kerala Co-operative Societies Act, 1969 constitute an important system of regulatory oversight and accountability. Section 66 provides the principal framework for supervision and inspection, while Sections 64 and 65 supplement it through audit and inquiry. Sections 66A, 66B, 66C and 67 provide additional mechanisms for directions, corrective action, reporting and costs. Together, these provisions seek to ensure that co-operative societies function lawfully, efficiently, transparently and in the interests of their members.

4.3.3 Surcharge Procedures of Co-operative Societies

Surcharge proceedings are an important statutory mechanism under the Kerala Co-operative Societies Act, 1969, intended to recover loss caused to a co-operative society by persons responsible for misappropriation, improper payment, negligence, breach of trust or other acts or omissions resulting in financial loss.

4.3.3.1 Statutory provision – Section 68

The principal provision relating to surcharge is Section 68 of the Kerala Co-operative Societies Act, 1969. It empowers the competent authority to examine whether any person responsible for the management or affairs of a society has caused loss to the society and, where the statutory requirements are satisfied, to order recovery of the amount from that person.

4.3.3.2 Persons against whom surcharge may be initiated

Surcharge proceedings may be taken against persons who are responsible for the affairs of the society, including, depending upon the circumstances:

1. Members of the committee;
2. Officers of the society;
3. Employees;
4. Persons entrusted with the management or control of the society; and
5. Other persons whose acts or omissions have caused loss to the society, where covered by Section 68.

4.3.3.3 Circumstances giving rise to surcharge

Surcharge proceedings may arise where an examination, audit or inquiry discloses that loss has been caused to the society through:

- ◇ Misappropriation or fraudulent retention of society funds;
- ◇ Wilful negligence;
- ◇ Misapplication of money or property;
- ◇ Improper or unauthorised payment;
- ◇ Breach of trust;
- ◇ Failure to exercise required care in managing society property; or
- ◇ Other acts or omissions resulting in financial loss, as contemplated by Section 68.

4.3.3.4 Basis for initiating proceedings

Proceedings may lawfully be based on an audit under Section 63, inquiry under Section 65, inspection under Section 66, winding-up proceedings, or a report of the Vigilance Officer. Under Section 68(3), the decision should be issued within 60 days

after completion of the inquiry; the Registrar may extend that period for recorded reasons, but the extended period cannot exceed a further 60 days. The material must establish the quantified loss and the person responsible.

4.3.3.5 Notice to the person concerned

Before an adverse surcharge order is passed, the person against whom proceedings are proposed should be allowed to explain the allegations and contest the proposed liability. The principles of natural justice require that the person be informed of the basis of the proposed action and given a reasonable opportunity to present their case.

4.3.3.6 Examination of records and evidence

The competent authority examines relevant books of accounts, vouchers, registers, resolutions, audit reports, inquiry reports and other documents to determine:

1. Whether a financial loss has occurred;
2. The amount of the loss;
3. The circumstances in which the loss occurred; and
4. The person or persons responsible for the loss.

4.3.3.7 Determination of liability

After considering the available records and the explanation submitted by the person concerned, the competent authority determines whether the statutory conditions for surcharge are satisfied. The liability must be based upon the person's acts or omissions and the loss attributable to those acts or omissions.

4.3.3.8 Surcharge order

Where liability is established, the competent authority may pass a surcharge order directing the person responsible to repay the amount of loss to the society, together with such other amount as may be legally recoverable under the Act.

4.3.3.9 Recovery of surcharge amount

A surcharge order creates a statutory liability for the amount ordered to be recovered. If the amount is not voluntarily paid, it may be recovered through the recovery mechanisms provided under the Kerala Co-operative Societies Act and Rules.

4.3.3.10 Opportunity of hearing

An important feature of surcharge proceedings is compliance with natural justice. The person proceeded against should receive notice, have access to the material relied upon to the extent required by law, and be given a reasonable opportunity to submit an explanation before a final order is made.

4.3.3.11 Appeal or other statutory remedy

A person aggrieved by a surcharge order may have an appeal or other statutory remedy under the Kerala Co-operative Societies Act, subject to the applicable provision, limitation period and procedural requirements.

4.3.3.12 Purpose of surcharge proceedings

Section 68B — Police or Vigilance investigation: The Government or Registrar may forward cases of misappropriation, irregularity or corruption falling under the penal or anti-corruption law to the Police or the Vigilance and Anti-Corruption Bureau. The Registrar sanctions inquiry/investigation and cognizance under the Prevention of Corruption Act against committee members, officers and servants; for a Chief Executive Officer appointed by Government, the Secretary to Government, Co-operation Department, is the sanctioning authority.

The principal purpose of surcharge is not merely to punish, but to protect the financial interests of the co-operative society by fixing responsibility for loss and facilitating recovery of the amount from the person legally responsible.

Surcharge proceedings under Section 68 of the Kerala Co-operative Societies Act, 1969 provide an important mechanism for fixing financial responsibility for loss caused to a co-operative society. The process generally involves identifying the loss, examining the conduct of the person responsible, issuing notice and providing an opportunity of hearing, determining liability, and, where established, passing an order for recovery. Thus, surcharge provisions promote financial accountability, responsible management and protection of the funds and property of co-operative societies.

Recap

- ◇ Section 65 of the Kerala Co-operative Societies Act, 1969 empowers the Registrar to conduct an inquiry into the constitution, functioning and financial condition of a co-operative society.
- ◇ The inquiry may cover various aspects of the society, including its management, accounts, records, loans, utilisation of funds, transactions and compliance with the Act, Rules and bye-laws.
- ◇ Section 64 relates to audit, Section 65 to inquiry, and Section 66 to inspection and supervision, together providing an important system of regulatory control over co-operative societies.
- ◇ Under Section 66, the Registrar has the authority to supervise the functioning of societies and examine their books, records, accounts, securities, cash and other properties.

- ◇ Officers and employees of the society are required to assist in inspection and supervision, while appropriate corrective directions may be given when defects or irregularities are detected.
- ◇ Sections 66A, 66B and 66C strengthen the supervisory framework through provisions concerning directions, suspension of specified officers and submission of statutory returns.
- ◇ Section 68 provides for surcharge proceedings to determine and recover financial responsibility for losses caused to a co-operative society through specified acts or omissions.
- ◇ Surcharge proceedings involve examining evidence, determining the loss and responsibility, issuing notice and providing an opportunity of hearing before a final decision is taken.
- ◇ Collectively, inquiry, inspection, supervision and surcharge mechanisms promote accountability, transparency, financial discipline and effective management of co-operative societies.
- ◇ The overall purpose of these statutory measures is to safeguard the funds and interests of co-operative societies and their members and ensure their lawful and efficient functioning.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 provides for inquiry by the Registrar?
2. What aspects of a co-operative society can be examined under Section 65?
3. Which section deals with the audit of a co-operative society?
4. Which section provides for inspection and supervision of co-operative societies?
5. Under which section can the Registrar issue general directions and guidelines to co-operative societies?
6. Which section deals with surcharge proceedings for loss caused to a co-operative society?
7. What must be provided to a person before a final surcharge order is passed?
8. What is the main purpose of surcharge proceedings?
9. What is the primary purpose of inquiry, inspection, supervision and surcharge proceedings?

Answers

1. Section 65.
2. Its constitution, working and financial condition.
3. Section 64.
4. Section 66.
5. Section 66A.
6. Section 68.
7. Notice and a reasonable opportunity to submit an explanation and be heard.
8. To fix responsibility for financial loss and facilitate recovery of the amount from the person responsible.
9. To promote accountability, transparency, financial discipline and proper management of co-operative societies.

Self-Assessment Questions

1. What is the purpose of an inquiry by the Registrar under Section 65 of the Kerala Co-operative Societies Act, 1969?
2. What are the important matters that may be examined during an inquiry under Section 65?
3. How does inspection and supervision under Section 66 help in ensuring the proper functioning of a co-operative society?
4. What are the duties of officers and employees during the inspection of a co-operative society?
5. What is the purpose of surcharge proceedings under Section 68, and in what circumstances may they arise?
6. What procedural safeguards should be followed before determining liability in a surcharge proceeding?

Assignments

1. Explain the scope and procedure of an inquiry conducted by the Registrar under Section 65 of the Kerala Co-operative Societies Act, 1969. Examine the matters that may be investigated and the possible outcomes of such an inquiry.
2. Examine the powers of the Registrar under Section 66 relating to inspection and supervision of co-operative societies. Discuss the powers to examine books and records, obtain necessary information and direct corrective measures.
3. Differentiate between audit, inquiry and inspection under Sections 64, 65 and 66 of the Kerala Co-operative Societies Act, 1969. Explain how each mechanism contributes to ensuring accountability and proper administration of a co-operative society.
4. Describe the procedure relating to surcharge proceedings under Section 68. Discuss the circumstances leading to surcharge, determination of responsibility, issuance of notice, opportunity of hearing and recovery of the amount payable.
5. Discuss the role of inquiry, inspection, supervision and surcharge proceedings in maintaining financial discipline and accountability in co-operative societies. Analyse the significance of Sections 65, 66 and 68 in safeguarding the interests and financial resources of co-operative societies.

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SGOU

5
BLOCK

**Settlement
of Disputes**

Unit

Provisions Relating to Arbitration

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ describe the concept and significance of arbitration in co-operative societies
- ◇ examine the scope of arbitration and identify the various types of disputes covered under Section 69 of the Kerala Co-operative Societies Act, 1969
- ◇ explain the meaning and scope of an award and differentiate an arbitrator's award from a decision made by the Registrar or an authorised officer
- ◇ discuss the major statutory provisions governing arbitration and awards, particularly Sections 69, 69(2), 70, 70A and 70B

Prerequisites

Disputes in co-operative societies relate to conflicts or disagreements arising from the management, business operations, financial dealings, and other activities of a co-operative society. Such disputes may occur between the society and its members, committee members, officers, employees, borrowers, or other persons associated with the society.

The Kerala Co-operative Societies Act, 1969 provides a statutory framework for dealing with such disputes through the appropriate authorities and procedures. The concept includes dispute resolution, arbitration, awards, adjudication, execution, and enforcement, particularly under Sections 69 to 70B and the subsequent provisions dealing with the execution and enforcement of awards.

Keywords

Arbitration , Dispute , Award , Adjudication , Registrar , Arbitration Court, Execution , Enforcement

Discussion

5.1.1 Arbitration and Awards

Arbitration proceedings in co-operative societies provide a specialised mechanism for resolving disputes arising between societies, members, former members, committee members, employees, borrowers, sureties and other persons connected with the affairs of the society. In Kerala, the Kerala Co-operative Societies Act, 1969 and the Kerala Co-operative Societies Rules, 1969 principally govern such disputes. Depending upon the nature of the dispute, it may be adjudicated by the Co-operative Arbitration Court or by the Registrar or an authorised arbitrator. This mechanism is intended to provide a comparatively expeditious and specialised method of resolving disputes relating to the management, business and financial affairs of co-operative societies.

5.1.2 Arbitration

Arbitration is a method of resolving disputes without approaching an ordinary civil court, in which a dispute is referred to an arbitrator or a specialised adjudicating authority for determination. The person or authority hearing the dispute examines the claims, defences, documents and evidence of the parties and gives a decision or award. In the context of co-operative societies, arbitration is a statutory mechanism provided under the Kerala Co-operative Societies Act, 1969 for resolving disputes arising out of the affairs and business of co-operative societies.

Under the Kerala Co-operative Societies Act, Section 69 identifies the disputes that must be dealt with under the statutory dispute-resolution mechanism, while Section 70 provides for their adjudication and the making of a decision or award. The Act therefore creates a specialised system for resolving disputes connected with co-operative societies.

5.1.3 Scope of Arbitration in Co-operative Societies

The scope of arbitration under the Act is comparatively broad. It extends to disputes:

1. Between members and the society concerning the affairs or business of the society.
2. Between members, past members and persons claiming through them.
3. Between a member and the committee, officers, agents or employees of the society.
4. Between the society and former committee members, officers, agents or employees.

5. Between two co-operative societies.
6. Between a society and members of an affiliated society.
7. Between the society and its borrowers or persons having business transactions with it.
8. Between the society and its sureties.

The statutory mechanism also extends to certain election disputes and employment-related disputes, including specified matters concerning employment, promotion and inter se seniority. Claims by a society for debts or demands due to it are also treated as disputes under Section 69(2).

Section 69(1), as amended by Act 9 of 2024, also expressly covers a dispute between the society and a creditor, a dispute between a co-operative society and its subsidiary under Section 14AA, and a dispute between members of a partnership formed under Section 14B.

Specialised Forum

The Act provides for Co-operative Arbitration Courts under Section 70A. These courts constitute a specialised forum for adjudicating disputes falling within their jurisdiction.

Thus, the scope of arbitration in co-operative societies is not limited merely to disputes concerning repayment of loans. It encompasses a wide range of disputes arising from membership, management, elections, employment, borrowing, financial transactions and other affairs of co-operative societies.

5.1.4 Award

An award is the formal determination made by an arbitrator in a dispute referred to arbitration under the Kerala Co-operative Societies Act, 1969. It determines the rights and liabilities of the parties involved in the dispute. Under Section 70, disputes referred under Section 69 are adjudicated in accordance with the provisions of the Act, Rules and the bye-laws of the society. The uploaded material distinguishes an award, which is issued by an arbitrator, from a decision, which may be issued by the Registrar or an officer exercising the Registrar's powers.

5.1.4.1 Scope of an Award

The scope of an award is connected with the disputes that fall within Section 69 of the Act. It may determine disputes:

1. Between members and the co-operative society.
2. Among present or past members and persons claiming through them.
3. Between members and the committee, officers, agents or employees of the society.

4. Between the society and former committee members, officers, agents or employees.
5. Between one co-operative society and another society.
6. Between a society and members of an affiliated society.
7. Between the society and borrowers or persons having business transactions with it.
8. Between the society and its sureties.

The scope also extends to certain election-related and employment-related disputes specifically brought within the statutory dispute-resolution mechanism. Under Section 69(2), specified claims for debts or demands due to the society, election disputes and certain disputes concerning employment, promotion and inter se seniority are treated as disputes under the Act.

◇ **Effect and Enforcement of an Award**

An award determines the legal and financial obligations of the parties. When the party against whom the award is made fails to comply voluntarily, the award can be subjected to execution and recovery proceedings under the Act. The uploaded material identifies Sections 75–79 as the principal provisions governing the enforcement and execution of awards, decrees, orders, and decisions.

◇ **Appeal against Award**

An aggrieved party may have a statutory appellate remedy before the Co-operative Tribunal, subject to the conditions prescribed by the Act. Section 82 specifically deals with appeals to the Co-operative Tribunal.

5.1.5 Provisions and Procedure Relating to Arbitration and Award

Under the Kerala Co-operative Societies Act, 1969, arbitration and awards form part of the statutory mechanism for settlement of disputes relating to co-operative societies. Sections 69 to 70B contain the principal provisions, while Sections 75 to 79 deal with enforcement of awards.

