



THE TRIPURA CO-OPERATIVE SOCIETIES ACT, 1974

(Tripura ACT No. 8 of 1974)

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THE TRIPURA CO-OPERATIVE SOCIETIES ACT, 1974
With
the Tripura co-operative societies Amendment Act, 1980

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Tripura Act No. 8 of 1974.

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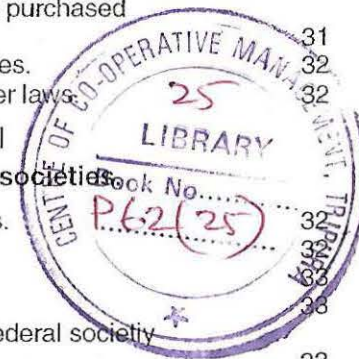
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THE TRIPURA CO-OPERATIVE SOCIETIES ACT, 1974,

An
Act

to consolidate and amend the law relating to co-operative societies in the State of Tripura.

BE it enacted by the Legislative Assembly of Tripura in the Twenty-fifth Year of the Republic of India as follows :—

CHAPTER 1

PRELIMINARY

Shorttitle,ex- 1. (1) This Act may be called the Tripura Co-operative Societies
tant and com- Act, 1974.
mencement.

(2) It extends to the whole of Tripura.

(3) It shall come into force at once.

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

(1) "agricultural marketing society" means a society—

(a) the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production, and

(b) not less than eighty per centum of the members of which are agriculturists, or societies formed by agriculturists;

Note :— In this sub-section, " agriculturist " means a person employed in agricultural work whether owning any land or not and includes a bargadar.

(2) "auditor" includes a person appointed by the Registrar to audit the accounts of a society :

(3) "bonus" means payment made in cash or Kind out of the profits of a society to a member, on to a person who is not a member, on the basis of his contribution (including any contribution in the form of labour or service) to the business of the society, and in the case of farming society, on the basis both of such contribution and also the value or income or, as the case may be, the area of the lands of the member brought together for joint cultivation as may be decided by the society;

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

(5) "committee" means the committee of management, or other governing body, by whatever name called, to which the management of the affairs of a society is entrusted;

1 of 1956.

(6) "company" means a company as defined in the Companies Act, 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) "consumers society" means a society the object of which is—

- (a) the procurement, production or processing and distribution of goods to, or the performance of other services for its members as also other customers, and
- (b) the distribution among its members and customers, in the proportion prescribed by rules or by the bye-laws of the society, of the profits accruing from such procurement, production or processing, and distribution;

(8) "credit society" means a co-operative society, the primary object of which is to create funds out of which money is to be lent to its members and includes credit union;

10 of 1949

(9) "Co-operative bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of subsection (1) of section 5 of the Banking Regulation Act, 1949;

(10) "co-operative land development bank" means a society which is functioning or is to function as a land development bank under Chapter XII;

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

5 of 1970

(12) "financing bank" means a co-operative bank, or a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the objects of which include the creation of funds to be loaned to other societies;

(13) "Farming society" means a society in which, with the object of increasing agricultural production, employment and income and better utilisation of resources, lands are brought together and jointly cultivated by all the members, such lands—

- (a) being owned by or leased to the members (or some of them), or
- (b) coming in possession of the society, in any other manner whatsoever;

(14) "federal society" means a society—

- (a) not less than five members of which are themselves societies and
- (b) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meeting of such society;

9 of 1932

(15) "firm" means a firm registered under the Indian Partnership Act, 1932;

(16) "general society" means a society not falling in any of the classes of societies defined by the other clauses of this section;

(17) "housing society" means a society the object of which is providing its members belonging to low income group with an income of not more than rupees five hundred per month with dwelling houses;

(18) "industrial society" means a co-operative society, the objects of which include the manufacture of goods by or with the help of its members and the provision of supplies and services to them and also to small producers and entrepreneurs, and includes a co-operative society established with the object of facilitating the operation of such a society;

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

(20) "local authority" includes a school board and an agricultural produce market committee constituted by or under any law for the time being in force;

(21)(a) "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 or sympathiser member;

(b) "nominal member" means a person admitted to membership as such after registration in accordance with the bye-laws;

(c) "sympathiser member" means a person who sympathises with the aims and objects of the society and who is admitted by the society as such member.

(22) "Official Gazette" means the Tripura Gazette;

(23) "officer" means a person elected or appointed by a society to any office of such society according to its bye-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 bye-laws, to give directions in regard to the business of such society;

(24) "prescribed" means prescribed by rules;

(25) "processing society" means an agriculture society the object of which is the processing of goods;

(26) "producers society" means a society the object of which is the production and disposal of goods or the collective disposal of the labour of the member thereof;

(27) "Registrar" means a person appointed to be the Registrar of co-operative societies under section 3 of this Act;

(28) "resource society" means a society the object of which is the obtaining for its members the credit, goods or services required by them;

(29) "rules" means the rules made under this Act ;

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

(31) "society with limited liability" means a society in which the liability of its members for the debts of the society, in the event of its being wound up, is limited by its bye-laws—

(i) to the amount, if any, unpaid on the shares respectively held by them, or

(ii) to such amount as they may respectively undertake to contribute to the assets of the society;

(32) "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 deficit in the assets of the society;

(33) "Tribunal" means the Tripura Co-operative Tribunal constituted under this Act; and

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

CHAPTER II REGISTRATION

Registrar. 3. The Government may appoint a person to be the Registrar of Co-operative Societies for the State of Tripura and may appoint one or more persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the general guidance, superintendence and control of the Registrar.

Societies which may be registered. 4. A society, which has its objects 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 no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on the development of the co-operative movement:

Provided further that the Registrar may lay down conditions towards formation of economic unit societies.

Registration with limited or unlimited liability.

Conditions of registration.

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

6. (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 a 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) No society shall be registered if the bye-laws of such society permit admission, as member thereof, of a person carrying on transaction or business of the same kind or nature as carried on by such society.

(5) In particular and without prejudice to the generality of the provision of sub-section (4)—

(a) no credit society shall be registered if the bye-laws of such society permit admission, as member thereof, of a person who is a money-lender by profession,

(b) no consumers society shall be registered if the bye-laws of such society permit admission, as member thereof, of a person who is a grocer by profession, and

(c) no industrial society shall be registered if the bye-laws of such society permit admission, as member thereof, of a person who is carrying on, on his own account or has interest in, any business of the kind carried on by such society.

(6) No society formed by particular community, class or group of people for the promotion of economic interests of such community, class or group or people exclusively through specified activity or activities shall be registered where its bye-laws permit more than ten per centum of its members to be persons not to be directly benefitted by such activity or activities.

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

(8) 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 and section 8, the expression " member of a family " means a wife, husband, father, mother, son or unmarried daughter.

Power to exempt societies from conditions as to registration.

7. Notwithstanding anything contained in this Act, the Government may, by special order in each case, exempt subject to such conditions (if any) as it may impose, any society from any of the requirements of this Act as to registration.

Application for registration.

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

(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 bye-laws and a copy of such resolution is appended to the application.

Registration

9. (1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, and that its proposed bye-laws are not contrary to this Act or to the rules, he may, within six months from the date of receipt of the application, register the society and its bye-laws.

(2) If the Registrar is unable to dispose of an application for registration within the period mentioned in the foregoing subsection, he shall make a report to the Government stating therein the reasons therefor; and he shall thereafter act in accordance with such directions as may be issued to him by the Government.

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

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered under this Act.

Evidence of Registration.

10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been Cancelled.

Power of Registrar to

11. When, for the purpose of the formation, or registration or cancelled.

decide certain questions.

Classification of societies,

continuance of a society, any question arises whether a person is an agriculturist or not, or whether any person resides in the area of operation of the society or not, such question shall be decided by the Registrar.

12. (1) The Registrar shall classify all societies into one or other of the classes of societies defined in section 2, and also into such subclasses thereof as may be prescribed by rules.

(2) The Registrar may, for reasons to be recorded in writing, alter the classification of a society from one class of society to another, or from one sub-class thereof to another; and may, in the public interest and subject to such terms and conditions as he may think fit to impose, allow any society so classified to undertake the activities of a society belonging to another class.

(3) A list of all societies so classified shall be published by the Registrar every three years in such manner as the Government may, from time to time, direct.

Amendment of bye-laws of society.

13. (1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-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) When the Registrar registers an amendment of the bye-laws of a society, he shall issue to the society a copy of the amendment certified by him which shall be conclusive evidence that the same is duly registered.

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

Power to direct amendment of bye-laws

14. (1) If it appears to the Registrar that an amendment of the bye laws of a society is necessary or desirable in the interest of such society, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting the financing bank to which the society is affiliated, register such amendment, and issue to the society a copy of such amendment certified by him. With effect from the date of registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly; and the bye-laws as amended shall be binding on the society and its members.

Change of name

15. (1) 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, of past members, or deceased 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.

light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf , either from the society or from any member or class or members thereof, or from any creditor or class or creditors; and

- (c) the prior approval of the State Government has been obtained for such reorganisation, amalgamation or division.

(3) The order referred to in sub- section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of he Registrar, be necessary to give effect to the amalgamation, division or reorganisation.

(4) Every member or creditor of each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation his share or interest if he be a member, and the amount in satisfaction of his dues if he be a creditor.

(5) On the issue of an order under sub-section (1) , the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.

Reconstruction of societies

19. Where a proposal for compromise or arrangement,—

(a) between a society and its creditors, or

(b) between a society and its members, is approved at a special general meeting called for the purpose, 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.

Partnership of societies

20.(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 a partnership for carrying out any specific business or businesses, provided that each member has had clear ten days written notice of the resolution and the date of the meeting.

9 of 1932

(2) Nothing in the Indian Partnership Act, 1932, shall apply to such partnership.

Cancellation of registration.

21. 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 if its affairs are wound up, or the winding up proceedings in respect of the society are closed or terminated under

section 112, or it has not commenced business within one year of its registration, or has ceased to function, or if he is satisfied, after making such inquiry as he thinks fit, that the society no longer has genuinely as its objects one or more of the objects specified in section 4 and its registration ought to , in the interests of the general public, be cancelled. 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.

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

Persons who may become member

9 of 1872

19 of 1860

22. (1) Subject to the provisions of section 24, 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;
- (b) a firm, company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860;
- (c) a society registered or deemed to be registered, under this Act;
- (d) the Government;
- (e) a local authority;
- (f) a public trust registered under any law for the time being in force for the registration of such trusts:

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 the Government by general or special order, a firm or a company may be admitted as a member only of a society which is a federal or urban society or which conducts or intends to conduct as industrial undertakings :

Provided also that any firm or company, which is immediately before the commencement of this Act a member of a society deemed to be registered under this Act, shall have, subject to the other provisions of this Act, the right to continue to be such member on and after such commencement.

Explanation — For the purpose of this section , an "urban society" means a society the business of which mainly falls within the limits of a municipal corporation, municipality , cantonment, notified area or a sub-divisional town.

(2) Notwithstanding anything contained in sub-section (1), Government may, having regard to the fact that the interest of any

Open membership

persons or class of persons conflicts or is likely to conflict with the objects of any society of class of societies, by general or special order, published in the Official Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified society or class of societies, so long as such persons or persons are engaged in or carry on that profession, business or employment, as the case may be. (3) Where a person is refused admission as a member of a society, the decision (with the reasons therefor) shall be communicated to that person within fifteen days of the date of the decision, or within three months from the date of the application for admission, whichever is earlier.

23. (1) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its bye-laws.

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

(3) The decision of the State Government in appeal, shall be final and the State Government shall communicate its decision to the parties within fifteen days from the date thereof.

Nominal and sympathiser member

24. (1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal or sympathiser member.

(2) A nominal member or sympathiser member shall not be entitled to any share in any form whatsoever in the profits or assets of the society as such member. A nominal or sympathiser member shall ordinarily not have any of the privileges and rights of a member, but such a member may, subject to the provisions of sub-section (8) of section 27, have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the bye-laws of the society.

