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EXTRAORDINARY

भाग II—खण्ड 3 उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 9th March 1965

S.O. 909.—In exercise of the powers conferred by section 10 of the Dadra and Nagar Haveli Act, 1961 (35 of 1961), the Central Government hereby extends to the Union territory of Dadra and Nagar Haveli the Gujarat Co-operative Societies Act, 1961 (Gujarat Act No. X of 1962), as at present in force in the State of Gujarat, subject to the following modifications, namely:—

Modifications

1. (1) Any reference in the Act to a law not in force, or to a functionary not in existence, in the Union territory of Dadra and Nagar Haveli shall be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that Union territory:

Provided that if any question arises as to who such functionary is, the decision of the Administrator of Dadra and Nagar Haveli shall be final.

(2) Throughout the Act, unless otherwise directed,—

(a) for the words "State Government", the word "Administrator" shall be substituted and there shall also be made in any sentence in which these words occur such consequential amendments as the rules of grammar may require;

(b) for the words "State of Gujarat", the words "Union territory of Dadra and Nagar Haveli" shall be substituted;

(c) for the word "State" [except where it occurs in the expression "State Government" and except in Chapters V and XI and sections 67(2) and 163], the words "Union territory" shall be substituted;

(d) for the words and figures "Indian Limitation Act, 1908", the words and figures "Limitation Act, 1963" shall be substituted.

2. In section 1, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act."

3. In section 2—

(a) clause (1) shall be re-numbered as clause (1a) and before the clause as so re-numbered, the following clause shall be inserted, namely:—

"(1) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli;"

(b) for clause (11), the following clause shall be substituted, namely:—

"(11) "Land Revenue Code" means Organizacao Agraria for Nagar Haveli in force in the Union territory of Dadra and Nagar Haveli immediately before the commencement of this Act therein or any other corresponding law for the time being in force;";

(c) clause (22) shall be omitted;

(d) in clause (23), for the words "Gujarat State", the words "Dadra and Nagar Haveli" shall be substituted.

4. In sub-section (2) of section 14, for the words "State Co-operative Council", the word "Administrator" shall be substituted.

5. In clause (d) of sub-section (1) of section 22, in the first paragraph of section 29 and in section 43, for the words "State Government", the words "Central Government" shall be substituted.

6. In sub-section (1) of section 49,—

(a) in the proviso to clause (d), for the words "State Government", the words "Central Government" shall be substituted;

(b) for clause (g), the following clause shall be substituted, namely:—

"(g) the Record of Rights relating to the land shall include the particulars of every charge on land or interest created under a declaration under clause (a) or clause (b)".

7. In Chapter V and in sections 80, 82(3), 86(5)(i) and 95(2), for the words "State Government", wherever they occur, the words "Central Government" shall be substituted.

8. In section 66, in sub-section (2), the words 'to contribution to the educational fund of such federal co-operative society as the State Government may by notification in the Official Gazette specify as "the Gujarat State Co-operative Union" to the payment of rebate on the basis of support received from members and persons who are not members to its business and subject to the prescribed conditions to payment of honoraria,' shall be omitted.

9. Section 69 shall be omitted.

10. In section 70, the words and figures "and for the educational fund as provided in section 69," shall be omitted, and for clauses (a) and (b), the words "of the Administrator" shall be substituted.

11. In section 71, in sub-section (2), for the words "State Co-operative Council", the word "Administrator" shall be substituted.

12. In section 81, for the word "administrator" or "administrators" wherever it occurs, the words "Special Officer" or "Special Officers", as the case may be, shall be substituted.

13. In section 90, in sub-section (1), for the words "Consolidated Fund of the State", the words "Consolidated Fund of India" shall be substituted.

14. In the proviso to section 103 and in section 105, for the words "the Collector", wherever they occur, the words "the Mamlatdar" shall be substituted.

15. In section 106,—

(a) in sub-section (1), the words and figures "as defined under the Bombay Agricultural Debtors Relief Act, 1947", shall be omitted;

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

"(4) Until the arrears due to the Society together with interest and any incidental charges incurred in the recovery of such arrears are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar, it shall be lawful for the Mamlatdar and the Registrar to take the following precautionary measures, namely:—

(i) to prevent the crop being removed from the land;

(ii) (a) to require that the crop growing on any land liable to the payment of arrears due to the society shall not be reaped until a notice in writing is given to the Mamlatdar or the Registrar, as the case may be, in this behalf, with an acknowledgment of its receipt;

(b) to direct that no such crop shall be removed from the land on which it has been reaped or from any place in which it may have been deposited without the written permission of the Mamlatdar or the Registrar;

(c) to cause watchmen to be placed for any such crop to prevent the unlawful reaping or removal of the same, and to realise the amount required for the remuneration of the said watchmen at such rate not exceeding the rate of pay received by such watchmen as an arrear of land revenue due in respect of the land to which crop belongs.

(5) The Mamlatdar's or Registrar's orders under sub-clause (a) or (b) of clause (ii) of sub-section (4) may be issued generally or in individual cases. If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the Patelad or some other public building in the village. If it be to individual holders, a notice thereof shall be served on each holder concerned.

(6) Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall within the meaning of the Indian Penal Code (45 of 1860), abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry before the Mamlatdar, to a fine not exceeding double the amount of land revenue due on the land to which the crop belongs in respect of which the offence is committed.

(7) The Mamlatdar or Registrar, as the case may be, shall not defer the reaping of the crop nor prolong its deposit unduly, so as to damage the produce, and if within two months after the crop has been deposited the dues have not been discharged, he shall either release the crop and proceed to realise the revenue in any other manner authorised by law, or take such portion thereof as he may deem fit for sale in the prescribed manner and release the rest.".

16. In section 115, in the proviso, clause (b) shall be omitted.

17. In section 116.—

(a) in clauses (iii) and (iv), the words "in any part of the State" shall be omitted;

(b) in Explanation 2, in clause (m), the words "or any other corresponding law for the time being in force" shall be inserted at the end.

18. In sections 119, 120 and 141, for the words "State Government" wherever they occur, the words "Central Government" shall be substituted.

19. In section 130, for the word "Collector", the word "Mamlatdar" and for the word "Commissioner" the words "Collector, Dadra and Nagar Haveli" shall be substituted.

20. In section 139, in sub-section (3), for the words and figures "It shall be lawful for the Collector to take precautionary measures authorised by sections 140 to 144 of the Land Revenue Code", the words and figures "It shall be lawful for the Mamlatdar to take the precautionary measures authorised under sub-section (4) of section 106" shall be substituted.

21. In clause (i) of sub-section (1) of section 147, for the words "State Government", the words "Central Government, Administrator" shall be substituted.

22. In sub-section (1) of section 150, for the words "Gujarat State Co-operative Tribunal", the words "Dadra and Nagar Haveli Co-operative Tribunal" shall b substituted.

23. Section 156 shall be omitted.

24. In section 160, for the words "State Co-operative Council", the word "Administrator" shall be substituted.

25. In section 162, in clause (b), the words "or to any panchayat constituted under any law relating to panchayats for the time being in force" shall be omitted.

26. In section 163—

(a) in sub-section (1), for the words "in any other State", the words "elsewhere in India" shall be substituted;

(b) in sub-section (2), for the words "in any other State", the words "elsewhere in India" and for the words "Registrar of the State", the words "Registrar of the State or Union territory" shall be substituted.

27. In section 164, for the words "an administrator", the words "Special Officer" shall be substituted.

28. In section 168, sub-sections (4) and (5) shall be omitted.

29. Section 169 shall be omitted.

ANNEXURE

GUJARAT CO-OPERATIVE SOCIETIES ACT, 1961 AS EXTENDED TO THE UNION TERRITORY OF DADRA AND NAGAR HAVELI

(GUJARAT ACT NO. X OF 1962)

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Gujarat Co-operative Societies Act, 1961.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of the Act.

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

(1) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli;

(1a) "auditor" means a certified author appointed either by the Registrar or by a society to audit the accounts of the society;

(2) "by-laws" means by-laws registered under this Act and for the time being in force, and include registered amendments of such by-laws;

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(3) "Central Bank" means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies;

(4) "certified author" means a person who possesses the prescribed qualifications and is authorised by the Registrar as an auditor under section 84;

(5) "committee" means the committee of management, or other directing body, to which the management of the affairs of a society is entrusted;

(6) "company" means a company as defined in the Companies Act, 1956, (I of 1956) and includes a Banking Company and also any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any industry;

(7) "co-operative bank" means a society registered under this Act and doing the business of banking, as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949 (X of 1949);

(8) "dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;

(9) "federal society" means a society, not less than five members of which are themselves societies;

(10) "firm" means a firm registered under the Indian Partnership Act, 1932 (IX of 1932);

(11) "Land Revenue Code" means Organizacao Agraria for Nagar Haveli in force in the Union territory of Dadra and Nagar Haveli immediately before the commencement of this Act therein or any other corresponding law for time being in force;

(12) "Liquidator" means a person appointed as a liquidator under this Act;

(13) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered, or a person duly admitted to membership of a society after registration and includes a nominal, associate or sympathiser member;

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

(15) "prescribed" means prescribed by rules;

(16) "rebate" means any payment made in cash or kind, out of the profits of a society, to a member or any other person, on the basis of his contribution to the business of the society;

(17) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under this Act; and includes to the extent of the powers of the Registrar conferred on any other person under this Act, such person and includes an Additional or Joint Registrar;

(18) "rules" means rules made under this Act;

(19) "society" means a co-operative society registered, or deemed to be registered, under this Act;

(20) "society with limited liability" means a society having the liability of its members limited by its by-laws;

(21) "society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society;

* * * * * * * * *

(23) "Tribunal" means the Dadra and Nagar Haveli Co-operative Tribunal constituted under this Act;

(24) "working capital" means funds at the disposal of a society inclusive of paid-up share capital, funds built out of profits, and money raised by borrowing and by other means.

CHAPTER II

REGISTRAR AND REGISTRATION

3. **Registrar and other officers and their powers.**—(1) For carrying out the purposes of this Act, the Administrator shall appoint a person to be the Registrar of Co-operative Societies for the Union Territory.

(2) To assist the Registrar in his functions under this Act, the Administrator may appoint such number of Additional Registrars, Joint Registrars, Deputy Registrars, Assistant Registrars and other persons with such designations as he may think fit.

(3) The Administrator may, by general or special order, confer on a person or persons appointed under sub-section (2) all or any of the powers of the Registrar under this Act.

(4) Every person appointed under sub-section (2) shall work under the general guidance, and the superintendence and control of the Registrar.

4. **Societies which may be registered.**—A society, which has as its object the promotion of the economic interests or general welfare of its members, or of the public, in accordance with co-operative principles, or a society established with the object of facilitating the operations of any such society, may be registered under this Act:

Provided that it shall not be registered if, in the opinion of the Registrar, it is economically unsound, or its registration may have an adverse effect upon any other society, or it is opposed to, or its working is likely to be in contravention of public policy.

5. **Registration with limited or unlimited liability.**—A society may be registered with limited or unlimited liability.

6. **Conditions of Registration.**—(1) No society other than a federal society shall be registered under this Act unless it consists of at least ten persons (each of such persons being a member of different family), who are qualified to be members under this Act and who reside in the area of operation of the society.

(2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same town or village, or in the same group of villages.

(3) No federal society shall be registered, unless it has at least five societies as its members.

(4) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.

(5) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act.

Explanation.—For the purposes of this section the expression "member of a family" means a wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister and wife of brother or half-brother.

7. **Power to exempt societies from conditions as to registration.**—Notwithstanding anything contained in this Act, the Administrator may, by special order in each case, exempt subject to such conditions, if any, as he may impose, any society from any of the requirements of this Act as to registration.

8. **Application for registration.**—(1) For the purposes of registration, an application shall be made to the Registrar in the prescribed form, and shall be accompanied by four copies of the proposed by-laws of the society. The person by whom, or on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.

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(2) The application shall be signed—

(a) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of a different family) who are qualified under this Act, and

(b) in the case of a federal society, by at least five societies.

(3) No signature to an application on behalf of a society shall be valid unless the person signing is a member of the committee of such society, and is authorised by the committee by resolution to sign on its behalf the application for registration of the society and its by-laws; and a copy of such resolution is appended to the application.