◇ **Section 69 – Reference of disputes**

Section 69 is the principal provision identifying the disputes that can be brought under the statutory dispute-resolution mechanism. It includes disputes between members and the society, disputes involving past members, committee members, officers, employees, borrowers and sureties, and disputes between co-operative societies. It also covers certain election- and employment-related disputes.

◇ **Section 69(2) – Deemed disputes**

Certain matters are specifically treated as disputes under Section 69(2). They include claims by a society for debts or demands due to it, specified disputes concerning elections, and certain disputes relating to employment, promotion and inter se seniority.

◇ **Section 70 – Adjudication and Award**

Section 70 provides for the adjudication of disputes referred under Section 69. Under Section 70(6), as amended in 2023, monetary disputes are to be decided or awarded within one year. In monetary disputes, the Registrar may:

- ◇ decide the dispute himself;
- ◇ transfer it to an authorised officer; or
- ◇ refer it to an arbitrator appointed for the purpose.

The authority deciding the dispute considers the pleadings, evidence and relevant records and determines the matter in accordance with the Act, Rules and bye-laws.

A decision differs from an award. The Registrar, or an officer exercising the Registrar's powers, issues a decision, whereas an arbitrator issues an award.

◇ **Section 70A – Co-operative Arbitration Court**

Section 70A provides for Co-operative Arbitration Courts for disputes within their jurisdiction. Under current Section 70A(2), the Presiding Officer must be an officer of and above the rank of a Munsif-Magistrate of the judicial service.

◇ **Section 70B – Pending proceedings**

Section 70B deals with pending proceedings connected with the establishment of Co-operative Arbitration Courts and facilitates their transfer and continuation before the competent statutory forum.

5.1.6 Procedure of Arbitration and Award

The procedure may be understood in the following stages:

Stage 1 – Arising of dispute: A dispute must arise between parties falling within the scope of Section 69.

Stage 2 – Reference: The dispute is referred to the appropriate statutory authority or forum under Section 69.

Stage 3 – Determination of forum: Depending upon the nature of the dispute, the matter is dealt with through the Co-operative Arbitration Court or the Registrar's statutory mechanism.

Stage 4 – Consideration of pleadings and evidence: The parties present their respective claims and defences, and the adjudicating authority examines the pleadings, documents, evidence and relevant records.

Stage 5 – Hearing and adjudication: The dispute is considered in accordance with the Kerala Co-operative Societies Act, the Rules and the bye-laws of the society.

Stage 6 – Passing of award or decision: Where the dispute is determined by an arbitrator, an **award** is issued. If the Registrar or an authorised officer determines the dispute, a **decision** is issued.

Stage 7 – Effect of award: The award determines the rights and liabilities of the parties. If the person against whom the award is made fails to comply voluntarily, the award may be enforced through the execution provisions of the Act.

Stage 8 – Execution: The relevant enforcement provisions are contained in Sections 75 to 79, covering enforcement of charges, execution of awards and orders, specified powers of the Registrar or authorised person, attachment before award or order, and recovery of sums due to Government.

Stage 9 – Appeal: An aggrieved party may have a statutory remedy before the Co-operative Tribunal under Section 82, subject to the requirements and limitations prescribed by the Act.

5.1.7 Execution and Enforcement of Awards: Provisions and Procedures

Execution proceedings constitute the stage at which an award, decision or order passed in a co-operative dispute is enforced against the person liable to comply with it. An award alone may not always result in immediate recovery; if the liable party fails to satisfy the award voluntarily, the successful party or the society may initiate appropriate recovery and execution proceedings under the Act and Rules. These provisions enable recovery of amounts due to co-operative societies and ensure that awards and decisions are given practical effect. Thus, arbitration and execution proceedings together provide a complete statutory framework for adjudicating disputes and enforcing the resulting decisions in the co-operative sector.

Execution means the legal process by which a judgment, award, decree, order or decision is enforced and given practical effect. In the context of co-operative societies, execution becomes necessary when a person against whom an award or decision has been passed fails to comply with it voluntarily. The execution process enables the successful party, particularly the co-operative society, to recover the amount or enforce the obligation determined by the competent authority.

Under the Kerala Co-operative Societies Act, 1969, Section 76 principally deals with the execution of awards, decrees, orders, and decisions, while Sections 75 to 79 contain related enforcement provisions. The uploaded material identifies Section 76 as the primary mechanism for executing awards, decrees, orders, and decisions.

5.1.7.1 Scope of Execution

The scope of execution under the Act extends to enforcing various orders and financial obligations arising from co-operative disputes. It includes:

1. **Execution of awards** – An award passed in a co-operative arbitration proceeding can be enforced when the liable party fails to comply voluntarily.
2. **Execution of decrees and orders** – Decrees and orders falling within the statutory framework may also be executed.

3. **Execution of decisions** – Decisions made by the Registrar or authorised authority can be enforced through the prescribed mechanism.
4. **Enforcement of charges** – Section 75 provides for enforcement of charges created in favour of a co-operative society.
5. **Recovery through statutory authorities** – Section 77 provides specified powers to the Registrar or an empowered person for purposes connected with execution.
6. **Attachment of property** – Section 78 provides for attachment before an award or order in circumstances prescribed by the Act.
7. **Recovery of Government dues** – Section 79 deals with recovery of sums due to the Government.

5.1.7.2 Purpose of Execution

The principal purpose of execution is to ensure that an award or decision does not remain merely a declaration of the rights of the parties. It provides a mechanism to enforce the rights and liabilities determined by the award. Where the person liable under an award fails to comply, execution and recovery proceedings enable the successful party or society to obtain the benefit determined by the award.

Under the Kerala Co-operative Societies Act, 1969, execution and enforcement provisions ensure that an award, decision, decree or order passed in a co-operative dispute is effectively implemented.

The principal enforcement provisions are in Sections 75 to 79. These provisions operate after adjudication and provide mechanisms for recovery where the person liable under an award does not comply voluntarily.

◇ **Section 75 – Enforcement of Charge**

Section 75 deals with enforcing a charge in favour of a co-operative society. Where a charge has been created to secure an obligation due to the society, the statutory mechanism may be used for enforcing that charge and protecting the society's financial interest.

◇ **Section 76 – Execution of Awards, Decrees, Orders and Decisions**

Section 76 is the principal provision relating to execution. It provides for the execution of awards, decrees, orders and decisions made under the co-operative societies legislation.

Following the 2023 amendment, Section 76 also expressly includes every order of the Co-operative Ombudsman under Section 69A among the executable orders.

If an award is not satisfied voluntarily, execution proceedings may be initiated to enforce the rights determined by the award. Thus, Section 76 gives practical effect to the adjudication made by the competent authority.

◇ **Section 77 – Powers of Registrar or Empowered Person**

Section 77 confers specified powers upon the Registrar or an empowered person for purposes connected with execution. These powers facilitate implementation of awards and orders and assist in recovering amounts due under them.

◇ **Section 78 – Attachment Before Award or Order**

Section 78 provides for attachment before an award or order in circumstances prescribed by the Act. This provision serves as a protective measure where attachment of property is necessary before final determination, helping preserve property that may later be required to satisfy the claim.

◇ **Section 79 – Recovery of Sums Due to Government**

Section 79 deals with recovering sums due to the Government. It provides a statutory mechanism to recover amounts within its scope.

5.1.8 Procedure for Execution and Enforcement

The procedure may broadly be explained in the following stages:

Step 1 – Passing of the award: The competent arbitrator, Registrar or other authorised authority adjudicates the dispute and passes an award or decision.

Step 2 – Compliance: The person against whom the award is made is expected to comply with the award and discharge the liability determined therein.

Step 3 – Failure to comply: If the award is not voluntarily satisfied, the successful party or the co-operative society may take steps for its execution and recovery.

Step 4 – Initiation of execution: Execution is undertaken under the statutory mechanism, principally Section 76, along with the applicable provisions of Sections 75–79.

Step 5 – Enforcement measures: Depending on the circumstances, enforcement may involve the mechanisms relating to charges, attachment and recovery provided under the Act.

Step 6 – Recovery: The amount or obligation determined by the award is recovered or enforced through the competent statutory authority.

Step 7 – Appeal: An aggrieved party may have a statutory remedy before the Co-operative Tribunal under Section 82, subject to the conditions and limitations prescribed by the Act.

Recap

- ◇ Arbitration is a special method for settling disputes in co-operative societies.
- ◇ Section 69 of the Kerala Co-operative Societies Act, 1969 specifies the disputes that can be referred for settlement.
- ◇ Section 70 provides for the adjudication of disputes and the passing of an award or decision.
- ◇ Disputes may involve members, societies, committee members, officers, employees, borrowers and sureties.
- ◇ An award is the formal decision of the arbitrator that determines the rights and liabilities of the parties.
- ◇ Section 70A provides for the establishment of Co-operative Arbitration Courts.
- ◇ If an award is not voluntarily obeyed, it can be enforced through execution and recovery proceedings under Sections 75 to 79.
- ◇ Section 82 provides for an appeal before the Co-operative Tribunal.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 identifies disputes to be dealt with under the statutory dispute-resolution mechanism?
2. Which section deals with the adjudication of disputes and the making of an award or decision?
3. Under which section are Co-operative Arbitration Courts provided for?
4. Who issues an award in a co-operative arbitration proceeding?
5. Which section is principally concerned with the execution of awards, decrees, orders and decisions?
6. Which section deals with attachment before an award or order?
7. Which section provides for the statutory appellate remedy before the Co-operative Tribunal?

Answers

1. Section 69
2. Section 70
3. Section 70A
4. Arbitrator
5. Section 76
6. Section 78
7. Section 82

Self-Assessment Questions

1. What is meant by arbitration in the context of co-operative societies?
2. What types of disputes are covered under Section 69 of the Kerala Co-operative Societies Act, 1969?
3. What is an award, and how does it differ from a decision issued by the Registrar?
4. Explain the significance of Sections 70, 70A and 70B in relation to arbitration and awards.
5. What are the principal provisions relating to execution and enforcement of awards under Sections 75 to 79?
6. What is the appellate remedy available against an award or decision under Section 82?

Assignments

1. Explain the meaning, nature and scope of arbitration in co-operative societies with special reference to Section 69 of the Kerala Co-operative Societies Act, 1969.
2. Discuss the provisions relating to arbitration and awards under Sections 69, 69(2), 70, 70A and 70B of the Kerala Co-operative Societies Act, 1969.
3. Explain the procedure for conducting arbitration proceedings from the reference of a dispute to the passing of an award or decision.

4. Examine the provisions relating to execution and enforcement of awards under Sections 75 to 79 of the Kerala Co-operative Societies Act, 1969.
5. Discuss the complete process of arbitration, award, execution and appeal under the Kerala Co-operative Societies Act, including the appellate remedy under Section 82.

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Unit

Appeals, Review and Revision

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ explain the concept and statutory character of appeal, revision and review under the Kerala Co-operative Societies Act, 1969
- ◇ identify the competent appellate, revisional and reviewing authorities prescribed under the relevant provisions of the Act
- ◇ describe the jurisdiction and powers of the Co-operative Tribunal under Sections 81, 82, 84, 85, 86 and 98
- ◇ differentiate appeal, revision and review with reference to their objectives, scope, authorities and grounds
- ◇ explain the grounds and procedural conditions applicable to a review under Section 85

Prerequisites

Appeal, Revision and Review are important legal remedies under co-operative law. An appeal means approaching a higher authority to challenge an order or decision of a lower authority. It allows the higher authority to examine the decision and confirm, modify or cancel it. Revision is a supervisory remedy through which a higher authority examines whether a lower authority has acted legally, properly and within its powers. Review means reconsideration of a decision by the same authority that made the decision, usually to correct an apparent error or consider legally permitted new facts. Thus, an appeal involves re-examination by a higher authority, revision involves supervisory correction, and review involves reconsideration by the same authority. The Co-operative Tribunal is a specialised statutory body established under the Kerala Co-operative Societies Act, 1969, to deal with appeals and other matters

arising under co-operative law. It has the powers given to it by the Act and helps ensure fair and lawful decisions in matters relating to co-operative societies. Its main functions include examining decisions, hearing appeals and providing appropriate legal remedies within its jurisdiction.

Keywords

Appeal, Revision, Review, Co-operative Tribunal, Appellate Jurisdiction, Revisional Jurisdiction, Corrective Jurisdiction, Interlocutory Orders, Civil-Court Powers

Discussion

5.2.1 Appeal

Under the Kerala Co-operative Societies Act, 1969, an appeal is a statutory remedy available to a person who is dissatisfied with a decision, order, or award issued by a competent authority under the Act. It allows the aggrieved person to seek reconsideration before the appellate authority designated by the legislation. Since the right of appeal is statutory in nature, it can be exercised only in situations where the Act expressly provides for such a remedy.

For instance, if the Registrar declines to register a proposed co-operative society under Section 7 and the applicants believe the refusal is unjustified on facts or law, they may invoke the appeal mechanism under Section 83, provided they meet the requirements of that provision.

While exercising the powers conferred by the Act, the appellate authority may uphold the original decision, modify or vary it, or set it aside, depending on the circumstances of the case and the extent of its statutory jurisdiction.

5.2.2 Objectives of Appeal

The appeal mechanism under the Act serves several purposes:

1. **Rectification of errors:** It provides an opportunity to remedy errors made by the original authority.
2. **Protection of interests:** It safeguards the rights and interests of persons affected by decisions under the Act.
3. **Observance of statutory provisions:** It helps ensure that authorities exercise their powers in accordance with the law.
4. **Fair administration:** It contributes to fairness and proper functioning of co-operative societies.

5. **Statutory redressal:** It provides a recognised legal mechanism for challenging decisions, orders, and awards for which an appeal is specifically provided.

5.2.3 Authorities for Appeal

Authorities for Appeal

Under the Kerala Co-operative Societies Act, 1969, a person who is aggrieved by a decision, order or action of a competent authority may have a right to file an appeal before the appropriate appellate authority. The purpose of an appeal is to provide an opportunity to a person to challenge an order which they consider to be incorrect, unfair or legally improper. The authority to which an appeal has to be filed depends mainly on the nature of the order and the authority that passed the original order. Sections 82 and 83 of the Act contain important provisions relating to appeals. The principal appellate authorities are the Co-operative Tribunal, the Government of Kerala, and the Registrar of Co-operative Societies.

1. Appeal to the Co-operative Tribunal

The Co-operative Tribunal is an important appellate authority under the Kerala Co-operative Societies Act. It is constituted by the Government for dealing with appeals arising from certain orders passed by the authorities under the Act. The Tribunal provides an independent forum for persons who are dissatisfied with specified decisions or orders.