Explanation.— In this section, the expression "person" includes a company.

Cessation of membership

25. A person shall cease to be a member of a society on his resignation from the membership thereof being accepted, or on the transfer of the whole of his share or interest in the society to another member, or on his death, or expulsion from the society :

Provided that resignation of a person from membership of a society will be accepted only when he or she is not indebted to the society or is not a surety for any unpaid debt due to the society.

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

26. 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 bye-laws of such society.

Voting powers of members.

27. (1) (a) 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 the casting vote.

(b) Every member of a society shall exercise his vote in person and no member shall be permitted to vote by proxy.

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 member, to vote on its behalf in the affairs of that other society; and accordingly such member shall have the right to vote on behalf of the first society.

(4) A company or any other body corporate, constituted under any law for the time being in force which has invested any part of its funds in the shares of a society may appoint any one of its directors or officers to vote on its behalf in the affairs of such society; and accordingly such director or officer shall have the right to vote on behalf of the company or the body corporate.

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

(6) A local authority or public trust which has invested any part of its funds in the shares of a society, may appoint any of its members or trustees, to vote on its behalf in the affairs of that society; and accordingly such person shall have the right to vote on behalf of the local authority or the public trust, as the case may be.

(7) In the case of federal society, the voting rights of individual members thereof shall be such as may be regulated by the rules made under this Act and by the bye-laws of the society.

(8) No nominal or sympathiser member shall have the right to vote.

(9) Where the Government is a member of a co-operative society, each person nominated by the Government, on the committee of such society shall have one vote.

Restrictions on holding of shares.

28. In any society, no member other than the Government or any other society shall—

(a) hold more than such portion of the total share capital of the society (in no case exceeding one-tenth thereof) as may be prescribed, or

(b) have or claim any interest in the shares of the society exceeding five thousand rupees:

Restrictions
on transfer
or charge
on share or
interest

Provided that the Government may, by notification in the official Gazette, specify in respect of any class of societies a higher or lower maximum than one-fifth of the share capital or, as the case may be, a higher or lower amount than five thousand rupees.

29. (1) Subject to the provisions of the last preceding section as to the maximum holding of shares and to any rules made in this behalf, a transfer of, or charge on, the share or interest of a member in the share capital of a society shall be subject to such condition 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 six months;

(b) the transfer or charge is made 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.

(3) Notwithstanding anything contained in sub-sections (1) and (2) where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this act or by the rules made thereunder or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed, provided that the total payment of the share capital of the society in any financial year for such purpose does not exceed ten percent of the paid-up share capital of the society on last day of the financial year immediately preceding.

Explanation -- (i) The right to forfeit the share or interest of any expelled member in the share capital by virtue of any bye-laws of the society, shall not be affected by the aforesaid provision.

(ii) In this sub-section the expression "financial year" means the year ending on the 30th June or, in the case of any society or class of societies the accounts of which are, with the previous sanction of the Registrar, balanced on any other day, the year ending on such day.

(4) Where the Government is a member of a society, the restrictions contained in this section shall not apply to any transfer made by it of its share or interest in the capital of the society; and that the Government may, notwithstanding anything in this Act, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than six months.

30. (1) On the death of a member of a society, the society shall transfer the share or interest of the deceased member to a person or

Transfer of interest on death of member persons nominated in accordance with the rules, or, if no person has been so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member :

Provided that such nominee, heir or legal representative as the case may be, is duly admitted as a member of the society :

Provided further that nothing in this sub-section or in section 22 shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member, in a society.

(2) Notwithstanding anything contained in sub-section (1), 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 in accordance with the rules.

(3) 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.

(4) 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.

Share or interest not liable to interest attachment.
31. 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 deposit, or fixed deposit, 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, 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.

5 of 1920

Rights of members to see books, etc.

32. (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 this Act, the rules and the bye-laws, the last audited annual balance sheet including audit notes, if any the profit and loss account, the list of the members of the committee, the register of members, the minutes of general meetings, the minutes of committee 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 the foregoing subsection within one month from the date of payment of such fees.

Liability of past member and estate of deceased member.

33. (1) Subject to the provisions of sub-section (2), the liability of a past member, or of the estate of a deceased member, of a society for the debts of the society as they stood,—

(a) in the case of a past member, on the date on which he ceased to be a member, and

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

2) Where a society is ordered to be wound up under any provision of this Act, the liability of a past member or of the estate of a deceased member, who ceased to be member or died, within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed; but such liability shall extend only to the debts of the society as they stood on the date of his ceasing to be a member or death, as the case may be.

Insolvency of
members.
5 of 1920.

34. Notwithstanding anything contained in the provincial Insolvency Act, 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 the dues payable by him to the Government or to a local authority.

Expulsion of
members.

35. (1) A society may, by resolution passed by a majority of a not less than three-fourths of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or 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 approved by the Registrar.

(2) No member of a society who has been expelled under the foregoing sub-section 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 one year from the date of such expulsion:

Provided that the Registrar may, on an application by the society and in special circumstance, 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.

Dis-quali-
ficatio for
member-
ship.

36. (1) No person shall be eligible for admission as member of any society, if he —

(a) has applied to be adjudicated an insolvent or is an undischarged insolvent; or

(b) has been sentenced for any offence involving moral turpitude, such sentence not having been reversed and the offence pardoned and a period of five years has not elapsed from the date of expiry of the sentence; or

(c) has been expelled from membership under this Act.

(2) If any person becomes a member of any society on his making a declaration as required by the bye-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.

(3) In a federal society with the order of winding up of a society which is affiliated to such federal society, its membership in the federal society shall cease forthwith.

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

(5) No individual being a member of a credit society, shall be eligible for admission as a member of any other such society without the general or special sanction of the Registrar.

Explanation :— For purposes of sub-section (5) "credit society" means a society which lends or gives credit to its members whether in cash or in kind.

Liability of
members.

37. (1) The members of a society shall, upon the winding up of the society, be jointly and severally liable to contribute towards any deficiency in the assets of the society—

(a) in the case of a society with unlimited liability, without limit; and

(b) in the case of a society with limited liability, subject to such limitation of amount as may be provided in the bye-laws.

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES

Societies to
be bodies
corporate.

38. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to 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.

Address of
Societies.

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

Register of
members.

40. (1) Every society shall keep a registrar 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 hold by each member:

- (c) the date on which each person was admitted as member;
- (d) the date on which any person ceased to be a member; and
- (e) such other particulars 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 entitled 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.

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

41. Every society shall keep, at the registered address of the society, a copy of this Act and the rules and of its bye-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.

Admissibility
of copy of
entry as evi-
dence.

42. (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 Government 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 the foregoing sub-section or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a judge made for special cause.

Exemption
from com-
pulsory regis-
tration of in-
struments
relating to
shares and
debentures
of society.
16 of 1908.

43. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Registration Act, 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 debentures 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 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 debentures issued by any society.

Power to ex-
empt from
taxation.

44. The Government may, by notification in the official Gazette, 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 Government is competent to levy.

Restrictions
on borrow-
ings.

45. (1) 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 bye-laws of the society.

(2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and bye-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent upto which such society or class of societies, may receive deposits, issue debentures or raise loans from any creditor other than the financing bank.

Regulation
of loan mak-
ing policy.

46. (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 the foregoing subsection, a society may make loan to a depositor on the security of his deposit.

(3) If in the opinion of the Government, it is necessary in the interest of the society or societies concerned to do so, the Government may, by general or special order, prohibit, restrict, or regulate the lending of money by any society or class of societies on the security of any property:

Provided that the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules and bye-laws, with the approval of the financing bank, by general or special order, regulate further the extent, conditions and manner of making loans by society or class of societies to its members or other societies.

Restrictions on other transactions with nonmembers

47. Save as is provided in this Act, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

Charge and set off in respect of share or interest of member.

48. A society shall have a charge upon the share or interest in the capital, and on the deposits, of a member or past member or deceased member, and upon any dividend, bonus or profits payable to such member, in respect of any debt due from such member or his estate to the society 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 under section 63, or its reserve fund; and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

Prior claim of society.

49. (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 sections 60 and 61 of the code of Civil procedure 1908,—

5 Of 1908.

- (a) any debt or outstanding demand, owing to a society by any member or past member or deceased 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 such member or past member or deceased member.
 - (ii) any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, workshop, godown or place of business, supplied to or purchased by such member or past member or deceased member, in whole or in part, form 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 a member with the society, and remaining in his custody;

- (b) any outstanding demands or dues payable to a society member or past member or deceased 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.

Explanation :- The prior claim of Government in respect of dues, other than land revenue, shall be restricted for the purpose of subsection (1) 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 the foregoing subsection, 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 one of its objects the disposal of the produce of its members, may provide in its bye-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 breach of the bye-law or of any such contract, shall reimburse the society for any loss, determined in such manner as may be specified in the bye-laws.

Charge on immovable property of members borrowing from certain societies.

50. 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 form prescribed. 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 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 clause (b) until the whole amount borrowed by the member, together with interest thereon, is repaid in full:

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

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

(f) subject to all claims of the Government in respect of land revenue or any money, recoverable as land revenue and all claims of the land development bank in respect of its dues, in either case whether prior in time or subsequently, 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 clause (b), for and to the extent of the dues owing by the member on account of the loan;

(g) and in particular, the record of rights maintained under the settlement and survey rules for the time being in force in Tripura shall also include the particulars of every charge on land or interest created under a declaration under clause (a) or clause (b).

Explanation :- For the purposes of this section, the expression "society" means—

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

Deduction
from salary to
meet soci-
ety's claim in
certain case.

51. (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 so required by the society by a requisition in writing, and so long as the society does not intimate the whole of such debt or demand has been paid, make the deduction in accordance with the agreement, 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 Payment of Wages Act, 1936 on the day on which he makes payment.

4 of 1936

(3) If after the receipt of a requisition made under the foregoing sub-section, 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 payment thereof; and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears.

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

Explanation.— In this section, the expression "society" includes a co-operative society registered or deemed to be registered in any State or Union territory outside the State of Tripura which the Government may by notification in the Official Gazette, declare to be a reciprocating State or Union territory for the purpose of this section.

CHAPTER V

GOVERNMENT AID TO SOCIETIES

Partnership
of Government
in societies.

52. The Government may subscribe to the share capital of a society with limited liability, upon such terms and conditions as may be agreed upon.

Liability to be
limited in res-
pect of shares
purchased by
Government.

53. Where any shares are purchased in a society by the Government the liability in respect of such shares shall, in the event of the society of which the shares are purchased is wound up, be limited to the amount paid in respect of such shares.

Other forms of Government aid to societies. 54. (1) Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Government may, by general or special order, specify in this behalf, the Government may give loans to a society.

(2) The Government may—

- (a) 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 Government;
- (b) guarantee the repayment of loans given by a co-operative bank to a society;
- (c) 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 (d) provide financial assistance, in any other form (including subsidies), to a society.

Provisions of this Chapter to override other laws. 55. The provisions of sections 52 to 54 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

Funds not to be divided among members. 56. (1) No part of the funds of a society except net profits as declared by the annual general meeting in conformity with this Act, rules and bye-laws, shall be divided by way of bonus or dividend or otherwise among its members.

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

Provided that, a member may be paid remuneration on such scale as may be laid down by the bye-laws, for any services rendered by him to the society.

Appropriation of profits. 57. (1) A society earning profit shall calculate the net profits by deducting from the gross profit for the year, all interest accrued and accruing in accounts which are over due, establishment charges, interest payable on loans and deposits, audit fees, working expenses including repairs, rent, 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 forward from the previous year, shall be available for appropriation.