9. **Registration and provisional registration, certificate of registration.**—(1) On receipt of an application for registration from a society—

(a) if the Registrar is satisfied that the society has complied with the provisions of this Act and the rules as to registration and that its by-laws are not contrary to this Act and the rules, he shall register the society and its by-laws; and

(b) if the Registrar is of opinion that the application complies with the requirements of section 8 but that its by-laws are not in conformity with the provisions of this Act and the rules, he may provisionally register the society and by an order in writing permit the society to perform such functions subject to such conditions as he may specify in the order and may also by an order in writing direct the society to amend within the period prescribed in this behalf its by-laws so as to bring them in conformity with this Act and the rules.

(2) When a society has been provisionally registered, the Registrar shall on its compliance with the order made under clause (b) of sub-section (1) finally register it and its by-laws; and on its failure to comply with the order shall cancel its provisional registration.

(3) A provisionally registered society shall not be deemed to be a society registered under this Act.

(4) On the registration of a society, the Registrar shall issue to it a certificate of registration signed by him.

(5) A certificate of registration issued under sub-section (4) shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration has been cancelled.

(6) If the Registrar refuses to register the society, he shall forthwith communicate his decision with reasons therefor, to the person who has signed first on the application.

10. **Register of societies.**—The Registrar shall maintain a register in the prescribed form of all societies registered or deemed to be registered under this Act.

11. **Power of Registrar to decide certain questions.**—When, any question arises whether for the purpose of the formation or registration or continuance of a society or the admission of a person as a member of a society under this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class or occupation, the question shall be decided by the Registrar.

12. **Classification of societies.**—The Registrar may classify all societies in such manner, and into such classes, as he thinks fit; and the classification of a society under any head of classification by the Registrar shall be final.

13. **Amendment of by-laws of society.**—(1) No amendment of the by-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the by-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that the amendment so forwarded is not contrary to this Act or the rules, he may register the amendment:

Provided that no order refusing to register the amendment shall be passed except after giving the society an opportunity of being heard.

(3) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of its registration.

(4) Where the Registrar refuses to register an amendment of the by-laws of a society, he shall communicate the order of refusal, together with his reasons therefor, to the society.

14. **Power to direct amendment of by-laws.**—(1) If it appears to the Registrar that an amendment of the by-laws except in respect of the name or objects of a society is necessary or desirable in the interest of such society, he may call upon the society, in the prescribed manner, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time so specified, the Registrar after giving the society an opportunity of being heard and with the prior approval of the Administrator, may register the amendment, and shall thereupon issue to the society a copy thereof certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the by-laws shall be deemed to have been duly amended accordingly; and the by-laws as amended shall be binding on the society and its members.

15. **Change of name.**—(1) Subject to the provisions of the rules a society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society, or of any of its members, or of any of the persons who have ceased to be members; and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name.

(2) Where a society changes its name, the Registrar shall enter the new name in its place in the register of societies, and shall also amend the certificate of registration accordingly.

16. **Change of liability.**—(1) Subject to the provisions of this Act and the rules, a society may by passing a resolution and by amending its by-laws, change the form or extent of its liability.

(2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding anything in any by-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of such notice upon him, have the option of withdrawing his investment in its shares, and his deposits and loans and of demanding the payment of his other dues, if any.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2), shall be deemed to have assented to the change.

(4) An amendment of the by-laws of a society, changing the form or extent of its liability, shall not be registered or take effect until, either—

(a) all members and creditors have assented, or deemed to have assented, thereto as aforesaid; or

(b) all claims of members and creditors exercising the option, under sub-section (2) have been met in full.

17. **Amalgamation, transfer, division or conversion of societies.**—(1) Subject to the provisions of the rules and the previous sanction of the Registrar a society may, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—

(a) to amalgamate with another society;

(b) to transfer its assets and liabilities, in whole or in part, to any other society;

(c) to divide itself into two or more societies;

(d) to convert itself into another class of society; or

(e) to change its object.

(2) Where the amalgamation, transfer, division or conversion referred to in sub-section (1) involves a transfer of the liabilities of a society to any other society, the Registrar shall not sanction the resolution of the society unless he is satisfied that—

(i) the society, after passing such resolution, has given notice thereof in writing to all its members, creditors, and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of the receipt of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or of withdrawing their investments in its shares, their deposits and loans and demanding payment of their other dues, if any,

(ii) all the members and creditors and other interested persons, have assented to the decision, or are deemed to have assented thereto by; having failed to exercise the option within the period specified in clause (i), and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full.

(3) Notwithstanding anything contained in the Transfer of Property Act, 1882, (IV of 1882) or the Indian Registration Act, 1908, (XVI of 1908) in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(4) The amalgamation, transfer, division or conversion made under this section shall not affect any right or obligation of the societies so amalgamated, or of the society so divided or converted, or of the transferee, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society, the converted society, the new societies or the transferee as the case may be.

18. **Cancellation of registration of amalgamated, divided or converted societies.**—Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society, as the case may be, shall be cancelled on the date of registration of the new society or societies so formed.

19. **Reconstruction of societies.**—Where a compromise or arrangement is proposed—

(a) between a society and its creditors, or

(b) between a society and its members

the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the liquidator, order reconstruction in the prescribed manner, of the society.

20. **Cancellation of registration.**—(1) The Registrar shall make an order cancelling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies, or if its affairs are wound up or it has not commenced business within a reasonable time of its registration or has ceased to function.

(2) An order made under sub-section (1) shall be published in the *Official Gazette*.

(3) The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

21. **Partnership of societies.**—(1) Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member of each society has had clear ten days' written notice of the resolution, and the date of the meeting.

(2) Nothing in the Indian Partnership Act, 1932 (XI of 1932) and the Indian Companies Act, 1956 shall apply to such partnership.

CHAPTER III.

MEMBERS AND THEIR RIGHTS AND LIABILITIES.

22. **Person who may become member.**—(1) Subject to the provisions of section 25, no person shall be admitted as a member of a society except the following, that is to say—

(a) an individual, who is competent to contract under the Indian Contract Act, 1872.—IX of 1872.

(b) a firm, company, association or a society registered under the Societies Registration Act, 1860.—XXI of 1860.

(c) a society registered, or deemed to be registered, under this Act,

(d) the Central Government:

Provided that, the provisions of clause (a) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or college:

Provided further that subject to such terms and conditions as may be laid down by general or special order a firm or a company may be admitted as a member only of such society as may be prescribed.

(2) Where a person is refused admission as a member of a society, the decision refusing admission shall be communicated by the society to him within fifteen days of the date of the decision.

23. **Removal from membership in certain circumstances.**—(1) Where a person becomes a member of any society on his making a declaration as required by the by-laws of the society or otherwise and such declaration is found to be false, then such person shall be disqualified to continue as a member of the society.

(2) Where a person continues as the member of a society notwithstanding the disqualification incurred by him under sub-section (1), he shall be removed from the society by the Registrar:

Provided that the Registrar shall, before making an order of removal give the person an opportunity of being heard.

24. **Open membership.**—(1) No society of such class as may be prescribed shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its by-laws.

(2) Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar.

(3) The decision of the Registrar in appeal, shall be final.

25. **Nominal, associate and sympathiser member.**—(1) Notwithstanding anything contained in section 22, a society of such class as may be prescribed may admit any person as a nominal, associate, or sympathiser member:

Provided that the total number of associate and sympathiser members in a society shall not exceed ten per cent. of the total number of members thereof.

(2) A nominal, associate or sympathiser member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society. Subject to the provisions of sub-section (6) of section 28 a nominal, associate or sympathiser member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the by-laws of the society.

26. **Cessation of membership.**—A person shall cease to be a member of a society on his resignation from the membership thereof being tendered in writing to the society and accepted by the society or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society:

Provided that, the resignation of a person from the membership of a society, if such member is not in debt to the society or is not a surety for an unpaid debt due to the society, shall unless it is accepted earlier be deemed to have been accepted on the expiry of one month from the date of his tendering his resignation in writing to the society.

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

28. **Voting powers of members.**—(1) No member of any society shall have more than one vote in its affairs:

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

(2) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate, shall have the right to vote.

(3) A society, which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of the other society, and accordingly such member shall have the right to so vote.

(4) A company which has invested any part of its funds in the shares of a society, may appoint one of its directors or officers to vote on its behalf in the affairs of such society, and accordingly he shall have the right to so vote.

(5) Where a firm has invested any part of its funds in the shares of a society any one of its partners shall be entitled to vote in the affairs of the society on behalf of the firm.

(6) A nominal, associate, or sympathiser member of a society shall have the right of vote if such right is conferred on him by the bye-laws.

(7) The voting rights of members of a federal society shall be regulated by the rules, and by the by-laws of the society.

29. **Restrictions of holding on shares.**—In any society, no member other than the Central Government or a society, shall hold more than such portion not exceeding one fifth of the total share capital of the society as may be prescribed:

Provided that the Administrator may, by notification in the Official Gazette, specify in respect of any class of societies a higher maximum than one-fifth of the share capital.

30. **Restrictions on transfer of share or interest.**—(1) Subject to the provisions of section 29 and sub-section (2) a transfer of, or charge on, the share or interest of a member in the capital of a society shall be subject to such conditions as may be prescribed.

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

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

(b) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the society; and

(c) the committee has approved such transfer.

31. **Transfer of interest on death of member.**—(1) On the death of a member of a society the society, shall subject to the provisions of sub-section (2) transfer his share or interest in the society to a person or persons nominated by such member in accordance with the rules or, in the absence of such nomination to such person as may appear to the Committee to be the heir or legal representative of such member.

(2) No such transfer shall be made unless such nominee, heir or legal representative, as the case may be, is duly admitted as a member of the society.

(3) Notwithstanding anything contained in sub-section (2), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member, ascertained as prescribed.

(4) A society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

(6) (a) Nothing in the foregoing provisions of this section or section 22 shall be construed to prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member of a society, but his liability in consequence of such acquisition shall be limited to his interest in the shares of the society and the unpaid dividends as also the loan, stock, bonds, if any, and the interest earned on them which is unpaid and he shall not have the right of voting.

(b) A person under any such disability as is referred to in clause (a) shall, on his disability ceasing, furnish to the society a declaration of his willingness to become a member. On receipt of such declaration the society, notwithstanding anything contained in this section may, and if it is a cooperative housing society such society shall admit him as a member if he is not otherwise disqualified. A person so admitted shall become entitled to all the rights and privileges of a member and become subject to liabilities like any other member of the society.

32. **Share or interest not liable to attachment.**—The share or interest of a member in the capital of a society, or in the loan-stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposits shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member; and accordingly, neither a Receiver under the Provincial Insolvency Act, 1920 (V of 1920), nor any such person or authority under any corresponding law for the time being in force, shall be entitled to or have any claim on such share or interest.

33. **Rights of members to see books, etc.**—(1) Every member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, a copy of the Act, the rules, and the by-laws, the last audited annual balance sheet, the profit and loss account, a list of the members of the committee, a register of members, the minutes of general meetings, and those portions of the books and records in which his transactions with the society have been recorded.

(2) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefor, a copy of any of the documents mentioned in sub-section (1).

34. **Liability of person who has ceased to be member.**—(1) Where a person has ceased to be a member of a society under section 26,

(a) his liability in respect of any debt due by him to the society and in respect of any outstanding demand owing to the society by him shall continue as if he had not ceased to be a member;

(b) his liability for the debts of the society as they stood immediately before the date of such cessation shall, save as otherwise provided in sub-section (2), continue for a period of three years from such date as if he had not ceased to be a member:

Provided that the liability shall attach to the estate of such person, if such cessation was due to his death or such person dies after his ceasing to be a member.

(2) Where a society is ordered to be wound up under any provisions of this Act, then the liability under clause (b) of sub-section (1) of a person who has ceased to be a member thereof within three years immediately preceding the date of the order of winding up, shall continue, until the entire liquidation proceedings are completed.

35. **Insolvency of members.**—Notwithstanding anything contained in the Provincial Insolvency Act, 1920, V of 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to his dues to Government or to a local authority.

36. **Expulsion of members.**—(1) A society may, by resolution passed by three-fourths majority of all the members present and voting at a general

meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society:

Provided that, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body, and no resolution shall be effective unless it is submitted to the Registrar for his approval and approved by him:

Provided further, that the approval or disapproval of the Registrar shall be communicated to the society within a period of three months from the date of such submission, and in the absence of such communication the resolution shall be effective.