An appeal may generally be preferred before the Co-operative Tribunal against orders of the Registrar or other authorities, where the Act specifically provides a right of appeal to the Tribunal. The Tribunal examines whether the order appealed against is legally correct and whether the authority which passed the order properly exercised its powers. It may consider the facts, evidence and legal provisions applicable to the case.

The Tribunal has the power to confirm, modify, or set aside the order appealed against, subject to the provisions of the Act and Rules. Thus, it plays an important role in protecting the rights of members, societies and other persons affected by orders under the co-operative law. The Tribunal also helps to ensure uniform and proper application of the provisions of the Act.

2. Appeal to the Government of Kerala

The Government of Kerala is another appellate authority under the Kerala Co-operative Societies Act. In matters where the Act provides an appeal to the Government, an aggrieved person may approach the Government against the relevant order of the competent authority.

The Government exercises appellate powers in accordance with the provisions of the Act and Rules. While considering an appeal, it may examine the legality, correctness and propriety of the order challenged before it. The Government may also consider the records and circumstances of the case before deciding.

The appellate jurisdiction of the Government is important because certain matters under the co-operative sector involve significant administrative or policy considerations. However, an appeal to the Government is possible only where the Act specifically provides such a right. Therefore, a person cannot assume that every order passed by a co-operative authority can automatically be appealed to the Government.

3. Appeal to the Registrar

The Registrar of Co-operative Societies is the principal administrative authority under the Kerala Co-operative Societies Act. In certain matters, the Registrar himself acts as an appellate authority against orders passed by subordinate officers or authorities exercising delegated powers.

For example, where a subordinate officer passes an order and the Act or Rules provide an appeal to the Registrar, the aggrieved person may file an appeal before the Registrar. The Registrar examines the relevant records and determines whether the subordinate authority has acted according to law and within the powers given to it.

The Registrar may, where legally permitted, confirm, modify or set aside the order under challenge. This appellate function is important for maintaining administrative control and ensuring that subordinate officers exercise their powers properly.

5.2.4 Revision

Revision under the Kerala Co-operative Societies Act, 1969 is a statutory supervisory remedy through which an authorised higher authority reviews the legality, propriety or correctness of an order, decision or proceeding of a subordinate authority. Its principal purpose is to ensure that the authority concerned has exercised its powers within the jurisdiction granted by law and in accordance with the provisions of the Act.

Revision is different from an appeal. An appeal generally permits a more comprehensive reconsideration of a decision within the limits of appellate jurisdiction. Revision, on the other hand, is primarily concerned with supervisory examination of legality and propriety and can be exercised only on the grounds and within the limits prescribed by the Act.

The principal statutory provisions relating to revision are Sections 84 and 87. Section 84 deals with the revisional jurisdiction of the Co-operative Tribunal, whereas Section 87 deals with the revisional powers of the Registrar and the Government in specified matters.

5.2.4.1 Authorities for Revision

The principal authorities empowered to exercise revisional jurisdiction are:

- 1. Co-operative Tribunal – Section 84**
- 2. Registrar – Section 87**
- 3. Government of Kerala – Section 87**

The appropriate revisional authority depends on the nature of the proceeding, the order being challenged, and the statutory provision governing the matter.

5.2.4.2 Co-operative Tribunal – Section 84

Under Section 84, the Co-operative Tribunal exercises revisional jurisdiction in matters specifically brought within the scope of the Act. Where authorised by the relevant statutory provision, the Tribunal may examine whether a decision or order suffers from illegality, impropriety or material irregularity.

The Tribunal therefore performs a supervisory function rather than exercising an unrestricted appellate power. Its examination is confined to the limits of the revisional jurisdiction granted by the Act.

5.2.4.3 Registrar – Section 87

Under Section 87, the Registrar of Co-operative Societies exercises revisional powers in specified matters where an appeal to the Co-operative Tribunal under Section 82 is not available.

In exercising this jurisdiction, the Registrar may examine the relevant records and determine whether the challenged order or decision requires interference under the provisions of the Act.

5.2.4.4 Government of Kerala – Section 87

The Government of Kerala also exercises revisional jurisdiction under Section 87 in matters the Act specifically assigns to it. The Government may examine the relevant proceedings and issue appropriate orders within its statutory authority.

5.2.5 Purpose and Importance of Revision

The revisional mechanism serves several important functions in administering co-operative societies.

◇ Correction of Jurisdictional Errors

Revision enables the competent authority to determine whether a subordinate authority has acted within the jurisdiction legally conferred upon it. If an authority exceeds its statutory powers, revision provides a mechanism to examine that error.

◇ Ensuring Compliance with Law

Revision helps ensure that authorities exercising powers under the Kerala Co-operative Societies Act comply with the statutory provisions and applicable legal principles.

◇ **Correction of Material Irregularities**

Where permitted by the relevant provision, revisional jurisdiction may be exercised to address material irregularities in the conduct of proceedings, particularly where such irregularities affect the legality or propriety of the decision.

◇ **Prevention of Miscarriage of Justice**

Revision acts as a supervisory safeguard against serious legal or procedural errors that may otherwise cause injustice to the parties.

◇ **Supervision of Subordinate Authorities**

Another important objective of revision is to maintain proper supervision over authorities functioning under co-operative legislation and ensure that they exercise their statutory powers correctly.

5.2.6 Difference between Appeal and Revision

Although both appeal and revision are statutory remedies available in appropriate cases, they serve different purposes and have different scopes.

Table 5.2.1 Difference between Appeal and Revision

Appeal	Revision
Provides for reconsideration of specified decisions.	Primarily exercises supervisory jurisdiction.
Generally permits a wider examination within the appellate jurisdiction.	Mainly examines legality, propriety and jurisdiction.
Principally governed by Sections 82 and 83.	Principally governed by Sections 84 and 87.
The appellate authority is determined by the relevant appellate provision.	The revisional authority is determined by the applicable revisional provision.
Available only where the Act expressly provides an appeal.	Available only within the limits of the revisional jurisdiction created by the Act.

Therefore, an appeal and a revision should not be regarded as interchangeable remedies. Revision is principally intended to supervise and correct specified legal, jurisdictional or procedural defects within the limits established by the Act.

5.2.7 Summary of Revisional Authorities

Table 5.2.2 Summary of Revisional Authorities

Provision	Authority	General Function
Section 84	Co-operative Tribunal	Exercises revisional jurisdiction in matters specified under the Act
Section 87	Registrar	Exercises revision in specified matters where an appeal to the Tribunal is not available
Section 87	Government of Kerala	Exercises revisional jurisdiction in matters assigned to it under the Act

The source material identifies the Co-operative Tribunal, the Registrar, and the Government of Kerala as the principal revisional authorities under the Act.

5.2.8 Review

Review is a statutory remedy under the Kerala Co-operative Societies Act, 1969, under which the Co-operative Tribunal may reconsider its own order in circumstances specifically recognised by law. The purpose of review is to correct limited defects in an order rather than to provide an unsuccessful party with another opportunity to argue the entire case afresh. Section 85 of the Kerala Co-operative Societies Act, 1969 specifically provides the power of review to the Co-operative Tribunal.

Review is therefore a limited corrective jurisdiction. The Tribunal does not ordinarily reopen the entire dispute merely because a party is dissatisfied with the decision. The person seeking review must establish that the matter falls within one of the recognised grounds for review. The remedy is intended to correct an apparent error, consider important material that could not previously be produced despite due diligence, or deal with another legally sufficient circumstance warranting reconsideration.

5.2.8.1 Authority for Review

The Co-operative Tribunal is the principal authority empowered to exercise review jurisdiction under the Kerala Co-operative Societies Act, 1969. Section 85 specifically provides for the review of orders passed by the Tribunal. The Registrar or any party interested in the matter may present a review application. However, the power of review is not unlimited. The Tribunal can exercise its review jurisdiction only when one or more of the grounds recognised under Section 85 are established. Review cannot ordinarily be sought merely because a party is dissatisfied with the decision or wants the Tribunal to reconsider the entire dispute on its merits. The Tribunal must also follow the principles of natural justice and give the interested parties a reasonable opportunity to be heard before deciding the review application.

5.2.8.2 Grounds for Review

A review can be entertained only on recognised legal grounds. One important ground is the discovery of new and important matter or evidence. The newly discovered material must be relevant and important to the matter. The applicant must also show that the material was not within their knowledge or could not have been produced at the time of the original proceedings despite the exercise of reasonable diligence. For example, if an important document relating to a co-operative dispute was genuinely unavailable to a party despite reasonable efforts and was discovered only after the Tribunal passed its order, the discovery of that document may provide a basis for seeking review.

Another important ground is a mistake or error apparent on the face of the record. The error must be clear, obvious and self-evident from the existing record. It should not require detailed reasoning, extensive examination of evidence or a complete reconsideration of the case to establish the error. The purpose of this ground is to enable the Tribunal to correct an obvious mistake in its own order and thereby prevent an apparent error from continuing.

A further ground is the existence of any other sufficient reason that legally justifies reconsideration of the Tribunal's order. This provision provides limited scope for dealing with circumstances that may not fall exactly within the first two grounds but provide a sufficient legal basis for review. However, this ground does not give the Tribunal unlimited appellate powers. The reason relied upon must be legally sufficient and must justify the exercise of review jurisdiction.

5.2.8.3 Review and Appeal

Review and appeal are different legal remedies and should not be treated as interchangeable. An appeal generally enables a higher or designated appellate authority to examine the decision of another authority within the scope of the appellate jurisdiction provided by law. Depending upon the relevant provision, an appellate authority may reconsider questions of fact, law or both.

A review, by contrast, involves the same Tribunal reconsidering its own order on limited grounds prescribed by law. The purpose of review is mainly to correct a genuine error, consider important material that could not reasonably have been produced earlier, or address another legally sufficient reason. Therefore, a review application should not be treated as a second appeal. A person cannot ordinarily use review proceedings to obtain a fresh examination of all questions of fact and law that the Tribunal already considered.

5.2.8.4 Limitation Period

An interested party must file a review application within 90 days of the date of communication of the Tribunal's order, subject to the applicable provisions of the Act and Rules. The limitation period is intended to ensure that review proceedings are initiated within the prescribed period and that decisions of the Tribunal do not remain

open indefinitely. Therefore, a person seeking review should carefully calculate the applicable period and submit the application within the prescribed time.

5.2.8.5 Opportunity of Hearing

A review application may affect the rights and interests of persons who were parties to the original proceedings. Therefore, the Tribunal must follow a fair procedure while dealing with the application. The Tribunal must give interested parties notice and a reasonable opportunity to present their case. They may submit their objections, explanations and relevant arguments before the Tribunal. Only after providing such an opportunity should the Tribunal decide whether the order requires review. This requirement helps to ensure procedural fairness and natural justice.

5.2.8.6 Persons Entitled to Seek Review

The power of review may be invoked by the Registrar or any party interested in the matter. The right to seek review is therefore not restricted only to the person who originally initiated the proceedings. A person having a legally recognised interest in the matter may approach the Co-operative Tribunal for review, provided that the requirements of Section 85 are satisfied. However, the applicant must establish at least one recognised ground for review. Mere dissatisfaction with the result of the original proceeding is not sufficient.

5.2.8.7 Nature and Scope of Review

Review under the Kerala Co-operative Societies Act, 1969 is a limited statutory remedy. It enables the Co-operative Tribunal to reconsider its own order only when the circumstances fall within the grounds recognised by Section 85. The provision does not give the Tribunal an unrestricted power to rehear the entire dispute. The main features of review are that it is a statutory remedy, the power is vested in the Co-operative Tribunal, and the Registrar or an interested party may seek review. Discovery of new and important evidence, an error apparent on the face of the record, or any other sufficient reason may provide grounds for review. An interested party should ordinarily file the application within the prescribed period, and affected parties must be given a reasonable opportunity of being heard.

5.2.8.8 Importance of Review in Co-operative Disputes

Review jurisdiction serves an important corrective function in administering co-operative justice. Orders of the Tribunal may sometimes contain an obvious error or may have been made without considering important material that could not reasonably have been produced earlier. The review mechanism provides a limited way to correct such situations without treating every grievance as an appeal.

At the same time, restricting review to recognised grounds helps maintain the finality of decisions. If every disagreement with a Tribunal's order could be converted into a review application, review proceedings would become another form of appeal and

would lead to unnecessary delay. The limited nature of review therefore balances two important objectives: correcting genuine errors and ensuring the finality of adjudicatory decisions.

5.2.8.9 Procedure and Considerations in Review

A person seeking review should clearly identify the specific ground on which the application is based. The application should explain the relevant error, newly discovered material or other sufficient reason relied upon. Where new evidence is produced, the applicant should explain why it could not have been produced during the original proceedings despite reasonable diligence. Where the application is based on an error apparent on the face of the record, the applicant should identify the obvious error from the existing record rather than seeking a complete rehearing of the dispute.

The Co-operative Tribunal considers the review application within the limited scope of its statutory review jurisdiction. The Tribunal examines whether the requirements for review have been satisfied and whether the circumstances justify reconsideration of its earlier order. The Tribunal must give interested parties a reasonable opportunity to be heard before it finally decides the application. Thus, review provides a limited but important mechanism to correct genuine mistakes and ensure fairness while preserving the finality of decisions under the co-operative law.

5.2.9 Distinction Between Appeal, Revision and Review

Under the Kerala Co-operative Societies Act, 1969, appeal, revision and review are three different statutory remedies. Although all three provide a means of challenging or reconsidering an order, they differ in their purpose, authority, scope and grounds of interference.

Table 5.2.3 Distinction Between Appeal, Revision and Review

Basis	Appeal	Revision	Review
Meaning	An appeal is a statutory remedy by which a higher authority examines the decision of a lower authority.	Revision is a supervisory remedy through which the competent revisional authority examines the legality, propriety or regularity of an order.	Review is a remedy by which the same authority reconsiders its own order on limited recognised grounds.
Nature	Appellate jurisdiction	Supervisory jurisdiction	Corrective jurisdiction

Authority	The authority specifically designated by the Act for hearing the particular appeal.	The authority vested with revisional power under the Act, depending upon the nature of the order.	The Co-operative Tribunal under Section 85.
Object	To examine the correctness of the decision within the scope of the appeal.	To ensure that the subordinate authority has acted legally and properly and within its jurisdiction.	To correct an apparent error, consider new and important material, or address another sufficient reason.
Scope	Generally wider than review and may involve reconsideration of the decision within the appellate jurisdiction.	Generally concerned with legality, propriety, jurisdiction and regularity rather than functioning as a complete appeal.	Narrow and limited to the grounds recognised for review.
Grounds	Grounds permitted under the relevant appellate provision.	Grounds relating to legality, propriety, jurisdiction or regularity, as applicable under the statutory provision.	New and important matter or evidence, error apparent on the face of the record, or any other sufficient reason.
Re-examination of merits	The appellate authority may reconsider the merits within its statutory jurisdiction.	Re-examination is generally limited by the scope of revisional jurisdiction.	Cannot ordinarily be used for a fresh examination of the entire merits of the case.
Who exercises it?	A higher or designated appellate authority.	A designated revisional authority.	Normally the same authority that passed the order; under Section 85, the Co-operative Tribunal reviews its own order.