(2) A society may appropriate its net profits to the reserve fund or any other fund, to payment of dividends to members on their shares to the contribution to the educational fund as may be prescribed, to the payment of bonus on the basis of support received from members and persons who are not members to its business to payment of honoraria, and to any other purpose which may be specified in the rules or bye-laws :

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

Reserve Fund

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

(2) Of the net profits of a society in each year there shall be carried to the reserve fund not less than twenty-five per centum :

Provided that no part of the reserve fund shall be invested in the business of the society or in any other purpose without the approval of the Registrar as prescribed in rules.

(3) Reserve fund not invested in the business of the society shall be invested or deposited in the manner provided under Sec.62.

(4) Any officer wilfully failing to comply with the requirements of this section shall be personally liable for making good the amount to the society.

(5) The reserve fund or bad debt reserve fund of a society invested by such society in accordance with the provisions of section 62 shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

Restrictions on dividend.

59. No society shall pay a dividend to its members at a rate exceeding nine percent per annum.

Contribution to educational fund of the federal society notified by the Government

60. (1) Every society which declares, a dividend to its members at a rate of four per cent or more, shall contribute towards the educational fund of such federal society as may be notified in this behalf by the Government at such rate as may be prescribed.

(2) No society, liable to contribute towards the educational fund, shall pay a dividend to its members, unless the said contribution is made to the federal society notified as aforesaid. An officer wilfully

failing to comply with the requirement of this section, shall be personally liable for making good the amount to the federal society notified as aforesaid.

Contribution to public purpose. 61. After providing for the reserve fund as provided in section 58 and for the educational fund as provided in section 60, a society may set aside a sum not exceeding twenty-five per cent of its profits, and utilise, with the approval of such federal society as may be notified by the Government in this behalf from time to time, the whole or part of such sum in contributing to any co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890 or to any other public purpose.

6 of 1890. Investment of funds. 62. (1) A society shall invest or deposit its funds in one or more of the following,—

- 2 of 1882.
- (a) in the State Co-operative Bank or State Bank of India;
 - (b) in any of the securities specified in section 20 of the Indian Trust Act, 1882;
 - (c) in the shares, or security bonds, or debentures, issued by any other society with limited liability;
 - (d) in any banking company, approved for this purpose by the Registrar, and on such conditions as the Registrar may, from time to time, impose;
 - (e) in the postal Saving bank; or
 - (f) in any other mode permitted by rules, or by general or special order, of the Government.

(2) Notwithstanding anything contained in sub-section (1) the Registrar may order a society or class of societies to invest any funds in a particular manner or may impose conditions regarding the mode of investment of funds. It will be an offence on the part of the officers wilfully failing to comply with the requirements of this section.

Employees' provident fund. 63. (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, or shall it form part of the assets of the society; but shall be invested under the provisions of the last preceding section, and shall be administered in the manner prescribed.

19 of 1952. (2) Notwithstanding anything contained in the foregoing sub-section, a provident fund established by a society to which the Employees' Provident Funds Act, 1962 is applicable, shall be governed by that Act.

(3) The employees' provident fund established by a society under subsection (1) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VII

MANAGEMENT OF SOCIETIES

Final authority of society. 64. 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 by specified in the bye-laws.

Committee, its powers and functions. 65. (1) The management of every society shall vest in a committee, constituted in accordance with this Act, the rules and the bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the bye-laws.

(2) Notwithstanding anything contained in any provision of this Act, rules or bye-laws, election of the members or a committee shall be by secret voting method in the manner prescribed.

Disqualification for membership of committees. 66. (1) No person shall be eligible for being elected or appointed as a member of the committee if he,—

(a) is in default to the society or any other society in respect of any loan or advance taken by him or of any other dues to the societies; or any other society;

(b) is interested directly or indirectly in any contract made with the society or in any sale or purchase made by the society privately or in any auction or any contract or transaction involving financial interest;

(c) is an applicant to be adjudicated a bankrupt or an insolvent or an uncertified bankrupt or an undischarged insolvent;

(d) is employed as legal practitioner on behalf of the society or against the society or on behalf of or against any other society which is a member of the former society;

(e) has been sentenced for any offence including moral turpitude, such sentence not having been reversed and the offence pardoned and a period of five years has not elapsed from the date of expiry of the sentence;

(f) is a nominal or sympathiser member;

(g) is a person of unsound mind;

(h) is a minor;

Provided that clause (h) shall not be applicable in case of a society exclusively formed for the benefit of students of a school or college;

- (i) is a paid employee of the society or of the federal society to which the society is affiliated;
- (j) ceases to be a member of a society and is case of federal society on cancellation of affiliation of a society of which he is a member;
- (k) incurs other disqualifications as may be prescribed in the rules.

(2) (a) A member of the committee shall cease to hold his office if he becomes subject to the disqualifications mentioned in sub-section (1).

(b) In a federal society the representative or representatives of the affiliated society or societies on the committee of federal society shall cease forthwith to be a member or members of committee with the order of winding up of such society or societies.

Term to office of the members of the committee. 67. The members of the committee of a society shall hold office for such term not exceeding three years as may be prescribed in bye-laws. After the term of office the committee shall hand over the charge of office of the committee to the newly elected committee forthwith.

Restrictions on holding of office simultaneously in a number of institutions. 68. Notwithstanding anything contained in this Act, a person shall be disqualified for election as, or for being, the president, vice-president, chairman, vice-chairman, managing director, secretary, joint secretary or treasurer of a committee,—

- (a) if he has held any such office on that committee during two consecutive terms, whether full or part;
- (b) if he holds any such office on a committee of another co-operative society of the same type;
- (c) if he holds any such office on the committees of three or more co-operative societies of a different type or different types:

Provided that nothing contained in this section shall be deemed to disqualify any such person for election as, or for being, a delegate of a society or a member of another committee.

Explanation 1.—Where any person holding any office as aforesaid at the commencement of this Act is again elected to any such office after such commencement, he shall for the purpose of this section be deemed to have held that office for one term before such election.

Explanation 2.—A person who has ceased to hold any such office as aforesaid continuously for one full term shall again be qualified for election to any of those office.

Appointment of manager, secretary and other officers.

69. The qualifications for the appointment of any whole time employee such as general manager, manager, executive officer, 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 part-time employees.

Power to depute Government servant in the service of a society.

70. The Government may, on the application of a society and on such conditions as may be prescribed, depute a servant of the Government to the service of the society for the purpose of assisting the committee to manage its affairs.

Annual general meeting.

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

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 period (if any) granted by him, the Registrar or any person authorised by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society and the Registrar may order that the expenditure incurred in calling such a meeting 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 the refusal or failure to convene the general meeting.

(2) At every general meeting of a society, the committee shall lay before the society a statement showing the details of the loans (if any) given to any of the members of the committee or any member of the family of any committee member during the last preceding year along with a balance sheet and profit & 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 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 "the 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 fund either in such balance sheet, or any specific balance sheet; and
- (c) the amounts, if any, which it recommends, should be paid by way of dividend, bonus, or honoraria to honorary workers.

The committee's report shall also deal with any changes, which have occurred during the year for which the accounts are made up, in the nature of the society's business. 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 bye-laws and of which due notice has been given.

(5) If default is made, in calling a general meeting within the period or, as the case may be, the extended period, prescribed under sub-section (1), or in complying with sub-sections (2), (3) or (4), the Registrar may by order declare any officer or member of the committee whose duty it was to call such a meeting or comply with sub-sections (2), (3) or (4), and who without reasonable excuse failed to comply with any of the aforesaid sub-sections disqualified for being elected and for being an officer or member of the committee for such period not exceeding the 3 years, as he may specify in such an order and, if the officer is a servant of the society, impose a penalty on him to pay, an amount 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.

Special general meeting. 72. (1) A special general meeting of a society may be called at any time by a majority of the committee or by any paid servant authorised by the committee or bye-laws of a society in this behalf, and shall be called by the majority of the committee or by any paid servant authorised by the committee or bye-laws of a society in this behalf within one month,—

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

(ii) at the instance of the Registrar or any person authorised by him in this behalf, or

(iii) in the case of a society, which is a member of a federal society, at the instance of 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 this behalf, shall have power to call such meeting, and that meeting shall be deemed to be a meeting duly called by the committee.

(4) The Registrar shall have power to order that 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 the refusal or failure to convene the meeting.

5 of 1898

Acts of societies etc., not to be invalidated by certain defects.

(5) Any penalty imposed under sub-section (5) of section 71 or under sub-section (2) of this section may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a magistrate as if such fine was imposed by the magistrate himself.

73. (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 defects 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 and the bye-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 under this Act, rules, and the bye-laws.

(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.

74. (1) If, in the opinion of the Registrar, the committee of any society or any member of such committee persistently makes default, or is negligent, in the performance of the duties imposed on it or him by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members, or wilfully disobeys directions issued by the Registrar for the purposes of securing proper implementation of co-operative production and other development programs approved or under taken by Government, or is otherwise not discharging its or his function properly, the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections (if any) within fifteen days from the date of issue of notice, and after consulting the federal society to which the society is affiliated, by order published in the Official Gazette,—

(a) remove the committee, and

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

(ii) appoint one or more administrators, who need not to be members of the society, to manage the affairs of the society for a period not exceeding one year 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 three years in the aggregate;

(b) remove the member and appoint any person as a member of such committee, in his place, for the remainder of the term of office of the member removed.

(2) The committee or administrator 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. The committee or administrator appointed as aforesaid shall, notwithstanding anything contained in the bye-laws, have power to call a special general meeting of the society to review or to reconsider the decision or the resolution taken or passed at the general meeting called by the previous committee or to endorse actions taken by it.

(3) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out of the funds of the society within such time and as such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at such intervals, the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payments (except land revenue, arrears of land revenues, or any sum recoverable from the society as arrears of land revenue) and he shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar.

(4) If at any time during any period, or extended period referred to in 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 afore said, the Registrar 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.

(5) The committee or administrator shall, at the expiry or termination of it or his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(6) All acts done or purported to be done by the committee or administration during the period the affairs of the society are carried on by the committee or administrator appointed under sub-section (1), shall be binding on the new committee.

Registrar's
power to en-
force perform-
ance of obli-
gations.

75. (1) The Registrar may direct any society or class of societies to keep proper 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 to produce such records as he may require from time to time; and the officer or officers of the society shall be bound to comply with his order within the period specified therein.

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

(a) with in the time provide in this Act, the rules or the bye-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), the Registrar may call upon the officer or officers of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the bye-laws, or the order made under sub-section (1), and, after giving such officer or officers an opportunity of being heard, may require him or them to pay to the society the expenses paid or payable by it to the Government as a result of their failure to take action, and to pay to the assets of the society such

sum not exceeding twenty five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

Registrar's
power to seize
records, etc.

76. (1) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed, or the funds, and property of a society are likely to be misappropriated or missapplied, the Registrar or the person authorised by him may apply to the first class magistrate within whose jurisdiction the society is functioning for seizing and taking possession of the records and property of the society.

(2) On receipt of an application under sub-section (1), the magistrate may authorise any police officer, not below the rank of a sub-inspector, to enter and search any place where the records and property are kept or likely to be kept, and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be:

Provided that actions taken in the manner as provided in foregoing sub-sections (1) and (2) shall not be subjected to any challenge in any court of law.

Securing
possession
of records
etc.

77. (1) On the election of a new committee of a society or on the removal of the committee or any member thereof under section 74 or when the society is ordered to be wound up under section 105 the outgoing members of the committee and any paid servants or servant authorised by the committee in this behalf shall hand over charge of the records and properties of the society to the new committee or the administrator or administrators or the committee appointed under section 74 or the Liquidator as the case may be.