(2) No member of a society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of two years from the date of such expulsion:

Provided that. the Registrar may, in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES.

37. **Societies to be bodies corporate.**—A society on its registration shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all such things as are necessary for the purpose for which it is constituted.

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

39. **Register of members.**—(1) Every society shall keep a register of its members, and enter therein the following particulars, that is to say,—

(a) the name, address and occupation of each member;

(b) in the case of a society having share capital, the share held by each member:

(c) the date on which each person was admitted a member;

(d) the date on which any person ceased to be a member; and

(e) such other particular as may be prescribed:

Provided that, where a society has by or under this Act, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitle to the share or interest of the member, and the date on which the nomination was recorded.

(2) The register shall be *prima facie* evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

40. **Copy of an Act, etc., to be open to inspection.**—Every society shall keep, at the registered address of the society, a copy of this Act and the rules and of its by-laws, and a list of members, open to inspection to the public, free of charge, during office hours or any hours fixed by the society therefor.

41. **Admissibility of copy of entry as evidence.**—(1) A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society shall, if duly certified in such manner as may be prescribed, be admissible in evidence of the existence of the entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.

(2) In the case of such societies, as the Administrator may by general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded, except by order of the Court or a Judge made for special cause.

42. **Exemption from Compulsory registration of instruments relating to shares and debentures of society.**—Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908, XVI of 1908, shall apply—

(a) to any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(b) to any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property, or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) to any endorsement upon, or transfer of, any debenture issued by any society.

43. **Power to exempt from taxation.**—The Central Government, by notification in the Official Gazette may, in the case of any society or class of societies, remit—

(a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar or his nominee or board of nominees under this Act, are respectively chargeable,

(b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees, for the time being in force, and

(c) any other tax or fee or duty (or any portion thereof) payable by or on behalf of a society under any law for the time being in force,

which the Central Government is competent to levy.

44. **Restriction on borrowings.**—A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the by-laws of the society.

45. **Restrictions on making loans.**—(1) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member:

Provided that, with the special sanction of the Registrar, a society may make loans to another society.

(2) Notwithstanding anything contained in sub-section (1) a society may make a loan to a depositor on the security of his deposit.

46. **Restrictions on other transactions with non-members.**—Save as is provided in this Act, the transactions of society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

47. **Charge and set off in respect of share or interest of member.**—In respect of any debt to a society by any member thereof, the society shall have a charge upon the share or interest of such member in the capital of the society, upon the deposits of such member with the society and upon any dividend, rebate or profits payable to such member; and the society may set off any sum credited or payable to such member in or towards the payment of any such debt:

Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 72, and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

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48. **Prior claim of society.**—(1) Notwithstanding anything contained in any other law for the time being in force, but subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue and to the provisions of section 60 and 61 of the Code of Civil Procedure, 1908,—

(a) V of 1908.—any debt or outstanding demand, owing to a society by any member or a person who has ceased to be a member shall be a first charge upon—

(i) the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by him,

(ii) cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or workshop, godown or place of business, supplied to, or purchased by him in whole or in part, from any loan whether in money or goods made to him by the society, and

(iii) any movable property which may have been hypothecated, pledged or otherwise mortgaged by him with the society, and remaining in his custody;

(b) any outstanding demands or dues payable to a society by any member or a person who has ceased to be a member, in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society:

Provided that the prior claim of Government in respect of dues other than land revenue, shall be restricted for the purpose of this sub-section to the assets created by a member out of the funds in respect of which the Government has a claim.

(2) No property or interest in property, which is subject to a charge under sub-section (1) shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may impose.

(3) Any transfer made in contravention of sub-section (2) shall be void.

(4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has as one of its objects the disposal of the produce of its members, may provide in its by-laws, or may otherwise contract with its members,—

(a) that every such member shall dispose of his produce through the society, and

(b) that any member, who is found guilty of a breach of the by-law or of any such contract, shall reimburse the society for any resultant loss, determined in such manner as may be specified in the by-laws.

49. **Charge on immovable property of members borrowing from certain societies.**—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force,—

(a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form. Such declaration shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances, if any, required by him which the society may make to him as such member, subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances;

(b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a); and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

(c) A declaration made under clause (a) or (b) may be varied at any time by a member, with the consent of the society in favour of which such charge is created;

(d) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (a) or (b) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that, it shall be lawful for a member to execute a mortgage bond in favour of a mortgage bank or the Central Government in respect of such land or any part thereof, under the rules made under the Bombay Irrigation Act, 1879 (Bom. VII of 1879) or under any corresponding law for the time being in force, for the supply of water from a canal to such land:

Provided further that, if a part of the amount borrowed by a member is paid, the society may, on an application from the member, release from the charge created under the declaration made under clause (a) or (b) such part of the movable or immovable property specified in the declaration as it may deem proper, with due regard to the adequacy, of the security for the balance of the amount remaining due from or outstanding against the member;

(e) any alienation made in contravention of the provisions of clause (d) shall be void;

(f) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 (Bom. XXV of 1947) or any corresponding law for the time being in force in any part of the State, and to any mortgages created in favour of a land mortgage bank by its members there shall be a first charge in favour of the society on the land or interest specified in the declaration made under clause (a) or (b), for and to the extent of the dues owing by him on account of the loan; and

(g) the Record of Rights relating to the land shall include the particulars of every charge on land or interest created under a declaration under clause (a) or clause (b).

(2) For the purpose of this section, the expression "society" means—

(i) any society, the majority of the members of which are agriculturists, and the primary object of which is to obtain credit for its members, or

(ii) any society, or society of the class of societies, specified in this behalf by the Administrator by a general or special order.

50. **Deduction from salary to meet society's claim in certain cases.**—(1) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay to the society the amount so deducted in satisfaction of any debt or other demand of the society against the member.

(2) On the execution of such agreement, the employer shall, if by a requisition in writing so required by the society and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement notwithstanding anything to the contrary contained in the Payment of Wages Act, 1936 (IV of 1936) and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the said Act on the day on which he makes payment. In making such deduction and payment, it shall not be open to the employer to question the validity or otherwise of such debt or demand.

(3) If after receipt of a requisition made under sub-section (2) the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof; and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue on a certificate being issued by the Registrar after holding such inquiry as he deems fit, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears. A certificate so issued by the Registrar shall not be questioned in any court.

(4) Nothing contained in this section shall apply to persons employed in any railway (within the meaning of the Constitution), and in mines and oil fields.

(2) If a society in which shares are purchased out of the Subsidiary State Partnership Fund is wound up or dissolved, neither the Central Government nor the Apex society shall have any claim against the Central society which purchased the shares, in respect of any loss arising from such purchase; but the Apex society shall be entitled to any moneys received by the Central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the Principal State Partnership Fund.

59. **Disposal of share capital and dividend, etc.**—(1) All moneys received by an Apex society in respect of the redemption of shares of other societies purchased out of the moneys in the Principal State Partnership Fund, or by way of dividends or otherwise or by way of interest, dividend or otherwise on the balance of that fund shall be credited to that Fund.

(2) All moneys received by a Central society in respect of the redemption of shares of Primary societies purchased out of the moneys in the Subsidiary State Partnership Fund, or by way of dividends or otherwise or by way of interest, dividend or otherwise on the balance of that fund, shall in the first instance be credited to that Fund. and then transferred to the Apex society which shall credit them to the Principal State Partnership Fund.

(3) All moneys and dividends referred to in sub-sections (1) and (2) shall notwithstanding that the shares stand in the name of the Apex society or the Central society, as the case may be, be paid to the Central Government.

(4) Save as provided in sub-section (3), the Central Government shall not be entitled to any other return on the moneys provided by it to an Apex society under section 52.

60. **Disposal of Principal or Subsidiary State Partnership Fund on winding up of Apex or Central society.**—(1) If an Apex society which has established a Principal State Partnership Fund is wound up or dissolved, all moneys at the credit of, or payable to that Fund, shall be paid to the Central Government.

(2) If a Central society which has established a Subsidiary State Partnership Fund is wound up or dissolved, all moneys at the credit of, or payable to that Fund, shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) or sub-section (2) of section 53.

61. **Principal or Subsidiary State Partnership Fund not to form part of assets.**—Any amount at the credit of a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the Apex society or the Central society, as the case may be.

62. **Agreement by Central Government and Apex societies.**—Subject to the foregoing provisions of this Chapter—

(a) the Central Government may enter into an agreement with an Apex society setting out the terms and conditions on which it shall provide moneys to the Apex society for the purpose specified in section 52;

(b) an Apex society may, with the previous approval of the Central Government, enter into an agreement with a Central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 53.

63. **Other forms of State aid to societies.**—Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Central Government by general or special order may specify in this behalf, the Central Government may,—

(a) give loans to a society;

(b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both, or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the Central Government;

(c) guarantee the repayment of the principal of, and the payment of interest on, means given by a Co-operative Bank to a society;

(d) guarantee the repayment of the principal of, and payment of interest on, loans and advances given by the Reserve Bank of India, or the Industrial Finance Corporation of India, or any other authority constituted under any law for the time being in force, or

(e) provide financial assistance, in any other form (including subsidies), to a society.

CHAPTER V

State Aid to Societies

51. **Direct partnership of Central Government in societies.**—The Central Government may subscribe directly to the share capital of a society with limited liability.

52. **Indirect partnership of Central Government in societies.**—The Central Government may, under appropriation made by law, provide moneys to a society for the purchase directly or indirectly, of shares in other societies with limited liability. A society to which moneys are so provided for the aforesaid purpose is hereinafter in this Act referred to as an "Apex society".

53. **Principal State Partnership Fund.**—(1) An Apex society shall, with the moneys provided under section 52 establish a Fund to be called the "Principal State Partnership Fund".

(2) An Apex society shall utilise the Principal State Partnership Fund for the purpose of—

(a) directly purchasing shares in other societies with limited liability;

(b) providing moneys to a society to enable that society (hereinafter in this Chapter referred to as a "Central society") to purchase shares in other societies with limited liability (the latter societies being hereinafter in this Chapter referred to as "Primary Societies");

(c) making payments to the Central Government in accordance with the provisions of this Chapter;

and for no other purpose.

54. **Subsidiary State Partnership Fund.**—(1) A Central society which is provided with moneys by an Apex society from the Principal State Partnership Fund shall, with such moneys establish a Fund to be called the "Subsidiary State Partnership Fund".

(2) A Central society shall utilise the Subsidiary State Partnership Fund for the purpose of

(a) purchasing shares in primary societies;

(b) making payments to the Apex society in accordance with the provisions of this Chapter;

and for no other purpose.

55. **Approval of Central Government for purchase of shares.**—Shares shall not be purchased in a society from the moneys in the Principal State Partnership Fund or the Subsidiary State Partnership Fund, except with the previous approval of the Central Government.

56. **Liability to be limited in respect of certain shares.**—Where any shares are purchased in a society by—

(a) the Central Government, or

(b) an Apex society from the Principal State Partnership Fund, or a Central society from the Subsidiary State Partnership Fund, as the case may be,

then in the event of the winding up of such society the liability in respect of such shares shall be limited to the amount paid in respect of such shares.

57. **Restriction on amount of dividend.**—An Apex society which has purchased shares in other societies from the moneys in the Principal State Partnership Fund, and a Central society which has purchased shares in Primary societies from the moneys in the Subsidiary State Partnership Fund, shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society

58. **Indemnity of Apex and Central Societies.**—(1) If a society in which shares are purchased out of the Principal State Partnership Fund is wound up or dissolved, the Central Government shall not have any claim against the Apex society which purchased the shares in respect of any loss arising from such purchase; but the Central Government shall be entitled to any moneys received by the Apex society in liquidation proceedings or on dissolution, as the case may be.

64. **Provisions of this Chapter to override other laws.**—The provisions of sections 52 to 62 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VI

PROPERTY AND FUNDS OF SOCIETIES

65. **Fund not to be divided.**—(1) No part of the funds or assets of a society, other than the dividend equalisation fund, if any, and the net profits thereof, shall be paid by way of rebate or dividend or otherwise distributed, to its members:

Provided that in the case of a member, who is also a salaried servant of the society payment on such scale as may be laid down by the by-laws may be made to him for work done as such servant.

(2) No honorarium shall be paid out of the funds and assets of a society other than the net profits and such honorarium shall not exceed the prescribed limit.