Relationship with original order	Examines an order passed by a subordinate authority.	Supervises or examines an order of a subordinate authority within revisional powers.	Reconsiders its own order.
Whether a second appeal	It is itself an appellate remedy.	It is not ordinarily equivalent to a second appeal.	Review is not a second appeal.
Purpose	Correction of an incorrect decision through appellate examination.	Correction of jurisdictional, legal or procedural irregularities and ensuring proper exercise of authority.	Correction of limited errors or consideration of circumstances warranting reconsideration.

1. Appeal

An appeal is a statutory remedy through which a person challenges an order before the appellate authority designated by law. The appellate authority examines the impugned decision within the limits of the appellate jurisdiction. Depending upon the relevant statutory provision, the appellate authority may reconsider the merits of the decision.

Thus, the principal feature of an appeal is that the matter moves from the original or subordinate authority to an appellate authority.

2. Revision

Revision is primarily a supervisory jurisdiction. It enables the competent revisional authority to examine whether the subordinate authority has acted within its jurisdiction and in accordance with law. It may concern the legality, propriety, or regularity of the order, depending on the particular statutory provision.

Revision is therefore different from an appeal because the revisional authority does not ordinarily exercise the same broad jurisdiction as an appellate authority. Its jurisdiction is confined by the statutory provision conferring the power of revision.

3. Review

Review is a limited corrective remedy. Under Section 85 of the Kerala Co-operative Societies Act, 1969, the Co-operative Tribunal may review its own order. Review may be sought on recognised grounds such as:

- ◇ discovery of new and important matter or evidence;
- ◇ mistake or error apparent on the face of the record; or
- ◇ any other sufficient reason.

The review jurisdiction is therefore narrower than appellate jurisdiction and cannot ordinarily be used to obtain a fresh hearing on the merits.

5.2.10 Co-operative Tribunal: Constitution and Powers

The Co-operative Tribunal is an important statutory authority constituted under the Kerala Co-operative Societies Act, 1969, to deal with appeals and other matters arising under co-operative law. The Tribunal provides a specialised forum for resolving legal and administrative issues relating to co-operative societies. Its establishment is intended to provide an effective and relatively specialised mechanism for challenging orders passed by competent authorities under the Act. The Tribunal plays an important role in ensuring that the Registrar and other authorities exercise their powers subject to appropriate appellate and judicial scrutiny.

Constitution of the Co-operative Tribunal

The Government of Kerala constitutes the Co-operative Tribunal under the Kerala Co-operative Societies Act, 1969. The Tribunal is intended to provide an independent authority to consider appeals against specified orders passed under the Act. The Tribunal is different from the ordinary administrative machinery of the Department of Co-operation because it exercises statutory adjudicatory functions in matters specifically assigned to it by the Act.

The Tribunal consists of a person appointed by the Government who possesses the qualifications prescribed under the Act. The Government has the authority to make the necessary appointment and to determine the conditions relating to the functioning of the Tribunal in accordance with the statutory provisions. The Act and Rules prescribe the qualifications and other conditions relating to the office of the Tribunal. This statutory framework is intended to ensure that the person exercising the functions of the Tribunal has the necessary legal and judicial competence to decide disputes and appeals.

The Tribunal functions as a specialised forum for matters concerning co-operative societies. Since co-operative societies deal with membership, elections, management, loans, financial transactions, administration and other activities, disputes may arise between societies, members, employees and authorities. The Tribunal provides a legal forum where matters within its jurisdiction can be examined under the Kerala Co-operative Societies Act and the Rules made under it.

Jurisdiction of the Co-operative Tribunal

The jurisdiction of the Co-operative Tribunal is determined by the Kerala Co-operative Societies Act and the Rules. It does not have unlimited jurisdiction over every dispute concerning a co-operative society. It can deal only with those matters for which the Act specifically confers jurisdiction upon it. One of its principal functions is to hear and decide appeals against specified orders passed by the Registrar or other competent authorities.

When an order is passed by an authority under the Act and the law provides a right of appeal to the Tribunal, a person aggrieved by that order may approach the Tribunal

in accordance with the prescribed procedure. The Tribunal examines the legality and correctness of the order within the limits of its appellate jurisdiction. This provides an important safeguard against incorrect or improper decisions made by subordinate authorities.

Appellate Powers

The most important function of the Co-operative Tribunal is its appellate jurisdiction. An appeal enables an aggrieved person to challenge an order passed by an authority below the Tribunal. On receiving an appeal, the Tribunal may examine the relevant records, grounds of appeal, evidence and arguments of the parties. It considers whether the order under challenge was passed according to law and whether the authority acted within the powers granted to it.

Depending upon the nature of the matter and the powers provided by the Act, the Tribunal may confirm, modify or set aside the order appealed against. It may also pass appropriate directions within the limits of its statutory jurisdiction. The appellate power of the Tribunal helps to correct errors and ensures that persons affected by orders under the co-operative law have an effective remedy.

Power to Review its Own Orders

The Co-operative Tribunal also has a review jurisdiction under Section 85 of the Kerala Co-operative Societies Act, 1969. Review is different from an appeal. In an appeal, a higher authority examines the order of another authority, whereas in a review, the Tribunal considers whether its own earlier order requires reconsideration on legally recognised grounds.

A review application may be made by the Registrar or any party interested in the matter, subject to the requirements of the Act. Review may be considered where there is a discovery of new and important matter or evidence which could not reasonably have been produced earlier, where there is an error apparent on the face of the record, or where there is any other sufficient reason recognised by law. The review jurisdiction is limited and cannot ordinarily be used as a substitute for an appeal or to obtain a complete rehearing of the case.

Power to Follow Fair Procedure

The Tribunal is required to follow the principles of natural justice and fair procedure while deciding matters before it. Persons whose rights or interests may be affected by a decision should ordinarily be given a reasonable opportunity to present their case. This includes the opportunity to submit relevant documents, arguments and objections.

The requirement of a fair hearing is important because Tribunal decisions may have significant consequences for members, societies, office-bearers, and other persons. The Tribunal must consider the submissions of the parties before reaching its decision. Observance of natural justice helps to ensure that the proceedings are fair, transparent and impartial.

Power to Examine Records and Evidence

In exercising its jurisdiction, the Tribunal may examine the records and materials relevant to the matter before it. In an appeal, the Tribunal may consider the order challenged, the proceedings leading to that order and the grounds raised by the appellant. Where necessary and legally permissible, it may consider relevant evidence and submissions of the parties.

Examining the records enables the Tribunal to determine whether the authority correctly applied the provisions of the Kerala Co-operative Societies Act, the Rules, and other applicable legal requirements. It also helps the Tribunal identify errors of fact, errors of law or procedural irregularities within the scope of its jurisdiction.

Power to Pass Appropriate Orders

The Tribunal has the power to pass appropriate orders in matters that fall within its jurisdiction. Its decision may result in the confirmation, modification or cancellation of the order under challenge, depending upon the circumstances of the case and the powers available under the relevant statutory provision. The Tribunal may also issue directions necessary for giving effect to its decision.

The power to grant appropriate relief makes the Tribunal an effective appellate forum. Without these powers, the Tribunal could not provide meaningful relief to a person who has suffered because of an incorrect or unlawful order. At the same time, the Tribunal must exercise its powers strictly within the limits imposed by the Act and Rules.

Importance of the Co-operative Tribunal

The Co-operative Tribunal plays a significant role in administering co-operative societies in Kerala. Co-operative societies are managed under a specialised legal framework, and disputes relating to their administration and functioning may involve technical questions of co-operative law. A specialised Tribunal provides a suitable forum for these matters.

The Tribunal also promotes accountability of co-operative authorities. The Registrar and other officers exercise several statutory powers in relation to registration, administration, elections, management, inspection and other matters. The availability of an appellate remedy ensures that a higher statutory authority can examine the exercise of such powers where the law provides for an appeal.

The Tribunal also helps protect the rights of members and societies. A person who is adversely affected by an order should have access to an appropriate legal remedy. By providing a specialised appellate forum, the Tribunal helps to reduce the possibility of arbitrary or erroneous decisions and promotes confidence in the co-operative administrative system.

Difference Between Tribunal and Registrar

The Co-operative Tribunal and the Registrar perform different functions. The Registrar is primarily an administrative and regulatory authority responsible for

implementing and enforcing various provisions of the Kerala Co-operative Societies Act. The Registrar exercises several powers relating to the registration, supervision and administration of co-operative societies.

The Co-operative Tribunal, on the other hand, primarily performs adjudicatory and appellate functions in matters specifically assigned to it by law. When an appeal lies before the Tribunal, it examines the order of the competent authority and decides the matter within its statutory jurisdiction. Thus, the Tribunal provides independent statutory scrutiny of specified decisions of co-operative authorities.

Recap

- ◇ An appeal is a statutory legal remedy through which an aggrieved person can contest specified decisions, orders or awards before the authority empowered under the Kerala Co-operative Societies Act, 1969.
- ◇ Section 82 provides appeals before the Co-operative Tribunal, whereas Section 83 provides appeals to the Government or Registrar in matters specified by the Act.
- ◇ Within the limits of its jurisdiction, the appellate authority may uphold, alter, modify or annul the decision being challenged.
- ◇ Revision is a supervisory remedy used mainly to examine the legality, propriety, jurisdiction and regularity of proceedings under the Act.
- ◇ Sections 84 and 87 confer revisional authority on the Co-operative Tribunal, Registrar and Government in matters falling within their respective jurisdictions.
- ◇ Review under Section 85 is a restricted corrective remedy through which the Co-operative Tribunal may reconsider its own order on recognised grounds, including new evidence, an apparent error or another sufficient reason.
- ◇ Appeal, revision and review are distinct remedies: appeal involves appellate examination, revision involves supervision, and review involves limited correction.
- ◇ The Co-operative Tribunal, established under Section 81, is a specialised statutory forum headed by a person who is or has been a District Judge, with appellate, revisional and review powers under Sections 82, 84 and 85.
- ◇ Section 86 empowers the Tribunal to make interlocutory orders, while Section 98 grants it specified civil-court powers, strengthening its role in the adjudication of co-operative disputes.

Objective Questions

1. Under which section is an appeal provided to the Co-operative Tribunal?
2. Under Section 83, an appeal against a specified order passed by the Registrar lies before:
3. Which section deals with the revisional jurisdiction of the Co-operative Tribunal?
4. The power of review of the Co-operative Tribunal is provided under: a) Section 81 b) Section 82 c) Section 84 d) Section 85
5. Which of the following is a recognised ground for review?
 - a. Mere dissatisfaction with the order
 - b. Discovery of new and important evidence
 - c. Filing a second appeal
 - d. Change of counsel
6. The Co-operative Tribunal is constituted under:
7. Which section empowers the Co-operative Tribunal to pass interlocutory orders?
8. Which section confers certain powers of a civil court on the Co-operative Tribunal?

Answers

1. Section 82
2. Government of Kerala
3. Section 84
4. Section 85
5. Discovery of new and important evidence
6. Section 81
7. Section 86
8. Section 98

Self-Assessment Questions

1. What is meant by an appeal under the Kerala Co-operative Societies Act, 1969?
2. Distinguish between appeal and revision with reference to their nature, purpose and scope.
3. What are the principal grounds on which a review may be sought under Section 85?
4. Explain the constitution and qualifications of the Co-operative Tribunal under Section 81.
5. What are the appellate, revisional and review powers of the Co-operative Tribunal under Sections 82, 84 and 85?
6. Explain the significance of Sections 86 and 98 in relation to the powers of the Co-operative Tribunal.

Assignments

1. Explain the concept of appeal under the Kerala Co-operative Societies Act, 1969, and discuss the appellate authorities and their powers under Sections 82 and 83.
2. Examine the nature and scope of revision under Sections 84 and 87, with particular reference to the powers of the Co-operative Tribunal, Registrar and Government.
3. Discuss the review jurisdiction of the Co-operative Tribunal under Section 85, including the grounds for review, persons entitled to seek review and the limitation period.
4. Prepare a comparative study of appeal, revision and review, highlighting their meaning, purpose, authority, scope and grounds of interference.
5. Explain the constitution and powers of the Co-operative Tribunal under Sections 81, 82, 84, 85, 86 and 98 of the Kerala Co-operative Societies Act, 1969.

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Unit

Offences and Penalties

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ describe the meaning, objectives, and significance of the Co-operative Ombudsman in the co-operative sector
- ◇ identify the legal foundation for the establishment and functioning of the Ombudsman under Section 69A of the Kerala Co-operative Societies Act, 1969
- ◇ explain the principal powers and functions of the Ombudsman, including receiving complaints, obtaining documents, conducting inquiries, and providing appropriate remedies
- ◇ discuss the Ombudsman's authority to facilitate settlement of grievances, issue directions or orders, and suggest remedial measures

Prerequisites

The Co-operative Ombudsman is a statutory mechanism established under the Kerala Co-operative Societies Act, 1969 to provide an effective system for addressing grievances and complaints relating to co-operative societies. It forms part of the legal framework for ensuring accountability, transparency, fairness and proper administration in the co-operative sector. The Ombudsman provides a specialised forum through which persons affected by the actions, decisions or omissions of a co-operative society or its officials can seek appropriate redressal.

The concept is closely connected to the proper functioning of co-operative societies, including their management, membership, administration, and financial activities. Complaints may arise from issues such as improper administrative practices,

delays, deficiencies in service, unfair treatment, financial irregularities, or failure to follow applicable rules and procedures. The Ombudsman mechanism provides a structured way of examining such grievances and seeking suitable remedies.

The statutory foundation for the Co-operative Ombudsman is Section 69A of the Kerala Co-operative Societies Act, 1969, together with the applicable Ombudsman Scheme. The provisions relating to the Ombudsman cover matters such as appointment, powers, functions, jurisdiction, and procedures for handling complaints. The mechanism is intended to promote responsible conduct by co-operative societies and to provide an accessible means of grievance redressal.

The functioning of the Ombudsman is also associated with the principles of natural justice, particularly the requirement of giving concerned parties a fair opportunity to present their views. Thus, the Co-operative Ombudsman serves as an important institutional mechanism for promoting fairness, accountability and effective grievance redressal within the co-operative sector.

Keywords

Co-operative Ombudsman , Grievance Redressal , Mediation, Accountability , Good Governance

Discussion

5.3.1 Offences, Penalties - Provisions and Procedure

Chapter XV of the Kerala Co-operative Societies Act, 1969 mainly contains the provisions relating to offences, penalties, and prosecution. The principal provisions are Sections 94, 95 and 95A. Section 94 identifies various offences and prescribes punishments, Section 95 deals with cognizance and prosecution, and Section 95A deals with offences committed by companies.