(2) If the outgoing members of the committee and the paid servant or servants authorised by the committee in this behalf do not hand over, or in any manner obstruct the taking over charge of the records and properties of the society by the new committee or the administrator or administrators or the committee so appointed or the Liquidator, then without prejudice to any other action, the new committee or the administrator or administrators or the committee so appointed or the Liquidator, may apply to the magistrate within whose jurisdiction the society function for securing the records and properties of the society. On receipt of the application, the magistrate may, by a warrant authorise any police officer not below the rank of sub-inspector to enter and search any place where the records and properties are kept or are believed to be kept and to seize such records and properties; and the records and properties so seized shall be handed over to the new committee or the administrator or administrators or the committee so appointed or the Liquidator, as the case may be.

(3) The action taken in respect of securing possession of records and properties against the outgoing members of the committee and the paid servant or servants authorised by the committee in this behalf in the manner as provided in sub-section (2) shall not be subjected to any challenge in the court of law.

Power to
appoint
Government
nimize.

78. Where the Government has subscribed to the share capital of a society or the Government has guaranteed the repayment of the Principal of and payment of interest on debentures issued or loans raised by a society, the Government shall have the right to nominate (not more than three) representative on the committee of such society, in such manner as may be determined by the Government from time to time. The members so nominated shall hold office during the pleasure by the Government or for such period as may be specified in the order by which they are appointed.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUSPENSION.

Audit.

79. (1) The Registrar shall audit, or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every society at least once in each year.

(2) The audit under the foregoing sub-section shall include an examination of overdue debts, if any, the verification of the cash balance and the securities, a valuation of the assets and liabilities of the society, examination of all transactions of the society, the statement of accounts prepared by the committee and other particulars as may be prescribed.

(3) The Registrar or the person authorised shall, for the purpose of audit, at all times have access to all the books, accounts, documents, papers, securities, cash and to 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 being, 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 person authorised by him, may require.

(5) The auditor appointed under sub-section (1) 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 there at, 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 provisions 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 as such scale as may be prescribed:

Provided that the Registrar may remit the whole or any part of the fee payable for audit by any society or class of societies for any co-operative year.

(8) The statement of accounts audited together with modifications, if any, made therein by the Registrar, shall be final and binding upon the society.

(9) If at the time of audit, the accounts of a society are not found complete, the Registrar, or with his approval the auditor, may cause the accounts to be written upto date at the expense of the society.

Explanation : For the purpose of this section audit shall include annual or periodical audit, running or continuous audit, test audit or super audit and re-audit.

Rectification
of defects in
accounts.

80. If the result of the audit held under section 79 disclose 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 the 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, as may be specified in the order, to remedy the defects, within the time specified therein. Where the society is affiliated to a financing Bank Registrar shall bring it to the notice of that financing Bank.

Inquiry by
Registrar.

81. (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 enquiry—

(a) on the requisition of a society duly authorised by rules made in this behalf to make such requisition, in respect of one of its members, such member being itself a society; 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) All officers, members and past members of the society in respect of which an inquiry is held, and any other person who in the opinion of the officer holding the inquiry is in possession of any information, books and papers relating to the society, shall furnish

such information as is in their possession, and produce all books and papers relating to the society which are in their custody or power, and otherwise give to the officer holding at inquiry all assistance in connection with the inquiry which they 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 papers 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 may certify the refusal and the Registrar, after hearing any statement which may be offered in defence, punish the defaulter with a penalty not exceeding five hundred rupees. Any sum imposed as penalty under this section shall, on the application by the Registrar or the person authorised by him to a magistrate having jurisdiction, be recoverable by the magistrate as if it were a fine imposed by himself.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

(5) 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.

Inspection of
books of in-
debted soci-
ety

82. (1) On the application of a credit or 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 a reasonable time, and

(b) deposits with the Registrar such sum 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 some 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 order of inspection from the officer to whom it is entrusted, and to inspect himself or entrust it to any other person as he deems fit.

Cost of in-
quiry and in-
spection.

83. (1) Where an inquiry is held under section 81, or an inspection is made under section 82, the Registrar may apportion the costs or such part of the costs, as he may think just, between the society, the member or creditors demanding the inquiry or inspection, the officers or former officers, and the members or past members or the estates of the deceased members of the society:

Provided that—

(a) no order of apportionment of the costs shall be made under this section, unless the society or persons or the legal representative of the deceased person liable to pay the costs thereunder, has or have been heard, or has or have had a reasonable opportunity of being heard;

(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

(2) 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 the foregoing sub-section.

Recovery of costs.

84. Any sum awarded by way of costs under section 83, may be recovered, on an application by the registrar to a magistrate having jurisdiction in the place where the person from whom the money is claimable resides or carries on business, and such magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Registrar to bring defects disclosed in inquiry or inspection to the notice of society.

85. (1) If the result of any inquiry held under section 81 or an inspection made under section 82 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, within sixty days from the date of any order made by the Registrar under the foregoing sub-section, appeal against it to the Government.

(3) The Government 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 Government under sub-section (2) or where on the appeal so made, the Government 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 officer or officers of the society who in his opinion has or have failed to rectify the defects.

Inspection of societies by Registrar at his own motion.

86. (1) Every society shall be liable at any time to inspection by the Registrar at his own motion either by himself or by any person authorised by him in this behalf by general or special order.

(2) The Registrar or the person authorised by him in this behalf, shall for the purpose of inspection, at all times, have access to all

the books, accounts, documents, securities, papers, cash and other properties belonging to, or in the custody of the society for examination and verification of the same and shall also call for such information, statements and returns as may be necessary to ascertain the financial condition and working of the society and may summon any 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, in possession or responsible for the custody of such books, accounts, documents, papers, securities, cash and other properties to produce the same at any place in the headquarters of the society or any branch thereof to such officer as and when required.

(3) The result of an inspection shall be communicated to the society and to the financing bank to which it is affiliated. If the inspection discloses any defects in the working and financial condition of a society, Registrar or the person authorised by him in this behalf may bring such defects to the notice of the society in order to remedy the defects disclosed in inspection within such time as may be specified therein.

Explanation.— For the purpose of this section, the expression "inspection" includes supervision of society also.

Inspection of indebted society by the financing bank

87. (1) Where a society is indebted to any financing bank, such bank shall have the right to inspect books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the indebted society for examination and verification of the same to ascertain the financial condition and working of the indebted society and the safety of the sums lent to it by the bank. The inspection may be made either by an officer of the bank authorised by the committee of such bank or by a member of paid staff certified by the Registrar. The officer or paid staff so inspecting shall have free access to the books, accounts documents, cash and other properties belonging to, or in the custody of, the indebted society for inspection at any time and at any place in the headquarters of the society or any branch thereof.

(2) When the inspection is made by a financing bank the result of the inspection shall be communicated to the indebted society and to the Registrar by the financing bank. If the inspection discloses any defects, the financing bank shall bring the defects to the notice of the indebted society directing the society as may be specified in the order to remedy the defects within the time specified therein.

Explanation.— For the purpose of this section the expression "inspection" includes supervision of society also.

Power of Registrar to assess damages against delinquent promoters etc.

88. (1) Where, in the course of or as a result of an audit under section 79 or an inquiry under section 81 or an inspection under section 82 or section 86 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 81 or the person authorised to inspect the books under section 82 or section

86 or the Liquidator under section 108 or otherwise, that any person who has taken any part in the organisation or management of the society or any deceased person or any past or present officer of the society has within a period of five years prior to the date of commencement of such audit or date of order for enquiry, inspection or order for winding up, misapplied or retained, or became 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 any person authorised by him in that behalf, may frame 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.

(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 cost or any part thereof, 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.

89. The Registrar or the person authorised by him, when acting under sections 79, 81, 82, 86, and 88 shall have the power to summon and enforce the attendance of any person to give evidence and examine him on oath or affirmation or by affidavit 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.

90 The Government may recognise any financing bank or one or more federal societies for the supervision of a society or class of societies in such manner and subject to such conditions as may be prescribed.

91. (1) Where in the course of an audit under section 79, or in inquiry under section 81, or an inspection under section 82 or section 86, 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 any other offence, in relation to the society, the Registrar may, if in his opinion there is a prima facie evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interest 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 bye-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 there-upon the paid officer or servant as the case may be shall be under suspension. Order issued by the Registrar in this behalf shall be final and binding upon the society and on appeal shall lie against the order.

CHAPTER IX

PROCEDURE FOR DECIDING DISPUTES

Dispute.

92. (1) Notwithstanding any thing contained in any other law for the time being in force, any dispute touching the constitution, elections of the office bearers, conduct of general meetings, management or business of a society, other than a dispute regarding disciplinary action taken by a society or its committee against the paid servant of the society or of the Liquidator of a society, shall be referred 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 for decision, if both the parties thereto are one or other of the following namely :-

- (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 a 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;

Power to enforce attendance etc.

5 of 1908.

Recognition of financing bank or federal societies to supervise the working of societies. Suspension of paid officer or servant of a society.

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

(2) When any question arises whether for the purpose of the foregoing subsection, a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

(3) save as otherwise provided under sub-section (3) of section 95, no Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

Explanation.—(1) A dispute between the Liquidator of a society and the members (including past members or nominees, heirs or legal representatives of deceased members) of the same society shall not be referred to the Registrar under the provisions of sub-section (1)

Explanation.—(2)—For the purpose of this sub-section, a dispute shall include

- (i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past member or the nominee, heir or legal representative of a deceased member, or servant or employee 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, 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.

93. (1) If a society is unable to pay its debts to a financing bank by reason of its members committing default in the payment of the moneys due by them, the financing bank may direct the committee of such society to proceed against such members under section 92 or section 155, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank itself may proceed against such members under section 92 or section 155, in which case, the provisions of this Act, the rules or the bye-laws shall apply as if all references to the society or its committee in the said provisions were references to the financing bank.

Limitation 36
of 1963

(2) Where a financing bank has obtained a decree or award against a society in respect of moneys due to it from the society, the financing bank may proceed to recover such moneys firstly from the assets of the society and secondly from the members to the extent of their debts due to the society.

94. (1) Notwithstanding anything contained in the Limitation Act, 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 92 shall—

- (a) when the dispute relates to the recovery of any sum, including interests 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 a 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 105, or in respect of which a nominated committee or an administrator has been appointed under section 74, be six years from the date of the order issued under section 105, or section 74, as the case maybe;
- (d) when the dispute is in respect of an election of an office bearer of the society, be one month from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to the Registrar under section 92 shall be regulated by the provisions of the Limitation Act, 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 limitation period, if he applicant satisfies the Registrar 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 has expired.

36 of 1963

Power of financing bank to proceed against members of society for recovery of moneys due to it from such society.

95. (1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 92, 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.

(2) Where any dispute is referred under the foregoing sub-section 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 92 the Registrar may if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claim or between different claimants, is one involving complicated questions of law and 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 the proceedings, the Registrar shall take action as is provided in sub-section (1)

96. (1) The Registrar, or his nominee or board of nominees, hearing a dispute under section 95 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witness including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit it, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

(2) No legal practitioner in his capacity as a legal practitioner or as a person holding a power of attorney shall be permitted to represent any party at the hearing of the 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 a wrong person, or where all the defendants have not been 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 bonafide, 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 for 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.

97. (1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 95 or under section 108 or where the Registrar or the person authorised under section 88 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 88, if satisfied on enquiry or otherwise that a party to such dispute or against whom proceeding are pending under section 88 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 the Registrar or his nominee or board of nominees or the person authorised under section 88 directs attachment of property under the foregoing sub-section, he shall issue a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period; 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 88, may confirm the order, and after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section, 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 against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

(4) The Registrar or his nominee or board of nominees or the person authorised under section 83, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision in a dispute referred to in sub-section (1) as may appear to be just and convenient.

Decision of Registrar or his nominee or board or nominees.

98. 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, 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, subject to any appeal, or review, or revision, be binding on the parties to the dispute.

Finality of order.

99. An award of the Registrar or his nominee or board of nominees under section 98 shall not be liable to be called in question in any civil or revenue court.

Appeal against decision of Registrar or his nominee or board of nominees.