66. **Appropriation of profits.**—(1) A society earning profit, shall calculate its annual net profits by deducting from the gross profits for the year, all accrued interest which is overdue for more than six months, establishment charges, contributions, if any, towards the provident fund and gratuity fund of its employees, interest payable on loan and deposits, audit fees, working expenses including repairs, rents, taxes and depreciation, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profits. A society may, however, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year. The net profits thus arrived at, together with the amount of profits brought forwarded from the previous year shall be available for appropriation.

(2) A society may appropriate its profits to its reserve fund or any other fund created by it to payment of dividends to members on their shares, and to any other purpose which may be specified in the rules or by-laws:

Provided that, no part of the profits shall be appropriated except with the approval of the annual general meeting and in conformity with the Act, rules and by-laws.

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

(2) At least one-fourth of the net profits of the society each year, shall be carried to the reserve fund; and such reserve fund may be used in the business of the society or may, subject to the provisions of section 71, be invested, as the Administrator may by general or special order direct, or may, with the previous sanction of the State Government, be used in part for some public purpose likely to promote the objects of this Act, or for some such purpose of the State, or of local interest:

Provided that if the Registrar is satisfied that financial condition of the society is such that it is unable to carry to its reserve fund an amount upto the aforesaid limit of one-fourth of its net profits, he may by order in writing, for such period as he may specify in the order, fix for the society a limit lower than the aforesaid limit but not lower than one-tenth of its net profits.

(3) Where the reserve fund of a society exceeds its authorised share capital, then, notwithstanding anything contained in sub-section (1), the society may, with the previous permission of the Registrar carry to its reserve fund each year an amount which may be less than one-fourth but not less than one-tenth of its net profits.

68. **Restriction on dividend.**—No society shall pay a dividend to its members at a rate exceeding 9 per cent.

70. **Contribution to public purposes.**—After providing for the reserve fund as provided in section 67 a society may set aside a sum not exceeding twenty per cent. of its net profits, and utilise from time to time, with the approval of the Administrator.

71. **Investment of funds.**—(1) A society may invest, or deposit its funds,—

(a) in a Central Bank, or the State Co-operative Bank,

(b) in the State Bank of India,

(c) in the Postal Savings Bank,

(d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, II of 1882.

(e) in shares, or security bonds, or debentures, issued by any other society with limited liability, or

(f) in any co-operative bank or in any banking company approved for this purpose by the Registrar, and on such conditions as the Registrar may from time to time impose,

(g) in any other mode permitted by the rules, or by general or special order of the Administrator.

(2) Notwithstanding anything contained in sub-section (1), the Registrar may, with the approval of the Administrator order a society or a class of societies to invest any funds in a particular manner, or may impose conditions regarding the mode of investment of such funds.

72. **Employees provident fund.**—(1) Any society may establish for its employees a provident fund, into which shall be paid the contributions made by its employees and by the society. Such provident fund shall not be used in the business of the society, nor shall it form part of the assets of the society; but shall be invested under the provisions of section 71 and shall be administered in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1) a provident fund established by a society to which the Employees Provident Funds Act, 1952. XIX of 1952 is applicable, shall be governed by that Act.

CHAPTER VII

MANAGEMENT OF SOCIETIES

73. **Final authority of society.**—Subject to the provisions in this Act and the rules, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the by-laws:

Provided that, where the by-laws of a society provide for the election of delegates of such members, the final authority may vest in the delegates of such members elected in the prescribed manner, and assembled in general meeting.

74. **Committee, its powers and functions.**—The management of every society shall vest in a committee, constituted in accordance with this Act, the rules and by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed on it respectively by this Act, the rules and the by-laws.

75. **Handing over records and property to new Chairman on election.**—(1) On the election of a new committee and its Chairman, the retiring Chairman in whose place the new Chairman is elected shall hand over charge of the office of the committee and all papers and property, if any, of the society in possession of the committee or any officer thereof, to the new Chairman of the committee.

(2) If the retiring Chairman fails or refuses to hand over charge or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property and the Registrar may, on the retiring Chairman's failure to comply with such direction, make order for seizing the records and property and handing them over to the New Chairman, in the manner provided in section 83.

76. **Appointment of officers and employees and their conditions of service.**—The qualifications for the appointment of a manager, secretary, accountant or any other officer or employee of a society and the conditions of service of such officers and employees shall be such as may, from time to time, be prescribed:

Provided that no qualification shall be prescribed in respect of any officer not in receipt of any remuneration.

77. **Annual general meeting.**—(1) Every society shall, within a period of three months next after the date fixed for drawing up its accounts for the year under the rules for the time being in force, call a general meeting of its members:

Provided that, the Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months:

Provided further that, if in the opinion of the Registrar no such extension is necessary, or such meeting is not called by the society within the extended

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period, if any, the Registrar or any person authorised by him in that behalf may in the prescribed manner call such meeting which shall be deemed to be a general meeting duly called by the society.

(2) At every annual general meeting of a society, the committee shall lay before the society a balance sheet and profit and loss account for the year in the manner, prescribed by the Registrar by general or special order for any class or classes of societies.

Explanation.—In the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account; and all references to profit and loss account, and to "profit" or "loss" in this Act, shall be construed in relation to such society as references respectively to the "excess of income over expenditure" and "excess of expenditure over income".

(3) There shall be attached to every balance sheet laid before the society, in general meeting, a report by its committee, with respect to (a) the state of the society's affairs; (b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and (c) the amounts, if any, which it recommends for payment by way of dividend, bonus, or honoraria to honorary workers. The committee's report shall also deal with any changes in the nature of the society's business which have occurred during the year for which the accounts are drawn up. The committee's report shall be signed by its Chairman, or any other member authorised to sign on behalf of the committee.

(4) At every annual general meeting, the balance sheet, the profit and loss account, the auditor's report and the committee's report, shall be placed for adoption. and such other business will be transacted as may be laid down in the by-laws and of which due notice has been given.

(5) Where any officer of the society, whose duty it was to call a general meeting within the period specified in sub-section (1) or, as the case may be, the period extended by the Registrar under that sub-section or to comply with sub-section (2), (3) or (4) fails without reasonable excuse to call such meeting or to comply with sub-section (2), (3) or (4), then—

(i) if such officer is a servant of the society, the Registrar may by an order in writing impose on him a penalty of an amount not exceeding one hundred rupees, and

(ii) if such officer is not a servant of the society, the Registrar may by an order in writing declare such officer to be disqualified for being an officer, or a member of the Committee, of the society or for being elected or appointed to any office of the society, for such period not exceeding three years as he may specify in the order:

Provided that before making an order under this sub-section, the Registrar shall give or cause to be given, a reasonable opportunity to the officer to show cause against the action proposed to be taken in regard to him.

78. **Special general meeting.**—(1) A special general meeting may be called at any time by a majority of the committee, and shall be called by the committee within one month—

(i) on a requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the by-laws for the purpose, whichever is lower, or

(ii) on a requisition from the Registrar, or

(iii) in the case of a society, which is a member of a federal society, on a requisition from the committee of such federal society.

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

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

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

79. **Acts of societies, etc., not to be invalidated by certain defects.**—(1) No act of a society or a committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society, or in the constitution of the committee, or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office.

(2) No act done in good faith by any person appointed under this Act, the rules or by-laws shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently passed thereunder.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society; and his decision thereon shall be final.

80. **Power to appoint Government nominee.**—Where the Central Government has subscribed to the share capital of a society, directly or through another society, or has guaranteed the repayment of the principal of and payment of interest on, debentures issued or loans raised by a society, the Central Government shall have the right to nominate (not more than three) representatives on the committee of such society, in such manner as may be determined by the Central Government from time to time. The members so nominated shall hold office during the pleasure of the Central Government, or for such period as may be specified in the order by which they are appointed, and any such member on assuming office shall have all rights, duties responsibilities and liabilities as if he were a member of the committee duly elected.

81. **Supersession of committee.**—(1) If, in the opinion of the Registrar, the committee of any society persistently makes default, or is negligent, in the performance of the duties imposed on it by this Act or the rules or the by-laws, or does anything which is prejudicial to the interests of the society or its members, then subject to the rules, the Registrar may, after giving the committee an opportunity of stating its objections, if any, within fifteen days from the date of issue of notice, by order in writing, remove the committee; and

(a) appoint a committee, consisting of one or more members of the society, in its place, or

(b) appoint one or more Special Officers, who need not be members of the society,

to manage the affairs of the society for a period not exceeding two years specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the total period does not exceed four years in the aggregate.

(2) The committee or Special Officer so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society, and take all such action as may be required in the interests of the society.

(3) If at any time during any period or extended period referred to in clause (b) sub-section (1), it appears to the Registrar that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, he may, by an order published in the Official Gazette, direct that the management shall terminate; and on such order being made, the management of the society shall be handed over to a new committee duly constituted.

(4) The committee or Special Officer shall, at the expiry or termination of its or his term of office, arrange for the constitution of a new committee in accordance with the by-laws of the society.

(5) All acts done or purported to be done by the committee or Special Officer during the period during which the affairs of the society are carried on by the

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committee or Special Officer appointed under sub-section (1), shall be binding on the new committee.

(6) Before taking any action under sub-section (1) in respect of a society, the Registrar shall consult any co-operative financing institution to which it is indebted.

82. **Registrar's power to enforce performance of obligations.**—(1) It shall be the duty of every society to keep the prescribed books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and such records to the Registrar as the Registrar may by order direct from time to time; and the officer or officers of the society shall be bound to comply with the order within the period specified therein.

(2) Where any society is required to take any action under this Act, the rules or the by-laws, or in compliance with an order made under sub-section (1) and such action is not taken—

(a) within the time provided in this Act, the rules or the by-laws, or the order, as the case may be, or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (2), he may call upon any officer of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the by-laws, or the order made under sub-section (1), and, after giving him an opportunity of being heard, may require him to pay to the society the expenses paid or payable by it to the Central Government as a result of his failure to take action, and to pay to the assets of the society such sum not exceeding fifteen rupees as the Registrar may think fit for each day until Registrar's directions are carried out.

83. **Registrar's power to seize records, etc.**—Where the Registrar is satisfied that the books and records of a society are likely to be tampered with or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar may issue an order directing a person duly authorised by him in writing to seize and take possession of such books and records, funds and property of the society, and the officer of the society responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorised.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

84. **Auditor.**—(1) The Registrar shall audit, or cause to be audited by a person possessing prescribed qualifications and authorised by the Registrar by general or special order in writing in this behalf, the accounts of every society at least once in each year. The person so authorised shall be an auditor for the purposes of this Act.

(2) The audit under the foregoing sub-section shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The Registrar or the auditor shall, for the purpose of audit, at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society, and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society, and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar, or the auditor may require.

(5) The auditor shall have the right to receive all notices, and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.

(6) If it appears to the Registrar, on an application by a society or otherwise, that it is necessary or expedient to re-audit any accounts of the society, the Registrar may by order provide for such re-audit and the provision of this Act applicable to audit of accounts of the society shall apply to such re-audit.

(7) For auditing the accounts of a society under this section, the society shall be liable to pay audit fee at such scale as may be prescribed.

85. **Rectification of defects in accounts.**—If the result of the audit held under section 84 discloses any defects in the working of a society, the society shall within three months from the date of the audit report, explain to the Registrar the defects or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action and within such time as may be specified therein to remedy the defects. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.

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

(2) The Registrar shall hold such an inquiry—

(a) on the requisition of a society duly authorised by rules made in this behalf to make such requisition, in respect of any of its members, such member being itself a society, or

(b) on the application of a majority of the committee of a society, or

(c) on the application of one-third of the members of a society.

(3) (a) Every Officer, member and past member of the society in respect of which an inquiry is held, and any other person who is in possession of information, books and papers relating to the society, shall on being so required furnish such information as is in his possession, and produce all books and papers relating to the society which are in his custody or power, and otherwise give to the officer holding the inquiry all assistance in connection with the inquiry which he can reasonably give.

(b) If any such person refuses to produce to the Registrar or any person authorised by him under sub-section (1), any book or paper which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar may impose on the defaulter a penalty of an amount not exceeding five hundred rupees. Before imposing such penalty, the Registrar shall give, or cause to be given a reasonable opportunity to the defaulter, of showing cause against the action proposed to be taken in regard to him.