5.3.2 Offences and Penalties – Section 94

Section 94 specifies several acts and omissions that constitute offences under the Act and prescribes corresponding penalties.

◇ Unauthorised use of the word “Co-operative”

A person other than a registered co-operative society cannot conduct business using the word “co-operative”, or its equivalent in an Indian language, without Government sanction. Contravention of this requirement is punishable with a fine up to ₹5,000.

◇ **Acts prejudicial to the society's first charge**

Where a society has a first charge under Section 35 over property, a member, past member, nominee, heir or legal representative must not dispose of that property or otherwise act in a manner prejudicial to the society's charge. Violations are punishable with a fine of up to ₹5,000.

◇ **False information and failure to comply**

The following acts may constitute offences:

- ◇ Making a false return;
- ◇ Furnishing false information;
- ◇ Failing to produce cash when lawfully demanded;
- ◇ Failing to produce records for audit, inquiry or inspection;
- ◇ Disobeying a lawful summons or order; and
- ◇ Wilfully failing to provide information required under the Act.

Such conduct is punishable with a fine up to ₹10,000.

◇ **Failure to hand over society property – Section 94(4A)**

An officer or custodian who wilfully fails to hand over the society's books, accounts, documents, records, cash, securities or other property to an authorised person may be punished with:

- ◇ imprisonment up to one year; or fine up to ₹10,000; or both.

◇ **Election-related corrupt practices – Section 94(4B)**

Certain corrupt practices relating to elections to committees, office-bearers or delegates constitute offences. These include fraudulent interference with election documents or ballot papers, supplying forged election materials, interfering with election personnel, offering gifts or promises to influence voters, and compelling a candidate to withdraw.

The punishment may extend to six months' imprisonment, or a fine up to ₹5,000, or both.

◇ **Failure to deduct or remit amounts – Section 94(5)**

An employer or officer who, without sufficient cause, fails to make deductions required under Section 37(2) or fails to remit the deducted amount to the society within the prescribed period is liable to a fine up to ₹10,000.

◇ **Misuse of share money – Sections 94(6) and 94(7)**

Share money collected for a society in formation must be deposited in an authorised bank within the prescribed period. Failure to deposit the money, or using it to conduct business in the name of the proposed society, is punishable with a fine up to ₹10,000.

1.7A Contravention of Section 59(3) — Section 94(7A): A Chief Executive and the committee of a co-operative society contravening Section 59(3) are punishable with a

fine that may extend to ₹10,000. Section 95(4), as amended, includes Section 94(7A) in the provisions requiring the prescribed prosecution sanction. Source: Act 9 of 2024, sections 54(ix) and 55.

◇ **Misappropriation of society funds – Section 94(8)**

An officer, employee, agent, servant or other person dealing with a society who misappropriates or unauthorisedly or illegally retains society money may be punished with:

- ◇ imprisonment up to three years; and
- ◇ fine up to twice the amount involved.

◇ **Fraudulent documents for obtaining loans – Section 94(8A)**

Dishonestly or fraudulently preparing false documents, valuation certificates, project reports or registers, or creating fictitious entities for obtaining a loan and causing loss to the society, constitutes an offence.

The punishment is imprisonment up to three years and a fine up to twice the amount involved.

◇ **Abetment, connivance or conspiracy – Section 94(8B)**

A person who abets, connives or conspires in the commission of an offence under Section 94(8A) is liable to the same punishment prescribed for that offence.

5.3.2.1 Other Consequences under Section 94

Proceedings under Section 94 are without prejudice to action under any other law. Further, fines prescribed under sub-sections (4) to (8B) cannot be paid from the funds of the society.

The Vigilance Officer appointed under Section 68A may also make complaints before a court concerning specified offences under Section 94, subject to Section 95.

5.3.2.2 Procedure for Prosecution – Section 95

Section 95 establishes the procedural framework for taking cognizance of offences and initiating prosecution.

◇ **Cognizable offences**

The offences under Sections 94(4A), 94(4B), 94(8), 94(8A) and 94(8B) are cognizable under Section 95.

◇ **Previous sanction of the Registrar**

Prosecution for offences under Sections 94(2), 94(3), 94(4), 94(5), 94(6) and 94(7) requires the previous sanction of the Registrar.

◇ **Determination of fine**

Where a fine is imposed for an offence under Sections 94(8), 94(8A) or 94(8B), the court considers:

- ◇ The amount involved in the offence;
- ◇ The value of property obtained by the accused; and
- ◇ The loss caused to the society.

◇ **Compensation to the society**

The court may direct that the whole or part of the fine recovered be paid to the concerned co-operative society as compensation for the loss caused by the offence.

◇ **Offences by Companies – Section 95A**

Section 95A deals with offences committed by companies. Where an offence is committed by a company, the company and persons responsible for conducting its business at the time of the offence may be proceeded against.

A person responsible for the company's affairs may avoid liability by establishing that:

- ◇ the offence was committed without their knowledge; or
- ◇ they exercised due diligence to prevent the commission of the offence.

Where the offence was committed with the consent, connivance or neglect of a director, manager, secretary or other officer, that person may also be treated as guilty. The term “company” includes a body corporate, firm, association, society and co-operative society.

5.3.2 Co-operative Ombudsman

The Co-operative Ombudsman is an independent institution created to offer a convenient and effective system for dealing with complaints and grievances concerning the functioning of co-operative societies. It seeks to safeguard the interests of members, depositors, and other stakeholders by providing a specialized mechanism to address issues arising from the administration and management of co-operative societies.

The Ombudsman contributes to transparency, accountability, fairness, and sound governance within the co-operative sector. It provides an alternative avenue for resolving grievances, reducing the necessity for members to approach courts or other authorities in every matter. Within its prescribed jurisdiction, the Ombudsman can consider complaints concerning service deficiencies, unfair practices, undue delays, inappropriate decisions, and other related grievances.

The creation of the Co-operative Ombudsman strengthens accountability and responsible administration in co-operative societies. It promotes compliance with co-operative principles, relevant laws, rules, bye-laws, and the principles of natural justice. Therefore, the Ombudsman functions as an important mechanism for

safeguarding members' interests and enhancing the efficiency, integrity, and credibility of co-operative societies.

5.3.3 Powers of Co-operative Ombudsman

Under Section 69A, the Government may frame the Kerala Co-operative Ombudsman Scheme for redressal of complaints relating to deficiency in services rendered by co-operative societies. Act 9 of 2024 removed the former words limiting Section 69A(1) to societies 'dealing with banking business'; the statutory scope is therefore no longer confined on that basis. The functions, powers and duties remain those specified by the Scheme.

1. Power to Receive and Examine Complaints : Section 69A(1)

The Ombudsman may deal with complaints about deficiencies in services provided by co-operative societies within the scope of the Ombudsman Scheme. The provision establishes the Ombudsman mechanism primarily to redress such grievances effectively.

2. Power to Exercise Functions Assigned under the Scheme : Section 69A(5)

The specific functions, powers and duties of the Ombudsman are determined by the Kerala Co-operative Ombudsman Scheme. Thus, the Ombudsman exercises the powers conferred by the Act and specified in the Scheme.

3. Power to Call for Information and Documents : Section 69A(5) read with the Ombudsman Scheme

For examining a complaint, the Ombudsman may require the concerned co-operative society to furnish relevant records, documents, statements and other necessary information. This enables the Ombudsman to assess the grievance properly and reach an appropriate conclusion.

4. Power to Conduct Inquiry : Section 69A(5) read with the Ombudsman Scheme

The Ombudsman may inquire into matters within its jurisdiction and examine whether the co-operative society has acted in accordance with applicable law, rules, bye-laws, and principles of fairness.

5. Power to Call for Explanations : Section 69A(5) read with the Ombudsman Scheme

The Ombudsman may seek an explanation from the concerned co-operative society, its officers or other persons connected with the complaint. This enables the parties concerned to clarify the circumstances and allegations raised against them.

6. Power to Facilitate Settlement : Section 69A(5) read with the Ombudsman Scheme

Where appropriate, the Ombudsman may assist the parties in resolving the grievance through mediation, conciliation or another suitable method. This promotes an amicable and speedy settlement of complaints.

7. Power to Issue Directions or Orders : Section 69A(5) read with the Ombudsman Scheme

Within the authority granted under the Act and the Scheme, the Ombudsman may issue appropriate directions or orders to provide relief and resolve the grievance. The Kerala Co-operative Societies Act also expressly refers to an order of the Ombudsman under Section 69A in its execution provisions.

8. Power to Recommend Corrective Measures : Section 69A(5) read with the Ombudsman Scheme

The Ombudsman may recommend suitable corrective measures to remedy deficiencies, prevent the recurrence of improper practices and improve the administration and service delivery of the co-operative society.

9. Power to Decide Complaints : Section 69A(5) read with the Ombudsman Scheme

After considering the complaint, relevant documents, explanations, and other materials, the Ombudsman may reach an appropriate decision in accordance with the governing law and the provisions of the Scheme.

10. Power to Protect the Interests of Stakeholders : Section 69A(1) and 69A(5)

The Ombudsman mechanism is intended to provide effective grievance redressal and protect the legitimate interests of persons who receive services from co-operative societies. Its functions therefore help protect members, depositors, and other eligible stakeholders.

11. Power to Promote Accountability and Good Governance : Section 69A(5)

By examining complaints and ensuring appropriate redressal, the Ombudsman contributes to transparency, accountability, fairness and proper administration in co-operative societies.

5.3.4 Appointment of Co-operative Ombudsman

1. Statutory Provision – Section 69A

The appointment of the Co-operative Ombudsman is governed by Section 69A. The Government may appoint one or more Ombudsmen under the notified Scheme. Section 69A provides a three-year term or service until age 65, whichever is earlier, and requires at least ten years' Bar practice with experience and expertise in banking or the co-operative field.

2. Appointing Authority

The Government of Kerala may appoint the Co-operative Ombudsman. The Government may establish the Kerala Co-operative Ombudsman Scheme by notification in the Official Gazette.

3. Number of Ombudsmen

The Government may appoint one or more persons as Ombudsman/Ombudsmen to discharge the functions assigned under the Kerala Co-operative Ombudsman Scheme.

4. Qualification

A person appointed as Co-operative Ombudsman should possess:

- ◇ At least 10 years' practice at the Bar; and
- ◇ Experience and expertise in banking or the co-operative field.

These qualifications ensure that the Ombudsman has both adequate legal experience and specialised knowledge of banking or co-operative matters.

5. Term of Office

The Ombudsman holds office for three years from the date of entering office or until attaining the age of 65 years, whichever is earlier.

6. Governmental Control

The Co-operative Ombudsman functions under government control. Accordingly, the Government exercises administrative control over the functioning of the Ombudsman.

7. Functions after Appointment

After appointment, the Ombudsman performs the powers and duties specified under the Kerala Co-operative Ombudsman Scheme. Section 69A(5) provides that the Scheme determines the detailed functions, powers, and duties.

5.3.4.1 Powers and Functions – Section 69A(5)

Under Section 69A(5), the Kerala Co-operative Ombudsman Scheme governs the specific powers, functions, and duties of the Co-operative Ombudsman. Thus, the Act establishes the basic statutory framework, while the Scheme provides the detailed operational powers of the Ombudsman.

◇ Receiving Complaints

Within the scope of the Scheme, the Ombudsman may receive eligible complaints from persons with grievances against co-operative societies. This provides members and other eligible persons with a specialised avenue for seeking redressal.

◇ Examination of Grievances

The Ombudsman may examine complaints concerning deficiencies in services provided by co-operative societies. The examination is limited to matters within the Ombudsman's statutory and scheme-based jurisdiction.

◇ Consideration of Facts and Documents

While considering a complaint, the Ombudsman may consider relevant facts and supporting documents submitted with the grievance. This helps assess the complaint and determine the appropriate course of action.

◇ **Examination within Jurisdiction**

The Ombudsman is required to examine complaints within the jurisdiction prescribed by the Act, Rules and Ombudsman Scheme. The authority is therefore statutory and cannot act beyond the limits established by law.

◇ **Providing Redressal**

The Ombudsman may provide appropriate redressal under the Ombudsman Scheme. The nature and extent of such redressal are determined by the powers conferred under the Scheme.

◇ **Complaints before the Ombudsman**

A person having a grievance against a co-operative society may approach the Ombudsman according to the prescribed procedure. The complaint should ordinarily contain:

- ◇ Name of the society or authority concerned;
- ◇ Facts giving rise to the grievance;
- ◇ Relief or redressal sought; and
- ◇ Relevant supporting documents.

◇ **Jurisdiction of the Ombudsman**

The Ombudsman may deal with complaints concerning matters within the jurisdiction prescribed under the Kerala Co-operative Societies Act, 1969 and the Rules. The material primarily identifies complaints about deficiencies in services rendered by co-operative societies within the scope of the Ombudsman Scheme.

5.3.4.2 Objectives of the Powers and Functions

The powers and functions of the Ombudsman are intended to achieve the following objectives:

- ◇ Provide a simple and accessible grievance-redressal mechanism.
- ◇ Protect the legitimate interests of members and eligible persons.
- ◇ Promote accountability and transparency in co-operative administration.
- ◇ Address deficiencies and irregularities in the functioning of societies.
- ◇ Facilitate speedy and effective resolution of complaints.
- ◇ Improve the quality of administration and services provided to members.

Recap

- ◇ The Kerala Co-operative Societies Act, 1969 establishes the legal framework for dealing with offences, penalties, prosecution, and grievance redressal in co-operative societies.
- ◇ The Co-operative Ombudsman functions as a specialised authority for considering complaints and grievances relating to co-operative societies and safeguarding the interests of eligible persons.
- ◇ Section 69A forms the statutory basis for establishing and functioning of the Co-operative Ombudsman and the Kerala Co-operative Ombudsman Scheme.
- ◇ The Ombudsman has the authority to receive complaints, obtain necessary records and information, conduct inquiries, and seek explanations from the persons concerned.
- ◇ The Ombudsman may assist in settling grievances, issue suitable directions or orders, and suggest corrective measures, subject to the powers conferred by the Act and the Scheme.
- ◇ Complaints are considered based on relevant facts and supporting records, while the Ombudsman must operate within the jurisdiction prescribed by the Act, Rules, and Ombudsman Scheme.
- ◇ Matters concerning the appointment, number, qualifications, tenure, and governmental control of the Ombudsman are governed by Section 69A and the applicable Ombudsman Scheme.
- ◇ In essence, the Ombudsman seeks to provide a simple, accessible, prompt, and effective grievance-redressal mechanism, while strengthening transparency, accountability, good governance, and efficient administration in co-operative societies.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 deals with the Co-operative Ombudsman?
2. Under which section can the Ombudsman receive and examine complaints regarding deficiencies in services?
3. Which provision specifies that the detailed powers, functions and duties of the Ombudsman are governed by the Ombudsman Scheme?
4. Who is empowered to appoint the Co-operative Ombudsman?