100. Any party aggrieved by any decision of the Registrar or his nominee or board of nominees under section 98 or an order passed under section 97 may, within two months from the date of the decision or order, appeal to the Tribunal.

Money how recovered.

101. Every order passed by the Registrar or a person authorised by him under section 88, or by the Registrar, his nominee or board of nominees under section 97 or section 98, every order passed in appeal under section 100, every order passed by Liquidator under section 108, every order passed by the Government in appeal against orders passed under section 105 and every order passed in revision under section 153 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, and shall be executed in the same manner as a decree of such court, or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

Provided that any application for the recovery in such manner of any such sum shall be made to the Collector, and shall be accompanied by a certificate signed by the Registrar, or by the Deputy 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.

Private transfer of property made after issue of certificate void against society.

102. 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, Deputy Registrar or Assistant Registrar, as the case may be, under section 101 shall be null and void as against the society on whose application the said certificate was issued.

Transfer of property which cannot be sold

103. (1) When in any execution of an order sought to be executed under section 101, 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, Deputy Registrar or the Assistant Registrar, under clause (a) or clause (b) of section 101, the court or the Collector or the Register, as the case may be, may, notwithstanding anything contained in any law for the time being in force, 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 the foregoing sub-section, or where property is sold under section 101, the court, the Collector 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 such rules as may be 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 Collector or the Registrar, as the case may be, and the said society.

Recovery of crop loan.

104. (1) Notwithstanding anything contained in sections 92, 95 and 101, on an application made by a resource society undertaking the financing of crop and seasonal finance for the recovery of arrears of any sum advanced by it to any of its members on account 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 resource society has failed to take action under the foregoing sub-section in respect of arrears of any sum advanced by it to any of its members on account of the financing of crop or seasonal finance, 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 arrears, and such 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 sub-section (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force for the recovery of land revenue.

Winding up

CHAPTER X LIQUIDATION

105.(1) If the Registrar, after an inquiry has been held under section 81, or an inspection has been made under section 82 or section 86, or 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 on the report of the audit held under section 79, is of the opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representation within a reasonable time as may be decided by him, issue an order directing it to be wound up and such order shall forthwith be communicated to the society by registered post.

(2) Where an appeal is preferred against the order of winding up of a society under sub-section (1) of section 107, the order of winding up shall not operate thereafter until the order is confirmed in appeal :

Provided that the Liquidator shall continue to have custody or control of the properties and effects and actionable claims:

(3) The Registrar may of his own motion, direct in writing the winding up of any society—

- (a) where the society has not commenced working or has ceased to work within the period as prescribed, or
- (b) where the number of members has been reduced to less than ten or the amount of their deposits and share capital less than five hundred rupees.

Appointment
of Liquidator

106. (1) When the Registrar passes an order under section 105 for the winding up of a society, he may appoint a person to be the Liquidator of the society and fix his remuneration. The appointment of Liquidator shall be notified by the Registrar in the Official Gazette.

(2) On the issue of the order, the officer of the society shall hand over to the Liquidator the custody and control of all the properties, 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) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar exercise all or any of the powers maintained in section 108. The Registrar may remove such person and appoint another in his place, without assigning any reason.

(4) The whole of the assets of the society shall, on the appointment of Liquidator under this section, vest in such Liquidator, and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by a Liquidator 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.

(5) In the event of the order of winding up being vacated in appeal, the person appointed as Liquidator shall hand over the properties, effects and actionable claims and books, records and other documents of the society to the officer 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 order has been cancelled in appeal under section 107, be continued by the officers of the society.

Appeal
against order
of winding up

107. (1) The committee, or any member of the society ordered to be wound up, may, within two months from the date of the issue of the order made under section 105, appeal to the Government:

Provided that no appeal shall lie against an order issued under clause (a) or (b) of sub-section (3) of section 105.

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

Power and
duties of
Liquidator

108. (1) The Liquidator appointed under section 106 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 property 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 to be 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 or 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 estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs, or legal representative of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;

(i) to issue requisition under section 101;

(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 benefit of any distribution made before these debts or claims are proved;

(m) to summon and enforce the attendance of witness 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 is provided in the case of a civil court under the Code of Civil procedure, 1908;

(n) to do all acts and to execute in the name and on behalf of 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.

(2) The Liquidator shall submit to the Registrar a quarterly report in such form as the Registrar may specify showing the progress made in the liquidation of the society.

(3) All funds of the society, under liquidation shall be deposited by the Liquidator in the Co-operative Bank, post office savings bank or any other bank approved by the Registrar.

Effect of order of winding up

109. After expiry of the period for appeal against the order made under section 195, or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in respect of all the credits and 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 other wise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall 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.

Bar of suit in winding up and dissolution matters.

110. 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.

Audit of Liquidator's accounts

111. (1) The Liquidator shall during the 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 account 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 over the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 88 :

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, in carrying out the duties and functions.

Termination of Liquidation proceedings

112. (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 society which is under liquidation at 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 date of such commencement.

(2) Notwithstanding anything contained in the foregoing sub-section, 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 that the winding up has been conducted and the property and the 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 in liquidation, after paying off its liabilities including the share or interest of members, and 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 his final report.

Disposal of surplus assets

113. The surplus assets, as shown in the final report of the Liquidator of a society which has been wound up, may either be divided by the Registrar, with the previous sanction of the Government, amongst its members in such manner as may be prescribed or be devoted to any object or objects provided in the bye-laws of the society if they specify that such a surplus shall be utilised for the particular purpose, or may be utilised for both the purposes. When the surplus is not so divided amongst the members and the society has no such bye-laws, 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 the general meeting held under section 112;
- b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society exists, any other society which may be notified in this behalf by the Government ; and
- c) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

5 to 1890

CHAPTER XI INSURED CO-OPERATIVE BANKS

Insured co-operative banks

114. Notwithstanding anything contained in this Act, in the case of an insured co-operative bank—

- a) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;
- b) an order for the winding up of the bank shall be made by the Registrar, if so required by the Reserve Bank of India in the circumstances referred to in section 13 of Deposit Insurance corporation Act, 1961;
- c) if so required by the Reserve Bank of India in the public interest, or for preventing the affairs of the bank from being conducted in a manner detrimental to the interests of the depositors, or for securing the proper management of the bank, an order shall be made for the suppression (removal) of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefore for such period or periods not exceeding five years in the aggregate, as may, from time to time be specified by the Reserve Bank of India, and the administrator, so appointed, shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee;
- d) no appeal, revision or review shall lie or be permissible against an order such as is referred to in clause (a), (b) or (c) made with the previous sanction in writing or on the requisition of

47 of 1961

the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner;

- 47 of 1961 e) the Liquidator or the insured co-operative bank or transferee bank, as the case may be, shall be under an obligation to repay the deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961 in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation— For the purposes of this section,

- 47 of 1961 (a) "a co-operative bank" means a bank as has been defined in the Deposit Insurance Corporation Act, 1961;
- 47 of 1961 (b) "insured co-operative bank" means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961;
- (c) "transferee bank" in relation to an insured co-operative bank means a co-operative bank-
- (i) with which such insured co-operative bank is amalgamated, or
 - (ii) to which the assets and liabilities of such insured co-operative bank are transferred, or
 - (iii) into which such insured co-operative bank is divided or converted under the provision of sub-section (1) of section 17 of this Act.

CHAPTER XII

COOPERATIVE LAND DEVELOPMENT BANKS

Application of Chapter to Co-operative land development Bank.

115. This Chapter shall apply to —

- (a) co-operative land development banks advancing loans other than short term loans for the purposes of —
 - (i) land development and productive purpose;
 - (ii) the erection, re-building or repairing of houses for agricultural purposes,
 - (iii) Purchase of agricultural lands by the agriculturists in order to constitute a basic holding,
 - (iv) redemption of old debts, and
 - (v) any other purposes as may be prescribed by the Registrar with the approval of the State Government in this behalf;
- (b) any other co-operative bank permitted by the Registrar under section 141 to function as co-operative land development bank.

Explanation. 1.— For the purposes of this section, "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) bounding 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 therein;
- (i) purchase of tractors or other agricultural machinery;
- (j) increase of the productive capacity of land by addition to it of special variety of soil;
- (k) construction of permanent farm-houses, cattle-sheds and sheds for processing of agricultural produce at any stage; and
- (l) such other purposes as the Government may, from time to time, by notification in the Official Gazette, declare to be improvement or productive purpose for the purpose of this Chapter.

43 of 1960

Explanation 3. In this section, the expression "basic holding" has the same meaning as assigned to it under the Tripura Land Revenue and Land Reforms Act, 1960

Co-operative land development bank and its branches.

116. There shall be a co-operative land development bank for the State of Tripura and as many branches opened by the bank as may be deemed necessary after obtaining approval of the Registrar.

Appointment powers and functions of trustee.

117. (1) The Registrar, or any other person appointed by the Government in this behalf, shall be Trustee for the purpose of securing the fulfilment of the obligations of the co-operative land development bank to the holders of debentures issued by it.

(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 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 co-operative land development bank and the Trustee, as modified from time by mutual agreement between the co-operative land development bank and the Trustee.

Issue of
debentures.

118. (1) With the previous sanction of the Government and the Trustee, and subject to such terms and conditions as the Government may impose, the co-operative land development bank may issue debentures of such denominations, for such period and at such rates of interest, as it may deem expedient on the security of mortgages, or mortgages to be acquired or partly on mortgages held and partly to be acquired, and properties and other assets of the co-operative land development bank.

(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 holders of the debenture not less than three months' notice in writing.

(3) The total amount due on debentures issued by the co-operative land development 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 by the members to the co-operative land development 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 co-operative land development 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.

Guarantee by
Government.

119. The principal of, and interest on the debentures issued under section 118, or any specified portion thereof, may carry the guarantee of the Government, subject to such maximum amount as may be

fixed by the Government, and to such conditions as the Government may think fit to impose.

Vesting of
property in
trustee and
debenture
holders,
charge on
assets.

120. Upon the issue of the debentures under the provisions of section 118, the mortgaged properties and other assets referred to in sub-section (3) of section 118 held by the co-operative land development 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 co-operative land development bank or of the Trustee.

Powers of
cooperative
land develop-
ment bank
to advance
loans and to
hold lands.

121. Subject to the provisions of this Act and the rules made thereunder, it shall be competent for the co-operative land development bank to advance loans for the purposes referred to in section 115 and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

Mood of
dealing with
applications
for loans.

122. (1) When an application for a loan is made for any of the purposes mentioned in section 115, a public notice shall be given of the application in such manner as may be prescribed calling upon all persons interested to present their objections to the loan, if any, in person, at a time and place fixed therein. The Government may, from time to time, prescribe the persons by whom such public notice shall be given and the manner in which the objections shall be heard and disposed of.

(2) The prescribed officer shall consider every objection submitted under sub-section (1) and make an order in writing either upholding or overruling it:

Provided that when the question raised by an objection is in the opinion of the officer one of such a nature that it cannot be satisfactorily decided except by a civil court, he shall postpone the proceedings on the application until the question has been so decided.

(3) A notice under sub-section (1), published in the manner prescribed, shall, for the purpose of this Act be deemed to be proper notice to all persons having or claiming interest in the land to be improved, or offer as security for the loan.

(4) Subject to such rules as may be prescribed, the co-operative land development bank shall consider such applications after due enquiry for the purpose of making loans under this Chapter.

(5) The cooperative land development bank on being satisfied as to the genuineness of purpose and correctness of the properties to be mortgaged to it shall refer the application for loan to the Registrar for obtaining his recommendation. On receipt of the recommendation from the Registrar the co-operative land development bank shall dispose of the application for loan.

(6) Such application for loan shall be disposed of by the co-operative land development bank within a maximum period of nine months from the date of receipt of the application for loan.