(4) (a) If at any stage of the inquiry under this section the Registrar is satisfied that in the interest of the members of the society, it is necessary to take over all books and papers relating to the society during the period of inquiry, he may make an order in writing to that effect and directing the society to hand over all books and papers relating to the society to such officer as may be specified in the order. The Registrar may also issue a direction to the society to refrain from doing such acts or engaging in such activities as may be specified in the direction.

(b) The society shall be bound to comply with any direction issued to it under clause (a).

(c) The books and papers taken over under clause (a) shall be returned to the society on the completion of the inquiry.

(5) When an inquiry is held under this section the Registrar shall communicate the result of the inquiry—

(i) in case the Central Government have subscribed directly to the share capital of the society or in case any moneys are due from the society to the Principal State Partnership Fund or to the Subsidiary State Partnership Fund, to the Central Government or to any officer appointed by it in this behalf;

(ii) to the federal co-operative society concerned, and

(iii) to the society concerned.

(6) It shall be competent for the Registrar to withdraw any inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.

87. **Inspection of books of indebted society.**—(1) On the application of a creditor of a society who,—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within reasonable time, and

(b) deposits with the Registrar such sums as the Registrar may require as security for the costs of any inspection of the books of the society,

the Registrar may, if he thinks it necessary, inspect or direct a person authorised by him by order in writing in this behalf to inspect, the books of the society.

(2) The Registrar shall communicate the result of any such inspection to the applicant, and to the society whose books have been inspected.

(3) It shall be competent for the Registrar to withdraw any inspection from the officer to whom it is entrusted, and to carry out the inspection himself or entrust it to any other person as he deems fit.

88. **Inspection of books by financing Bank.**—Where a society is indebted to any co-operative financing bank such bank shall have the right to inspect the books of that society. The inspection may be made either by an officer of the bank authorized by the committee of such bank or by a member of its paid staff certified by the Reistrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the bank.

89. **Suspension of officer or servant of society.**—(1) Where in the course of an audit under section 84 or an inquiry under section 86 or an inspection under section 87 or section 88, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion, there is *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the society, direct the committee of the society pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (1), the committee of the society shall, notwithstanding any provision to the contrary in the by-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the committee to extend from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

(4) If the committee fails to comply with the direction issued under sub-section (1), the Registrar may make an order placing such paid officer or servant under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

90. **Costs of inquiry and inspection.**—(1) The cost of an inquiry under section 86 or, as the case may be of an inspection under section 87 shall be met in the first instance from the Consolidated Fund of India and shall be recovered in accordance with sub-section (2) and section 91.

(2) The Registrar shall determine the total amount of the cost referred to in sub-section (1) and by order apportion the cost or such part thereof as he may think just between the society, the members or creditors demanding the inquiry

or inspection, the officers or former officers and the members or past members of the society:

Provided that where a person has ceased to be a member on his death, the order of apportionment shall be made against his estate, if such person was liable for the costs:

Provided further that no order of apportionment of costs shall be made under this section without—

(a) having heard, or given a reasonable opportunity of being heard to, the society or person or in the case of an estate its legal representative, as the case may be, against whom or which such order is proposed to be made; and

(b) setting out in the order the grounds on which the apportionment is made.

(3) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under sub-section (1).

91. **Mode of recovery of sums imposed as penalty or awarded as costs.**—Any sum imposed as penalty under sections 77, 78 or 86 or awarded by way of costs under section 90 may, on an application by the Registrar or a person authorised by him in that behalf to a Magistrate having jurisdiction in the place where the person from whom the penalty or costs are recoverable resides or carries his business, be recovered by the Magistrate as if it were a fine imposed by himself; and such Magistrate shall proceed to recover the same in the manner provided by the Code of Criminal Procedure 1898 (V of 1898), for the recovery of fines.

92. **Registrar to bring defects disclosed in inquiry or inspection to notice of society.**—(1) If the result of any inquiry held under section 86 or inspection made under section 87, discloses any defects in the constitution, working or financial condition or the books of a society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.

(2) The society concerned may make an appeal against an order made by the Registrar under sub-section (1) to the Administrator within two months from the date of the communication of the order to the society.

(3) The Administrator may, in deciding the appeal, annul, reverse, modify or confirm, the order of the Registrar.

(4) Where the society fails to rectify the defects as directed by the Registrar and where no appeal has been made to the Administrator under sub-section (2) or where on the appeal so made the Administrator has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the costs from the officers of the society who, in his opinion, have failed to rectify the defects.

93. **Power of Registrar to assess damages against delinquent promoters, etc.**—(1) Where, in the course of or as a result of an audit under section 84, or an inquiry under section 86 or an inspection under section 87, or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 86, or the person authorised to inspect the books under section 87, or the Liquidator under section 110, that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of such audit, inquiry, inspection or order for winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may investigate the conduct of such person or persons and after framing charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

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(2) The Registrar or the person authorised under sub-section (1) in making any order under this section, may provide therein for the payment of the costs or any part thereof of such investigation, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.

94. **Power to enforce attendance, etc.**—The Registrar or the person authorised by him, when acting under sections 86, 87 or 93 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908).

95. **Constitution or recognition of federal society to supervise working of societies.**—(1) The Administrator may constitute committees or recognise one or more co-operative federal societies in such manner as may be prescribed and subject to such conditions as the Administrator may impose, for the supervision of a society or a class of societies and may frame rules for making grant to any such committee or federal society.

(2) The Central Government may, by general or special order, require of a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment of expenditure which the Central Government or any person authorised or a committee in that behalf has incurred or is likely to incur, in respect of the supervision of societies.

(3) A society to which sub-section (2) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and, if it fails to pay such fee within a reasonable time, the authority may recover it as if it were an arrear of land revenue.

CHAPTER IX

PROCEDURE FOR DECIDING DISPUTES

96. **Disputes.**—(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or business of a society shall be referred in the prescribed form either by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to the Registrar, if the parties thereto are from amongst the following:—

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society;

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

(c) a person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 46, and any person claiming through such a person;

(d) a surety of a member, past member or a deceased member, or a person other than member who has been granted a loan by the society under section 46, whether such a surety is or is not a member of the society;

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

(2) When any question arises whether for the purposes of sub-section (1) a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

Explanation I.—For the purposes of this sub-section a dispute shall include—

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

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

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

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

Explanation II.—For the purposes of this section, the expression "agent" includes in the case of a housing society, an architect, engineer or contractor engaged by the society.

97. **Limitation.**—(1) Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963), but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under section 96 shall—

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

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

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 107, or in respect of which a nominated committee or an administrator has been appointed under section 81, be six years from the date of the order issued under section 107, or section 81, as the case may be;

(d) when the dispute is in respect of an election of any office-bearer of a society, be two months from the date of the declaration of the result of such election.

(2) The period of limitation in the case of any dispute other than those mentioned in sub-section (1) which are required to be referred to the Registrar under section 96 shall be regulated by the provisions of the Limitation Act, 1963 (36 of 1963), as if the dispute were a suit, and the Registrar a Civil Court.

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

98. **Settlement of disputes.**—(1) If the Registrar is satisfied that any matter referred to him is a dispute within the meaning of section 96 the Registrar shall subject to the rules, decide the dispute himself, or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar:

Provided that no person who is connected with a dispute or with the society at any stage or has previously inspected the society or audited its accounts shall be appointed as a nominee or as member of the board of nominees to settle the dispute.

(2) Where any dispute is referred under sub-section (1) for decision to the Registrar's nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing withdraw such dispute from his nominee, or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee, or board of nominees appointed by him.

(3) Notwithstanding anything contained in section 96, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants is one

involving complicated question of law or fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted within two months from the Registrar's order suspending proceedings, the Registrar shall take action as is provided in sub-section (1).

99. **Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees.**—(1) The Registrar, or his nominee or board of nominees hearing a dispute under section 98 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as provided in the case of a Civil Court by the Code of Civil Procedure, 1908. (V of 1908).

(2) Except where a dispute involves complicated question of law or fact, no legal practitioner in his capacity as a legal practitioner or as a person holding a power of attorney shall be permitted to appear on behalf of any party at the hearing of a dispute.

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

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

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

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

100. **Attachment before award.**—(1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 98 or under section 110, or where the Registrar or the person authorised under section 93 hears a person against whom charges are framed under that section, the Registrar or his nominee or board of nominees, or as the case may be, the person so authorised under section 93 if satisfied on enquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 93 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,—

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

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

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

(2) Where a direction to attach property is issued under sub-section (1) the Registrar, his nominee or board of nominees or the person authorised under section 93 shall issue a notice calling upon the person whose property is so attached to furnish such security within such period as may be specified in the notice; and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees or, as the case may be, the person authorised under

section 93 may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in sub-section (1) may direct the disposal of the property so attached towards the claim if awarded.

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

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

102. **Appeal against decision of Registrar or his nominee or board of nominees.**—Any party aggrieved by any decision of the Registrar or his nominee or board of nominees under section 101 or an order passed under section 100 may, within two months from the date of the decision or order, appeal to the Tribunal.

103. **Money how recovered.**—Every order passed by the Registrar or a person authorised by him under section 93, or by the Registrar, his nominee or board of nominees under section 100 or 101, every order passed in appeal under section 102, every order passed by a Liquidator under section 110, every order passed by the Administrator in appeal against orders passed under section 110, and every order passed in revision under section 155, shall, if not carried out,—

(a) on a certificate signed by the Registrar or a Liquidator, be deemed to be a decree of a Civil Court, as defined in clause (2) of section 2 of the Code of Civil Procedure, 1908 (V of 1908) and shall be executed in the same manner as a decree of such Court, or

(b) be executed according to the provisions of the Land Revenue Code and the rules thereunder for the time being in force for the recovery of arrears of land revenue:

Provided that, any application for the recovery in such manner of any such sum shall be made to the Mamlatdar, and shall be accompanied by a certificate signed by the Registrar, or by any Assistant Registrar to whom the said power has been delegated by the Registrar. Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

104. **Private transfer of property made after issue of certificate void against society.**—Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 103 shall be null and void as against the society on whose application the said certificate was issued.

105. **Transfer of property which cannot be sold.**—(1) When in execution of an order sought to be executed under section 103 any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 103, the Court or the Mamlatdar or the Registrar, as the case may be, may direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.

(2) Where property is transferred to the society under sub-section (1), or is sold under the provisions of section 103, the Court, the Mamlatdar or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to the rules made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Mamlatdar or the Registrar, as the case may be, and the said society. Subject to the general or special orders of the Administrator, the Mamlatdar or the Registrar

may delegate to an officer, not below the rank of an Assistant or Deputy Collector or an Assistant Registrar powers exercised by the Mamlatdar or the Registrar under this section.

106. **Recovery of crop loans.**—(1) Notwithstanding anything contained in sections 96, 98 and 103 on an application made by a society undertaking the financing of crops and seasonal finance for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crop or seasonal finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(2) Where the Registrar is satisfied that a society has failed to take action under sub-section (1) in respect of such arrears the Registrar may, of his own motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as such arrears, and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, which shall be recoverable according to the provisions of the Land Revenue Code and of the Rules thereunder for the time being in force for the recovery of land revenue.

(4) Until the arrears due to the Society together with interest and any incidental charges incurred in the recovery of such arrears are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar, it shall be lawful for the Mamlatdar and the Registrar to take the following precautionary measures, namely:—

(i) to prevent the crop being removed from the land;

(ii) (a) to require that the crop growing on any land liable to the payment of arrears due to the society shall not be reaped until a notice in writing is given to the Mamlatdar or the Registrar, as the case may be, in this behalf, with an acknowledgment of its receipts;

(b) to direct that no such crop shall be removed from the land on which it has been reaped or from any place in which it may have been deposited without the written permission of the Mamlatdar or the Registrar;

(c) to cause watchmen to be placed for any such crop to prevent the unlawful reaping or removal of the same, and to realise the amount required for the remuneration of the said watchmen at such rate not exceeding the rate of pay received by such watchmen as an arrear of land revenue due in respect of the land to which such crop belongs.

(5) The Mamlatdar's or Registrar's orders under sub-clause (a) or (b) of clause (ii) of sub-section (4) may be issued generally or in individual cases. If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the Patelad or some other public building in the village. If it be to individual holders, a notice thereof shall be served on each holder concerned.

(6) Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall within the meaning of the Indian Penal Code (45 of 1860), abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry before the Mamlatdar, to a fine not exceeding double the amount of the land revenue due on the land to which the crop belongs in respect of which the offence is committed.