5. What is the minimum legal practice required for appointment as Co-operative Ombudsman?
6. What is the term of office of the Co-operative Ombudsman?
7. Which authority may call for relevant records, documents and information while examining a complaint?
8. What methods may the Ombudsman use to facilitate settlement of grievances?
9. What are the basic particulars ordinarily required in a complaint before the Ombudsman?
10. State one major objective of the powers and functions of the Co-operative Ombudsman.

Answers

1. Section 69A.
2. Section 69A(1).
3. Section 69A(5).
4. The Government of Kerala.
5. At least 10 years' practice at the Bar.
6. Three years or until attaining the age of 65 years, whichever is earlier.
7. The Co-operative Ombudsman.
8. Mediation, conciliation, or another suitable method.
9. The name of the society or authority concerned, facts of the grievance, relief sought, and relevant supporting documents.
10. To provide a simple, accessible, speedy, and effective grievance-redressal mechanism while promoting accountability and transparency in co-operative administration.

Self-Assessment Questions

1. What is the role and significance of the Co-operative Ombudsman in the co-operative sector?
2. Explain the statutory basis for the establishment and functioning of the Co-operative Ombudsman under Section 69A of the Kerala Co-operative Societies Act, 1969.
3. What are the major powers and functions of the Co-operative Ombudsman in dealing with complaints?
4. Explain the procedure for presenting a complaint before the Co-operative Ombudsman and mention the essential particulars that a complaint should contain.
5. Discuss the jurisdiction of the Co-operative Ombudsman and the limitations on its authority.
6. Explain how the Co-operative Ombudsman promotes transparency, accountability, good governance, and effective grievance redressal in co-operative societies.

Assignments

1. Explain the meaning and importance of the Co-operative Ombudsman under the Kerala Co-operative Societies Act, 1969. Examine how the Ombudsman safeguards the rights and interests of members and other stakeholders.
2. Examine the powers and functions of the Co-operative Ombudsman under Section 69A and the Kerala Co-operative Ombudsman Scheme, particularly in relation to receiving complaints, conducting inquiries, obtaining documents, and providing suitable remedies.
3. Discuss the legal provisions concerning the appointment of the Co-operative Ombudsman, including the appointing authority, required qualifications, number of Ombudsmen, period of tenure, and government supervision.
4. Explain the process for submitting a complaint before the Co-operative Ombudsman and examine the scope of its jurisdiction in dealing with such complaints.
5. Assess the contribution of the Co-operative Ombudsman to effective administration by promoting transparency, accountability, good governance, and prompt resolution of grievances in co-operative societies.

Reference

1. Bedi, R. D. (n.d.). *Law for co-operation*. National Council for Co-operative Training.
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Suggested Reading

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Winding Up

Unit

Winding Up of Co-operative Societies

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ explain the concept and purpose of winding up and dissolution of co-operative societies under the Kerala Co-operative Societies Act, 1969
- ◇ describe the scope and objectives of winding up, particularly the protection of society's assets, recovery of outstanding dues, settlement of liabilities, and protection of the interests of members and creditors
- ◇ identify and explain the legal grounds for winding up a co-operative society under Section 71, including non-commencement of business, cessation of activities, and failure to comply with prescribed statutory requirements
- ◇ outline the procedure involved in winding up, beginning with examination of the society and providing an opportunity for representation, followed by the winding-up order and completion of liquidation

Prerequisites

Winding Up and Dissolution of a Co-operative Society refers to the legal process of bringing the affairs of a co-operative society to an orderly and lawful conclusion. It involves dealing with the society's assets, liabilities, debts, claims and financial obligations, settling outstanding matters, and distributing the remaining assets according to law. Winding up refers to closing the society's affairs through liquidation, while dissolution marks the final termination of its legal existence. The Registrar exercises statutory supervision, and the liquidator manages the winding-up process, including collecting assets, settling liabilities, and completing the society's affairs.

Keywords

Winding Up , Dissolution , Liquidator , Registrar , Realisation of Assets, Settlement of Claims , Recovery of Debts , Liabilities , Liquidation , Cancellation of Registration

Discussion

6.1.1 Winding Up and Dissolution of Co-operative Society

A co-operative society is established to promote the common economic and social interests of its members through collective effort. However, when a society can no longer function effectively, ceases its activities, or circumstances arise that make its continuation undesirable, the law provides a systematic mechanism to bring its affairs to an end. This process is known as winding up.

Winding up involves the orderly settlement of the society's affairs, including taking control of its assets, recovering amounts due, realising its properties, settling the claims and liabilities of creditors and members, and completing its financial and legal obligations. Dissolution is the final stage of this process, under which the registration of the society is cancelled, and the society ceases to exist as a corporate body. Under the Kerala Co-operative Societies Act, 1969, Sections 71 to 74 contain the principal provisions relating to winding up and dissolution.

Thus, winding up and dissolution provide a legally regulated and supervised method for terminating a co-operative society, while ensuring that its assets are protected, its debts and claims are properly settled. The law addresses the interests of members and creditors.

Under the Kerala Co-operative Societies Act, 1969, Chapter X (Sections 71 to 74) principally governs the winding up and dissolution of co-operative societies. Winding up refers to the statutory process of settling a society's affairs by recovering dues, realising assets, discharging liabilities, and completing financial and legal obligations. Dissolution is the final stage, after which the society ceases to exist as a corporate body.

6.1.2 Scope and Objectives of Winding Up

The winding-up provisions establish a legally regulated mechanism for bringing the affairs of a society to an orderly conclusion. The principal objectives are to:

- ◇ settle the lawful debts and liabilities of the society;
- ◇ safeguard its property, funds and other assets;
- ◇ recover loans, debts and other amounts due to it;
- ◇ protect the interests of members, creditors and other claimants;
- ◇ realise movable and immovable properties;

- ◇ complete all financial, administrative and legal matters; and
- ◇ ultimately cancel the registration and dissolve the society.

6.1.3 Winding Up and Liquidation of Co-operative Societies

6.1.3.1 Winding Up of Society – Section 71

Section 71 of the Kerala Co-operative Societies Act, 1969 is the principal provision dealing with the winding up of a co-operative society. The Registrar may order the winding up of a society when, after an inquiry under Section 65, an inspection under Section 66, or on receiving an application from not less than three-fourths of the members, the Registrar is satisfied that the society ought to be wound up.

◇ Opportunity to Make Representation

Before passing a winding-up order under Section 71(1), the society must be allowed to make its representation. The Registrar must also consult the financing bank to which the society is affiliated and the Circle Co-operative Union. This requirement ensures that the society has an opportunity to explain its position before the winding-up decision is taken.

◇ Grounds for Winding Up

The Kerala Co-operative Societies Act, 1969 provides specific grounds for winding up a co-operative society when it becomes inactive, non-functional, or fails to satisfy essential statutory requirements. These provisions enable the Registrar to bring the affairs of such a society to an orderly legal conclusion.

◇ Membership Falling Below the Statutory Minimum

Where registration of a society was subject to a requirement of having at least twenty-five members, and its membership subsequently falls below twenty-five, the Registrar may, on his own motion, order its winding up under Section 71(2)(a).

◇ Failure to Commence Business

Under Section 71(2)(b), a society may be wound up if it has not commenced functioning within six months from the date of registration, unless the Registrar has granted an extension. The Registrar may also order winding up where the society has ceased to function.

The requirement to commence business within the prescribed period ensures that a registered society actually carries out the activities for which it was established.

◇ Cessation of Business or Functioning

A society that has ceased to carry on its business or activities may become inactive and ineffective. In such circumstances, the Registrar may order its winding up under the Act.

◇ **Failure to Satisfy Requirements Applicable to Particular Societies**

In the case of a society established exclusively for the benefit of persons engaged in a particular industry or occupation, winding up may be ordered if the number of actual workers falls below the prescribed statutory limit under Section 71(2)(c).

◇ **Revitalisation of Society – Section 71(3)**

Winding up does not necessarily result in permanent closure in every case. Where revitalisation is possible, the Act provides an opportunity for revival.

If a proposal for revitalisation is received within one year from an order passed under Section 71(2), the Registrar may cancel the winding-up order and permit the society to continue its activities. However, this provision does not apply to a society that failed to commence functioning within six months of its registration.

6.1.3 Appointment of Liquidator – Section 72

After the Registrar passes a winding-up order, the Registrar appoints a liquidator under Section 72. The liquidator administers the society's affairs and completes the liquidation process in accordance with the Act and Rules.

Property and Assets under the Control of the Liquidator

The liquidator takes custody or control of the society's property, books and records, securities and documents, actionable claims, money and other assets, including any property belonging to or apparently belonging to the society.

Protection of Society's Assets

The liquidator must take appropriate measures to protect and preserve the society's assets. This includes preventing loss, deterioration, damage, unauthorised disposal or dissipation of the property and other assets during the liquidation process.

6.1.3.1 Powers and Functions of Liquidator – Section 73

1. Section 73(1): all assets of the society vest in the liquidator, who may realise them by sale or otherwise.
2. Section 73(2)(a): institute and defend suits and other legal proceedings on behalf of the society.
3. Section 73(2)(b): determine the contributions to be made by members, past members, nominees, heirs or legal representatives, and by estates, including debts due from them.
4. Section 73(2)(c): investigate all claims against the society and decide questions of priority arising between claimants.
5. Section 73(2)(d): pay claims according to priority, including interest up to the winding-up date, in full or rateably as assets permit; any later surplus interest cannot exceed the contractual rate.

6. Section 73(2)(e): determine by whom and in what proportions the liquidation costs are to be borne.
7. Section 73(2)(f): determine whether any person is a member, past member or nominee of a deceased member.
8. Section 73(2)(g): give directions concerning collection and distribution of assets.
9. Section 73(2)(h): carry on the society's business only so far as necessary for beneficial winding up.
10. Section 73(2)(i): make compromises or arrangements with creditors or persons claiming to be creditors.
11. Section 73(2)(j): compromise calls, debts, liabilities and claims, including contingent claims, take security, and grant a complete discharge.
12. Section 73(2A): complete proceedings within two years of appointment, excluding the period of an appeal against the winding-up order; if procedural constraints prevent completion, report to Government through the Registrar, and any permitted extension cannot exceed one year.
13. Section 73(3): report completion to the Registrar and deposit the society's records in the prescribed place.

6.1.4 Procedure for Winding Up

The following stages are a teaching sequence, not additional statutory conditions. Read each stage with Sections 71–74 and Rule 69.

Stage 1 – Examination of the Society

The Registrar examines the condition and affairs of the society through an inquiry, inspection, application by members or other statutory grounds.

Stage 2 – Opportunity of Representation

The society is allowed to submit its objections, explanations and relevant materials where required.

Stage 3 – Winding-Up Order

After the society complies with the statutory requirements, the Registrar passes a written order directing the society to be wound up under Section 71.

Stage 4 – Appointment of Liquidator

The Registrar appoints a liquidator under Section 72.

Stage 5 – Taking Custody of Assets

The liquidator takes control of the society's property, books, records, documents and actionable claims.

Stage 6 – Notice to Creditors and Claimants

Under Rule 69, the liquidator must publish, by such means as considered proper, a notice requiring all claims against the society to be submitted within two months from publication.

Stage 7 – Preparation of Statement

The liquidator prepares a statement showing the society's assets, liabilities, debts, securities, outstanding loans and claims.

Stage 8 – Verification of Claims

The liquidator examines the claims received and determines their validity and priority.

Stage 9 – Recovery of Debts

Amounts payable to the society are recovered from borrowers, debtors and other persons liable to pay.

Stage 10 – Realisation of Assets

The movable and immovable properties and other assets of the society are realised through lawful methods.

Stage 11 – Settlement of Liabilities

The funds realised are used to discharge the legitimate liabilities of the society according to the applicable priority.

Stage 12 – Determination of Contributions

Where required by law, contributions are determined and recovered from persons legally liable to contribute.

Stage 13 – Final Accounts and Report

After completing recovery, realisation and settlement, the liquidator prepares the final accounts and submits the required report to the Registrar.

14. Procedure under Rule 69
15. Rule 69(1): the Registrar publishes the liquidator's appointment in the Gazette.
16. Rule 69(2): the liquidator publishes a notice requiring claims within two months; liabilities already shown in the society's books are treated as submitted claims.
17. Rule 69(3): the liquidator settles a statement of assets and liabilities as at the winding-up date and determines contributions under Section 73(2)(b), with subsidiary orders where necessary.
18. Rule 69(4): the liquidator submits quarterly reports in the prescribed form.
19. Rule 69(5): with the Registrar's prior sanction, the liquidator may authorise collection of debts and issue receipts on the liquidator's behalf.

20. Rule 69(6): liquidation funds are deposited in a Post Office Savings Bank, the financing bank or another bank approved by the Registrar, in the liquidator's name.
21. Rule 69(7): the Registrar fixes remuneration and Government costs; liquidation costs have the priority prescribed by the Rule.
22. Rule 69(8): the liquidator may convene meetings of members when necessary.
23. Rule 69(9): on conclusion, the liquidator convenes a general meeting, presents a summary and submits proposals concerning any surplus.
24. Rule 69(10): undischarged liabilities are deposited with the financing bank; after three years, unpaid amounts may be transferred by the Registrar as provided by the Rule.
25. Rule 69(11): the Registrar may remove a liquidator for good reason; the outgoing liquidator must hand over all property and records to the successor.
26. Completion and extension are governed by Section 73(2A), not by an assumed additional Rule 69 power: two years, appeal time excluded, with a Government-approved extension not exceeding one year after a report through the Registrar.

6.1.5 Effect of Winding-Up Order

A winding-up order produces several important legal and administrative consequences.

1. **Loss of ordinary management control** : The ordinary management of the society ceases to exercise its normal control over the affairs of the society. The liquidator assumes responsibility for the liquidation.
2. **Control over assets** : The property and actionable claims of the society come under the custody or control of the liquidator.
3. **Cessation of ordinary business** : The society stops its ordinary business activities, except where continuation is necessary to complete the winding up.
4. **Settlement of claims** : Creditors and other claimants must submit their claims for consideration under the statutory procedure.
5. **Recovery and realisation** : The liquidator undertakes recovery of debts and realisation of the society's assets.
6. **Legal proceedings** : The liquidator may conduct necessary legal proceedings on behalf of the society subject to the Act and the control of the Registrar.
7. **Protection of property** : The liquidator is responsible for protecting the society's property against loss, damage, and improper disposal.

6.1.6 Dissolution of Co-operative Society

1. Dissolution is the final stage of the winding-up process

Under Section 74, the Registrar shall cancel the registration by a written order when:
 (i) no liquidator has been appointed within two months from the winding-up order, or, where an appeal was filed, within two months from confirmation of that order; (ii) the

affairs of a society for which a liquidator was appointed have been wound up; or (iii) final winding up is impossible because the records have been destroyed.