(7) The co-operative land development bank shall have the right to reject any application for loan if this is found not suitable after enquiry or if the member fails to comply with any condition laid down by the co-operative land development bank after sanction of the application for loan:

Provided that the decision of the co-operative land development bank in this regard shall be communicated to the member applicant within fifteen days from the date of such decision.

Registration of mortgage or lease in favour of land development bank
16 of 1908.

123. Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary to register mortgages or leases executed in favour of the co-operative land development bank, provided that the co-operative land development bank concerned sends within such time and in such manner as may be prescribed, a cell of the instrument where by immovable property is mortgaged or leased for the purpose of securing repayment of this loan to the registering officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or, as the case may be, leased is situated and 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 Registration Act, 1908.

Mortgages not to be questioned on insolvency of mortgagors.
5 of 1920.

124. Notwithstanding anything contained in the provincial Insolvency Act, 1920 or any corresponding law for the time being in force, a mortgage, executed in favour of a co-operative land development bank, shall not be called in question in any insolvency proceedings 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.

Right of co-operative land development bank to pay prior debts of mortgagor.
4 of 1882.

125. (1) Where a mortgage is executed in favour of a co-operative land development bank for payment of prior debts of the mortgagor, such bank shall, notwithstanding anything contained in the Transfer of property Act, 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 debt 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 co-operative

land development bank towards the debt, but such receipt shall not prejudice the right, if any, of such person to recover the balance claimed by him.

Mortgages executed by managers of joint Hindu families

126. (1) Mortgages, in respect of loans by a co-operative land development bank, either before or after the commencement of this Act, by the manager of a Hindu joint family for any of the purposes mentioned in section 115 shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

(2) In other cases, where a mortgage executed in favour of a co-operative land development 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 Hindu joint family for a purpose not binding on the members (Whether such members have attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

Section 8 of Act 32 of 1956 to apply to mortgages to co-operative land development bank.

127. Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a co-operative land development bank.

32 of 1956. Restriction on lease.

128. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, no mortgagor of property mortgaged to a co-operative land development 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:

4 of 1882.

Provided that the rights of a co-operative land development bank shall be enforceable against the tenant purchaser, the lease or the tenant, as the case may be, as if he himself were a mortgagor.

(2) Where land, mortgaged with possession to a co-operative land development bank, is in actual possession of a tenant, the mortgagor or the co-operative land development bank shall give notice to the tenant to pay rent to the co-operative land development 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 co-operative land development bank.

Power of Co-operative land development bank where mortgaged property is destroyed or security becomes insufficient.

129. Where any property mortgaged to a co-operative land development bank is wholly or partially destroyed, or for any reason the security is rendered insufficient, and the mortgagor, having been given a reasonable opportunity by the bank to provide further security enough to render the whole security sufficient, or to repay such portion of the loan as may be determined 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 have fallen due at once; and the bank shall be entitled to take action against the mortgagor under section 132 or section 133 for the recovery thereof.

	<p>Explanation .— Security shall be deemed insufficient within the meaning of this section, unless the value of the mortgaged property (including improvement made thereon) exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the rules, regulations or the bye-laws of the co-operative land development bank.</p>
Right of co-operative land development bank to buy mortgaged property.	<p>130.(1) Property purchased under sub-section (3) of section 137 by, and property transferred under section 103 to, the Co-operative land development bank 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 sale shall be in favour only of agriculturists eligible to hold land under the Tripura Land revenue and Land Reforms Act, 1960 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 Government from time to time.</p>
43 of 1960	<p>(2) Nothing contained in any law for the time being in force fixing the maximum limit of agricultural holdings shall apply to the acquisition or holding of land by the co-operative land development bank under this section.</p>
Recovery of loans by co-operative land development bank.	<p>131. All loans granted by co-operative land development bank all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall, when they become due, be recoverable by the co-operative land development bank concerned.</p>
Power of distraint.	<p>132. (1) If any instalment payable under a mortgage executed in favour of a co-operative land development bank, or any part of such instalment, has remained unpaid for more than two months 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 or the Collector 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.</p>
4 of 1882	<p>(2) On receipt of such application, the Registrar or the Collector, as the case may be, may, notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner prescribed for the purpose of distraining and selling such produce :</p> <p>Provided that no distraint shall be made after the expiry of twelve month from the date on which the instalment fell due.</p> <p>(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 cost of the sale.</p>

Sale of mortgaged property 4 of 1882.	<p>133. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the co-operative land development bank or any person authorised by it in this behalf shall in case of default of 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 situate or at the nearest place of public resort, without the intervention of the court :</p> <p>Provided that no action shall be taken under this sub-section and no such power shall be exercised, unless and until—</p> <p>(a) the co-operative land development bank has been previously authorised by the State Government to exercise the power conferred under this sub-section after hearing the objections, if any, of the mortgagor or mortgagors;</p> <p>(b) notice in writing requiring payment of such mortgage money or part thereof has been served upon—</p> <p>(i) the mortgagor or each of mortgagors.</p> <p>(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,</p> <p>(iii) any surety for the payment of the mortgaged debt or any part thereof, and</p> <p>(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</p> <p>(c) default has been made in payment of such mortgage money or part thereof, for three months after service of the notice.</p> <p>(2) If the co-operative land development bank fails to take action against a defaulter under section 130 or section 132 or under this section, the Trustee may take action. If such action is taken by the Trustee, the provisions of this Chapter and or any rules prescribed shall apply in respect thereto, as if all references to the co-operative land development bank in the said provisions were references to the Trustee.</p> <p>(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the co-operative land development bank to purchase any mortgaged property sold under this Chapter.</p> <p>134. (1) On effecting the sale by a co-operative land development bank under section 133, the bank shall, in the prescribed manner, submit to the State Government a report setting forth the manner in which the sale has been effected and the result of the sale, and the co-operative land development bank may, with the approval of the State Government confirm the sale or cancel it.</p>
Confirmation of sale.	

(2) Where the sale is effected by the co-operative land development bank or the Trustee under section 133, the co-operative land development bank or the Trustee, as the case may be, shall, in the prescribed manner, submit to the State Government a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Government may confirm or cancel the sale.

Disposal of
sale proceeds

135. (1) The proceeds of every sale effected under section 133 and confirmed under section 134, shall be applied first in payment of all costs, charges incurred in connection with the sale or attempted sales, secondly in payment of any or all 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.

(2) 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 co-operative land development bank:

Provided that before any such payment is made, the unsecured dues owing—

(a) from the mortgagor to the co-operative land development bank may be adjusted, and

(b) from any member or past member 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.

Certificate to
purchaser,
delivery of
property and
title of pur-
chaser.

16 of 1908

136. (1) where a sale of mortgaged property has become absolute under section 134 and the sale-proceeds have been received in full by the co-operative land development 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 same became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Registration Act, 1908, within the limits of whose jurisdiction the whole or any part of the property specified in the 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 co-operative land development

bank, and a certificate in respect thereof has been granted under the foregoing sub-section, the Collector 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 the foregoing sub-section, the Collector shall, on the application of the purchaser and after notice to such tenants or other persons, 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 a power of sale under section 133, 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:

Provided that any person who suffers damage on account of unauthorised, improper or irregular exercise of such power shall have a remedy in damages against co-operative land development bank.

Recovery of
loans on
certificate by
Registrar

137. (1) Notwithstanding anything contained in sections 92 and 103, on an application made by a co-operative land development 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 inquiries 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 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 to the Collector to take necessary measures authorised by rule 111 of the Tripura Land Revenue and Land Reforms Rules, 1961 or any law or provision corresponding thereto for the time being in force until the arrears due to the co-operative land development bank together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security of 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 co-operative land

development bank together with interest and any incidental charges incurred in 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 97 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

Mode of recovery by collector.

138. Any amount due to a co-operative land development bank (including cost of recovery thereof) shall on an application by it in this behalf 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) form the borrower — as if they were arrears of land revenue due by him;
- (b) out of the land for the benefit of which the loan has been granted — as if they were arrears of land revenue due in respect of that loan;
- (c) form 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.

Officers of banks not to bid at sales.

139. At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of a co-operative land development 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.

Provision for guarantee funds to meet certain losses.

140. (1) It shall be competent for the 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 result of loans being made by the co-operative land development bank on titles to immovable property subsequently found to be defective or for any other purpose under this Charter, for which in the opinion of the Government, it is necessary to provide for or create a separate Guarantee Fund.

Registrar's power to permit any co-operative bank to function as a co-operative land development bank

(2) Co-operative land development bank shall contribute to such funds and 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 Government in this behalf.

141. It shall be competent for the Registrar to permit any co-operative bank to function as a co-operative land development bank under such terms and conditions and for such period as he may deem fit.

Service of notice 4 of 1882.

142. The provisions of sections 102 and 103 of the Transfer of Property Act, 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.

CHAPTER XIII OFFENCES AND PENALTIES

prohibition of use of the word "Co-operative".

143. (1) No person, other than a society registered, or deemed to be registered, under this Act, and no 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 Government, 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 the foregoing sub-section, shall, on conviction, be punished with fine which may extend to five hundred rupees.

Offences.

144. It shall be an offence under this Act, if —

- (a) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 49 or any person knowingly acquires, or abets in the acquisition of, such property; or
- (b) 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 51; or
- (c) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 62; or
- (d) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the co-operative bank, or postal savings bank; or
- (e) 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; or
- (f) 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 71; or

- (g) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce such books, papers and records, or give assistance to a person appointed or authorised by the Government or the Registrar under section 70, 74, 78, 79, 81, 82, 86, 96 or 106; or
- (h) 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 sections 70, 74, 77 or 106;

Note.— For the purpose of this clause, the word 'officer' shall include an outgoing member of the committee and the paid servant of a society;

- (i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or member thereof, fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done, anything which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders under section 75; or
- (j) 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 any other person duly authorised by him in writing in this behalf; or
- (k) 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; or
- (l) any officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 79; or
- (m) any officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 95; or
- (n) a member of a society fraudulently disposes of property over which the society has prior claim, or a member or officer or employ 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; or
- (o) any officer of a society wilfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he is interested, a loan in the name of any other person; or

- (p) any 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 of makes, or is privy to the making of any false fraudulent entry in any register, books of account or document belonging to the society; or

- (q) any officer or member of a society or any person does any act declared by the rules to be an offence.

Explanation : For the purpose of this section, an officer or a member referred to in the section shall include a past officer or a past member, as the case may be.

Punishments
for offences
under section
144.

145. Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person, who commits an offence under section 144 shall, on conviction, be punished,—

- (a) if it is an offence under clause (a) 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;
- (b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to two thousand rupees, or with both;
- (c) if it is an offence under clause (c) of that section, with fine which may extend to five hundred rupees;
- (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 imprisonment for a term which may extend to one year, or with fine, or with both;
- (f) if it is an offence under clause (f) of that section, with fine which may extend to two hundred and fifty rupees;
- (g) if it is an offence under clause (g) of that section, with fine which may extend to five hundred rupees;
- (h) if it is an offence under clause (h) of that section, with fine which may extend to five hundred 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 imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees, or with both.
- (k) if it is an offence under clause (k) of that section, with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both;

- (l) if it is an offence under clause (l) of that section, with fine which may extend to one hundred rupees;
- (m) if it is an offence under clause (m) 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;
- (n) if it is an offence under clause (n) 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;
- (o) if it is an offence under clause (o) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both;
- (p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both;
- (q) if it is an offence under clause (q) of that section, with fine which may extend to two hundred and fifty rupees.

Punishment for offences not otherwise provided for

146. Any society or any officer or past officer, member or past member, employee or past employee of a society or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Cognizance of offences.

147. (1) No court inferior to that of a magistrate of the first class shall try any offence under this Act.

(2) No prosecution under this Act shall be lodged, except with the previous sanction of the Government in the case of an offence under clause (b) of section 144 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 Government by a general or special order.

CHAPTER XIV

APPEALS, REVIEW AND REVISION

Tripura Co-operative Tribunal.