(7) The Mamlatdar or Registrar, as the case may be, shall not defer the reaping of the crop nor prolong its deposit unduly, so as to damage the produce, and if within two months after the crop has been deposited the dues have not been discharged, he shall either release the crop and proceed to realise the revenue in any other manner authorised by law, or take such portion thereof as he may deem fit for sale in the prescribed manner and realise the rest.

CHAPTER X.

LIQUIDATION

107. **Winding up.**—(1) If the Registrar,—

(a) after an inquiry has been held under section 86, or an inspection has been made under section 87, or on the report of the auditor auditing the accounts of the society, or

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

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

(i) has not commenced working, or

(ii) has ceased working, or

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

(iv) has ceased to comply with any condition as to registration and management in this Act or the rules or the by-laws,

is of the opinion that a society ought to be wound up, he may make an interim order directing it to be wound up.

(2) Where an interim order is made on a ground specified in clause (a) or sub-clause (iv) of clause (c) of sub-section (1) a copy thereof shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order.

(3) The Registrar, after giving an opportunity to the society of being heard, shall make a final order, vacating or confirming the interim order.

108. **Appointment of Liquidator.**—(1) When an interim or final order is made under section 107 for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the liquidator of the society and fix his remuneration.

(2) Where an interim order is made the officers of the society shall hand over to the liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society and, shall have no access to any of them.

(3) When a final order is made confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force, the general body of the society shall not exercise any powers.

(4) The liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 110. The Registrar may remove him from his office and appoint another in his place, without assigning any reason.

(5) The whole of the assets of the society shall on the appointment of the liquidator vest in him and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by him on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected, and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(6) In the event of the interim order being vacated, the liquidator shall hand over the property, effects, actionable claims, books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by the liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been vacated under section 107 be continued by the officers of the society.

109. **Appeal against order of winding up.**—(1) The committee, or any member, of the society ordered to be wound up, may within two months from the date of the communication to the society of the order made under section 107 appeal, if the order is made by the Registrar, Additional Registrar or Joint Registrar to the

Administrator or if the order is made by any other person on whom the powers of the Registrar are conferred to the Registrar:

Provided that no appeal shall lie against an order issued under sub-clause (i), (ii) or (iii) of clause (c) of sub-section (1) of section 107:

Provided further that, no appeal shall lie against an order passed by the Registrar on appeal.

(2) No appeal under this section shall be entertained from a member unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

110. **Powers of Liquidator.**—The Liquidator appointed under section 108 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,—

(a) to institute and defend suits and other legal proceedings, civil or criminal, on behalf of the society, in the name of his office;

(b) to carry on the business of the society, so far as may be necessary for the beneficial winding up of the same;

(c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels;

(d) to raise, on the security of the assets of the society, any money required;

(e) to investigate all claims against the society and, subject to the provisions of the Act, to decide questions of priority arising out of such claims and to pay any class or classes of creditors in full or rateably according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate approved by the Registrar, but not exceeding the contract rates;

(f) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable;

(g) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society, and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;

(h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the state, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs or legal representatives of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;

(i) to make applications under section 103;

(j) to get disputes referred to the Registrar for decision by himself or his nominee or board of nominees;

(k) to determine by what persons and in what proportion the costs of the liquidation shall be borne;

(l) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefits of any distribution made before those debts or claims are proved;

(m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as provided in the case of a Civil Court under Code of Civil Procedure, 1908 (V of 1908);

(n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up;

(o) to take such action as may be necessary under section 19, with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

111. **Effect of order of winding up.**—After the expiry of the period for appeal under section 109 against the order made under sub-section (3) of section 107, or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all creditors and of all the contributories of the society, as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the liquidator shall proceed to realise the assets of the society by sale or otherwise, and no dispute shall be commenced, or if pending at the date of the winding up order, be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose. The Registrar, may of his own motion, however, entertain or dispose of any dispute by or against the society.

112. **Bar of suit in winding up and dissolution matters.**—Save as expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act; and when a winding up order has been made no suit or other legal proceedings shall lie or be proceeded with against the society or the liquidator, except by leave of the Registrar, and subject to such terms as he may impose:

Provided that, where the winding up order is cancelled, the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as liquidator.

113. **Audit of Liquidator's accounts.**—(1) The liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than twice each year, present to the Registrar an account in the prescribed form of his receipts and payments as liquidator. The Registrar shall cause the accounts to be audited in such manner as he thinks fit; and for the purpose of audit, the liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.

(2) The liquidator shall cause a summary of audited accounts to be prepared, and shall send a copy of such summary to every contributory.

(3) The liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts and books kept by him in the manner prescribed.

(4) The liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions subsequent to his taking charge of the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 93:

Provided that, no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or wanton omission by the liquidator, in carrying out the duties and functions.

114. **Termination of liquidation proceedings.**—(1) The winding up proceedings of a society shall be closed within three years from the date of the order of the winding up, unless the period is extended by the Registrar:

Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall, immediately after the expiry of *seven years* from the date of the order for winding up of the society, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

Explanation.—In the case of a society which is under liquidation at the date of the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the said date.

(2) Notwithstanding anything contained in sub-section (1) the Registrar shall terminate the liquidation proceedings on receipt of the final report from the liquidator. The final report of the liquidator shall state that the liquidation proceedings of the society have been closed, and also state how the winding up has been conducted and the property and claims of the society have been disposed of, and shall

include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount, if any, standing to the credit of the society, after paying off its liabilities including the share or interest of members, and shall suggest how the surplus should be utilised.

(3) The Registrar, on receipt of the final report from the liquidator, shall direct the liquidator to convene a general meeting of the members of the society for recording the report.

115. **Disposal of surplus assets.**—Any surplus assets, as shown in the final report of the liquidator of a society which has been wound up, shall not be divided, amongst its members but shall be devoted to any object or objects provided in the by-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose. Where the society has no such by-law, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged was serving:

Provided that, where no such society exists or is registered within three years of the cancellation of the registration of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus in the manner he thinks best, among any or all of the following:—

(a) an object of public utility and of local interest as may be recommended by the members in general meeting held under section 114 or where the society has ceased to function and its record is not available or none of its members is forthcoming, as the Registrar thinks proper;

(b) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890. (VI of 1890).

CHAPTER XI

LAND MORTGAGE BANKS

116. **Application of chapter to certain Land Mortgage Banks.**—This Chapter shall apply to Land Mortgage Banks advancing loans, other than short term loans, for the purposes herein enumerated that is to any—

(i) land improvement and productive purposes;

(ii) the erection, rebuilding or repairing of houses for agricultural purposes;

(iii) the purchase or acquisition of title to agricultural lands by tenant purchasers or tenants under the Bombay Tenancy and Agricultural Lands Act, 1948, (Bom. LXVII of 1948) or any corresponding law for the time being in force; or

(iv) the liquidation of debts under the Bombay Agricultural Debtors Relief Act, 1947, (Bom. XXV-III of 1947), or any corresponding law for the time being in force.

Explanation 1.—For the purposes of this section a short term loan means a loan for a duration of less than 18 months.

Explanation 2.—Land improvement and productive purposes mean any work, construction or activity which adds to the productivity of the land and, in particular, includes the following, that is to say—

(a) construction and repair of wells (including tube wells), tanks and other works for the storage, supply or distribution of water for the purpose of agriculture, or for the use of men and cattle employed in agriculture;

(b) renewal or reconstruction of any of the foregoing works, or alterations therein, or additions thereto;

(c) preparation of land for irrigation;

(d) drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or waste land which is cultivable;

(e) bunding and similar improvements;

(f) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes;

(g) horticulture;

(h) purchase of oil-engines, pumping sets and electrical motors for any of the purposes mentioned herein;

(i) purchase of tractors or other agricultural machinery;

(j) increase of the productive capacity of land by addition to it of any special variety of soil;

(k) construction of a permanent farm-house, cattle-sheds, and sheds for processing of agricultural produce at any stage;

(l) purchase of machinery for crushing sugarcane, manufacturing *gur* or *khandsari* or sugar;

(m) purchase of land for consolidation of holdings under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, (Bom. LXII of 1947) or any other corresponding law for time being in force;

(n) such other purposes as the State Government may, from time to time, by notification in the *Official Gazette*, declare to be land improvement or productive purposes for the purpose of this Chapter.

117. **Definitions.**—In this Chapter unless the context otherwise requires:—

(1) "Land Mortgage Bank", means a Co-operative Bank registered or deemed to be registered under this Act, and to which this Chapter applies;

(2) "Primary Land Mortgage Bank," means a Land Mortgage Bank recognised as Primary Land Mortgage Bank by the Registrar;

(3) "State Land Mortgage Bank", means a Land Mortgage Bank for the whole of the Union territory of Dadra and Nagar Haveli and recognised as such by the Registrar.

118. **Appointment, powers and functions of Trustee.**—(1) The Registrar or where the Administrator appoints any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfilment of the obligations of the State Land Mortgage Bank to the holders of debentures issued by the State Land Mortgage Bank.

(2) The Trustee shall be a corporation sole, by the name of the Trustee for the debentures in respect of which he is appointed, and, as such, shall have perpetual succession and a common seal, and in his corporate name may sue and be sued.

(3) The powers and functions of the Trustee shall be governed by the provisions of this Act, and the instrument of trust executed between the State Land Mortgage Bank and the Trustee, as modified from time to time by mutual agreement between the State Land Mortgage Bank and the Trustee.

119. **Issue of debentures.**—(1) With the previous sanction of the Central Government and the Trustee, and subject to the rules, the State Land Mortgage Bank in the discharge of its functions issue debentures of such denominations, for such period, and at such rates of interest, as it may deem expedient on the security of the mortgages, or mortgages to be acquired or partly on mortgages held and partly on those to be acquired and properties and other assets of its land mortgage business.

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem at any time in advance of the date fixed for redemption, after giving to the holder of the debenture not less than three months' notice in writing.

(3) The total amount due on debentures issued by the State Land Mortgage Bank, and outstanding at any time, shall not exceed—

(a) where debentures are issued against mortgages held, the aggregate of—

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 124 by the Primary Land Mortgage Banks to the State Land Mortgage Bank and subsisting at such time; and

(iii) the amounts paid under the mortgages aforesaid and the unsecured amounts remaining in the hands of the State Land Mortgage Bank or the Trustee at the time;

(b) where debentures are issued otherwise than on mortgages held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage.

120. **Guarantee by Central Government.**—The principal of, and interest on, the debentures issued under section 119 shall, to such maximum amount as may be fixed by the Central Government and subject to such conditions as the Central Government may think fit to impose, carry the guarantee of the Central Government.

121. **Vesting of property in trustee and debenture holders' charge on assets.**—Upon the issue of debentures under the provisions of section 119, the mortgaged properties and other assets referred to in sub-section (3) of section 119 held by the State Land Mortgage Bank shall vest in the Trustee; and the holders of debentures shall have a floating charge on all such mortgages and assets, and on the amount paid under such mortgages and remaining in the hands of the State Land Mortgage Bank or of the Trustee.

122. **Priority of mortgage.**—(1) A mortgage executed in favour of a land mortgage bank shall have priority over any claim of the Government arising from a loan granted after the execution of the mortgage under the Land Improvement Loans Act, 1883 (IX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884), or any other law for the time being in force.

(2) Notwithstanding anything contained in the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. XLV-II of 1948), or any other corresponding law for the time being in force, where a mortgage in favour of a land mortgage bank is in respect of land in which a tenant has an interest, the mortgage may be against the security of such interest, and the rights of the mortgagee shall not be affected by the failure of the tenant to comply with the requirements of such law, and the sale of the land and tenant's interest therein under such law shall be subject to the prior charge of the land mortgage bank.

123. **Order granting loans conclusive of certain matters.**—A written order by the Land Mortgage Bank, or persons or committees authorised under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 116 granting, either before or after the commencement of this Act, a loan to or with the consent of, a person mentioned therein, for the purpose of carrying out the work specified therein, for the benefit of the land or for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters that is to say,—

(*a*) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 116 ;

(*b*) that the person had at the date of the order a right to make such an improvement, or incur expenditure for productive purpose, as the case may be; and

(c) that the improvement is one benefiting the land specified and the productive purpose concerns the land offered in security, or any part thereof as may be relevant.