2. Effect of Dissolution

Cancellation of registration under Section 74 has the following consequences:

- a. **Society is deemed dissolved** : From the date of cancellation, the society is legally deemed dissolved.
- b. **Corporate existence comes to an end** : The society ceases to exist as a corporate body.
- c. **Registration is cancelled** : Its registration as a co-operative society ends.
- d. **Normal activities cease** : The society can no longer conduct its ordinary activities as a registered co-operative society.
- e. **Legal personality terminates** : The society loses its legal existence as a registered corporate body.

Therefore, winding up represents the process of liquidation, while dissolution represents the final termination of the society's legal existence.

3. Effect of Appeal – Section 72

Where an appeal is preferred under Section 83 against a winding-up order made under Section 71, the order does not operate thereafter until it is confirmed in appeal. The liquidator nevertheless continues to have custody or control of the property, effects and actionable claims and may take the protective steps authorised by Section 72(2).

If the winding-up order is ultimately set aside, the property, effects and actionable claims shall re-vest in the society in accordance with law.

4. Preservation of Records – Rule 70

Under Rule 70, all books and records of a society whose affairs have been wound up must be retained by the liquidator in the liquidator's office for three years from the date of the report under Section 73(3). After that period, they may be destroyed only upon obtaining an order to that effect from the Registrar.

Recap

- ◇ Winding up means the orderly settlement of a co-operative society's affairs.
- ◇ Dissolution means the final termination of the society's legal existence.
- ◇ Section 71 deals with the winding up of a society.
- ◇ Section 72 provides for the appointment of a liquidator.
- ◇ Section 73 deals with the powers and functions of the liquidator.

- ◇ Section 74 deals with the dissolution of the society.
- ◇ The liquidator takes control of the society's assets, records and claims.
- ◇ The liquidator recovers dues, realises assets and settles liabilities.
- ◇ Rule 69 provides additional procedures for liquidation.
- ◇ Winding up settles the affairs, while dissolution ends the society's legal existence.

Objective Questions

1. Which section of the Kerala Co-operative Societies Act, 1969 deals with winding up of a co-operative society?
2. Who appoints the liquidator after an order for winding up is passed?
3. Which section deals with the appointment of a liquidator?
4. Which section prescribes the powers and functions of the liquidator?
5. What is the final stage of the winding-up process?
6. Which section provides for cancellation of registration and dissolution of a co-operative society?
7. Which Rule supplements the practical procedure relating to liquidation?
8. Under which provision are the books and records of a society dealt with after completion of winding up?
9. What happens to the society upon cancellation of its registration under Section 74?

Answers

1. Section 71
2. The Registrar
3. Section 72
4. Section 73
5. Dissolution
6. Section 74
7. Rule 69
8. Rule 70
9. It is deemed to be dissolved

Self-Assessment Questions

1. What do you understand by the winding up of a co-operative society?
2. What are the principal purposes and objectives of winding up a co-operative society?
3. What are the statutory grounds for winding up a co-operative society under Section 71 of the Kerala Co-operative Societies Act, 1969?
4. Discuss the powers and responsibilities of the liquidator under Section 73.
5. What are the major steps involved in the winding-up process of a co-operative society?
6. How would you differentiate between winding up and dissolution of a co-operative society?

Assignments

1. Explain the concept, scope and objectives of winding up a co-operative society with reference to the Kerala Co-operative Societies Act, 1969.
2. Discuss the legal grounds and prescribed procedure for winding up a co-operative society under Section 71 of the Kerala Co-operative Societies Act, 1969.
3. Analyse the appointment, powers and responsibilities of the liquidator under Sections 72 and 73 of the Kerala Co-operative Societies Act, 1969.
4. Describe the liquidation procedure prescribed under Rule 69, including the examination of claims, recovery of outstanding debts, realisation of assets and discharge of liabilities.
5. Differentiate between winding up and dissolution of a co-operative society with specific reference to Sections 71 to 74 of the Kerala Co-operative Societies Act, 1969.

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Unit

Liquidators

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ explain the concept, role and importance of a liquidator in the winding-up of a co-operative society
- ◇ describe the appointment of a liquidator under Section 72 of the Kerala Co-operative Societies Act, 1969
- ◇ explain the major duties of a liquidator, including protection of assets, recovery of dues, realisation of property, examination of claims and settlement of liabilities
- ◇ describe the different stages of the liquidation process, from taking custody of the society's property to preparing final accounts and submitting the final report

Prerequisites

The appointment and functioning of a liquidator are important aspects of the winding-up process of a co-operative society. Following a winding-up order under Section 71 of the Kerala Co-operative Societies Act, 1969, the Registrar appoints a liquidator under Section 72 to take charge of the society's affairs. The liquidator is responsible for taking control of the society's assets, books, records, securities and claims, recovering outstanding dues, realising assets, settling claims and discharging liabilities. The powers, duties and procedures of the liquidator are governed by the Kerala Co-operative Societies Act, 1969 and the Kerala Co-operative Societies Rules, 1969, under the supervision of the Registrar.

Keywords

Liquidator , Winding Up , Custody of Assets , Recovery of Dues , Realisation of Assets, Settlement of Claims

Discussion

6.2.1 Introduction

A liquidator is a person appointed by the Registrar to take charge of the affairs, property and assets of a co-operative society after an order for winding up has been passed. The liquidator's primary responsibility is to bring the society's affairs to an orderly conclusion by protecting its assets, recovering outstanding dues, realising its properties, settling claims and liabilities, and submitting the required accounts and reports to the Registrar. Under the Kerala Co-operative Societies Act, 1969, Section 72 primarily deals with the appointment of the liquidator, while Section 73 provides for his powers and functions. Rule 69 of the Kerala Co-operative Societies Rules, 1969 supplements the procedure.

6.2.1.1 Scope and Functions of the Liquidator

The functions of a liquidator extend to all activities necessary for the proper completion of the liquidation process. The major areas of responsibility are as follows.

◇ Custody and Protection of Assets

The liquidator takes custody and control of the society's property, money, and other assets. He is responsible for protecting these assets from loss, damage, deterioration or unauthorised disposal.

◇ Recovery of Dues

The liquidator takes appropriate measures to recover loans, debts and other amounts payable to the society. Such recoveries form part of the funds available to settle the society's liabilities.

◇ Realisation of Property

The movable and immovable properties of the society are realised through lawful methods. The proceeds from such realisation are used to meet the society's legitimate obligations.

◇ Examination and Settlement of Claims

The liquidator examines claims by creditors and other persons and determines their validity and priority under applicable law.

◇ **Settlement of Liabilities**

The funds obtained through recovery and realisation of assets are applied to the society's lawful liabilities in the prescribed order.

◇ **Legal Proceedings**

Subject to statutory requirements and the Registrar's control, the liquidator may institute, defend, or continue legal proceedings on behalf of the society.

◇ **Determination of Contributions**

Where required by law, the liquidator may determine contributions payable by members, past members or other persons who are legally liable to contribute towards the liabilities of the society.

◇ **Finalisation of Accounts**

After completing the liquidation activities, the liquidator prepares the final accounts and submits the necessary reports to the Registrar.

◇ **Preservation of Records**

The books, documents and records of the society must be properly preserved and dealt with according to the prescribed procedure.

Thus, the liquidator serves as the principal functionary responsible for completing the liquidation under the supervision and control of the Registrar.

6.2.2 Appointment of Liquidator – Section 72

The appointment of a liquidator follows a winding-up order under Section 71. Once the Registrar passes a winding-up order, he appoints a liquidator under Section 72. From that point, the liquidator assumes responsibility for administering the affairs of the society during the liquidation period.

Custody and Control of Property

After appointment, the liquidator takes custody or control of:

- ◇ property belonging to the society;
- ◇ books and records;
- ◇ securities and documents;
- ◇ actionable claims;
- ◇ money and other assets; and
- ◇ other property belonging to, or apparently belonging to, the society.

The liquidator must also take appropriate steps to prevent loss, deterioration, damage, unauthorised disposal or dissipation of the society's assets.

6.2.3 Procedure to be Followed by the Liquidator

The work of the liquidator can be organised into a series of systematic stages. Worked process example: after appointment, the liquidator secures the books and bank accounts, publishes the Rule 69(2) notice, settles the Rule 69(3) statement, recovers loans and realises assets, decides validity and priority under Section 73(2)(c), pays claims under Section 73(2)(d), reports under Section 73(3), and enables the Registrar to consider cancellation under Section 74.

Table 6.2.1 Procedure to be Followed by the Liquidator

Work stage	Authority and statutory source
Take custody and protect property	Appointment and custody under Section 72; assets vest under Section 73(1).
Invite and record claims	Rule 69(2): published notice and two-month claim period.
Settle financial position	Rule 69(3): statement of assets and liabilities; Section 73(2)(b) contributions.
Recover and realise	Section 73(1), 73(2)(a), (g), (h) and (j); Rule 69(5)–(6).
Investigate and pay claims	Section 73(2)(c)–(e): validity, priority, full or rateable payment and costs.
Report and close	Rule 69(4), (9)–(11); Sections 73(2A), 73(3) and 74.

Stage 1 – Taking Custody of Property

Immediately after appointment, the liquidator assumes control over the society's property, books, records, securities, documents and actionable claims.

Stage 2 – Protection of Assets

The liquidator takes necessary measures to ensure that the assets of the society are not lost, damaged, deteriorated or improperly disposed of.

Stage 3 – Issue of Notice

In accordance with Rule 69, the liquidator must publish, by such means as considered proper, a notice requiring all claims against the society to be submitted within two months from publication.

Stage 4 – Preparation of Financial Statement

The liquidator prepares a statement showing the financial position of the society. It includes details of:

- ◇ assets;
- ◇ liabilities;
- ◇ debts;

- ◇ securities;
- ◇ outstanding loans; and
- ◇ claims.

Stage 5 – Verification of Claims

The claims submitted by creditors and other persons are examined. Their validity and priority are determined according to law.

Stage 6 – Recovery of Dues

The liquidator takes steps to recover loans, debts and other amounts payable to the society.

Stage 7 – Realisation of Assets

The movable and immovable properties and other assets of the society are realised through lawful means.

Stage 8 – Settlement of Liabilities

The funds obtained from the realisation of assets are applied towards the legitimate liabilities of the society according to the applicable order of priority.

Stage 9 – Determination of Contributions

Where the law requires, the liquidator determines and recovers contributions from persons who are legally liable to contribute.

Stage 10 – Final Accounts and Report

After completing recovery, realisation and settlement, the liquidator prepares the final accounts and submits the required report to the Registrar.

6.2.4 Powers of Liquidator – Section 73

Section 73 provides the liquidator with the powers required to complete the winding up of the society. The important powers are as follows.

For the complete statutory powers, apply Section 73(1), clauses (a)–(j) of Section 73(2), the current completion rule in Section 73(2A), and the completion report in Section 73(3), as set out clause-by-clause in Unit 1. These powers cover vesting and realisation, litigation, contributions, claims and priority, payment, costs, membership status, collection and distribution, necessary continuation of business, compromises and final reporting.

Section 73(2A), as amended by Act 9 of 2024, generally requires the liquidator to complete the winding-up proceedings within two years of appointment. The pendency period of an appeal against the winding-up order is excluded. To obtain Government permission to extend the period, the liquidator must submit a report explaining the procedural constraints, and the extension cannot exceed one year.

6.2.5 Powers Similar to Those of a Civil Court – Section 98

In addition to the powers specifically relating to liquidation, Section 98 provides specified powers similar to those of a civil court in relevant proceedings.

These include the power to:

- ◇ summon and enforce the attendance of persons;
- ◇ examine persons on oath;
- ◇ require the production of documents;
- ◇ receive evidence on affidavits; and
- ◇ issue commissions for examination of witnesses.

These powers help obtain the information, evidence, and documents required for the proper investigation and settlement of matters arising during liquidation.

6.2.6 Supervision and Control of Registrar

The liquidator does not function independently. The Registrar supervises and controls the liquidation process.

The liquidator is therefore required to comply with:

- ◇ the Kerala Co-operative Societies Act;
- ◇ the Kerala Co-operative Societies Rules;
- ◇ directions issued by the Registrar; and
- ◇ prescribed liquidation procedures.

Rule 69 recognises the supervisory role of the Registrar in the liquidation process.

6.2.7 Effect of Appointment of Liquidator

The appointment of a liquidator results in several important changes in the administration of the society:

- ◇ The ordinary management loses its normal control over the affairs of the society.
- ◇ The liquidator assumes responsibility for the liquidation.
- ◇ The society's property and actionable claims come under the custody or control of the liquidator.
- ◇ Ordinary business activities cease, except activities necessary for beneficial winding up.
- ◇ Claims of creditors and other claimants are dealt with through the liquidation process.

- ◇ Recovery of debts and realisation of assets are undertaken by the liquidator.
- ◇ Measures are taken to protect the society's property from loss, damage or improper disposal.

6.2.8 Completion of the Liquidator's Functions

The liquidator continues to function until the affairs of the society have been sufficiently completed for the Registrar to take the final steps under Section 74.

Before completion, the liquidator generally undertakes:

- ◇ recovery of outstanding dues;
- ◇ realisation of assets;
- ◇ verification and settlement of claims;
- ◇ discharge of liabilities;
- ◇ preparation of final accounts; and
- ◇ submission of the final report to the Registrar.

After these matters are completed, the Registrar may cancel the society's registration under Section 74, resulting in its dissolution.

6.2.9 Preservation of Records – Rule 70

Under Rule 70, the books and records must be retained by the liquidator in the liquidator's office for three years from the date of the report under Section 73(3). They may then be destroyed only after the Registrar orders it.

Recap

- ◇ The Registrar appoints a liquidator after a winding-up order.
- ◇ Section 72 governs the appointment of the liquidator.
- ◇ Section 73 provides the liquidator's main powers and functions.
- ◇ Rule 69 prescribes important liquidation procedures.
- ◇ The liquidator protects assets, recovers dues and settles claims and liabilities.
- ◇ Under Section 98, the liquidator has certain civil court-like powers.
- ◇ The liquidator works under the supervision and control of the Registrar.
- ◇ After liquidation, the Registrar may cancel the registration under Section 74, resulting in dissolution.

Objective Questions

1. Who appoints the liquidator of a co-operative society after a winding-up order?
2. Under which section is the liquidator appointed?
3. Which section primarily deals with the powers and functions of the liquidator?
4. Which rule provides the procedural framework relating to liquidation?
5. Which of the following is a function of the liquidator?
6. Under which section does the liquidator have specified powers similar to those of a civil court?
7. What happens to the ordinary management of the society after the appointment of a liquidator?
8. Which section provides for cancellation of registration and dissolution of the society after completion of liquidation?
9. Which rule deals with the preservation and disposal of the records of a society?