148. (1) The Government shall constitute a Tribunal called the Tripura Co-operative Tribunal, to exercise the functions conferred on the Tribunal by or under this Act.

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

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

(4) Where the Tribunal consists of three members including the President, any two members, of the Tribunal shall form the quorum for the disposal of its business:

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

(5) Where a matter is heard by all members of the Tribunal, 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 two 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 case, the matter shall be referred for hearing to the President and shall be decided in accordance with his decision.

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

(7) The regulations made under sub-section (6), shall be published in the Official Gazette.

(8) 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 propriety 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.

(9) Where an appeal or application is made to the Tribunal under this Act, it may, in order to prevent the ends of justice from being defeated, make such interlocutory orders pending the decision of the appeal or application, as the case may be, 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.

(10) An order passed in appeal, or in revision under sub-section (8), or in review under section 149 by the Tribunal, shall be final and conclusive, and shall not be called in question in any civil or revenue court.

Explanation :- The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 95 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908.

5 of 1908

Review of orders of Tribunal.

149. (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 the 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 the foregoing sub-section by any party, shall be made within ninety days from the date of the communication of the order of the Tribunal.

Tribunal to have power of civil court.

150. (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 civil court in respect of,—

(a) proof of facts by a affidavit.

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

(c) compelling discovery or 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.

Appeals

151. (1) An appeal against an order or decision under sections 4,9, 11,12,13,14,17,19,21,29,35, 74 and 108 shall lie,—

(a) if made or sanctioned or approved by the Registrar or the Additional or joint registrar on whom powers of the Registrar are conferred, to the Government,

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

(2) An appeal against an order or decision under sections 75, 83 and 88 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.

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

(4) 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.

Extension of period of limitation by appellate authority in certain cases

152. 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.

Power of Government and Registrar to call for proceedings of subordinate officers and to pass orders thereon.

153. The Government and the Registrar may call for and examine the record of any inquiry or the proceedings of any other matter of any officer subordinate to them, except those referred to in sub-section (8) of section 149 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 Government, or the Registrar, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Government or the Registrar, as the case may be, may after giving the persons affected thereby an opportunity of being heard, pass such order thereon as to them may seem just.

CHAPTER XV. MISCELLANEOUS

Recovery of sums due to Government

154. (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 according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(2) Sums due from a society to the Government and recoverable under the foregoing sub-section 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 the estate of deceased members subject to the limit of their liability, and, thirdly, in the case of societies with unlimited liability from the members or past members or the estate of deceased members.

(3) The liability of past members or the estate of deceased members shall in all case be subject to the provisions of section 33.

Registrar's powers to recover certain sums by attachment and sale of property.

155. (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 Government, 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, or any officer subordinate to him and empowered by him in this behalf, arbitrator 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 process by the attachment and sale or by sale without attachment of the property of the person or a society against whom such decree, decision, award or order has been obtained or passed;
- (e) any amount due under certificate granted by the Registrar under sub-section (1) or (2) of section 104 or under sub-section (1) of section 138.

36 of 1963

(2) The Registrar or the officer empowered by him shall be deemed, when exercising the powers for the recovery of an amount by attachment and sale or by sale without attachment of any property, under the foregoing sub-section, or when passing any orders on any application made to him for such recovery or to take steps in aid of such recovery to be a civil court for the purpose of article 182 in the First Schedule to the Limitation Act, 1963.

Power to exempt societies from provisions of Act

156. The Government may, by general or special order, to be published in the Official Gazette, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provision 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.

Delegation of powers of Registrar to federal societies.

157. The state Government may, by notification in the Official Gazette, and subject to such conditions, if any, as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal society or to an officer thereof, specified in the notification.

Branches etc. of societies outside the State of Tripura.

158. (1) No society shall open a branch or a place of business outside the state of Tripura, and no co-operative society registered under any law in any other state or Union territory shall open a branch or a place of business in the state of Tripura, without the permission of the Registrar.

(2) Every co-operative society registered under any law in any other state or Union territory, and permitted to open a branch or a place of business in the State of Tripura under the foregoing sub-section, or which has a branch or a place of business in the State of Tripura at the commencement of this Act, shall, within three months from the opening of such branch or place of business or from the commencement of this Act, as the case may be, file, with the

Registrar a certified copy of the bye-laws and amendments and if these are not written in English language, a certified translation thereof in English or Bengali 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.

Competency of a member to transfer land or interest therein to society
4 of 1882
16 of 1908

Registrar's powers to enforce performance of obligation

159. Notwithstanding anything contained in the Transfer of property Act, 1882, and the Registration Act, 1908 it shall be lawful for a member of 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.

160. Notwithstanding anything contained in this Act, where any co-operative society is required to take any action under this Act, the rules or the bye-laws and such action is not taken—

- (a) within the time provided in this Act, the rules or the bye-laws; 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 a notice in writing,

the Registrar may himself, or by a person authorised by him in this behalf, take such action at the expense of the society, or may call upon any officer of the society whom, in accordance with such principles as may be prescribed, he considers to be responsible for the carrying out of his directions and, after giving such officer an opportunity of being heard, may 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.

Registrar and other officers to be public servants.

45 of 1860

Indemnity for acts done in good faith.

Bar of jurisdiction of courts.

161. The Registrar, a person exercising the powers of the Registrar, a person authorised to audit the accounts of a society under section 79 or to hold an inquiry under section 81 or to make an inspection under section 82 or section 86 and a person appointed as an administrator under section 74, or as a nominee or board of nominees under section 95, or as a Liquidator under section 106, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

162. 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 any thing in good faith done, or purported to be done by him or under this Act.

163. (1) Save 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 bye-laws, or the amendment of its bye-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; or

(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 proceedings 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.

Notice necessary in suits.

164. No suit shall be instituted against 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 delivered or left.

Power to make rules

165. (1) The Government may, for the whole or any part of the State of Tripura, and for any co-operative society or class of co-operative societies, after previous publication, make rules to carry out the purpose of this Act.

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

- (i) subject to the provisions of section 3, prescribe the delegation of powers vested in the Registrar to persons appointed to assist the Registrar;
- (ii) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society under section 8 and the procedure in the matter of such application;
- (iii) prescribe the matters in respect of which a society may make, or the Registrar may direct a society to make, bye-laws and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making alteration or abrogation;
- (iv) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion or reconstruction of society;
- (v) prescribe the forms of, and procedure for, an application under section 19 and the procedure for reconstruction of a society under that section;

(vi) prescribe the conditions to be complied with by a person applying for admission or admitted as a member and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(vii) prescribe in the case of a federal society or class of federal societies the proportion of individual members to society members in such society or class of societies and the proportion of individual members to society members in the committee of such society or class of societies;

- (viii) subject to the provisions of section 28, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- (ix) prescribe the procedure for the admission of joint members, members of a joint Hindu undivided family, and minors and persons of unsound mind inheriting the share or interest of deceased members and provide for their rights and liabilities;
- (x) provide for the withdrawal, or expulsion of members and for the payments to them and for the liabilities of past members and the estate of deceased members;
- (xi) prescribe the conditions and procedure for the transfer of share or interest;
- (xii) provide for the nomination of a person to whom the share or the interest of a deceased member may be paid or transferred;
- (xiii) provide for ascertaining the value of a share or interest of a past member or a deceased member;
- (xiv) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;
- (xv) provide for the inspection of documents in the Registrar's office and the levy of fee granting certified copies of the same;
- (xvi) provide for the procedure for registering the address of a society and the change of its address;
- (xvii) provide for the formation and maintenance of a register of members, and where the liability of members is limited by shares, of a register of shares and a list of

members;

- (xviii) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that the share shall not appreciate in value and that necessary capital shall be available for the society as required;
- (xix) provide for the procedure to be adopted by a society with limited liability in order to reduce its share capital;
- (xx) prescribe the period for, and the terms upon which, Government aid may be given to societies and terms under which the Government may subscribe to the share capital of and guarantee the payment of the principal of and interest on debentures issued by societies;
- (xxi) regulate the manner in which funds may be raised by a society or class of societies by means of shares or debentures or otherwise, and the quantum of funds so raised;
- (xxii) prescribe the limits for loans to be granted by a society or class of societies against different classes of securities or without security and the procedure for granting loans;
- (xxiii) prescribe the manner of recalling a loan;
- (xxiv) prescribe the limits for granting credit by a non-credit society or a class of non-credit societies;
- (xxv) prescribe the prohibitions and restrictions subject to which societies may trade or transact business with persons who are not members;
- (xxvi) prescribe the conditions on which any charge in favour of a society shall be satisfied and the extent to which and the order in which the property charges shall be used in its satisfaction;
- (xxvii) provide for giving reasonable notice of the charge under section 50;
- (xxviii) prescribe the procedure by which a society shall Calculate and write off bad debts;
- (xxix) prescribe the sums which, in addition to those referred to in sub-section (1) of section 57, shall be deducted from profits before arriving at the profit for the purpose of sub-section (2) of section 57;
- (xxx) Provide for the formation and maintenance of reserve

fund, and the objects to which such fund may be applied and for the investment and use of any fund including reserve fund under the control of a society;

- (xxxi) Prescribe the conditions under which profits may be distributed as dividend and bonus among the members and non-members of a society;
- (xxxii) Prescribe the rate at which a society shall contribute towards the educational fund of the federal society under section 60;
- (xxxiii) define the co-operative propose for which a society shall, under section 61, utilise its fund;
- (xxxiv) prescribe the mode of investment of funds of a society under section 62 and the proportion of investment in any security or class of securities;
- (xxxv) Provide for the payment of contribution to any provident fund which may be established by a society for the benefit of officers and servants employed by it and for the administration of such provident fund;
- (xxxvi) prescribe the procedure and conditions for the exercise by a federal society of the powers conferred by this Act;
- (xxxvii) provide for general meetings of the members, for the procedure at such meetings and the powers to be exercised by such meetings;
- (xxxviii) prescribe the conditions in which a member of a society may be disqualified from voting;
- (xxxix) provide for the appointment, suspension of the members of the committee and other officers and for the appointment of administrator under section 74 and prescribe the procedure to be followed at the meeting of the committee and the powers to be exercised and the duties to be performed by the committee, administrator and other officers;
- (xL) prescribe the qualification for members of the committee and employees of a society or class of societies and the conditions of service subject to which persons may be employed by societies;
- (xLi) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;
- (xLii) provide for the persons by whom and the form in which copies of documents and entries in books of societies

- may be certified and the charges to be levied for the supply of copies thereof;
- (xLiii) provide for the procedure to be adopted by the Registrar in the cases where the taking of possession of books, documents, securities, cash and other properties of a society or of a society the affairs of which have been ordered to be wound up, by the Registrar or by a person entitled to the same is resisted or obstructed;
 - (xLiv) provide for the procedure to be adopted for taking possession of books, documents, securities, cash and other property of a society by a person acting under sections 79, 81 and 82 in cases where misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash and other properties are likely to be tampered with or destroyed or removed;
 - (xLv) prescribe the accounts and books to be kept by a society or class of societies;
 - (xLvi) prescribe the procedure for conducting an audit, the matters on which the auditor shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which the auditor may examine the monetary transactions of a society, the form of audit, memorandum and report and the charges, if any, to be paid by society for audit;
 - (xLvii) prescribe the procedure for appointment of auditors under section 79;
 - (xLviii) prescribe the form for the rectification of detects discovered in the course of audit, inspection or inquiry;
 - (xLix) prescribe the procedure and principles for the conduct of inquiry under section 81 and inspection under section 82;
 - (L) prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 88 for recovery of cost and damages;
 - (Li) prescribe the manner in which appointment shall be made and control exercised by, and the number of person comprising, and functions to be performed by, the authority constituted under section 90, the manner