124. **Mortgages executed in favour of Primary Land Mortgage Banks to stand vested in State Land Mortgage Bank.**—The mortgages executed in favour of, and all other assets transferred to a Primary Land Mortgage Bank by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by it to the State Land Mortgage Bank and shall vest in the State Land Mortgage Bank.

125. **Registration of mortgage in favour of Land Mortgage Banks.**—Notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908) it shall not be necessary to register mortgages executed in favour of the Land Mortgage Banks, provided that the Land Mortgage Bank concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is situate. Such Registering Officer shall file a copy or copies as the case may be in his Book No. 1 prescribed under section 51 of the Indian Registration Act, 1908 (XVI of 1908).

126. **Mortgages not to be questioned on insolvency of mortgagors.**—Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909 (III of 1909) or the Provincial Insolvency Act, 1920 (V of 1920) or any corresponding law for the time being in force, a mortgage, executed in favour of a land mortgage bank, shall not be called in question on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the bank a preference over other creditors of the mortgagor.

127. **Right of land mortgage bank to pay prior debts of mortgagor.**—(1) Where a mortgage is executed in favour of a land mortgage bank for payment of prior debts of the mortgagor, the land mortgage bank shall, notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office, within such period as may be specified in the notice.

(2) Where any such person fails to accept such notice or, to receive such payments, such debts or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice :

Provided that, where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the land mortgage bank towards the debt, but such receipt shall not prejudice the right, if any, of such person to recover the balance claimed by him.

128. **Mortgages executed by managers of joint Hindu families.**—(1) Where a mortgage [other than a mortgage to which sub-section (2) applies] executed in favour of a land mortgage bank either before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether such members have attained majority or not the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it.

(2) A mortgage, executed in favour of a land mortgage bank or the State Land Mortgage Bank by the manager of a joint Hindu family in respect of a loan advanced by such bank for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to raise the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

129. **Restrictions on lease.**—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) or any other law for the time being in force, no mortgagor of property mortgaged to a land mortgage bank, shall, except with the prior consent in writing of the bank and subject to such terms and conditions as the bank may impose, lease or create any tenancy rights on any such property :

Provided that, the rights of the bank shall be enforceable against the lessee or the tenant, as the case may be, as if he himself was a mortgagor.

(2) Where land mortgaged with possession to a land mortgage bank, is in actual possession of a tenant, the mortgagor or the mortgagee bank shall give notice to the tenant to pay rent to the bank during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned to the bank.

130. **Section 8 of Act XXXII of 1956 to apply to mortgages to Land Mortgage Banks, subject to certain modifications.**—Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a Land Mortgage Bank, subject to the modification that any reference to the court therein shall be construed as reference to the Mamlatdar or his nominee, and the appeal against the order of the Collector or his nominees shall lie to the Collector, Dadra and Nagar Haveli.

131. **Power of Primary Land Mortgage Bank to receive money and give discharge.**—Notwithstanding anything contained in section 124, all moneys due under the mortgage shall, unless otherwise directed by the State Land Mortgage Bank or the Trustee and communicated to the mortgagor, be payable by the mortgagor to the Primary Land Mortgage Bank and such payments shall be as valid as if the mortgage had not been so transferred under that section and the Primary Land Mortgage Bank shall in the absence of any specific direction to the contrary issued by the State Land Mortgage Bank or the Trustee and communicated to it be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

132. **Powers of land mortgage bank where mortgaged property is destroyed or security becomes insufficient.**—(1) Where any property mortgaged to a land mortgage bank is wholly or partially destroyed, or the security is rendered insufficient for any other reason, and the mortgagor, having been given a reasonable opportunity by the bank of providing further security enough to render the whole security sufficient, or of repaying such portion of the loan as may be determined

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by the bank, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once, and the bank shall be entitled to take action against the mortgagor under section 133 or section 134 for the recovery thereof.

(2) A security shall be deemed insufficient within the meaning of this section, unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the rules or the by-laws of the land mortgage bank.

133. **Power to distrain.**—(1) If any instalment payable under a mortgage executed in favour of a land mortgage bank, or any part of such instalment, has remained unpaid for more than one month from the date on which it fell due, the committee of such bank may, in addition to any other remedy available to the bank, apply to the Registrar for the recovery of such instalments or part thereof by distraint and sale of the produce of the mortgaged land, including the standing crops thereon.

(2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882), take action in the manner prescribed for the purpose of distraining and selling such produce subject to the prior charge of the society:

Provided that, no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(3) The value of the property distrained shall as nearly as possible be equal to the amount due and the expenses of the distraint and the costs of the sale.

134. **Sale of mortgaged property.**—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (V of 1882), the land mortgage bank or any person possessing the prescribed qualifications and authorised by the bank in this behalf shall, in case of default in payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale by public auction in the village in which the mortgaged property is situated or at the nearest place of public resort, without the intervention of the Court such sale shall be effected in accordance with the prescribed procedure.

(2) No power under sub-section (1) shall be exercised, unless and until—

(*a*) notice in writing requiring payment of such mortgage money or part thereof has been served upon—

(*i*) the mortgagor or each of the mortgagors,

(*ii*) any person who has any interest in or charge upon the property mortgaged, or in or upon the right to redeem the same so far as is known to the bank.

(*iii*) any surety for the payment of the mortgaged debt or any part thereof, and

(*iv*) any creditor of the mortgagor who has in a suit for administration of his estate obtained a decree for sale of the mortgaged property, and

(*b*) no payment of such mortgaged money or part thereof, has been made till the expiry of three months, after service of the notice.

(3) If the Primary Land Mortgage Bank fails to take action against the mortgagor under section 132, section 133 or under this section, the State Land Mortgage Bank may direct it to take appropriate action and where no action is taken by the Primary Land Mortgage Bank, the State Land Mortgage Bank, may take such action and where the State Land Mortgage Bank fails to take action, the Trustee may direct it to take such action and where no action is taken thereupon by the State Land Mortgage Bank, the Trustee may take such action.

135. **Right of mortgage bank to buy mortgaged property.**—(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a land mortgage bank to purchase any mortgaged property sold under this Chapter and the property so purchased may be disposed of by such bank by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists eligible to hold land under the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. LXVII of 1948), or any corresponding law for the time being in force or may be leased out by them on such terms and conditions as may be laid down by the Administrator from time to time.

(2) Nothing in any law for the time being in force fixing a maximum limit of agricultural holdings, shall apply to the acquisition of land by a land mortgage bank under this section.

136. **Confirmation of sale.**—(1) On effecting a sale under section 134, the primary land mortgage bank shall, in the prescribed manner, submit to the State Land Mortgage Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Land Mortgage Bank may, with the approval of the Registrar, confirm the sale or cancel it.

(2) Where the sale is effected by the State Land Mortgage Bank or the Trustee under section 134, the State Land Mortgage Bank or the Trustee, as the case may be, shall in the prescribed manner, submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale :

Provided that where the Registrar is the Trustee, he shall submit such report to the Administrator and the Administrator may confirm the sale or cancel it.

137. **Disposal of sale proceeds.**—The proceeds of every sale affected under section 134 and confirmed under section 136, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of the interest due on account of the mortgage in consequence whereof the mortgaged property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery. If there remains any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by the land mortgage bank :

Provided that, before any such payments are made—

(a) the unsecured dues owed by the mortgagor to the State Land Mortgage Bank or Primary Land Mortgage Bank may be adjusted, and

(b) the unsecured dues owed by any members or past member of either of the above mentioned banks to whom the mortgagor is indebted may also be adjusted under the written authority given by such member and past member, and after holding such inquiry as may be deemed necessary.

138. **Certificate to purchaser, delivery of property and title of purchaser.**—(1) Where a sale of mortgaged property has become absolute under section 136 and the sale proceeds have been received in full by the land mortgage bank, the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian Registration Act, 1908 (XVI of 1908), within the limits of whose jurisdiction the whole or any part of the property specified in such certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.

(2) (a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the State Land Mortgage Bank or the land mortgage bank, and a certificate in respect thereof has been granted under sub-section (1) the Court shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under sub-section (1) the Court shall, on the application of the purchaser and after notice to such tenant or other person, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the right, title and interest of the mortgagor have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of power of sale under section 134, the title of the purchaser shall not be questioned on the

ground that the circumstances required for authorising the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised.

139. **Recovery of loans on Certificate by Registrar.**—(1) Notwithstanding anything contained in sections 96 and 103, on an application made by a Land Mortgage Bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

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

(3) It shall be lawful for the Mamlatdar to take precautionary measures authorized under sub-section (4) of section 106 until the arrears due to the Land Mortgage Bank together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for such arrears is furnished to the satisfaction of the Registrar.

(4) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the Land Mortgage Bank together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 100 shall apply *mutatis mutandis* to conditional attachment of any property made or to be made under this section.

140. **Collector to make recoveries during certain period.**—(1) During such period as the Administrator may by general or special order notify in the *Official Gazette*, it shall be competent for the Collector, on application being made to him in that behalf by a Land Mortgage Bank, to recover all sums due to the Land Mortgage Bank (including the cost of such recovery).

(2) Any amount due to a Land Mortgage Bank shall be recoverable by the Collector, or any officer specially authorised by the Collector in this behalf, in all or any of the following modes, namely :—

(a) from the borrower—as if they were arrears of land revenue due by him;

(b) out of the land for the benefit of which the loans has been granted —as if they were arrears of land revenue due in respect of that land;

(c) from a surety (if any)—as if they were arrears of land revenue due by him;

(d) out of the property comprised in the collateral security (if any)— according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due.

141. **Provision or guarantee funds to meet certain losses.**—(1) It shall be competent for the Central Government to constitute one or more Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the Land Mortgage Banks on titles to immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the Central Government, it is necessary to provide for or create a separate Guarantee Fund.

(2) The State Land Mortgage Bank and the Primary Land Mortgage Banks shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such funds shall be governed by such rules as may be made by the Central Government in this behalf.

142. **Agreements executed by members for loans advanced by Land Mortgage Banks to be conclusive evidence.**—Notwithstanding anything contained in this Chapter, where a loan is given by the Land Mortgage Bank to a Co-operative Society for undertaking any work or development of agriculture on condition that the members of such society are jointly and severally liable to the Bank for the payment of the whole amount and an agreement to that effect is entered with and signed by each of such members in the presence of an officer authorised in that behalf by the Registrar that agreement shall be conclusive evidence of the portion

of that amount which each of the members is bound to contribute and against which he had mortgaged his lands or a portion of the lands by executing a separate mortgage deed with the Bank.

143. **Exemption of officer of land mortgage banks from personal appearance before registering officers.**—(1) Notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908), it shall not be necessary for any officer of a land mortgage bank to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he thinks fit, refer to such officer for information respecting the same and, on being satisfied of the execution thereof, shall register the instrument.

144. **Service of notice.**—The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 (IV of 1882), and of any rules made under section 104 thereof, shall apply, so far as may be, in respect of all notices to be served under this Chapter.

145. **Officers of banks not to bid at sales.**—At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of a land mortgage bank except on behalf of the bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

CHAPTER XII

OFFENCES AND PENALTIES

146. **Prohibition of use of the word "Co-operative".**—(1) No person, other than a society registered, or deemed to be registered, under this Act, and a person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into force, shall without the sanction of the Administrator, function, trade or carry on business under any name or title of which the word "co-operative", or its equivalent in any Indian language, forms part.

(2) Every person contravening the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to five hundred rupees.

147. **Offences.**—(1) It shall be an offence under this Act, if—

(a) any person makes a declaration referred to in section 23 which he knows or has reason to believe to be false;

(b) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 48 or any person knowingly acquires, or abets the acquisition of, such property;

(c) any employer or any director, manager, secretary or other officer or agent acting on behalf of such employer without sufficient cause, fails to comply with sub-section (2) of section 50;

(d) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 71;

(e) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or an urban co-operative bank, or a postal savings bank;

(f) any person, collecting the share money for a society in formation, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise;

(g) a retiring chairman to whom a direction has been issued under sub-section (2) of section 75 fails to comply with such direction;

(h) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-section (2), (3) or (4) of section 77;

(i) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the Central Government, Administrator or the Registrar under section 80, 81, 84, 86, 87, 99 or 103;

(j) any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under section 80, 81 or 108;

(k) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof fails without any reasonable excuse to comply with orders made under section 82 or to give any notice, or to send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done;

(l) a committee of a society or an officer or member thereof wilfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in writing in this behalf;

(m) a committee of a society, or an officer or member thereof, wilfully makes a false return, or furnishes false information, or fails to maintain proper accounts;

(n) an officer or a society fails to comply with the order made by the Registrar under section 83;

(o) an officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 84;

(p) an officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 98;

(q) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society;

(r) an officer of a society wilfully recommends or sanctions for his own personal use or benefit or for use or benefit of a person in whom he is interested, a loan in the name of any other person;

(s) an officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secrets or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society.