Answers

1. Registrar
2. Section 72
3. Section 73
4. Rule 69
5. Recovering outstanding dues
6. Section 98
7. It loses its normal control over the society's affairs
8. Section 74
9. Rule 70

Self-Assessment Questions

1. What is a liquidator, and what is the primary purpose of appointing a liquidator in a co-operative society?
2. Explain the appointment of a liquidator under Section 72 of the Kerala Co-operative Societies Act, 1969.
3. What are the major functions and responsibilities of a liquidator during the liquidation process?
4. Explain the powers of a liquidator under Section 73, particularly in relation to recovery of dues, realisation of assets and settlement of claims.
5. What are the specified powers similar to those of a civil court under Section 98 available during liquidation?
6. Explain the role of the Registrar in supervising the liquidator and describe how liquidation is completed leading to cancellation of registration under Section 74.

Assignments

1. Explain the appointment of a liquidator under Section 72 of the Kerala Co-operative Societies Act, 1969. Discuss the circumstances leading to the appointment and the role of the Registrar.
2. Discuss the powers and functions of a liquidator under Section 73. Explain the powers relating to custody and realisation of assets, recovery of debts, settlement of claims and liabilities, and legal proceedings.
3. Describe the procedure followed by a liquidator during the winding-up process. Explain the various stages from taking custody of the society's property to the preparation of final accounts and submission of the final report.
4. Examine the specified powers of a liquidator similar to those of a civil court under Section 98. Discuss how these powers assist in the investigation and settlement of matters arising during liquidation.
5. Explain the completion of liquidation and dissolution of a co-operative society. Discuss the role of the liquidator and Registrar, cancellation of registration under Section 74, and preservation of records under Rule 70.

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Unit

Claims Settlement

Learning Outcomes

After completing this unit, the learner will be able to:

- ◇ explain the meaning and significance of settlement of claims in the winding-up of a co-operative society
- ◇ identify the relevant legal provisions governing settlement of claims, particularly Sections 71, 72, 73, 74 and 98 of the Kerala Co-operative Societies Act, 1969 and Rules 69 and 70 of the Kerala Co-operative Societies Rules, 1969
- ◇ describe the different types of claims that may arise against a co-operative society and explain the process of verifying their validity and determining their priority
- ◇ explain the various stages involved in the settlement of claims, from issuing notices and receiving claims to verification, determination of validity and priority, payment and finalisation of accounts

Prerequisites

Claims and liabilities during liquidation refer to the process of identifying, verifying, prioritising and settling the financial obligations of a co-operative society during winding up. The liquidator examines claims from creditors, members, and other interested parties; verifies supporting documents; determines the validity and priority of claims; and settles them from the assets realised during liquidation. The process is carried out under the Kerala Co-operative Societies Act, 1969, the Rules and the directions of the Registrar, with the liquidator exercising the relevant powers under Section 73, Rule 69 and Section 98. This ensures the orderly settlement of debts, protection of legitimate claims and proper distribution of the society's remaining assets.

Keywords

Settlement of Claims, Winding-Up Order, Liquidator, Verification of Claims, Determination of Priority

Discussion

6.3.1 Settlement of Claims - Procedures

1. Meaning of Settlement of Claims

Settlement of claims means the systematic process of receiving, examining, verifying and deciding claims made against a co-operative society, particularly when the society is under winding up. The purpose is to determine whether a claim is legally admissible, the amount that is actually payable, and the priority in which different claims are to be satisfied.

During liquidation, the liquidator examines the claims of creditors, members and other persons having legally enforceable demands against the society. These claims are considered alongside the society's assets and liabilities so the available funds can be applied properly towards its lawful obligations. Settlement of claims is therefore an important part of winding up and is necessary to complete the society's affairs and ultimately facilitate its dissolution.

6.3.1.1 Relevant Legal Provisions

The principal provisions relevant to settlement of claims are:

- ◇ **Section 71** – Winding up of societies
- ◇ **Section 72** – Appointment of liquidator
- ◇ **Section 73** – Powers and functions of liquidator
- ◇ **Section 74** – Cancellation of registration and dissolution
- ◇ **Section 98** – Powers similar to those of a civil court in specified proceedings
- ◇ **Rule 69** – Procedure relating to liquidation
- ◇ **Rule 70** – Preservation and disposal of records.

The liquidator primarily settles claims under Section 73, within the wider winding-up framework established by Sections 71 and 72.

6.3.1.2 Scope of Settlement of Claims

The settlement process covers different types of financial and legal claims arising against the society.

For analysis, claims may be classified as secured claims; statutory or Government claims; employee claims; unsecured trade claims; member claims; and contingent claims. This classification does not create a universal ranking. Priority depends on the governing statute, the legal effect of any security and the facts of the claim, and is decided by the liquidator under Section 73(2)(c).

◇ **Claims of Creditors**

Persons to whom money is lawfully owed by the society may submit their claims during liquidation. The liquidator examines the claims and determines their validity and priority.

◇ **Claims of Members**

Members may also have legitimate financial claims against the society. Such claims are examined and dealt with by the liquidator in accordance with the applicable statutory provisions.

◇ **Claims of Other Persons**

Persons other than members and ordinary creditors may also have claims against the society. The liquidator may consider such claims where they arise from legally enforceable obligations of the society.

◇ **Determination of Priority**

When several claims compete for payment, the liquidator must determine their relative priority. The liquidator considers the applicable law and the nature of the claims before deciding the order in which available funds should be applied.

◇ **Verification of Liabilities**

The liquidator examines the society's books, records and supporting documents to determine whether a claim represents a genuine liability of the society.

◇ **Payment from Realised Assets**

Once claims have been verified and their priority determined, funds obtained from recovering dues and realising the society's assets are applied towards its lawful liabilities.

◇ **Finalisation of Claims**

Proper settlement of claims enables the liquidator to ascertain the remaining liabilities and complete the society's financial affairs before submitting the final report to the Registrar.

6.3.2 Settlement of Claims in the Winding-Up Process

Settlement of claims takes place as part of the overall winding-up procedure.

Under Section 71, the Registrar may order winding up when the statutory requirements are satisfied. Once the Registrar makes the winding-up order, a liquidator is appointed under Section 72.

The liquidator then assumes control of the society's property, records, actionable claims and other assets. This enables the liquidator to determine the actual financial position of the society and proceed with settlement of claims.

Under Section 73, the liquidator has the powers to examine claims, determine their validity and priority, recover amounts due to the society, and realise its assets. The funds obtained through these activities are used to satisfy legitimate liabilities.

6.3.3 Procedure for Settlement of Claims

The following is an explanatory teaching sequence. The legal authority for receiving claims is Rule 69(2), for the asset-and-liability statement Rule 69(3), and for investigating priority and making full or rateable payments Section 73(2)(c)–(d).

Stage 1 – Winding-Up Order: Section 71

The process begins with a winding-up order under Section 71. Once the order is made, the affairs of the society are placed under the liquidation process.

Stage 2 – Appointment of Liquidator: Section 72

The Registrar appoints a liquidator under Section 72. The liquidator takes custody or control of the society's property, books, records, securities, documents, actionable claims and other assets.

Stage 3 – Notice Inviting Claims: Rule 69

Under Rule 69, the liquidator must publish, by such means as considered proper, a notice requiring all claims against the society to be submitted within two months from publication.

The purpose of the notice is to provide an opportunity to persons who believe that an amount is legally due to them to bring their claims before the liquidator.

Stage 4 – Submission of Claims

Creditors and other claimants submit their claims to the liquidator in the prescribed manner. The claim should contain sufficient particulars and supporting material to establish the liability of the society.

Stage 5 – Examination and Verification

The liquidator examines each claim with reference to relevant evidence, including:

- ◇ books and records of the society;
- ◇ agreements and other documents;
- ◇ accounts;
- ◇ securities;
- ◇ correspondence; and
- ◇ other relevant evidence.

The purpose is to establish whether the claim is genuine and legally enforceable.

Stage 6 – Determination of Validity

After examination, the liquidator determines whether a claim is:

- ◇ admissible;
- ◇ partly admissible; or
- ◇ not admissible.

The amount payable is determined based on the available evidence and applicable law.

Stage 7 – Determination of Priority: Section 73

Where claims compete, the liquidator determines their relative priority under the law. This is particularly important where the assets available for distribution are insufficient to satisfy every claim in full.

Stage 8 – Realisation of Assets: Section 73

The liquidator realises the assets of the society through lawful methods and recovers outstanding amounts due to it. The funds obtained become the resources available to settle lawful liabilities.

Stage 9 – Settlement and Payment

After investigating claims and deciding questions of priority, the liquidator pays claims - including interest up to the date of winding up - according to their respective priorities, in full or rateably as the assets permit. Any surplus remaining after payment of claims may be applied towards interest from the date of the winding-up order at a rate fixed by the liquidator, not exceeding the contractual rate [Section 73(2)(c)-(d)].

Illustration of rateable payment: assume that, after satisfying claims having a legally established prior ranking and paying liquidation costs, ₹4,00,000 remains for two equally ranked unsecured claims of ₹3,00,000 and ₹6,00,000. The common payment rate is 4/9. The claimants receive approximately ₹1,33,333 and ₹2,66,667 respectively (subject to final rounding). This is only a teaching example; it does not prescribe a priority among secured, statutory, employee, unsecured, member or contingent claims.

Stage 10 – Determination of Contributions

Where required by law, the liquidator may determine contributions payable by members, past members or other persons who are legally liable to contribute towards the liabilities of the society.

Stage 11 – Finalisation of Accounts

After the liquidator has dealt with claims and liabilities, they prepare the final accounts showing the society's financial position.

Stage 12 – Final Report to Registrar

The liquidator submits the required report to the Registrar after completing the liquidation process. This facilitates cancellation of the registration under Section 74.

6.3.4 Powers of Liquidator Relevant to Settlement of Claims – Section 73

Section 73 provides the principal powers required of the liquidator to deal with claims.

◇ Examination of Claims

The liquidator examines claims made against the society and determines whether they are valid.

◇ Determination of Priority

Where competing claims exist, the liquidator determines their priority under applicable law.

◇ Recovery of Society's Dues

The liquidator recovers amounts payable to the society. Such recoveries increase the funds available for satisfying claims against the society.

◇ Realisation of Assets

The liquidator realises the property of the society and converts it into funds for settlement of liabilities.

◇ Conduct of Legal Proceedings

Subject to statutory control, the liquidator may institute, defend or continue legal proceedings on behalf of the society. Such proceedings may be necessary where the validity of a claim or the society's right to recover an amount requires legal determination.

◇ Determination of Contributions

The liquidator may determine contributions payable by persons who are legally liable to contribute towards the liabilities of the society.

◇ Application of Funds

Funds realised during liquidation are applied to the society's lawful liabilities and other statutory obligations.

6.3.5 Powers Similar to Civil Court – Section 98

Section 98 provides specified powers similar to those of a civil court in relevant proceedings. These powers help examine and settle claims.

They include:

- ◇ Summoning and enforcing attendance of persons;
- ◇ Examining persons on oath;
- ◇ Requiring production of documents;
- ◇ Receiving evidence on affidavits; and
- ◇ Issuing commissions for examination of witnesses.

These powers facilitate the collection of evidence and documents needed to resolve disputed or unclear matters connected with liquidation.

6.3.6 Role of the Registrar

The liquidator functions under the supervision and control of the Registrar. Therefore, settlement of claims is subject to statutory oversight.

The liquidator is required to follow:

- ◇ the Kerala Co-operative Societies Act;
- ◇ the Kerala Co-operative Societies Rules;
- ◇ directions issued by the Registrar; and
- ◇ the prescribed liquidation procedure.

Such supervision helps ensure that claims are examined and settled in accordance with the statutory framework.

6.3.7 Effect of Settlement of Claims

Proper settlement of claims produces several important consequences:

- ◇ Genuine liabilities are identified and recognised.
- ◇ Invalid or unsupported claims can be excluded according to law.
- ◇ Competing claims are arranged according to their legal priority.
- ◇ Available assets can be distributed in an orderly manner.
- ◇ The financial position of the society becomes clear.
- ◇ The liquidator can finalise the accounts.
- ◇ The winding-up process can be completed.
- ◇ The Registrar can proceed towards cancellation of registration under Section 74.

6.3.8 Settlement of Claims and Dissolution

Settlement of claims is closely associated with the dissolution of a co-operative society. Outstanding claims and liabilities must be properly dealt with as part of the liquidation process before the affairs of the society can be finally concluded.

Recap

- ◇ Settlement of claims involves receiving, verifying and deciding claims during winding up.
- ◇ Claims may be made by creditors, members and other eligible persons.
- ◇ Section 71 provides for the winding-up order.
- ◇ The Registrar appoints a liquidator under Section 72.
- ◇ The liquidator examines claims and determines their admissibility and priority.
- ◇ Under Section 73, the liquidator recovers dues and realises assets to settle liabilities.
- ◇ Section 98 gives the liquidator certain powers similar to those of a civil court.
- ◇ Final settlement enables completion of liquidation and dissolution under Section 74.

Objective Questions

1. What is meant by settlement of claims in a co-operative society?
2. Under which section is the winding-up of a co-operative society ordered?
3. Under which section is the liquidator appointed?
4. Which rule provides for issuing notices inviting claims during liquidation?
5. Which of the following is considered while verifying a claim?
6. Who determines the priority of competing claims during liquidation?
7. Which section provides specified powers similar to those of a civil court?
8. Who exercises supervision and control over the liquidator?
9. Proper settlement of claims facilitates which of the following?

Answers

1. Systematic examination and determination of claims
2. Section 71
3. Section 72
4. Rule 69
5. Society's books and records
6. The liquidator
7. Section 98
8. Registrar
9. Cancellation of registration and dissolution

Self-Assessment Questions

1. What is meant by settlement of claims in the winding-up of a co-operative society?
2. What are the different types of claims that may be considered during the liquidation of a co-operative society?
3. Explain the procedure for settlement of claims, beginning with the winding-up order and ending with the submission of the final report.
4. What are the powers of the liquidator under Section 73 relevant to the settlement of claims?
5. What are the powers similar to those of a civil court under Section 98 that assist the liquidator in examining and settling claims?
6. Explain the role of the Registrar in the settlement of claims and state the consequences of proper settlement of claims for the winding-up and dissolution of the society.

Assignments

1. Explain the meaning, scope and importance of settlement of claims in the winding-up of a co-operative society.

2. Discuss the procedure for settlement of claims under the Kerala Co-operative Societies Act, 1969, from the winding-up order to the submission of the final report.
3. Examine the powers and functions of the liquidator under Section 73 in relation to examination of claims, determination of priority, recovery of dues, realisation of assets and application of funds.
4. Explain the powers similar to those of a civil court under Section 98 and analyse their importance in collecting evidence and resolving disputed claims during liquidation.
5. Analyse the role of the Registrar in the settlement of claims and explain how proper settlement of claims contributes to the completion of winding up and eventual dissolution of the co-operative society.

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