- of election and nomination of such persons, the fees to be paid to such authority and the manner of such payment and the procedure for and the method of calculating any cost, charges or expenses required to be levied under this Act or the rules;
- (Lii) provide for appointment of the Registrar's nominee or board of nominees, procedure to be followed in proceedings before the Registrar or his nominee or board of nominees and for fixing and levying the expenses for determining the dispute and for enforcing the decisions or awards in such proceedings;
- (Liii) prescribe the form in which a dispute shall be referred to the Registrar;
- (Liv) provide for the issue and service of processes and for proving of service thereof;
- (Lv) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar;
- (Lvi) prescribe the procedure for and the method of recovery of any sums due under this Act or the rules;
- (Lvii) prescribe the procedure to be followed for the custody of property attached under section 97;
- (Lviii) prescribe the procedure to be followed in the execution of awards;
- (Lix) prescribe the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by, a society under section 103;
- (Lx) prescribe the procedure for attachment and sale of property for the realisation of any security given by a person in the course of execution of proceedings;
- (Lxi) prescribe the procedure and conditions for the exercise of the powers conferred under section 108 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets;
- (Lxii) prescribe the matters in which an appeal shall lie from the order of a Liquidator appointed under section 106;
- (Lxiii) prescribe the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which Chapter XII is applicable;
- (Lxiv) prescribe the maximum amount of principal, the rate

- of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XII is applicable;
- (Lxv) prescribe the qualification and methods of appointment of an officer to effect sale under section 133 and the powers and functions which such an officer may exercise;
- (Lxvi) prescribe the appointment of a receiver of the produce and income of the mortgaged property for sale under section 133, the conditions in which he may be appointed or remove, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive;
- (Lxvii) prescribe the circumstances in which action may be taken by a co-operative land development bank against a mortgagor under sub-section (2) of section 133;
- (Lxviii) prescribe, in case of sale of immovable property under Chapter XII—
- The procedure for proclamation and conduct of the sale and the conditions on which and attempt of sale may be abandoned,
 - the method of calculating the expenses incidental to the sale or attempted sale,
 - the procedure for the receipt of deposit and disposal of the proceeds of sale,
 - the procedure for a re-sale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money,
 - the form and method of disposal of money by a co-operative land development bank under section 135,
 - the form of sale certificate under section 136,
 - the procedure for the delivery of the property purchased to the purchaser under section 136,
 - the form of the notice referred to in section 142, and
 - the fee payable for the service of such notices and the manner of serving such notices, on and of the transmitting landlord's fee to, the landlord named in such notices;

- (Lxis) prescribe the time within which and the procedure according to which property purchased by a co-operative development bank at a sale of immovable property under Chapter XII shall be disposed of by the bank;
- (Lxx) Prescribe the procedure to be followed in presenting and disposing of appeals;
- (Lxxi) Prescribe the qualifications of the members of the Tribunal;
- (Lxxii) prescribe in the case of appeals lying to the Government the authority to which power of hearing appeals may be delegated;
- (Lxxiii) prescribe the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules;
- (Lxxiv) provide that the contravention of any of the rules shall be an offence under the Act; and
- (Lxxv) provide for all other matters expressly required or allowed by this Act to be prescribed by rules.

(3) In making any rule under this Act the Government may direct that any person committing a breach thereof shall, on conviction by a court, be punishable with fine which may extend to fifty rupees and where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first breach during which the breach continues subsequent to such conviction.

(4) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly of Tripura while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as, the case may be; so however, that any modification or annulment shall be without prejudice to the validity of anything done under that rule.

Repeal, saving and construction. Bombay Act. 4 of 1925 30 of 1950

166. (1) The Bombay Co-operative Societies Act, 1925 (Hereinafter referred to as the said Act), as extended to the Union territory of Tripura under section 2 of the Union Territories (Laws) Act, 1950, is hereby repealed :

Provided that the repeal shall not affect the previous operation of the Act, so repealed and any thing done or any action taken or deemed to have been done or taken (including any appointment or

delegation made, application or other document filed, certificate of registration granted, agreement executed, notification, order, direction or notice issued, regulation, form or bye-law framed, rule made or deemed to be made or proceeding instituted before any Registrar, Liquidator or Tribunal or other officer, authority or person) by or under the provisions of the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(2) Accordingly, all societies registered or deemed to be registered under the Act repealed the registration of which is in force at the commencement of this Act, shall on such commencement be deemed to be registered under this Act; and all proceedings pending immediately before such commencement before any Registrar, Liquidator or Tribunal or other officer, authority or person under the provision of the repealed Act shall stand transferred, where necessary to the Registrar, Liquidator or Tribunal or other corresponding officer, authority or person under this Act, and if no such office, authority or person exists or if there be a doubt as to the corresponding officer, authority or person to such officer, authority or person as the Government may designate and shall be continued and disposed of before such officer, authority or person in accordance with the provisions of this Act.

(3) Any reference to the Act repealed or the any provisions thereof or to any officer, authority or person entrusted with any functions thereunder, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to this Act or its relevant provisions or the corresponding officer, authority or person functioning under this Act, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions under the repealed Act or under the instrument or document.

Companies Act not apply, 1 of 1956 167. For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956, shall not apply to societies registered, or deemed to be registered, under this Act.

S. CHAKRAVARTY
Secretary (Law)
Government of Tripura

THE TRIPURA CO-OPERATIVE SOCIETIES AMENDMENT ACT, 1980

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GOVERNMENT OF TRIPURA LAW DEPARTMENT

No. F. 2(23)-LAW/LEG/79
Dated, Agartala, the 31st March 1980.

The following Act of the Tripura Legislative Assembly received assent of the Governor on the 22nd March, 1980 and is hereby published for general information.

THE TRIPURA CO-OPERATIVE SOCIETIES AMENDMENT ACT, 1980

AN

ACT

to amend the Tripura Co-operative Societies Act, 1974.

BE it enacted by the Legislative Assembly of Tripura in the Thirtieth year of the Republic of India as follows :—

Short title and
Commence-
ment. 1. (1) This Act may be called the Tripura Co-operative Societies Amendment Act, 1980.
(2) It shall come in to force at once.

Amendment
of section 18. 2. In clause (b) of sub-section (2) of section 18 of the Tripura Co-operative Societies Act, 1974 (hereinafter referred to as the principal Act.) for the words "two months" the words "fifteen days" shall be substituted.

Amendment
of section 22. 3. After clause (f) of sub-section (1) of section 22 of the principal Act, the following clause, namely, clause (g) shall be inserted :

"(g) The ordinary residence of a person shall be within the area of operation of the Society of which he wants to be a member".

Amendment
of section 23. 4. In sub-section (1) or section 23 of the principal Act, the following words shall be added at the end, namely :—

"If no decision is communicated by the Society to any such person within one month from the date of receipt of his application for membership by the Secretary of the Society or any other person authorised, it will be presumed that the application for membership has been granted by the Secretary and he has been admitted as a member of the Society.

Note :— Every Person after submitting application for membership shall obtain a receipt from the Secretary of the society concerned and the period of one month shall be computed from the date of receipt of such application by the Secretary of the society".

Amendment
of section 25. 5. After the proviso to section 25 of the principal Act, the following shall be added, namely :—

"Provided further that due to reorganisation of any society or any class of societies as approved by the Registrar, if the ordinary residence of an existing member falls outside the area of operation of the reorganised society, his membership may be terminated in

the concerned reorganised society after giving him an opportunity of making a representation to the Registrar or an officer designated by the Registrar regarding the proposed termination within a period of fifteen days of the date of receipt of notice in this behalf and he may be treated as a member of a similar newly organised or recognised society of the same class having area of operation wherein the ordinary residence of such member falls. The subscribed share capital of such member may be transferred to the newly organised or reorganised society of the same class in the manner as may be decided by the Registrar :

Provided also that if any such member or his nominee demands refund of share money in cash in the event of such reorganisation instead of transfer of membership, the amount may be paid to him or his nominee in the manner as prescribed :

Provided always that no share money of any member who has purchased his share out of grant or loan from Government or Small Farmer Development Agency or any other agencies will be refunded in case of his resignation from the society and the share money shall be transferred to Capital redemption fund of the society"

Amendment of section 70. 6. For the existing section 70 of the principal Act, the following section shall be substituted, namely :—

Power to depute government servant to the society. 70. If, in the opinion of the State Government it is necessary or expedient so to do for public interest or in the interest of the co-operative movement or for the purposes of securing proper management of the society or on such condition as may be prescribed, it may either suo motto or on the application of a society, depute a Government servant to the services of the society for the purpose of assisting the Committee to manage its affairs".

Amendment of section 74. 7. (1) In sub-section (1) of section 74 of the principal Act, after the words and marks " Programmes approved or undertaken by Government" the following words and marks shall be inserted, namely :—

"or does not hold annual general meetings, or does not conduct the election of the Board of Directors as per provisions of this Act and rules framed thereunder, or if the overdue loans of a society exceeds the amount of net worth of the society and if in the opinion of the Registrar the said position is not likely to be improved by the present management, or if the cumulative net loss exceeds the paid up share capital of a society where the Government has contributed

the major part of the share capital and if in the opinion of the Registrar the Position is not likely to be improved by the present management of the Society ;"

(2) after sub-section (1), the following Explanation shall be added, namely :—

"Explanation— For the purpose of this sub-section 'net worth' shall mean the fixed assets minus depreciation, reserve funds, if any cash in hand and at Bank, investments in Government securities, other investments in public sector or Joint Sector undertakings, investments in other Cooperative Societies, advances to contractors or suppliers under written agreements and other current assets, but shall not include the overdue loans".

Amendment of section 105. 8. In section 105 of the principal Act,---

(i) for the marks "Stop" at the end of clause (b) of sub-section (3), the following mark and word shall be substituted, namely :—

"or"

(ii) after clause (b) so amended, the following shall be added, namely :—

(c) where any existing society falls within the area of operation of a similar class of re-organised society as approved by the Registrar and the existence of former society/societies in the opinion of Registrar is likely to be detrimental to the interest of the Cooperative Movement :

Provided that no such direction shall be issued without giving the society/societies interested an opportunity on being heard".

Substitution of section 122. 9. For section 122 of the principal Act, the following shall be substituted, namely :—

"122 (1) The Cooperative Land Development Bank shall, with the approval of the Registrar, lay down procedure governing the loan policies and procedures for receipt and disposal of applications for loans.

(2) When an application for a loan is made for any of the purposes mentioned in section 115, an enquiry shall be conducted by an officer of the Co-operative Land Development bank authorised for the purpose in such manner as may be laid down in the procedure made under sub-section (1). That officer shall record all objections from such persons as may be interested in the land proposed to be mortgaged as security or to the loan.

(3) The authorised officer shall record every objection submitted under sub-section (2) above in writing in a manner which may be

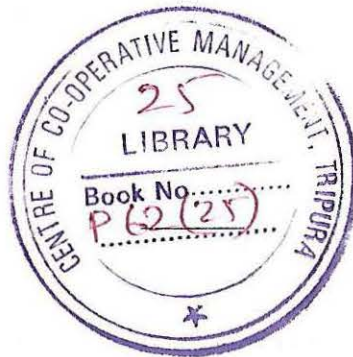
prescribed by the Cooperative Land Development bank for the purpose. Thereafter the authorised officer shall conduct local enquiry and then send the application with his report in a form which may be prescribed by the Cooperative Land Development Bank for consideration of the application by the said Bank.

(4) Subject to such procedure as may be framed under sub-section (1), the Co-operative Land Development bank shall consider such application along with the report of the authorised officer for the purpose of making loans under this chapter.

(5) The Bank on being satisfied as to genuineness of the purpose and correctness and adequacy of the securities and properties to be mortgaged or hypothecated to it, shall dispose of the application for loan as expeditiously as possible.

H. DAS

Secretary to the Government
of Tripura.



**THE
TRIPURA
CO-OPERATIVE
SOCIETIES**

ACT

1974