(2) Where an offence under this Act has been committed by a committee of a society, every person who at the time the offence was committed, was a member of such committee shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment as provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

148. **Punishment for offences under section 147.**—(1) Every employer, or officer, member, agent or servant, of a society, or any other person, who commits an offence under section 147 shall, on conviction, be punished,—

(a) if it is an offence under clause (a) of that section, with simple imprisonment which may extend to six months or with fine which may extend to five hundred rupees or both;

(b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;

(c) if it is an offence under clause (c) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both;

(d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees;

(e) if it is an offence under clause (e) of that section, with fine which may extend to five hundred rupees;

(f) if it is an offence under clause (f) of that section, with imprisonment for a term which may extend to one year, or with fine, or with both;

(g) if it is an offence under clause (g) of that section, with simple imprisonment which may extend to one month or with fine which may extend to five hundred rupees or both;

(h) if it is an offence under clause (h) of that section, with fine which may extend to two hundred and fifty rupees;

(i) if it is an offence under clause (i) of that section, with fine which may extend to five hundred rupees;

(j) if it is an offence under clause (j) of that section, with fine which may extend to five hundred rupees;

(k) if it is an offence under clause (k) of that section, with fine which may extend to five hundred rupees;

(l) if it is an offence under clause (l) of that section, with imprisonments for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

(m) if it is an offence under clause (m) of that section, with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both;

(n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both;

(o) if it is an offence under clause (o) of that section, with fine which may extend to one hundred rupees;

(p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;

(q) if it is an offence under clause (q) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

(r) if it is an offence under clause (r) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both;

(s) if it is an offence under clause (s) of that section, with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) No prosecution for an offence under section 147 shall be instituted in respect of the same facts on which a penalty has been imposed by the Registrar under any provisions of this Act.

149. **Cognizance of offences.**—(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898) it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine on any person convicted of an offence under clause (c) of sub-section (1) of section 147 as provided under section 148, in excess of his powers under section 32 of that Code.

(3) No prosecution under this Act shall be lodged, except with the previous sanction of the administrator in the case of an offence under clause (c) of sub-section (1) of section 147, and of the Registrar in the case of any other offence under this Act. Such sanction shall not be given, except after hearing the party concerned, by an officer authorised in this behalf by the Administrator by a general or special order.

CHAPTER XIII

APPEALS, REVIEW AND REVISION

150. **Dadra and Nagar Haveli Co-operative Tribunal.**—(1) The Administrator shall constitute a Tribunal called the Dadra and Nagar Haveli Co-operative Tribunal to exercise the functions conferred on the Tribunal by or under this Act.

(2) The Tribunal shall consist of a President, and not more than three other members possessing such qualifications as may be prescribed.

(3) Any vacancy in the membership of the Tribunal shall be filled by the Administrator.

(4) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members of the Tribunal including himself:

Provided that, any interlocutory application may be heard by one or more members who may be present.

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(5) Such Benches shall consist of two or more members.

(6) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members and the members are equally divided, if the President be one of the members the opinion of the President shall prevail and in other cases the matter shall be referred for hearing to the President, and shall be decided in accordance with his decision.

(7) Subject to the previous sanction of the Administrator, the Tribunal shall frame regulations consistent with the provisions of this Act and rules thereunder, for regulating its procedure and the disposal of its business.

(8) The regulations made under sub-section (7), shall be published in the *Official Gazette.*

(9) The Tribunal may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to the legality or property of any decision or order passed. If in any case, it appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem just.

(10) Where an appeal is made to the Tribunal under section 102, it may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Tribunal.

(11) An order passed in appeal, or in revision under sub-section (9), or in review under section 151, by the Tribunal, shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

(12) The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908 (V of 1908).

151. **Review of orders of Tribunal.**—(1) The Tribunal may, either on the application of the Registrar, or on the application of any party interested, review its own order in any case, and pass in reference thereto such order as it thinks just:

Provided that, no such application made by the party interested shall be entertained, unless the Tribunal is satisfied that there has been discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason:

Provided further that, no such order shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under sub-section (1) by any party, shall be made within ninety days from the date of the communication of the order of the Tribunal.

152. **Tribunal to have power of Civil Court.**—(1) In exercising the functions conferred on it by or under this Act, the Tribunal shall have the same powers as are vested in a Court in respect of,—

(a) proof of facts by affidavit,

(b) summoning and enforcing the attendance of any person and examining him on oath,

(c) compelling the production of documents, and

(d) issuing commissions for the examination of witnesses.

(2) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

153. **Appeals.**—(1) An appeal against an order or decision under sections 4, 9, 11, 13, 17, 19, 36, 81 and 160 shall lie,—

(a) if made or sanctioned or approved by the Registrar, or an additional or Joint Registrar on whom powers of the Registrar are conferred, to the Administrator.

(b) if made or sanctioned by any person other than the Registrar, or an Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the Registrar.

(2) An appeal against an order of a liquidator under section 110 shall lie—

(a) to the Administrator if the order was made with the sanction or approval of the Registrar, and

(b) to the Registrar in any other case.

(3) An appeal against an order or decision under sections 82, 90, 93, and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the Tribunal has been provided under this Act, shall lie to the Tribunal.

(4) An appeal under sub-section (1), (2) or (3) shall be filed within two months of the date of the communication of the order or decision.

(5) The procedure to be followed in presenting and disposing of appeals under this section or under any other provisions of this Act shall be such as may be prescribed.

(6) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act and every such order, decision or award shall be final, and where any appeal has been provided for, any order passed on appeal shall be final and no further appeal shall lie against it.

154. **Extension of period of limitation by appellate authority in certain cases.**—In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

155. **Power of Administrator and Registrar to call for proceedings of subordinate officers and to pass orders thereon.**—The Administrator and the Registrar may call for and examine the record of any enquiry or the proceedings of any other matter of any officer subordinate to them, except those referred to in sub-section (9) of section 150, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer. If in any case, it appears to the Administrator, or the Registrar, that any decision or order or proceedings so called for should be modified, annulled, or reversed, the Administrator or the Registrar, as the case may be, may after giving persons affected thereby an opportunity of being heard pass such order thereon as it or he may deem just.

CHAPTER XIV

MISCELLANEOUS

157. **Recovery of sums due to Government.**—(1) Unless otherwise provided by this Act, all sums due from a society or from an officer or member or past member or a deceased member of a society as such to the Government, may be recovered as arrears of land revenue.

(2) Sums due from a society to the Government and recoverable under sub-section (1) may be recovered, firstly from the property of the society secondly in the case of a society of which the liability of the members is limited, from the members or past members or from their estate if they have died, subject to the limit of their liability, and, thirdly, in the case of societies with unlimited liability from the members or past members or their estate, if they have died.

(3) The liability under this section shall in all cases be subject to the provisions of section 34.

158. **Competency of a member to transfer land or interest therein to society.**—Notwithstanding anything contained in the Transfer of Property Act, 1882, (IV of 1882), and the Indian Registration Act, 1908 (XVI of 1908), it shall be lawful for a member of a Co-operative Farming Society to transfer to the society any land held by him or the whole or part of his interest in any land by an agreement and in such manner as may be prescribed.

159. **Registrar's powers to recover certain sums by attachment and sale of property.**—(1) The Registrar or any officer subordinate to him and empowered by him in this behalf may, subject to such rules as may be made by the Administrator but

without prejudice to any other mode of recovery provided by or under this Act, recover—

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

(b) any amount due under a decision, award or order of the Registrar, his nominee or the board of nominees or Liquidator or Tribunal,

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

(d) any sum ordered to be paid under this Act as a contribution to the assets of the society,

together with interest, if any, due on such amount or sum and the costs of recovering the same by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar or the officer empowered by him shall be deemed when exercising the powers under sub-section (1) or when passing any order on any application made to him for such recovery, to be a Civil Court for the purposes of article 182 in the First Schedule to the Limitation Act, 1963 (36 of 1963).

160. **Registrar's powers to issue directions.**—(1) With the prior approval of the Administrator, the Registrar may, from time to time, give all or any of the societies, or any class or classes of societies, such directions as in his opinion are necessary or expedient for the purposes of securing the proper implementation of the production programme, linking and co-ordinating of co-operative activities such as marketing and credit, conforming to co-operative discipline with respect to the implementation of co-operative production and other developmental programme approved or undertaken by the Government or for carrying out any of the purposes of this Act. It shall be the duty of every society to comply with such directions.

(2) If such directions are not complied with by any society within the prescribed period, the Registrar may call upon any officer of such society whom he considers to be responsible for the carrying out his directions and, after giving such officer an opportunity to be heard, may without prejudice to any other action which may be taken against such society or officer under the provisions of this Act, require him to pay to the assets of the society such sum not exceeding ten rupees as the Registrar may think fit for each day until the Registrar's directions are carried out. Such sum if not paid shall be recoverable as an arrear of land revenue.

161. **Power to exempt societies from provisions of Act.**—The Administrator may, by general or special order, to be published in the *Official Gazette*, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order:

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

162. **Delegation of powers of State Government and of Registrar.**—The Administrator may by notification in the *Official Gazette* and subject to such conditions, as he may think fit to impose, delegate—

(a) any power exercisable by it under this Act except the power under sub-section (1) of section 153 and section 168 thereof to the Registrar;

(b) all or any of the powers of the Registrar under this Act to any committee constituted or to any co-operative federal society recognised under section 95.

163. **Branches etc. of societies outside the State.**—(1) No society shall open a branch or a place of business outside the Union territory of Dadra and Nagar Haveli, and no co-operative society registered elsewhere in India shall open a branch or a place of business in the Union territory of Dadra and Nagar Haveli, without the permission of the Registrar.

(2) Every co-operative society registered under any law elsewhere in India and permitted to open a branch or a place of business in the Union territory of Dadra and Nagar Haveli under sub-section (1) or which has a branch or a place of business in the Union territory of Dadra and Nagar Haveli at the commencement of this Act, shall, within three months from the date of the opening of such branch or place of business or from the date of the commencement of this Act, as the case may be, file with the Registrar a certified copy of the by-laws and amendments and, if these be not in English a certified translation thereof in English or Hindi

and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State or Union territory where such society is registered.

(3) The provisions of sub-sections (1) and (2) shall not apply to co-operative societies to which the provisions of the Multi-Unit Co-operative Societies Act, 1942 applies.

(4) Nothing in sub-section (1) shall affect a society which has a branch or a place of business outside the Union territory of Dadra and Nagar Haveli at the commencement of this Act.

164. **Registrar and other officers to be public servants.**—The Registrar, a person exercising the powers of the Registrar, a person authorised to audit the accounts of a society under section 84, or to hold an inquiry under section 86, or to make an inspection under section 87, and a person appointed as Special Officer under section 81 or as a nominee or board of nominees under section 98, or as a liquidator under section 108, and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

165. **Indemnity for acts done in good faith.**—No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority, in respect of anything in good faith done, or purported to be done by him by or under this Act.

166. **Bar of jurisdiction of Courts.**—(1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of—

(a) the registration of a society or its by-laws, or the amendment of its by-laws, or the dissolution of the committee of a society, or the management of the society on dissolution thereof; or

(b) any dispute required to be referred to the Registrar, or his nominee, or board of nominees, for decision;

(c) any matter concerned with the winding up and dissolution of a society.

(2) While a society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the society or any member thereof, or any matter touching the affairs of the society, except by leave of the Registrar, and subject to such terms as he may impose.

(3) All orders, decisions or awards passed in accordance with this Act or the rules, shall, subject to the provisions for appeal or revision in this Act be final; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits, or upon any other ground whatsoever except for want of jurisdiction.

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

168. **Rules.**—(1) The Administrator may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made—

(a) for the whole or any part of the Union territory of Dadra and Nagar Haveli and for any society or class of societies, and

(b) to provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(No. F.10/1/65-UTL-74)

A. D. PANDE, Jt. Secy.

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